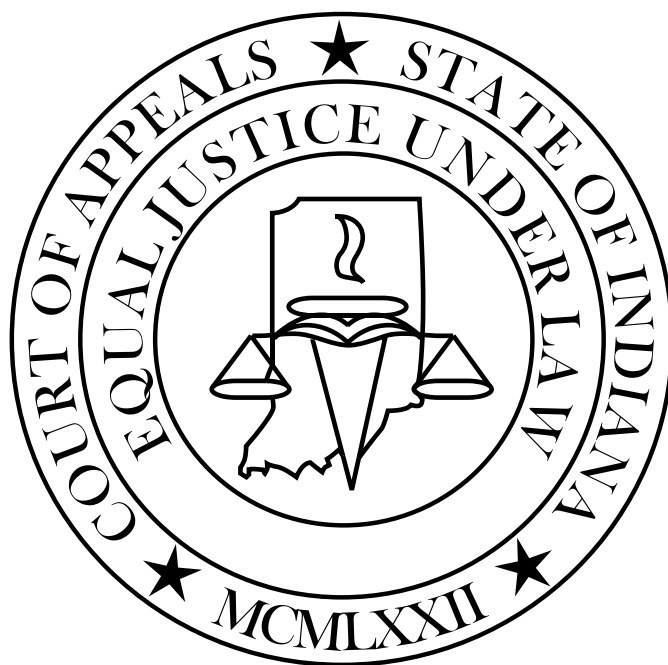


# COURT OF APPEALS OF INDIANA

2 0 1 9   A N N U A L   R E P O R T





# COURT OF APPEALS OF INDIANA

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2 0 1 9   A N N U A L   R E P O R T





# COURT OF APPEALS OF INDIANA

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This report pertaining to the progress of the work of the Court of Appeals of Indiana for the period from January 1, 2019, through December 31, 2019, is being submitted pursuant to section 2-6-1-1, Judges' Manual.

*Nancy Harris Vaidik*

Nancy H. Vaidik

CHIEF JUDGE & PRESIDING JUDGE  
FIFTH DISTRICT

*John G. Baker*

John G. Baker  
PRESIDING JUDGE  
FIRST DISTRICT

*Cale J. Bradford*

Cale J. Bradford  
PRESIDING JUDGE  
SECOND DISTRICT

*Paul D. Mathias*

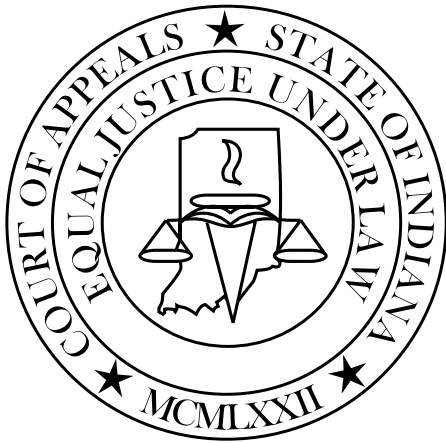
Paul D. Mathias  
PRESIDING JUDGE  
THIRD DISTRICT

*Melissa S. May*

Melissa S. May  
PRESIDING JUDGE  
FOURTH DISTRICT

# COURT OF APPEALS OF INDIANA

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THE MISSION OF THE COURT OF APPEALS OF INDIANA:

To serve all people by providing  
**EQUAL JUSTICE UNDER LAW**

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## FIRST DISTRICT

John G. Baker, Presiding Judge | Edward W. Najam, Jr., Judge | L. Mark Bailey, Judge

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## SECOND DISTRICT

Cale J. Bradford, Presiding Judge | James S. Kirsch, Judge | Robert R. Altice, Judge

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## THIRD DISTRICT

Paul D. Mathias, Presiding Judge | Terry A. Crone, Judge | Elizabeth F. Tavitas, Judge

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## FOURTH DISTRICT

Melissa S. May, Presiding Judge | Patricia A. Riley, Judge | Rudolph R. Pyle, III, Judge

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## FIFTH DISTRICT

Nancy H. Vaidik, Chief Judge | Margret G. Robb, Judge | Elaine B. Brown, Judge

# COURT OF APPEALS OF INDIANA

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## 2 0 1 9    A N N U A L    R E P O R T

The 2019 Annual Report provides statistical information about the work of the Court of Appeals of Indiana from January through December 2019. Our hardworking team of judges, senior judges, law clerks, staff attorneys, and administrative staff work together every day to not only complete the Court's tasks, but also teach fellow Hoosiers about the Court's role in state government. This can be measured in statistics and through examples of the Court's commitment to serve all people by providing equal justice under law.

Last year, the Court conducted 81 oral arguments, including another 44 traveling oral arguments with our *Appeals on Wheels* program. The Court's average age of cases pending was an impressive 1.5 months, a 16.7% improvement from the previous year. The Court issued 2,177 opinions, a 4.5% increase from 2018, and handed down 2,079 written decisions, a 4.4% increase from 2018. However, numbers were just a small part of the Court's changes and accomplishments last year.

2019 was a year of achievement that included upgrades, improvements, and growth.

- The Court reached its goal of holding oral arguments in all 92 counties in Indiana.
- Four months before the Covid-19 pandemic restrictions were imposed, the Court presciently provided the equipment and software to enable all employees to work remotely.
- All data lines were upgraded in the Statehouse.
- Security scanners were installed for the protection of the employees and judges in the Statehouse.
- The Court joined the other agencies in the state by recording employee time and labor entries on PeopleSoft.
- The Court offered wellness training for all its employees.
- The judges and their staffs provided hundreds of hours of education to lawyers, law students, judges, and court reporters throughout the state.
- The judges of the court served on numerous Supreme Court committees and state and national committees dedicated to equal justice under the law.
- In October, the Court elected Cale J. Bradford as its next chief judge. He assumed that role on January 1, 2020.

As the second-highest court in the state, the Court of Appeals of Indiana will continue to take pride in its commitment to constitutional government and the rule of law.

*Nancy Harris Vaidik*

**Nancy H. Vaidik**

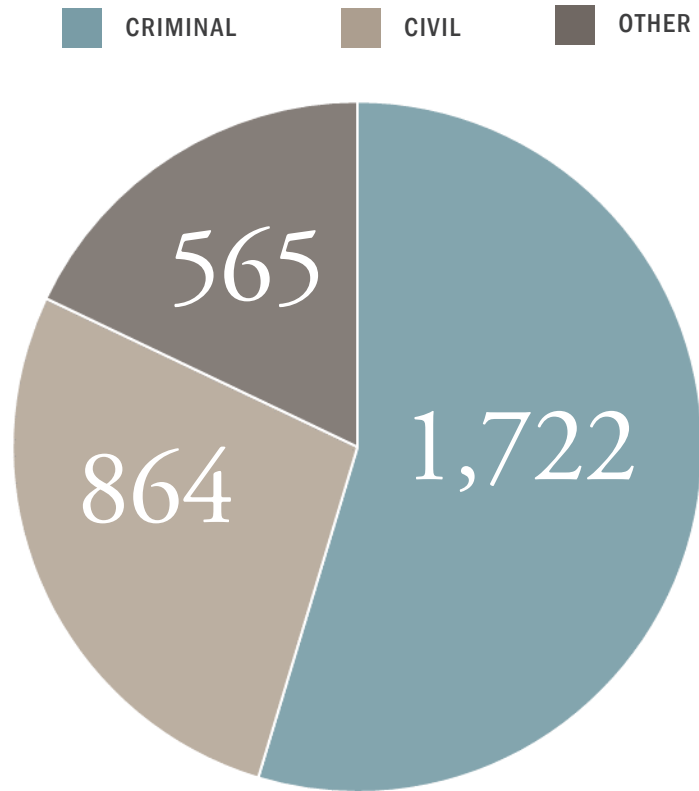
CHIEF JUDGE & PRESIDING JUDGE

FIFTH DISTRICT

# TOTAL CASELOAD\*

YEAR	FILED	DISPOSED
2015	3,267	2,920
2016	3,136	3,047
2017	3,306	3,187
2018	3,310	2,933
2019	3,221	3,151

## TOTAL CASES DISPOSED (BY TYPE)



\*Total caseload is defined by the National Center for State Courts in “Appellate Court Tools” as all appellate cases that have been disposed of in a year. A case is an appellate case when a notice of appeal is filed, when a petition for a permissive interlocutory appeal is filed, or when a petition requesting permission to file a successive petition for post-conviction relief is filed.

## CIVIL AND CRIMINAL CASELOADS

	CRIMINAL		CIVIL		OTHER	
	FILED	DISPOSED	FILED	DISPOSED	FILED	DISPOSED
2015	1,838	1,637	1,048	976	381	307
2016	1,757	1,728	979	949	400	370
2017	1,870	1,807	968	961	468	419
2018	1,797	1,633	963	847	550	453
2019	1,694	1,722	918	864	609	565

# COURT SUMMARY

## AVERAGE AGE OF CASES PENDING

# 1.5 MONTHS

AS OF 12/31/2019

# 1.8 MONTHS

AS OF 12/31/2018

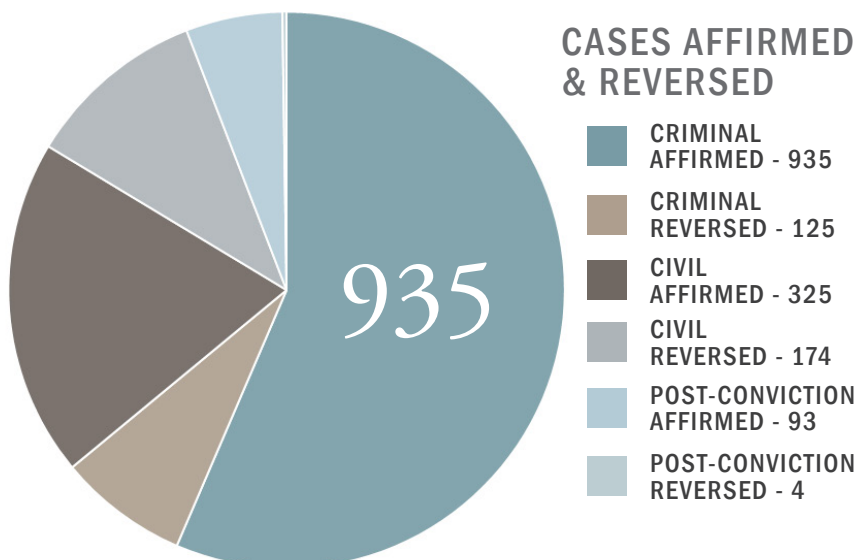
	CRIMINAL	POST - CONVICTION	CIVIL	EXPEDITE	OTHER	TOTAL
Cases Pending 12/31/2018	144	19	105	2	42	312
Cases Fully-Briefed Received	1,053	94	492	11	387	2,037
<i>Geographic District One</i>	350	18	161	0	134	663
<i>Geographic District Two</i>	466	39	188	11	171	875
<i>Geographic District Three</i>	237	37	143	0	82	499
Cases Disposed	1,082	97	515	13	383	2,090
<i>By Majority Opinion</i>	1,081	97	507	13	381	2,079
<i>By Order</i>	1	0	8	0	2	11
Net Increase/Decrease	(29)	(3)	(23)	(2)	4	(53)
Cases Pending 12/31/2019	115	16	82	0	46	259
Cases Affirmed	935	93	325	10	334	1,697
<i>Cases Affirmed Percent</i>	86.5%	95.9%	64.1%	76.9%	87.7%	81.7%
Cases Reversed	125	4	174	3	44	350
<i>Cases Reversed Percent</i>	11.6%	4.1%	34.3%	23.1%	11.5%	16.8%
Cases Remanded	21	0	8	0	3	32
<i>Cases Remanded Percent</i>	1.9%	0.0%	1.6%	0.0%	0.8%	1.5%
Oral Arguments Heard	36	1	42	0	2	81

# 7,233

Total number of Motions

# 7,857

Total number of Orders





# SUMMARY BY JUDGE

JUDGES (DISTRICT)	MAJORITY OPINIONS ISSUED	ALL OPINIONS ISSUED	ORDERS ISSUED	CASES VOTED ON	ORAL ARGUMENTS HEARD	CASES PENDING 12/31/2018	CASES PENDING 12/31/2019
Altice (2nd)	127	131	0	428	19	23	17
Bailey (1st)	127	136	1	378	14	6	6
Baker (1st)	162	178	0	457	36	11	9
Bradford (2nd)	137	141	0	384	17	9	8
Brown (5th)	135	145	0	409	8	12	7
Crone (3rd)	138	142	0	412	10	11	10
Kirsch (2nd)	109	116	3	407	16	20	16
Mathias (3rd)	127	134	1	390	13	28	31
May (4th)	121	124	0	405	17	38	28
Najam (1st)	160	160	2	410	14	9	6
Pyle (4th)	117	125	1	390	7	36	22
Riley (4th)	145	154	0	418	15	12	10
Robb (5th)	118	126	0	413	26	21	25
Tavitas (3rd)	134	140	1	422	17	30	20
Vaidik (5th)	110	112	1	396	13	13	11
<b>SENIOR JUDGES</b>						<b>33</b>	<b>33</b>
Barnes	14	14	0	20	0	0	0
Barreau	23	23	0	23	0	0	0
Darden	18	18	0	18	1	0	0
Friedlander	30	30	0	30	0	0	0
Rucker	0	0	0	0	0	0	0
Sharpnack	16	17	1	16	0	0	0
Shepard	11	11	0	11	0	0	0
<b>TOTAL</b>	<b>2,079</b>	<b>2,177</b>	<b>11</b>	<b>6,237</b>	<b>243</b>	<b>312</b>	<b>259</b>

# CASELOAD

JUDGES (DISTRICT)	CASES PENDING 1/1/2019	CASES ASSIGNED	INTAKE			DISPOSITIONS			CASES PENDING 12/31/2019
			TRANSFERS			MAJORITY OPINIONS	ORDERS	TOTALS	
			IN	OUT	TOTAL				
Altice (2nd)	23	130	3	12	121	127	0	127	17
Bailey (1st)	6	128	4	4	128	127	1	128	6
Baker (1st)	11	128	38	6	160	162	0	162	9
Bradford (2nd)*	9	129	8	1	136	137	0	137	8
Brown (5th)	12	127	4	1	130	135	0	135	7
Crone (3rd)	11	129	10	2	137	138	0	138	10
Kirsch (2nd)	20	127	4	23	108	109	3	112	16
Mathias (3rd)	28	136	2	7	131	127	1	128	31
May (4th)	38	129	4	22	111	121	0	121	28
Najam (1st)	9	124	38	3	159	160	2	162	6
Pyle (4th)	36	132	2	30	104	117	1	118	22
Riley (4th)	12	129	15	1	143	145	0	145	10
Robb (5th)	21	128	2	8	122	118	0	118	25
Tavitas (3rd)	30	128	4	7	125	134	1	135	20
Vaidik (5th)	13	108	3	2	109	110	1	111	11
<b>SENIOR JUDGES</b>	<b>33</b>	<b>125</b>	<b>0</b>	<b>12</b>	<b>113</b>	<b>(112)</b>	<b>(1)</b>	<b>(113)</b>	<b>33</b>
Barnes	0	0	0	0	0	14	0	14	0
Barreau	0	0	0	0	0	23	0	23	0
Darden	0	0	0	0	0	18	0	18	0
Friedlander	0	0	0	0	0	30	0	30	0
Rucker	0	0	0	0	0	0	0	0	0
Sharpnack	0	0	0	0	0	16	1	17	0
Shepard	0	0	0	0	0	11	0	11	0
<b>TOTAL</b>	<b>312</b>	<b>2,037</b>	<b>141</b>	<b>141</b>	<b>2,037</b>	<b>2,079</b>	<b>11</b>	<b>2,090</b>	<b>259</b>

\*By Court policy, the Chief Judge's case load is 80% of that of other judges, to accommodate the time needed for administrative tasks.

# OPINIONS ISSUED

## PORTION OF ISSUED OPINIONS THAT ARE MAJORITY OPINIONS

TOTAL MAJORITY OPINIONS ISSUED - 2,079

TOTAL OPINIONS ISSUED - 2,177

JUDGES (DISTRICT)	MAJORITY OPINIONS			CONCURRING OPINIONS	DISSENTING OPINIONS	REHEARING OPINIONS	OTHER OPINIONS	TOTAL OPINIONS
	ISSUED	PUBLISHED	PERCENT PUBLISHED					
Altice (2nd)	127	19	15.0%	1	3	0	0	131
Bailey (1st)	127	34	26.8%	2	4	2	1	136
Baker (1st)	162	42	25.9%	4	8	4	0	178
Bradford (2nd)	137	22	16.1%	1	2	1	0	141
Brown (5th)	135	32	23.7%	2	8	0	0	145
Crone (3rd)	138	28	20.3%	2	2	0	0	142
Kirsch (2nd)	109	17	15.6%	0	7	0	0	116
Mathias (3rd)	127	22	17.3%	2	3	2	0	134
May (4th)	121	33	27.3%	0	2	1	0	124
Najam (1st)	160	48	30.0%	0	0	0	0	160
Pyle (4th)	117	22	18.8%	4	3	0	1	125
Riley (4th)	145	43	29.7%	1	5	3	0	154
Robb (5th)	118	26	22.0%	2	6	0	0	126
Tavitas (3rd)	134	23	17.2%	2	4	0	0	140
Vaidik (5th)	110	26	23.6%	0	2	0	0	112

### SENIOR JUDGES

Barnes	14	0	0.0%	0	0	0	0	14
Barteau	23	5	21.7%	0	0	0	0	23
Darden	18	7	38.9%	0	0	0	0	18
Friedlander	30	1	3.3%	0	0	0	0	30
Rucker	0	0	0.0%	0	0	0	0	0
Sharpnack	16	7	43.8%	0	0	1	0	17
Shepard	11	5	45.5%	0	0	0	0	11
<b>TOTAL</b>	<b>2,079</b>	<b>462</b>	<b>22.2%</b>	<b>23</b>	<b>59</b>	<b>14</b>	<b>2</b>	<b>2,177</b>

# CASES HANDED DOWN

JUDGES (DISTRICT)	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	69	150	5	15	32	80
Bailey (1st)	65	136	4	13	33	51
Baker (1st)	78	159	9	15	48	66
Bradford (2nd)	68	127	6	9	31	61
Brown (5th)	66	139	7	15	33	70
Crone (3rd)	67	148	5	12	36	61
Kirsch (2nd)	59	158	2	11	23	79
Mathias (3rd)	63	139	8	9	31	72
May (4th)	70	135	5	22	23	72
Najam (1st)	73	136	12	10	46	57
Pyle (4th)	70	136	7	10	18	68
Riley (4th)	76	137	6	13	32	70
Robb (5th)	59	157	2	15	37	61
Tavitas (3rd)	68	149	10	14	29	70
Vaidik (5th)	53	153	5	10	31	74
<b>TOTAL</b>	<b>1,004</b>	<b>2,159</b>	<b>93</b>	<b>193</b>	<b>483</b>	<b>1,012</b>

JUDGES (DISTRICT)	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	0	6	21	50	127	301
Bailey (1st)	1	2	24	49	127	251
Baker (1st)	0	1	27	54	162	295
Bradford (2nd)	1	1	31	49	137	247
Brown (5th)	3	1	26	49	135	274
Crone (3rd)	1	1	29	52	138	274
Kirsch (2nd)	1	0	24	50	109	298
Mathias (3rd)	1	1	24	42	127	263
May (4th)	0	2	23	53	121	284
Najam (1st)	1	3	28	44	160	250
Pyle (4th)	0	1	22	58	117	273
Riley (4th)	1	1	30	52	145	273
Robb (5th)	0	2	20	60	118	295
Tavitas (3rd)	1	1	26	54	134	288
Vaidik (5th)	1	3	20	46	110	286
<b>TOTAL</b>	<b>12</b>	<b>26</b>	<b>375</b>	<b>762</b>	<b>1,967</b>	<b>4,152</b>

# CASES HANDED DOWN

## SENIOR JUDGES

SENIOR JUDGES	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Barnes	10	3	2	1	2	2
Barteau	21	0	0	0	1	0
Darden	16	0	1	0	1	0
Friedlander	17	0	0	0	10	0
Rucker	0	0	0	0	0	0
Sharpnack	9	0	0	0	5	0
Shepard	4	0	1	0	5	0
<b>TOTAL</b>	<b>77</b>	<b>3</b>	<b>4</b>	<b>1</b>	<b>24</b>	<b>2</b>

SENIOR JUDGES	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Barnes	0	0	0	0	14	6
Barteau	0	0	1	0	23	0
Darden	0	0	0	0	18	0
Friedlander	1	0	2	0	30	0
Rucker	0	0	0	0	0	0
Sharpnack	0	0	2	0	16	0
Shepard	0	0	1	0	11	0
<b>TOTAL</b>	<b>1</b>	<b>0</b>	<b>6</b>	<b>0</b>	<b>112</b>	<b>6</b>

The Court of Appeals handed down 2,079 written decisions in 2019.





# ORAL ARGUMENTS

JUDGES (DISTRICT)	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	2	5	0	0	2	10
Bailey (1st)	1	6	0	0	2	4
Baker (1st)	6	9	1	0	12	7
Bradford (2nd)	3	2	0	0	6	5
Brown (5th)	0	1	0	0	2	5
Crone (3rd)	1	4	0	0	1	4
Kirsch (2nd)	0	6	0	0	4	6
Mathias (3rd)	4	5	0	0	1	3
May (4th)	7	2	0	0	2	4
Najam (1st)	2	3	0	1	1	6
Pyle (4th)	0	4	0	0	1	2
Riley (4th)	0	7	0	0	2	6
Robb (5th)	4	9	0	1	2	10
Tavitas (3rd)	3	4	0	0	2	8
Vaidik (5th)	2	5	0	0	2	4
<b>TOTAL</b>	<b>35</b>	<b>72</b>	<b>1</b>	<b>2</b>	<b>42</b>	<b>84</b>

JUDGES (DISTRICT)	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	0	0	0	0	4	15
Bailey (1st)	0	0	0	1	3	11
Baker (1st)	0	0	0	1	19	17
Bradford (2nd)	0	0	0	1	9	8
Brown (5th)	0	0	0	0	2	6
Crone (3rd)	0	0	0	0	2	8
Kirsch (2nd)	0	0	0	0	4	12
Mathias (3rd)	0	0	0	0	5	8
May (4th)	0	0	2	0	11	6
Najam (1st)	0	0	0	1	3	11
Pyle (4th)	0	0	0	0	1	6
Riley (4th)	0	0	0	0	2	13
Robb (5th)	0	0	0	0	6	20
Tavitas (3rd)	0	0	0	0	5	12
Vaidik (5th)	0	0	0	0	4	9
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>2</b>	<b>4</b>	<b>80</b>	<b>162</b>



## ORAL ARGUMENTS

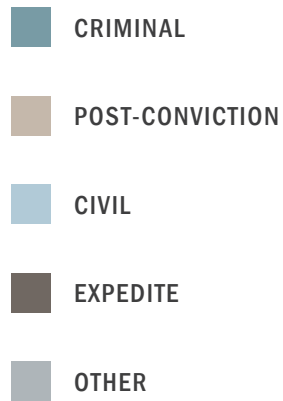
### SENIOR JUDGES

SENIOR JUDGES	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Barnes	0	0	0	0	0	0
Barteau	0	0	0	0	0	0
Darden	1	0	0	0	0	0
Friedlander	0	0	0	0	0	0
Rucker	0	0	0	0	0	0
Sharpnack	0	0	0	0	0	0
Shepard	0	0	0	0	0	0
<b>TOTAL</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

SENIOR JUDGES	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Barnes	0	0	0	0	0	0
Barteau	0	0	0	0	0	0
Darden	0	0	0	0	1	0
Friedlander	0	0	0	0	0	0
Rucker	0	0	0	0	0	0
Sharpnack	0	0	0	0	0	0
Shepard	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>0</b>

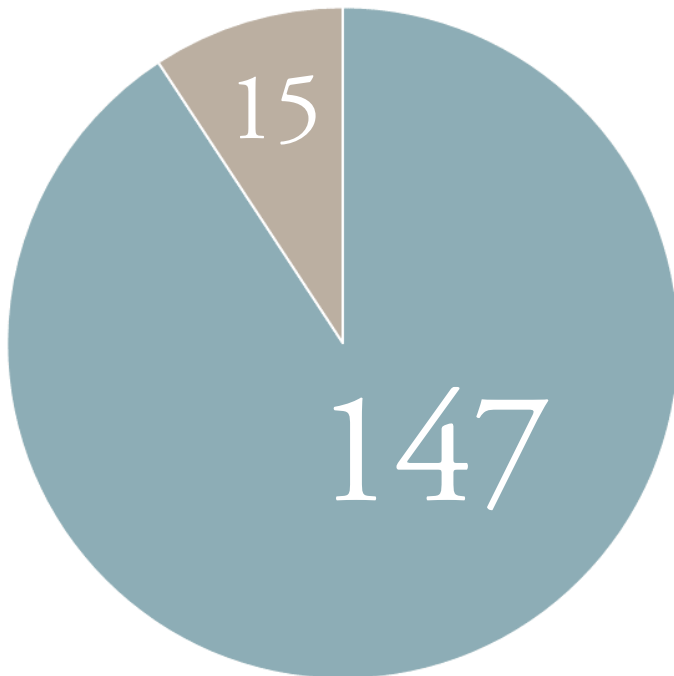
# CASES PENDING

## TOTAL CASES PENDING (PER TYPE)



JUDGES (DISTRICT)	CRIMINAL	POST - CONVICTION	CIVIL	EXPEDITE	OTHER	TOTAL
Altice (2nd)	7	0	7	0	3	17
Bailey (1st)	2	1	2	0	1	6
Baker (1st)	4	0	4	0	1	9
Bradford (2nd)	4	0	2	0	2	8
Brown (5th)	2	1	1	0	3	7
Crone (3rd)	3	1	3	0	3	10
Kirsch (2nd)	6	1	6	0	3	16
Mathias (3rd)	13	2	11	0	5	31
May (4th)	15	0	8	0	5	28
Najam (1st)	2	0	2	0	2	6
Pyle (4th)	9	0	10	0	3	22
Riley (4th)	3	0	5	0	2	10
Robb (5th)	11	4	5	0	5	25
Tavitas (3rd)	10	2	3	0	5	20
Vaidik (5th)	5	1	3	0	2	11
<b>SENIOR JUDGES</b>	<b>19</b>	<b>3</b>	<b>10</b>	<b>0</b>	<b>1</b>	<b>33</b>
<b>TOTAL</b>	<b>115</b>	<b>16</b>	<b>82</b>	<b>0</b>	<b>46</b>	<b>259</b>

## SUCCESSIVE PETITIONS FOR POST-CONVICTION RELIEF



15

Pending as of 12/31/2018

147

Petitions filed

162

Total petitions

## AUTHORIZATION

8

Petitions authorized to be  
filed in trial court for hearing

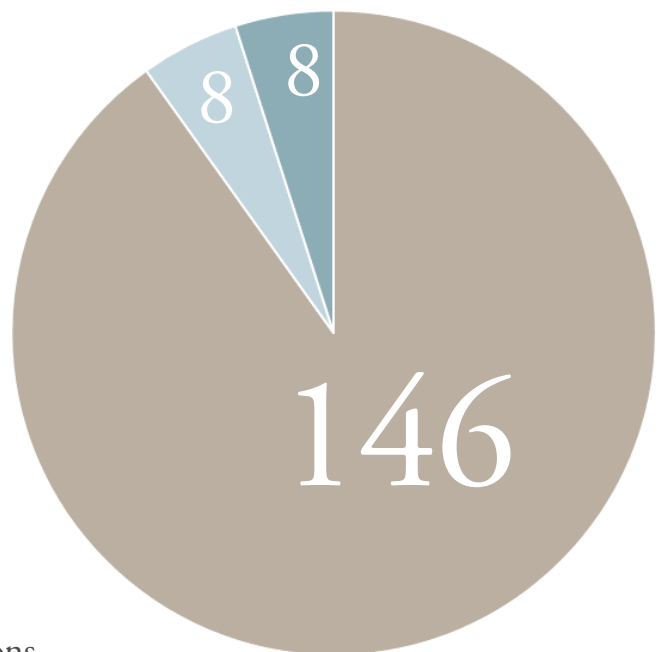
146

Petitions not authorized to be filed  
in trial court for hearing (“No Merit”)

8

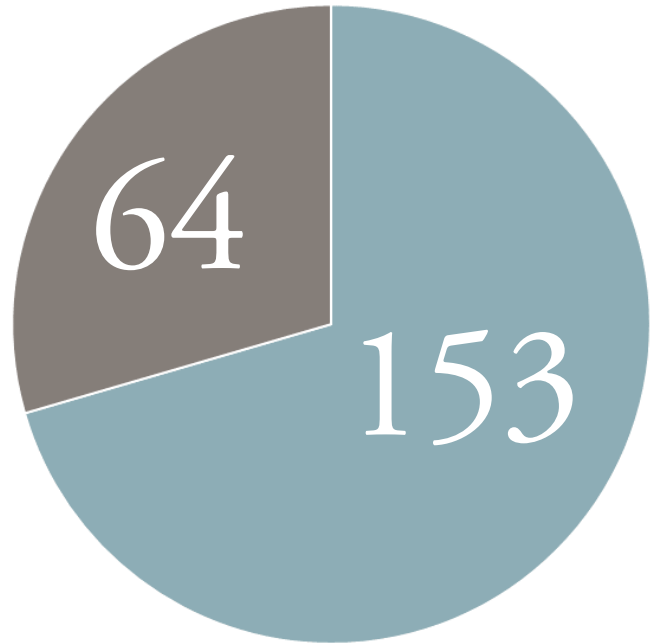
Petitions pending

162 Total petitions



## APPELLEE'S MOTIONS TO DISMISS

MOTIONS TO DISMISS GRANTED	MOTION TO DISMISS DENIED
153	64
PER CURIAM OPINIONS	TOTAL DISPOSITIONS
0	217



**16** Pending motions as of 12/31/2019



# STATISTICS REGARDING DISPOSITION OF CHIEF JUDGE MATTERS

**7,233** Motions, Petitions for Time, Misc. Motions Received

## JANUARY 1, 2019 - DECEMBER 31, 2019

Orders Granting Petitions to File Belated Notice of Appeal	60
Orders Denying Petitions to File Belated Notice of Appeal	33
Orders Granting Pre-Appeal Conferences	0
Orders Denying Pre-Appeal Conferences	2
Orders with Instructions from Pre-Appeal Conference	0
Orders Granting Permissive Interlocutory Appeals	77
Orders Denying Permissive Interlocutory Appeals	91
Orders Granting Successive Petitions for Post-Conviction Relief	8
Orders Denying Successive Petitions for Post-Conviction Relief	146
Orders Granting Consolidations of Appeals	126
Orders Denying Consolidations of Appeals	9
Orders Granting Petitions to Amend Brief	121
Orders Denying Petitions to Amend Brief	10
Orders Granting Withdrawals of Record	233
Orders Denying Withdrawals of Record	44
Miscellaneous Orders	3,589

## REHEARINGS

Petitions for Rehearing Granted without Opinion	0
Petitions for Rehearing Denied without Opinion	151
Petitions for Rehearing Granted with Opinion	14
Petitions for Rehearing Denied with Opinion	0

## TIME GRANTS

Petitions for Time to File Record Granted	318
Petitions for Time to File Record Denied	12
Petitions for Time to File Appellant's Brief Granted	1,028
Petitions for Time to File Appellant's Brief Denied	46
Petitions for Time to File Appellee's Brief Granted	466
Petitions for Time to File Appellee's Brief Denied	7
Petitions for Time to File Appellant's Reply Brief Granted	132
Petitions for Time to File Appellant's Reply Brief Denied	5

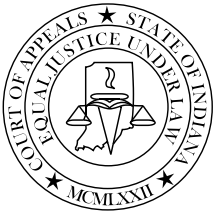
## ORAL ARGUMENT ACTION

Orders Setting Oral Arguments	145
Orders Denying Petitions for Oral Arguments	53

## DISMISSALS

Orders Granting Appellant's Motions to Dismiss	265
Orders Denying Appellant's Motions to Dismiss	31
Orders Granting Appellee's Motions to Dismiss	153
Orders Denying Appellee's Motions to Dismiss	64
Court-Directed Orders of Dismissal	418

**7,857** TOTAL



# COURT OF APPEALS OF INDIANA

2 0 1 9   A N N U A L   R E P O R T

This report pertaining to the progress of the work of the Court of Appeals of Indiana for the period from January 1, 2019, through December 31, 2019, is being submitted pursuant to section 2-6-1-1, Judges' Manual.

Information about the Court of Appeals of Indiana and the Indiana Judicial Branch can be found online at:

<http://www.in.gov/judiciary/appeals>

THE MISSION OF THE COURT OF APPEALS OF INDIANA:  
**To serve all people by providing equal justice under law**