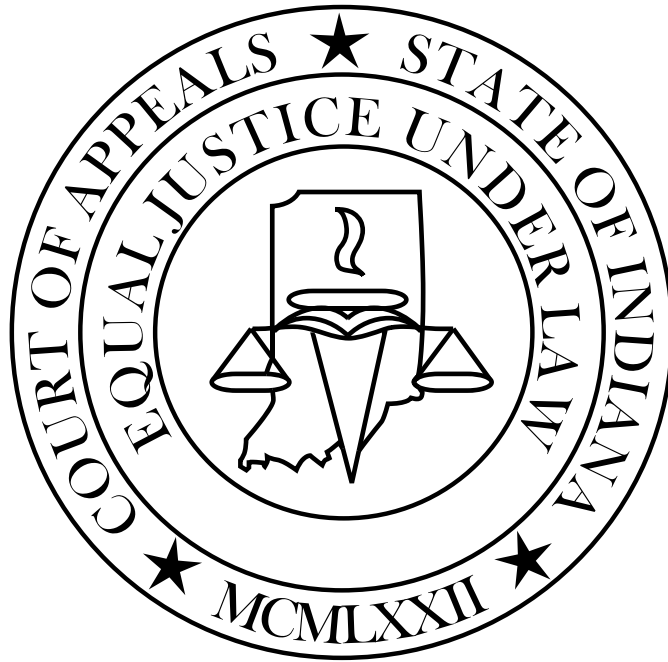


# COURT OF APPEALS OF INDIANA

2 0 2 1   A N N U A L   R E P O R T





# COURT OF APPEALS OF INDIANA

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2 0 2 1   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, 2021, through December 31, 2021, is being submitted pursuant to section 2-6-1-1, Judges' Manual.

Handwritten signature of Cale J. Bradford in black ink.

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**Cale J. Bradford**  
CHIEF JUDGE & PRESIDING JUDGE  
SECOND DISTRICT

Handwritten signature of Edward W. Najam, Jr. in black ink.

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**Edward W. Najam, Jr.**  
PRESIDING JUDGE  
FIRST DISTRICT

Handwritten signature of Terry A. Crone in black ink.

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**Terry A. Crone**  
PRESIDING JUDGE  
THIRD DISTRICT

Handwritten signature of Rudolph R. Pyle, III in black ink.

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**Rudolph R. Pyle, III**  
PRESIDING JUDGE  
FOURTH DISTRICT

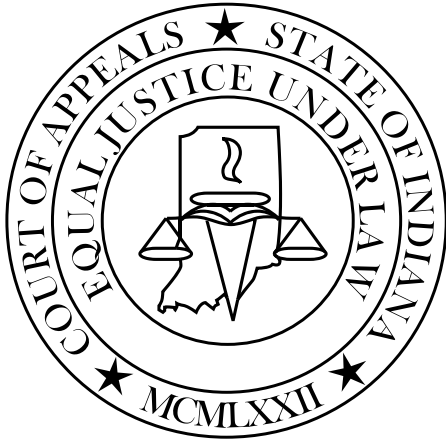
Handwritten signature of Elaine B. Brown in black ink.

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**Elaine B. Brown**  
PRESIDING JUDGE  
FIFTH 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

Edward W. Najam, Jr., Presiding Judge | L. Mark Bailey, Judge | Leanna K. Weissmann, Judge

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## SECOND DISTRICT

Cale J. Bradford, Chief Judge | Robert R. Altice, Jr., Judge | Derek R. Molter, Judge

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## THIRD DISTRICT

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

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## FOURTH DISTRICT

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

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## FIFTH DISTRICT

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

# COURT OF APPEALS OF INDIANA

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

The 2021 Annual Report provides statistical information about the work of the Court of Appeals of Indiana from January through December 2021. 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 to 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.

The Court continued to deliver all essential services throughout 2021 and adapted to the changing public health landscape with flexibility and operational consistency. Starting in June 2021, the Court returned to in-person operations, holding oral arguments in the Court of Appeals Courtroom. Then, in November 2021, the Court fully rebooted its Traveling Oral Argument program, *Appeals on Wheels*, visiting six venues throughout the State and adjusting to shifting variables at each respective location.

The Court held a total of 23 oral arguments in 2021, including arguments held via Zoom, in the Court of Appeals Courtroom, and at Traveling Oral Argument sites. The Court's average age of cases pending was an impressive 1.1 months, a 21% reduction from the previous year.

2021 was a year during which the Court demonstrated its flexibility and commitment to continuous improvement. Several other notable updates include the following:

- Judge James S. Kirsch retired from the Court on September 30, 2021 and began service as a senior judge on October 2, 2021.
- Judge Derek R. Molter was appointed to the Court by Governor Eric Holcomb and began his service on October 1, 2021.
- Senior Judge John T. Sharpnack retired from the Court at the end of 2021.
- The Court continued to operate remotely using its Continuity of Operations Planning (COOP) processes until a safe return to the office was effected in June 2021.
- The Carr L. Darden CLEO summer internship was held in-person, providing invaluable experience to qualified minority, low-income, or educationally disadvantaged students.
- The Court launched its Judicial Dashboard to streamline voting operations for judges.

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.



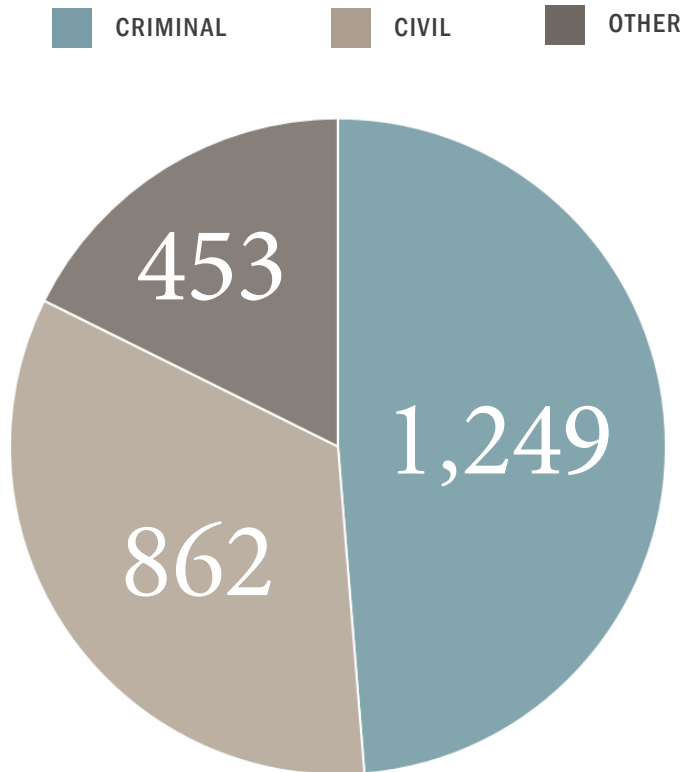
**Cale J. Bradford**

CHIEF JUDGE & PRESIDING JUDGE  
SECOND DISTRICT

# TOTAL CASELOAD\*

YEAR	FILED	DISPOSED
2017	3,306	3,187
2018	3,310	2,933
2019	3,221	3,151
2020	2,572	2,853
2021	3,018	2,564

## 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
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
2020	1,314	1,507	809	866	449	480
2021	1,475	1,249	951	862	592	453

# COURT SUMMARY

## AVERAGE AGE OF CASES PENDING

# 1.1 MONTHS

AS OF 12/31/2021

# 1.4 MONTHS

AS OF 12/31/2020

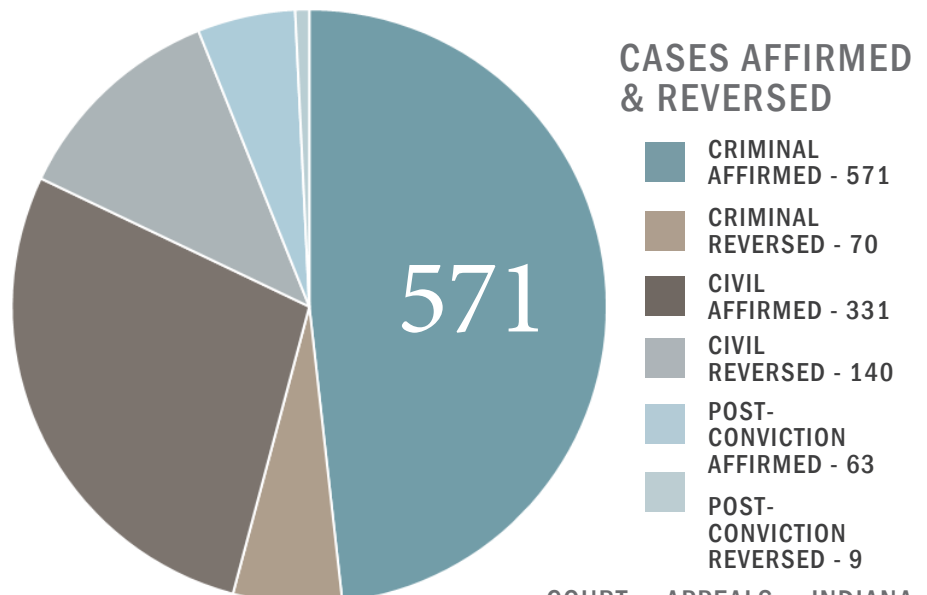
	CRIMINAL	POST - CONVICTION	CIVIL	EXPEDITE	OTHER	TOTAL
Cases Pending 12/31/2020	63	12	62	2	14	153
Cases Fully-Briefed Received	682	70	508	12	273	1,545
<i>Geographic District One</i>	242	19	188	0	130	579
<i>Geographic District Two</i>	255	27	187	12	84	565
<i>Geographic District Three</i>	185	24	133	0	59	401
Cases Disposed	647	72	486	11	265	1,481
<i>By Majority Opinion</i>	647	72	484	11	265	1,479
<i>By Order</i>	0	0	2	0	0	2
Net Increase/Decrease	35	(2)	22	1	8	64
Cases Pending 12/31/2021	98	10	84	3	22	217
Cases Affirmed	571	63	331	11	248	1,224
<i>Cases Affirmed Percent</i>	88.3%	87.5%	68.4%	100.0%	93.6%	82.7%
Cases Reversed	70	9	140	0	17	236
<i>Cases Reversed Percent</i>	10.8%	12.5%	28.9%	0.0%	6.4%	16.0%
Cases Remanded	6	0	13	0	0	19
<i>Cases Remanded Percent</i>	0.9%	0.0%	2.7%	0.0%	0.0%	1.3%
Oral Arguments Heard	7	2	13	1	0	23

# 6,479

Total number of Motions

# 6,687

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 12/31/2020	CASES PENDING 12/31/2021
Altice (2nd)	100	101	0	304	5	12	11
Bailey (1st)	90	95	0	298	4	4	13
Bradford (2nd)	97	99	0	299	3	6	5
Brown (5th)	99	103	0	285	5	7	11
Crone (3rd)	106	108	0	304	1	8	7
Kirsch (2nd)	66	67	0	211	2	8	0
Mathias (3rd)	97	97	0	311	3	10	10
May (4th)	90	92	1	282	8	19	23
Molter (2nd)	18	18	0	57	3	0	21
Najam (1st)	98	99	0	282	3	3	8
Pyle (4th)	81	83	0	283	2	10	20
Riley (4th)	95	97	0	283	4	7	9
Robb (5th)	92	96	0	289	5	12	17
Tavitas (3rd)	96	110	0	312	3	10	13
Vaidik (5th)	87	93	1	260	5	12	14
Weissmann (1st)	92	96	0	299	9	9	18
<b>SENIOR JUDGES</b>						16	17
Baker	19	19	0	19	2	0	0
Darden	13	13	0	13	0	0	0
Friedlander	20	20	0	20	0	0	0
Kirsch	0	0	0	3	1	0	0
Sharpnack	10	10	0	10	0	0	0
Shepard	13	15	0	13	1	0	0
<b>TOTAL</b>	<b>1,479</b>	<b>1,531</b>	<b>2</b>	<b>4,437</b>	<b>69</b>	<b>153</b>	<b>217</b>

# CASELOAD

JUDGES (DISTRICT)	CASES PENDING 1/1/2021	CASES ASSIGNED	INTAKE			DISPOSITIONS			CASES PENDING 12/31/2021
			TRANSFERS			MAJORITY OPINIONS	ORDERS	TOTALS	
			IN	OUT	TOTAL				
Altice (2nd)	12	98	1	0	99	100	0	100	11
Bailey (1st)	4	100	0	1	99	90	0	90	13
Bradford (2nd)	6	96	2	2	96	97	0	97	5
Brown (5th)	7	94	10	1	103	99	0	99	11
Crone (3rd)	8	98	7	0	105	106	0	106	7
Kirsch (2nd)	8	67	2	11	58	66	0	66	0
Mathias (3rd)	10	98	4	5	97	97	0	97	10
May (4th)	19	95	3	3	95	90	1	91	23
Molter (2nd)	0	31	9	1	39	18	0	18	21
Najam (1st)	3	103	5	5	103	98	0	98	8
Pyle (4th)	10	97	1	7	91	81	0	81	20
Riley (4th)	7	96	3	2	97	95	0	95	9
Robb (5th)	12	96	3	2	97	92	0	92	17
Tavitas (3rd)	10	96	4	1	99	96	0	96	13
Vaidik (5th)	12	99	3	12	90	87	1	88	14
Weissmann (1st)	9	105	5	9	101	92	0	92	18
<b>SENIOR JUDGES</b>	16	76	1	1	76	(75)	(0)	(75)	17
Baker	0	0	0	0	0	19	0	19	0
Darden	0	0	0	0	0	13	0	13	0
Friedlander	0	0	0	0	0	20	0	20	0
Kirsch	0	0	0	0	0	0	0	0	0
Sharpnack	0	0	0	0	0	10	0	10	0
Shepard	0	0	0	0	0	13	0	13	0
<b>TOTAL</b>	<b>153</b>	<b>1,545</b>	<b>63</b>	<b>63</b>	<b>1,545</b>	<b>1,479</b>	<b>2</b>	<b>1,481</b>	<b>217</b>

# OPINIONS ISSUED

## PORTION OF ISSUED OPINIONS THAT ARE MAJORITY OPINIONS

TOTAL MAJORITY OPINIONS ISSUED- 1,479

TOTAL OPINIONS ISSUED - 1,531

JUDGES (DISTRICT)	MAJORITY OPINIONS			CONCURRING OPINIONS	DISSENTING OPINIONS	REHEARING OPINIONS	OTHER OPINIONS	TOTAL OPINIONS
	ISSUED	PUBLISHED	PERCENT PUBLISHED					
Altice (2nd)	100	14	14.0%	1	0	0	0	101
Bailey (1st)	90	12	13.3%	0	4	1	0	95
Bradford (2nd)	97	12	12.4%	1	0	1	0	99
Brown (5th)	99	13	13.1%	1	3	0	0	103
Crone (3rd)	106	19	17.9%	0	2	0	0	108
Kirsch (2nd)	66	12	18.2%	0	1	0	0	67
Mathias (3rd)	97	20	20.6%	0	0	0	0	97
May (4th)	90	26	28.9%	0	0	2	0	92
Molter (2nd)	18	2	11.1%	0	0	0	0	18
Najam (1st)	98	27	27.6%	1	0	0	0	99
Pyle (4th)	81	25	30.9%	1	1	0	0	83
Riley (4th)	95	25	26.3%	0	2	0	0	97
Robb (5th)	92	14	15.2%	0	2	1	1	96
Tavitas (3rd)	96	34	35.4%	3	10	1	0	110
Vaidik (5th)	87	21	24.1%	2	4	0	0	93
Weissmann (1st)	92	24	26.1%	0	2	2	0	96
<b>SENIOR JUDGES</b>								
Baker	19	2	10.5%	0	0	0	0	19
Darden	13	5	38.5%	0	0	0	0	13
Friedlander	20	7	35.0%	0	0	0	0	20
Kirsch	0	0	0.0%	0	0	0	0	0
Sharpnack	10	2	20.0%	0	0	0	0	10
Shepard	13	5	38.5%	0	0	2	0	15
<b>TOTAL</b>	<b>1,479</b>	<b>321</b>	<b>21.7%</b>	<b>10</b>	<b>31</b>	<b>10</b>	<b>1</b>	<b>1,531</b>

## CASES HANDED DOWN

JUDGES (DISTRICT)	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	44	90	6	12	31	62
Bailey (1st)	39	95	4	5	27	67
Bradford (2nd)	44	94	2	5	31	64
Brown (5th)	45	80	1	12	34	60
Crone (3rd)	46	90	3	9	35	61
Kirsch (2nd)	31	67	1	3	24	49
Mathias (3rd)	40	91	6	15	31	66
May (4th)	37	81	5	10	29	60
Molter (2nd)	8	17	0	3	4	11
Najam (1st)	40	79	7	13	34	64
Pyle (4th)	34	84	6	10	30	66
Riley (4th)	40	82	7	12	29	64
Robb (5th)	44	83	4	7	29	67
Tavitas (3rd)	37	95	5	12	35	70
Vaidik (3rd)	38	76	4	5	29	59
Weissmann (1st)	40	89	4	11	29	77
<b>TOTAL</b>	<b>607</b>	<b>1,293</b>	<b>65</b>	<b>144</b>	<b>461</b>	<b>967</b>

JUDGES (DISTRICT)	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	1	2	18	38	100	204
Bailey (1st)	0	5	20	36	90	208
Baker (1st)	1	3	19	36	97	202
Bradford (2nd)	1	0	18	34	99	186
Brown (5th)	2	0	20	38	106	198
Crone (3rd)	0	2	10	24	66	145
Kirsch (2nd)	1	0	19	42	97	214
Mathias (3rd)	1	2	18	39	90	192
May (4th)	0	0	6	8	18	39
Najam (1st)	0	0	17	28	98	184
Pyle (4th)	0	2	11	40	81	202
Riley (4th)	0	0	19	30	95	188
Robb (5th)	1	3	14	37	92	197
Tavitas (3rd)	1	2	18	37	96	216
Vaidik (5th)	0	1	16	32	87	173
Weissmann (1st)	1	0	18	30	92	207
<b>TOTAL</b>	<b>10</b>	<b>22</b>	<b>261</b>	<b>529</b>	<b>1,404</b>	<b>2,955</b>

# CASES HANDED DOWN

SENIOR JUDGES	SENIOR JUDGES					
	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Baker	6	0	5	0	5	0
Darden	11	0	1	0	1	0
Friedlander	10	0	0	0	8	0
Kirsch	0	1	0	0	0	1
Sharpnack	6	0	1	0	3	0
Shepard	7	0	0	0	6	0
<b>TOTAL</b>	<b>40</b>	<b>1</b>	<b>7</b>	<b>0</b>	<b>23</b>	<b>1</b>

SENIOR JUDGES	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Baker	1	0	2	0	19	0
Darden	0	0	0	0	13	0
Friedlander	0	0	2	0	20	0
Kirsch	0	0	0	1	0	3
Sharpnack	0	0	0	0	10	0
Shepard	0	0	0	0	13	0
<b>TOTAL</b>	<b>1</b>	<b>0</b>	<b>4</b>	<b>1</b>	<b>75</b>	<b>3</b>

The Court of Appeals handed down 1,479 written decisions in 2021.



# ORAL ARGUMENTS

JUDGES (DISTRICT)	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	0	1	0	0	1	3
Bailey (1st)	0	3	0	0	0	1
Bradford (2nd)	1	0	0	0	2	0
Brown (5th)	2	0	0	1	0	2
Crone (3rd)	0	0	0	0	0	1
Kirsch (2nd)	0	1	0	0	0	1
Mathias (3rd)	0	1	0	1	0	1
May (4th)	2	2	1	0	1	2
Molter (2nd)	1	1	0	1	0	0
Najam (1st)	0	0	0	0	1	2
Pyle (4th)	0	0	0	0	0	1
Riley (4th)	0	0	0	0	2	2
Robb (5th)	0	2	0	0	1	2
Tavitas (3rd)	0	1	0	0	0	1
Vaidik (5th)	0	1	0	0	2	2
Weissmann (1st)	0	1	1	1	2	4
<b>TOTAL</b>	<b>6</b>	<b>14</b>	<b>2</b>	<b>4</b>	<b>12</b>	<b>25</b>

JUDGES (DISTRICT)	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	0	0	0	0	1	4
Bailey (1st)	0	0	0	0	0	4
Baker (1st)	0	0	0	0	3	0
Bradford (2nd)	0	0	0	0	2	3
Brown (5th)	0	0	0	0	0	1
Crone (3rd)	0	0	0	0	0	2
Kirsch (2nd)	0	0	0	0	0	3
Mathias (3rd)	0	0	0	0	4	4
May (4th)	0	0	0	0	1	2
Najam (1st)	0	0	0	0	1	2
Pyle (4th)	0	1	0	0	0	2
Riley (4th)	0	0	0	0	2	2
Robb (5th)	0	0	0	0	1	4
Tavitas (3rd)	0	1	0	0	0	3
Vaidik (5th)	0	0	0	0	2	3
Weissmann (1st)	0	0	0	0	3	6
<b>TOTAL</b>	<b>0</b>	<b>2</b>	<b>0</b>	<b>0</b>	<b>20</b>	<b>45</b>



## ORAL ARGUMENTS

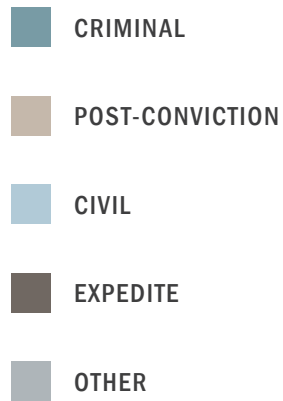
### SENIOR JUDGES

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

SENIOR JUDGES	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Baker	1	0	0	0	2	0
Darden	0	0	0	0	0	0
Friedlander	0	0	0	0	0	0
Kirsch	0	0	0	0	0	1
Sharpnack	0	0	0	0	0	0
Shepard	0	0	0	0	1	0
<b>TOTAL</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>3</b>	<b>1</b>

# CASES PENDING

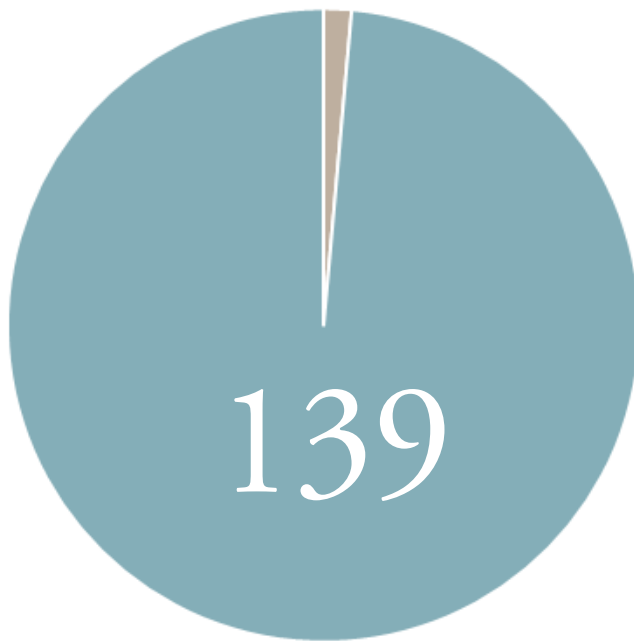
## TOTAL CASES PENDING (PER TYPE)



JUDGES (DISTRICT)	CRIMINAL	POST - CONVICTION	CIVIL	EXPEDITE	OTHER	TOTAL
Altice (2nd)	5	0	5	0	1	11
Bailey (1st)	4	1	7	1	0	13
Bradford (2nd)	3	0	2	0	0	5
Brown (5th)	4	1	5	0	1	11
Crone (3rd)	3	0	3	0	1	7
Mathias (3rd)	5	0	2	0	3	10
May (4th)	13	1	6	0	3	23
Molter (2nd)	9	0	9	1	2	21
Najam (1st)	3	0	3	1	1	8
Pyle (4th)	9	2	8	0	1	20
Riley (4th)	3	0	6	0	0	9
Robb (5th)	5	1	8	0	3	17
Tavitas (3rd)	9	0	3	0	1	13
Vaidik (5th)	5	2	5	0	2	14
Weissmann (1st)	9	0	7	0	2	18
<b>SENIOR JUDGES</b>	<b>9</b>	<b>2</b>	<b>5</b>	<b>0</b>	<b>1</b>	<b>17</b>
<b>TOTAL</b>	<b>98</b>	<b>10</b>	<b>84</b>	<b>3</b>	<b>22</b>	<b>217</b>



# SUCCESSIVE PETITIONS FOR POST-CONVICTION RELIEF



2

Pending as of 12/31/2020

139

Petitions filed

141

Total petitions

## AUTHORIZATION

9

Petitions authorized to be filed in trial court for hearing

111

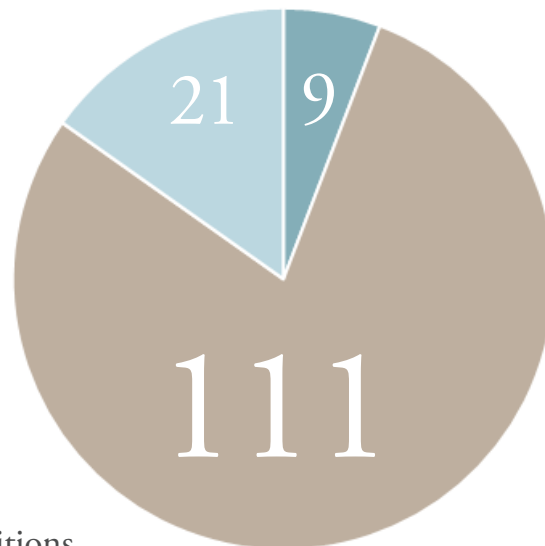
Petitions not authorized to be filed in trial court for hearing (“No Merit”)

21

Petitions pending

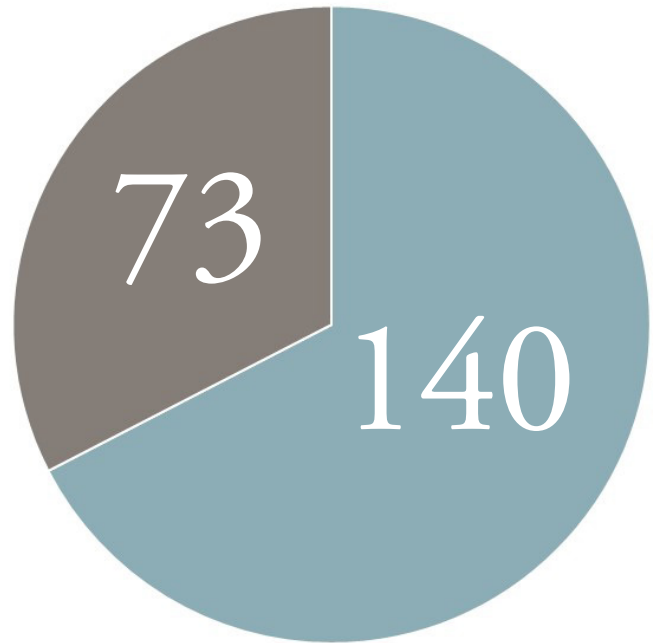
141

Total petitions



## APPELLEE’S MOTIONS TO DISMISS

MOTIONS TO DISMISS GRANTED	MOTION TO DISMISS DENIED
140	73
PER CURIAM OPINIONS	TOTAL DISPOSITIONS
0	213



**16** Pending motions as of 12/31/2021

# STATISTICS REGARDING DISPOSITION OF CHIEF JUDGE MATTERS

**6,479** Motions, Petitions for Time, Misc. Motions Received

## JANUARY 1, 2021 - DECEMBER 31, 2021

Orders Granting Petitions to File Belated Notice of Appeal	60
Orders Denying Petitions to File Belated Notice of Appeal	34
Orders Granting Pre-Appeal Conferences	1
Orders Denying Pre-Appeal Conferences	0
Orders with Instructions from Pre-Appeal Conference	0
Orders Granting Permissive Interlocutory Appeals	90
Orders Denying Permissive Interlocutory Appeals	143
Orders Granting Successive Petitions for Post-Conviction Relief	9
Orders Denying Successive Petitions for Post-Conviction Relief	111
Orders Granting Consolidations of Appeals	104
Orders Denying Consolidations of Appeals	8
Orders Granting Petitions to Amend Brief	105
Orders Denying Petitions to Amend Brief	9
Orders Granting Withdrawals of Record	183
Orders Denying Withdrawals of Record	26
Miscellaneous Orders	2,915

## REHEARINGS

Petitions for Rehearing Granted without Opinion	0
Petitions for Rehearing Denied without Opinion	77
Petitions for Rehearing Granted with Opinion	10
Petitions for Rehearing Denied with Opinion	0

## TIME GRANTS

Petitions for Time to File Record Granted	431
Petitions for Time to File Record Denied	13
Petitions for Time to File Appellant's Brief Granted	863
Petitions for Time to File Appellant's Brief Denied	33
Petitions for Time to File Appellee's Brief Granted	337
Petitions for Time to File Appellee's Brief Denied	5
Petitions for Time to File Appellant's Reply Brief Granted	102
Petitions for Time to File Appellant's Reply Brief Denied	5

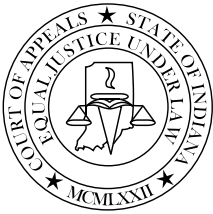
## ORAL ARGUMENT ACTION

Orders Setting Oral Arguments	26
Orders Denying Petitions for Oral Arguments	61

## DISMISSALS

Orders Granting Appellant's Motions to Dismiss	202
Orders Denying Appellant's Motions to Dismiss	20
Orders Granting Appellee's Motions to Dismiss	140
Orders Denying Appellee's Motions to Dismiss	73
Court-Directed Orders of Dismissal	491

**6,687** TOTAL



# COURT OF APPEALS OF INDIANA

2 0 2 1 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, 2021, through December 31, 2021, 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**