



**Fiscal Year 2021 Annual Report
October 1, 2020, to September 30, 2021
United States Court of Appeals for Veterans Claims**

1. *The number of appeals filed with the Court:*¹ **8,266 appeals** (20% pro se at the time of filing)

2. *The number of petitions filed with the Court:* **239 petitions** (42% pro se at the time of filing)

3. *The number of applications filed with the Court under the Equal Access to Justice Act (EAJA), section 2412 of title 28:* **7,366 EAJA applications**

4. *The total number of dispositions*² *by each of the following for FY 2021:*
 - (A) **The Court as a whole**
 - 9,303 appeals (10% pro se at time of disposition)
 - 255 petitions (43% pro se at time of disposition)
 - 7,288 EAJA applications
 - 156 requests for reconsideration/panel decision³
 - 122 appeals*
 - 34 petitions*
 - 17,002 total dispositions**

¹ Under 38 U.S.C. § 7288, the United States Court of Appeals for Veterans Claims (Court) is required to submit an annual report to the U.S. Senate Committee on Veterans' Affairs and the U.S. House of Representatives Committee on Veterans' Affairs that includes the elements enumerated in this report.

² "Dispositions" include each resolution of a matter, including decisions on appeals, petitions, EAJA applications, and requests for reconsideration/panel decision.

³ The number of requests for reconsideration by the Court as a whole, including a single judge of the Court, a multi-judge panel of the Court, and the full Court.

4. *The total number of dispositions by each of the following for FY 2021 (continued):*

(B) The Clerk of the Court⁴

7,314 appeals

6 petitions

7,259 EAJA applications

There were no requests for reconsideration of the Clerk's orders

14,579 total dispositions

(C) A single judge of the Court

1,940 appeals

241 petitions

27 EAJA applications

85 requests for reconsideration

67 appeals

18 petitions

2,293 total dispositions

(D) A multi-judge panel of the Court

48 appeals

8 petitions

2 EAJA applications

62 requests for panel decision following a single-judge decision/panel reconsideration

52 appeals

10 petitions

120 total dispositions

(E) The full Court

1 appeal

0 petitions

0 EAJA applications

9 requests for a full court decision following a panel decision

3 appeals

6 petitions

10 total dispositions

⁴ This number generally includes matters resolved through agreement of the parties, often with the aid of staff mediation conferencing.

5. *The number of each type of disposition by the Court, including settlement, affirmance, remand, vacation, dismissal, reversal, grant, and denial:*

APPEALS

TYPE OF DISPOSITION	CLERK ⁵	SINGLE JUDGE	THREE-JUDGE PANEL	FULL COURT	TOTAL
<i>Affirmed</i>	0	551	20	1	572
<i>Affirmed or dismissed in part, reversed or vacated and remanded in part</i>	3,661	199	6	0	3,866
<i>Reversed or vacated and remanded in whole or in part</i>	0	966	17	0	983
<i>Remanded</i>	2,845	10	0	0	2,855
<i>Dismissed for lack of jurisdiction or timeliness</i>	5	194	1	0	200
<i>Dismissed for default</i>	299	3	0	0	302
<i>Dismissed voluntarily</i>	504	17	4	0	525
TOTAL	7,314	1,940	48	1	9,303

PETITIONS

TYPE OF DISPOSITION	CLERK	SINGLE JUDGE	THREE-JUDGE PANEL	FULL COURT	TOTAL
<i>Extraordinary relief granted</i>	0	1	2	0	3
<i>Extraordinary relief denied</i>	0	79	2	0	81
<i>Extraordinary relief dismissed</i>	0	88	1	0	89
<i>Dismissed for default</i>	4	2	0	0	6
<i>Dismissed voluntarily</i>	2	71	3	0	76
TOTAL	6	241	8	0	255

⁵ Please see footnote 4.

5. *The number of each type of disposition by the Court, including settlement, affirmance, remand, vacation, dismissal, reversal, grant, and denial (continued):*

E A J A

TYPE OF DISPOSITION	CLERK	SINGLE JUDGE	THREE-JUDGE PANEL	FULL COURT	TOTAL
<i>Applications after decisions in appeals</i>	7,256	24	2	0	7,282
<i>Granted</i>	7,254	11	2	0	7,267
<i>Denied</i>	0	4	0	0	4
<i>Dismissed</i>	2	9	0	0	11
<i>Applications after decisions in petitions</i>	3	3	0	0	6
<i>Granted</i>	3	0	0	0	3
<i>Denied</i>	0	3	0	0	3
<i>Dismissed</i>	0	0	0	0	0
TOTAL	7,259	27	2	0	7,288

6. *The median time from filing an appeal to disposition (i.e., time from the veteran filing an appeal until initial dispositive action of the Court) by each of the following:*

- (A) **The Court as a whole:** The median time from filing an appeal to disposition of the case by the Court, as a whole, is **248 days (8.3 months)**. This involves pre-chambers procedural activity (including record dispute resolution, staff mediation conferencing,⁶ briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties) and then disposition by a judge or a panel of judges (including consideration of any requests for class certification and class action) or by the Clerk of the Court.
- (B) **The Clerk of the Court:** The median time from filing an appeal to disposition of the case by the Clerk is **227 days (7.6 months)**. This involves pre-chambers procedural activity (including record dispute resolution, staff mediation conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties) and then disposition by the Clerk.

⁶ Staff mediation conferencing is required for all represented parties. In May 2021, the Court initiated a 2-year pilot program that makes counsel available to otherwise unrepresented parties for the limited purpose of participating in mediation. Approximately one third of the unrepresented parties have opted to participate in this pilot.

6. *The median time from filing an appeal to disposition (i.e., time from the veteran filing an appeal until initial dispositive action of the Court) by each of the following (continued):*
- (C) **A single judge of the Court:** The median time for disposition of a single-judge decision once it has been assigned to chambers is **64 days (2.1 months)**. Activity once a matter is assigned to chambers includes judges and law clerks collaborating to draft a decision and circulating all draft decisions to all judges for a 1-week comment period. The median time from filing an appeal to disposition by a single judge, which includes pre-chambers procedural activity, is **459 days (15.3 months)**. Pre-chambers procedural activity includes record dispute resolution, staff mediation conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties.
 - (D) **Multiple judges of the Court** (including a multi-judge panel of the Court or the full Court): The median time for disposition of a multi-judge panel decision once it has been assigned to a panel is **228 days (7.6 months)**. Activity once a matter is assigned to a panel includes judges collaborating with each other to determine the disposition and assign writing responsibilities; considering any requests for class certification and class action; possible orders for additional briefing; drafting the decision; circulating it to the panel for concurrence or the opportunity to write separately; and circulating all draft decisions to all judges for a 1-week comment period. If oral argument is held, scheduling the argument adds a minimum of 45 days to the case-processing time. The median time from filing an appeal to disposition by a multi-judge panel, which includes pre-chambers procedural activity, is **767 days (25.6 months)**. Pre-chambers procedural activity includes record dispute resolution, staff mediation conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties. In addition, scheduling a case for oral argument, which adds a minimum of 45 days, and additional time for supplemental briefing, contributes to the time for panel case disposition.
7. *The median time from filing a petition to disposition by the Court:* **59 days (2.0 months)**
8. *The median time from filing an EAJA application under section 2412 of title 28 to disposition by the Court:* **32 days (1.1 months)**
9. *The median time from the completion of briefing requirements by the parties to disposition by the Court:* **111 days (3.7 months)**
Note: This time includes approximately 2 weeks to raise issues relating to finalizing the record of proceedings (a compilation of all documents relevant to the appeal) in every case. If an objection to the record of proceedings is filed, resolution can take several more weeks.

10. *The number of oral arguments before the Court:* **23 held** (36 scheduled, 9 settled, 4 canceled)

11. *The number of cases appealed to the United States Court of Appeals for the Federal Circuit:* **118 total cases**
 107 appeals
 11 petitions
 0 EAJA applications

12. *The approximate number and status of appeals and petitions and EAJA applications pending with the Court as of the end of the fiscal year:*

	APPEALS & PETITIONS	EAJA APPLICATIONS	TOTAL
<i>Pre-chambers procedural activity</i> ⁷	6,003	908	6,911
<i>Pending decision by a judge or panel</i>	415	1	416
<i>Post decision</i>	860	2	862
<i>Pending a motion for reconsideration or panel</i>	12	0	12
<i>Pending entry of judgment</i>	235	1	236
<i>Pending entry of mandate</i>	459	1	460
<i>On appeal before the Federal Circuit</i> ⁸	154	0	154
TOTAL	7,278	911	8,189

13. *The number of cases pending with the Court more than 18 months as of the end of the fiscal year:* **758 total cases**
 756 appeals
 2 petitions

<i>Pre-chambers procedural activity</i> ⁹	161
<i>Pending decision by a judge or panel</i>	91
<i>Post decision</i>	506

⁷ Pre-chambers procedural activity, the period of time from filing an appeal to assignment of the appeal to chambers, includes record dispute resolution, staff mediation conferencing, briefing, screening, time for pro se appellants to seek counsel, and requests for additional time from the parties.

⁸ This represents the number of cases pending on appeal to the Federal Circuit at the end of FY 2021, which is different than the number of notices of appeal filed during FY 2021 reported in element 11.

⁹ Delays associated with these cases are due primarily to parties' requests for stays, requests for additional time from the parties, or the complexity of the case.

14. A summary of any service performed for the Court by a recalled retired judge of the Court:

Four retired judges were recalled to service as Senior Judges in FY 2021. Senior Judges issued 178 single-judge decisions in total. In addition, Senior Judges participated in 3 three-judge panels, 1 en banc panel, 11 three-judge panels formed to address motions for reconsideration of single-judge decisions, and 5 three-judge panels formed to address motions for reconsideration of three-judge-panel decisions. Three Senior Judges were also involved in committee work for the Court.

15. An assessment of the workload of each judge of the Court, including consideration of the following:

- (A) The time required of each judge for disposition of each type of case.**
- (B) The number of cases reviewed by the Court.**
- (C) The average workload of other Federal appellate judges.**

As reflected in the responses to elements 1-13 above, each active judge¹⁰ on the Court carries a substantial workload. The judges' primary responsibilities are rendering decisions on appeals, petitions, related motions (e.g., procedural motions and motions for reconsideration or for panel review), applications filed pursuant to 28 U.S.C. § 2412 (EAJA), and a developing class action caseload. The judges are also responsible for the general direction and oversight of the operations of the Court and serve on various committees in furtherance of those obligations.

The number of new cases filed at the Court in FY 2021 decreased by 8%. This decrease correlates to a reduction of final decisions issued by the Board of Veterans' Appeals. In FY 2021, the Board decreased production of final decisions from more than 102,000 in FY 2020 to 99,721.

Over the course of FY 2021, the Court averaged 690 appeals filed per month, and reached a high of 872 appeals filed in March 2021, the highest in the 30-year history of the Court. In addition, the Court received three requests for class certification and class action, and certified one class. The Court has kept pace with this formidable number of appeals in large part due to the significant percentage of cases that are resolved through the mandatory pre-briefing mediation conferences conducted by Court staff attorneys.

In FY 2021, the Court averaged 206 cases (appeals and petitions) decided on the merits per active judge. For that same time period, the average number of merits decisions decided per active judge in the 13 Circuit Courts of Appeals ranged from 40 to 198. The Court received 945 filings per active judge, based on the 8,505 cases (8,266 and 239 petitions) filed in FY 2021. The number of filings per active judge for the Circuit Courts of appeals ranged from 55 to 402.

By statute, the Court is permanently authorized seven active judges. Based on workload increase, Congress has temporarily authorized two additional judges, bringing the number of active judges currently in service to nine. Seven permanent active judges are not adequate, and the Court's

¹⁰ Consistent with calculations of data performed by the Administrative Office of the United States Courts, "active judge" refers only to a judge who has been active for the entire fiscal year.

15. An assessment of the workload of each judge of the Court, including consideration of the following (continued):

- (A) The time required of each judge for disposition of each type of case.**
- (B) The number of cases reviewed by the Court.**
- (C) The average workload of other Federal appellate judges.**

sustained workload justifies making the nine-judge authorization permanent. Further, based on the Board of Veterans' Appeals' prediction that the number of final Board decisions issued will continue to grow in the near future, the Court has requested 2 additional temporary judgeships in addition to the 9, authorizing a total of 11 active judges when needed.