



**Fiscal Year 2020 Annual Report  
October 1, 2019, to September 30, 2020  
United States Court of Appeals for Veterans Claims**

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| <b>1. <i>The number of appeals filed with the Court:</i><sup>1</sup></b>   | <b>8,954 appeals</b> (23% pro se at the time of filing)   |
| <b>2. <i>The number of petitions filed with the Court:</i></b>   | <b>297 petitions</b> (41% pro se at the time of filing)   |
| <b>3. <i>The number of applications filed with the Court under the Equal Access to Justice Act (EAJA), section 2412 of title 28:</i></b> | <b>6,512 EAJA applications</b>  |
| <b>4. <i>The total number of dispositions</i><sup>2</sup> <i>by each of the following for FY 2020:</i></b>                               | <b>(A) The Court as a whole</b><br>8,430 appeals (12% pro se at time of disposition)<br>309 petitions (37% pro se at time of disposition)<br>6,744 EAJA applications<br>246 requests for reconsideration/panel decision <sup>3</sup><br><i>179 appeals</i><br><i>67 petitions</i><br><b>15,729 total dispositions</b> |

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<sup>1</sup> 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.

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

<sup>3</sup> 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 2020 (continued):*

**(B) The Clerk of the Court<sup>4</sup>**

6,423 appeals

9 petitions

6,716 EAJA applications

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

**13,148 total dispositions**

**(C) A single judge of the Court**

1,960 appeals

298 petitions

26 EAJA applications

149 requests for reconsideration

*109 appeals*

*40 petitions*

**2,433 total dispositions**

**(D) A multi-judge panel of the Court**

46 appeals

1 petition

2 EAJA applications

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

*57 appeals*

*22 petitions*

**128 total dispositions**

**(E) The full Court**

1 appeal

1 petition

0 EAJA applications

18 requests for a full court decision following a panel decision

*13 appeals*

*5 petitions*

**20 total dispositions**

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<sup>4</sup> 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 <sup>5</sup>	SINGLE JUDGE	THREE-JUDGE PANEL	FULL COURT	TOTAL
<i>Affirmed</i>	0	540	11	0	<b>551</b>
<i>Affirmed or dismissed in part, reversed or vacated and remanded in part</i>	3,374	186	2	0	<b>3,562</b>
<i>Reversed or vacated and remanded in whole or in part</i>	0	978	12	0	<b>990</b>
<i>Remanded</i>	2,246	7	6	0	<b>2,259</b>
<i>Dismissed for lack of jurisdiction or timeliness</i>	5	229	7	0	<b>241</b>
<i>Dismissed for default</i>	329	6	0	0	<b>335</b>
<i>Dismissed voluntarily</i>	469	14	8	1	<b>492</b>
<b>TOTAL</b>	<b>6,423</b>	<b>1,960</b>	<b>46</b>	<b>1</b>	<b>8,430</b>

## PETITIONS

TYPE OF DISPOSITION	CLERK	SINGLE JUDGE	THREE-JUDGE PANEL	FULL COURT	TOTAL
<i>Extraordinary relief granted</i>	0	0	0	0	<b>0</b>
<i>Extraordinary relief denied</i>	0	103	1	1	<b>105</b>
<i>Extraordinary relief dismissed</i>	0	111	0	0	<b>111</b>
<i>Dismissed for default</i>	2	0	0	0	<b>2</b>
<i>Dismissed voluntarily</i>	7	84	0	0	<b>91</b>
<b>TOTAL</b>	<b>9</b>	<b>298</b>	<b>1</b>	<b>1</b>	<b>309</b>

<sup>5</sup> 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>	6,715	24	2	0	<b>6,741</b>
<i>Granted</i>	6,715	13	1	0	<b>6,729</b>
<i>Denied</i>	0	3	0	0	<b>3</b>
<i>Dismissed</i>	0	8	1	0	<b>9</b>
<i>Applications after decisions in petitions</i>	1	2	0	0	<b>3</b>
<i>Granted</i>	1	0	0	0	<b>1</b>
<i>Denied</i>	0	2	0	0	<b>2</b>
<i>Dismissed</i>	0	0	0	0	<b>0</b>
<b>TOTAL</b>	<b>6,716</b>	<b>26</b>	<b>2</b>	<b>0</b>	<b>6,744</b>

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 **265 days (8.8 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 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 **238 days (7.9 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.
- (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 **56 days (1.9 months)**. Activity once a matter is

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):*

assigned to chambers includes judges and law clerks collaborating to draft a decision and circulating all draft decisions to all judges for a one-week comment period. The median time from filing an appeal to disposition by a single judge, which includes pre-chambers procedural activity, is **428 days (14.3 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 **169 days (5.6 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 one-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 **647 days (21.6 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:* **50 days** (1.7 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:* **106 days** (3.5 months)

*Note: This time includes approximately two 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:* **31 held** (62 scheduled, 16 settled, 15 cancelled)<sup>6</sup>

11. *The number of cases appealed to the United States Court of Appeals for the Federal Circuit:* **144 total cases**  
 119 appeals  
 22 petitions  
 3 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> <sup>7</sup>	7,037	867	<b>7,904</b>
<i>Pending decision by a judge or panel</i>	365	4	<b>369</b>
<i>Post decision</i> <sup>8</sup>	817	4	<b>821</b>
<i>Pending a motion for reconsideration or panel</i>	14	0	<b>14</b>
<i>Pending entry of judgment</i>	186	2	<b>188</b>
<i>Pending entry of mandate</i>	482	0	<b>482</b>
<i>On appeal before the Federal Circuit</i> <sup>9</sup>	135	2	<b>137</b>
<b>TOTAL</b>	<b>8,219</b>	<b>875</b>	<b>9,094</b>

<sup>6</sup> Due to the onset of the COVID-19 pandemic, the Court was forced to reschedule six arguments. Three of those arguments had been scheduled at law schools as part of the Court's educational outreach program and the other three were scheduled to be held in-person at the Court. All six arguments were eventually held virtually via teleconference. Between April 2020 and the end of the fiscal year, the Court conducted 22 arguments via teleconference. In November 2020 the Court transitioned to videoconference arguments.

<sup>7</sup> 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.

<sup>8</sup> This number reflects cases pending during the time required for judgment, mandate, and EAJA (if applicable) as well as cases on appeal to the Federal Circuit.

<sup>9</sup> This represents the number of cases pending on appeal to the Federal Circuit at the end of FY 2020, which is different than the number of notices of appeal filed during FY 2020 reported in element 11.

**13. The number of cases pending with the Court more than 18 months as of the end of the fiscal year:**

**572 total cases**

567 appeals  
5 petitions

<i>Pre-chambers procedural activity</i> <sup>10</sup>	201
<i>Pending decision by a judge or panel</i>	55
<i>Post decision</i>	316

**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 2020. Senior Judges issued 179 single-judge decisions. In addition, Senior Judges participated in several panel decisions including two three-judge panels and two en banc panels. They also participated in 10 three-judge panels reconsidering single-judge decisions and two en banc panels reconsidering 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.**

As reflected in the responses to elements 1-13 above, each active judge<sup>11</sup> 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 new and growing 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.

**(B) The number of cases reviewed by the Court.**

The number of new cases filed at the Court in FY 2020 again increased dramatically over the previous year, likely due in large part to the substantial increase in final decisions issued by the Board of Veterans' Appeals (Board). In FY 2020, the Board increased production of final decisions from 95,000 to more than 102,000.

**(C) The average workload of other Federal appellate judges.**

Over the course of FY 2020, the Court averaged 748 appeals filed per month, and reached a high of 841 appeals filed in January 2020. These numbers are the highest in the 30-year history of the Court. In addition, the Court received four requests for class certification and class action, and certified two classes. The Court has kept pace with this historic increase in the 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.

<sup>10</sup> 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.

<sup>11</sup> 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.

In FY 2020, the Court averaged 234 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 36 to 210. The Court received 1,322 filings per active judge, based on the 9,251 cases (8,954 and 297 petitions) filed in FY 2020. The number of filings per active judge for the Circuit Courts of appeals ranged from 81 to 443.

Congress recently renewed the Court's temporary authority for nine active judges. The Court's current workload justifies making the temporary expansion to nine judges permanent.