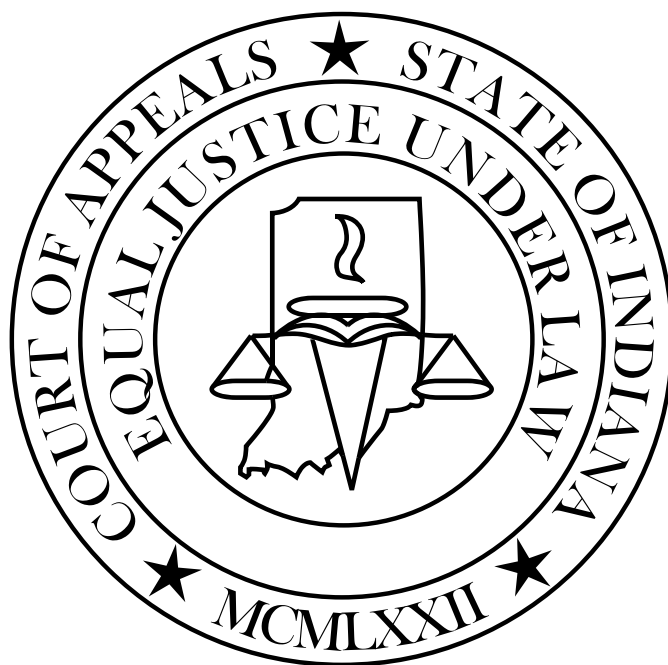


# COURT OF APPEALS OF INDIANA

2 0 1 8   A N N U A L   R E P O R T





# COURT OF APPEALS OF INDIANA

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2 0 1 8   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, 2018, through December 31, 2018, is being submitted pursuant to paragraph 6.35, Judge's Manual.

*Nancy Harris Vaidik*

Nancy H. Vaidik

CHIEF JUDGE & PRESIDING JUDGE  
FIFTH DISTRICT

*John G. Baker*

John G. Baker  
PRESIDING JUDGE  
FIRST DISTRICT

*Robert R. Altice*

Robert R. Altice  
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

Robert R. Altice, Presiding Judge | James S. Kirsch, Judge | Cale J. Bradford, 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 8     A N N U A L     R E P O R T

The 2018 Annual Report provides statistical information about the work of the Court of Appeals of Indiana from January through December 2018. Our hardworking team of judges, senior judges, law clerks, staff attorneys, and administrative staff works 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 69 oral arguments, including a record number of 44 traveling oral arguments with our *Appeals on Wheels* program. We held more traveling oral arguments than any other appellate court in the country. This program continues to connect students and local communities with the Court and to teach Hoosiers about the state judicial system. Our court issued just shy of 2,000 comprehensive written opinions in which we laid out our reasoning in detail for the litigants. The Court also issued 8,054 orders in 2018, a 10.27% increase from the previous year. However, numbers were just a small part of the Court's changes and accomplishments last year.

2018 was a year that saw changes in personnel, policy, and much more.

- Judge Michael P. Barnes retired from the Court on June 15, 2018, and was appointed by the Supreme Court to serve as a senior judge for our Court.
- Judge Elizabeth F. Taviton was appointed to the Court by Governor Holcomb and began her service on August 6, 2018.
- The Court adopted a new, comprehensive Gender-Based and Sexual Harassment Policy to help ensure all employees have a good working environment, free from harassment of any type.
- The Court adopted the state's New Parent Leave policy, allowing employees to take up to 150 hours of paid leave to celebrate a new birth or adoption.
- The Court offered wellness training for employees.
- The Court approved new policies for our senior judges.
- For the first time, the Court made copies of recorded oral arguments available to the public for free.
- The Court commissioned a book that will contain biographies of all present and former Court of Appeals 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.



**Nancy H. Vaidik**

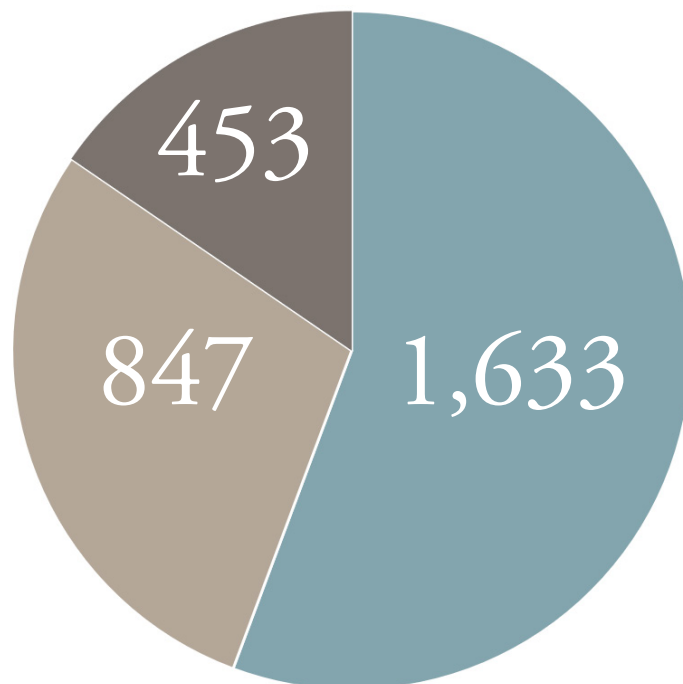
CHIEF JUDGE & PRESIDING JUDGE  
FIFTH DISTRICT

## TOTAL CASELOAD\*

YEAR	FILED	DISPOSED
2014	3,413	3,383
2015	3,267	2,920
2016	3,136	3,047
2017	3,306	3,187
2018	3,310	2,933

### TOTAL CASES DISPOSED (BY TYPE)

■ CRIMINAL
 ■ CIVIL
 ■ OTHER



\*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
2014	1,818	1,823	1,049	1,002	546	558
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

# COURT SUMMARY

## AVERAGE AGE OF CASES PENDING

**1.8 MONTHS**

AS OF 12/31/2018

**1.7 MONTHS**

AS OF 12/31/2017

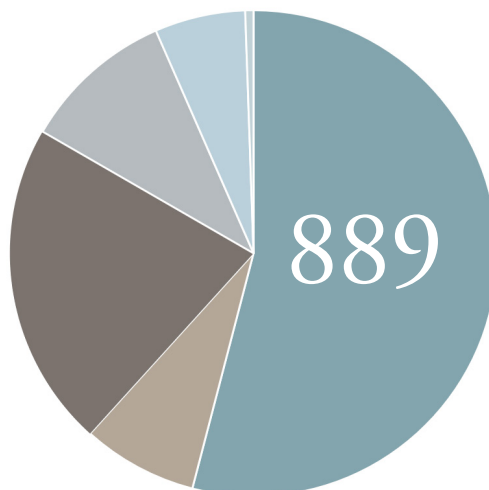
	CRIMINAL	POST - CONVICTION	CIVIL	EXPEDITE	OTHER	TOTAL
Cases Pending 12/31/2017	94	14	79	3	25	215
Cases Fully-Briefed Received	1,088	113	564	17	321	2,103
<i>Geographic District One</i>	339	30	184	0	118	671
<i>Geographic District Two</i>	488	50	220	17	139	914
<i>Geographic District Three</i>	261	33	160	0	64	518
Cases Disposed	1,038	108	538	18	304	2,006
<i>By Majority Opinion</i>	1,035	108	531	15	302	1,991
<i>By Order</i>	3	0	7	3	2	15
Net Increase/Decrease	50	5	26	(1)	17	97
Cases Pending 12/31/2018	144	19	105	2	42	312
Cases Affirmed	889	99	356	12	272	1,628
<i>Cases Affirmed Percent</i>	85.9%	91.7%	67.0%	80.0%	90.1%	81.8%
Cases Reversed	126	9	166	3	26	330
<i>Cases Reversed Percent</i>	12.2%	8.3%	31.3%	20.0%	8.6%	16.6%
Cases Remanded	20	0	9	0	4	33
<i>Cases Remanded Percent</i>	1.9%	0.0%	1.7%	0.0%	1.3%	1.7%
Oral Arguments Heard	32	2	30	2	3	69

**7,576**

Total number of Motions

**8,054**

Total number of Orders



## CASES AFFIRMED & REVERSED

- CRIMINAL AFFIRMED - 889
- CRIMINAL REVERSED - 126
- CIVIL AFFIRMED - 356
- CIVIL REVERSED - 166
- POST-CONVICTION AFFIRMED - 99
- POST-CONVICTION REVERSED - 9

## SUMMARY BY JUDGE

JUDGES (DISTRICT)	MAJORITY OPINIONS ISSUED	ALL OPINIONS ISSUED	ORDERS ISSUED	CASES VOTED ON	ORAL ARGUMENTS HEARD	CASES PENDING 12/31/2017	CASES PENDING 12/31/2018
Altice (2nd)	124	128	0	391	26	12	23
Bailey (1st)	136	141	0	421	16	5	6
Baker (1st)	144	163	3	382	20	8	11
Barnes (3rd)*	58	62	0	170	2	21	0
Bradford (2nd)	145	148	0	419	10	5	9
Brown (5th)	133	137	0	399	8	11	12
Crone (3rd)	134	140	0	390	10	7	11
Kirsch (2nd)	120	123	1	387	11	15	20
Mathias (3rd)	124	126	1	404	8	21	28
May (4th)	98	104	4	379	27	14	38
Najam (1st)	156	158	0	412	14	10	9
Pyle (4th)	105	110	2	392	6	28	36
Riley (4th)	131	141	0	379	11	9	12
Robb (5th)	114	124	2	380	19	16	21
Tavitas (3rd)**	32	33	0	121	4	0	30
Vaidik (5th)	108	115	1	368	12	10	13
SENIOR JUDGES						23	33
Barnes	15	15	0	63	2	0	0
Bartreau	22	22	0	22	0	0	0
Darden	16	16	0	16	0	0	0
Friedlander	35	36	1	35	0	0	0
Rucker	5	6	0	7	0	0	0
Sharpnack	19	19	0	19	0	0	0
Shepard	17	17	0	17	1	0	0
<b>TOTAL</b>	<b>1,991</b>	<b>2,084</b>	<b>15</b>	<b>5,973</b>	<b>207</b>	<b>215</b>	<b>312</b>

\*Judge Michael P. Barnes retired on June 15, 2018. \*\*Judge Elizabeth F. Tavitas was sworn in August 6, 2018.

# CASELOAD

JUDGES (DISTRICT)	CASES PENDING 1/1/2018	CASES ASSIGNED	INTAKE			DISPOSITIONS			CASES PENDING 12/31/2018
			TRANSFERS			MAJORITY OPINIONS	ORDERS	TOTALS	
			IN	OUT	TOTAL				
Altice (2nd)	12	134	7	6	135	124	0	124	23
Bailey (1st)	5	135	5	3	137	136	0	136	6
Baker (1st)	8	131	23	4	150	144	3	147	11
Barnes (3rd)	21	58	2	22	38	58	0	58	0
Bradford (2nd)	5	137	15	3	149	145	0	145	9
Brown (5th)	11	128	7	1	134	133	0	133	12
Crone (3rd)	7	134	9	5	138	134	0	134	11
Kirsch (2nd)	15	133	3	10	126	120	1	121	20
Mathias (3rd)	21	136	5	9	132	124	1	125	28
May (4th)	14	136	4	14	126	98	4	102	38
Najam (1st)	10	137	25	7	155	156	0	156	9
Pyle (4th)	28	130	3	18	115	105	2	107	36
Riley (4th)	9	130	11	7	134	131	0	131	12
Robb (5th)	16	133	3	15	121	114	2	116	21
Tavitas (3rd)	0	53	12	3	62	32	0	32	30
Vaidik (5th)*	10	113	0	1	112	108	1	109	13
SENIOR JUDGES	23	145	18	24	139	(129)	(1)	(130)	33
Barnes	0	0	0	0	0	15	0	15	0
Barteau	0	0	0	0	0	22	0	22	0
Darden	0	0	0	0	0	16	0	16	0
Friedlander	0	0	0	0	0	35	1	36	0
Rucker	0	0	0	0	0	5	0	5	0
Sharpnack	0	0	0	0	0	19	0	19	0
Shepard	0	0	0	0	0	17	0	17	0
TOTAL	215	2,103	152	152	2,103	1,991	15	2,006	312

\*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 ISSUED MAJORITY OPINIONS - 1,991

TOTAL ISSUED OPINIONS - 2,084

JUDGES (DISTRICT)	MAJORITY OPINIONS			CONCURRING OPINIONS	DISSENTING OPINIONS	REHEARING OPINIONS	OTHER OPINIONS	TOTAL OPINIONS
	ISSUED	PUBLISHED	PERCENT PUBLISHED					
Altice (2nd)	124	19	15.3%	0	3	0	1	128
Bailey (1st)	136	24	17.6%	1	4	0	0	141
Baker (1st)	144	31	21.5%	5	6	7	1	163
Barnes (3rd)	58	13	22.4%	0	2	2	0	62
Bradford (2nd)	145	25	17.2%	0	2	0	1	148
Brown (5th)	133	23	17.3%	0	3	0	1	137
Crone (3rd)	134	30	22.4%	1	4	0	1	140
Kirsch (2nd)	120	13	10.8%	1	2	0	0	123
Mathias (3rd)	124	27	21.8%	1	1	0	0	126
May (4th)	98	39	39.8%	2	2	1	1	104
Najam (1st)	156	33	21.2%	1	0	1	0	158
Pyle (4th)	105	17	16.2%	3	2	0	0	110
Riley (4th)	131	31	23.7%	1	7	0	2	141
Robb (5th)	114	16	14.0%	0	8	2	0	124
Tavitas (3rd)	32	5	15.6%	0	1	0	0	33
Vaidik (5th)	108	32	29.6%	2	5	0	0	115
SENIOR JUDGES								
Barnes	15	1	6.7%	0	0	0	0	15
Barteau	22	4	18.2%	0	0	0	0	22
Darden	16	5	31.3%	0	0	0	0	16
Friedlander	35	8	22.9%	0	0	1	0	36
Rucker	5	0	0.0%	0	1	0	0	6
Sharpnack	19	6	31.6%	0	0	0	0	19
Shepard	17	4	23.5%	0	0	0	0	17
TOTAL	1,991	406	20.4%	18	53	14	8	2,084

# CASES HANDED DOWN

JUDGES (DISTRICT)	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	66	143	4	10	35	61
Bailey (1st)	71	152	6	20	42	73
Baker (1st)	68	123	13	13	39	61
Barnes (3rd)	29	56	3	6	13	33
Bradford (2nd)	77	140	5	17	36	83
Brown (5th)	68	127	8	18	39	73
Crone (3rd)	68	128	5	18	36	74
Kirsch (2nd)	63	143	8	10	32	78
Mathias (3rd)	56	147	16	16	34	75
May (4th)	50	139	2	23	27	65
Najam (1st)	84	133	6	13	44	64
Pyle (4th)	57	155	4	14	22	81
Riley (4th)	70	125	3	20	40	66
Robb (5th)	57	136	11	10	28	73
Tavitas (3rd)	15	51	4	2	5	21
Vaidik (5th)	55	145	5	5	29	66
<b>TOTAL</b>	<b>954</b>	<b>2,043</b>	<b>103</b>	<b>215</b>	<b>501</b>	<b>1,047</b>

JUDGES (DISTRICT)	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	1	4	18	49	124	267
Bailey (1st)	1	2	16	38	136	285
Baker (1st)	1	2	23	39	144	238
Barnes (3rd)	0	1	13	16	58	112
Bradford (2nd)	2	3	25	31	145	274
Brown (5th)	0	1	18	47	133	266
Crone (3rd)	1	2	24	34	134	256
Kirsch (2nd)	0	2	17	34	120	267
Mathias (3rd)	1	2	17	40	124	280
May (4th)	1	3	18	51	98	281
Najam (1st)	2	3	20	43	156	256
Pyle (4th)	2	1	20	36	105	287
Riley (4th)	1	0	17	37	131	248
Robb (5th)	0	4	18	43	114	266
Tavitas (3rd)	0	0	8	15	32	89
Vaidik (5th)	0	0	19	44	108	260
<b>TOTAL</b>	<b>13</b>	<b>30</b>	<b>291</b>	<b>597</b>	<b>1,862</b>	<b>3,932</b>

# CASES HANDED DOWN

## SENIOR JUDGES

SENIOR JUDGES	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Barnes	8	25	0	1	4	15
Barteau	17	0	1	0	1	0
Darden	13	0	0	0	2	0
Friedlander	20	0	2	0	11	0
Rucker	5	2	0	0	0	0
Sharpnack	11	0	2	0	4	0
Shepard	7	0	0	0	8	0
<b>TOTAL</b>	<b>81</b>	<b>27</b>	<b>5</b>	<b>1</b>	<b>30</b>	<b>15</b>

SENIOR JUDGES	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Barnes	0	0	3	7	15	48
Barteau	0	0	3	0	22	0
Darden	0	0	1	0	16	0
Friedlander	1	0	1	0	35	0
Rucker	0	0	0	0	5	2
Sharpnack	1	0	1	0	19	0
Shepard	0	0	2	0	17	0
<b>TOTAL</b>	<b>2</b>	<b>0</b>	<b>11</b>	<b>7</b>	<b>129</b>	<b>50</b>

The Court of Appeals handed down 1,991 written decisions in 2018.



# ORAL ARGUMENTS

JUDGES (DISTRICT)	CRIMINAL		POST-CONVICTION		CIVIL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	2	12	1	0	4	4
Bailey (1st)	2	8	0	0	0	4
Baker (1st)	2	6	1	0	3	6
Barnes (3rd)	0	1	0	0	1	0
Bradford (2nd)	2	0	0	1	2	4
Brown (5th)	2	2	0	0	2	2
Crone (3rd)	0	2	0	0	2	6
Kirsch (2nd)	0	2	0	0	3	6
Mathias (3rd)	3	0	0	0	2	3
May (4th)	6	10	0	1	4	2
Najam (1st)	4	7	0	0	1	1
Pyle (4th)	0	3	0	0	0	3
Riley (4th)	1	2	0	1	2	5
Robb (5th)	5	5	0	1	1	5
Tavitas (3rd)	2	1	0	0	0	1
Vaidik (5th)	1	2	0	0	2	7
<b>TOTAL</b>	<b>32</b>	<b>63</b>	<b>2</b>	<b>4</b>	<b>29</b>	<b>59</b>

JUDGES (DISTRICT)	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Altice (2nd)	1	1	0	1	8	18
Bailey (1st)	0	0	1	1	3	13
Baker (1st)	0	1	0	1	6	14
Barnes (3rd)	0	0	0	0	1	1
Bradford (2nd)	0	1	0	0	4	6
Brown (5th)	0	0	0	0	4	4
Crone (3rd)	0	0	0	0	2	8
Kirsch (2nd)	0	0	0	0	3	8
Mathias (3rd)	0	0	0	0	5	3
May (4th)	1	0	1	2	12	15
Najam (1st)	0	0	1	0	6	8
Pyle (4th)	0	0	0	0	0	6
Riley (4th)	0	0	0	0	3	8
Robb (5th)	0	1	0	1	6	13
Tavitas (3rd)	0	0	0	0	2	2
Vaidik (5th)	0	0	0	0	3	9
<b>TOTAL</b>	<b>2</b>	<b>4</b>	<b>3</b>	<b>6</b>	<b>68</b>	<b>136</b>



## ORAL ARGUMENTS

### SENIOR JUDGES

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

SENIOR JUDGES	EXPEDITE		OTHER		TOTAL	
	WRITING	PANEL	WRITING	PANEL	WRITING	PANEL
Barnes	0	0	0	0	0	2
Barteau	0	0	0	0	0	0
Darden	0	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	1	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>	<b>2</b>

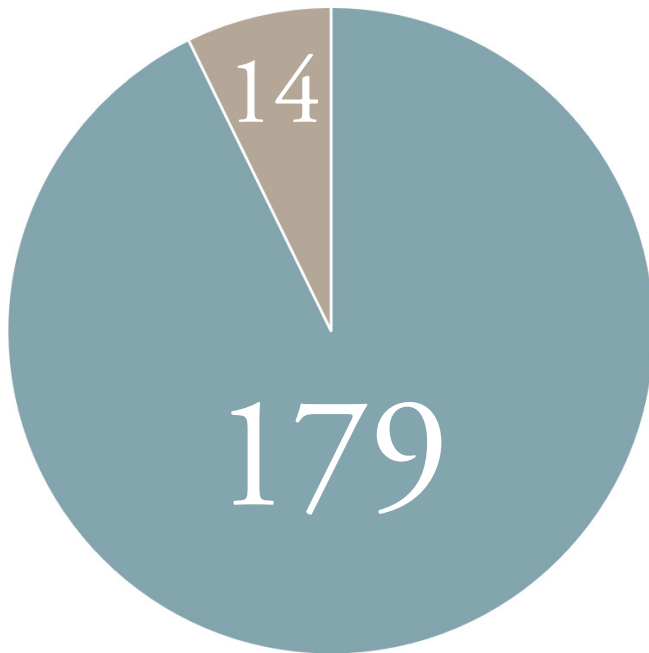
# CASES PENDING

## TOTAL CASES PENDING (PER TYPE)



JUDGES (DISTRICT)	CRIMINAL	POST - CONVICTION	CIVIL	EXPEDITE	OTHER	TOTAL
Altice (2nd)	9	3	8	0	3	23
Bailey (1st)	2	0	2	0	2	6
Baker (1st)	4	1	6	0	0	11
Bradford (2nd)	3	0	3	0	3	9
Brown (5th)	3	1	5	2	1	12
Crone (3rd)	2	1	6	0	2	11
Kirsch (2nd)	8	0	6	0	6	20
Mathias (3rd)	14	0	11	0	3	28
May (4th)	21	3	12	0	2	38
Najam (1st)	4	0	2	0	3	9
Pyle (4th)	18	3	10	0	5	36
Riley (4th)	6	1	3	0	2	12
Robb (5th)	9	0	10	0	2	21
Tavitas (3rd)	16	3	7	0	4	30
Vaidik (5th)	2	2	6	0	3	13
SENIOR JUDGES	23	1	8	0	1	33
TOTAL	144	19	105	2	42	312

## SUCCESSIVE PETITIONS FOR POST-CONVICTION RELIEF



14

Pending as of 12/31/2017

179

Petitions filed

193

Total petitions

## AUTHORIZATION

19

Petitions authorized to be  
filed in trial court for hearing

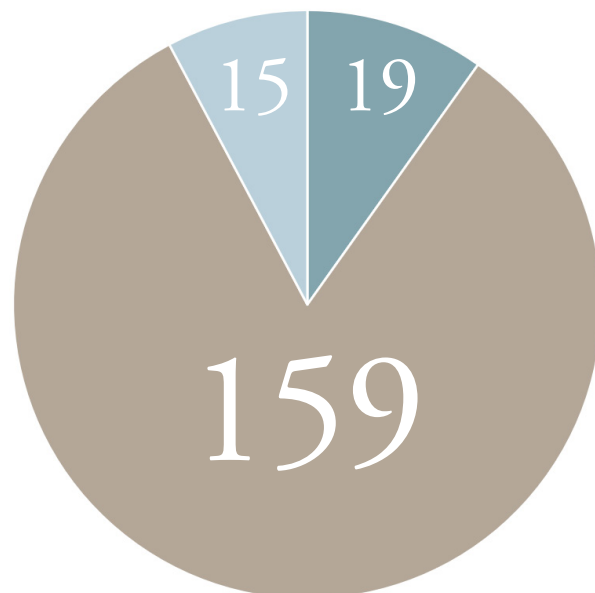
159

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

15

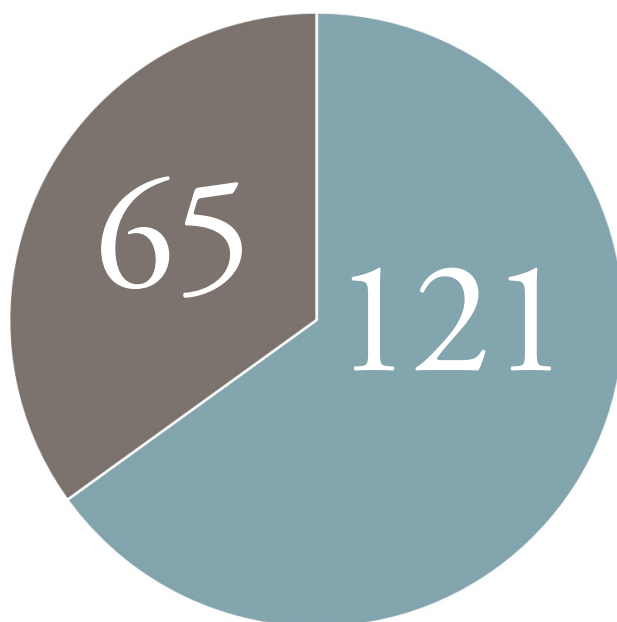
Petitions pending

193 Total petitions



## APPELLEE'S MOTIONS TO DISMISS

MOTIONS TO DISMISS GRANTED	MOTION TO DISMISS DENIED
121	65
PER CURIAM OPINIONS	TOTAL DISPOSITIONS
0	186



24	192	216
Pending as of 12/31/2017	Motions filed	Total motions

30 Pending motions as of 12/31/2018

# STATISTICS REGARDING DISPOSITION OF CHIEF JUDGE MATTERS

7,576 Motions, Petitions for Time, Misc. Motions Received

## JANUARY 1, 2018 - DECEMBER 31, 2018

Orders Granting Petitions to File Belated Notice of Appeal	50
Orders Denying Petitions to File Belated Notice of Appeal	15
Orders Granting Pre-Appeal Conferences	0
Orders Denying Pre-Appeal Conferences	5
Orders with Instructions from Pre-Appeal Conference	0
Orders Granting Permissive Interlocutory Appeals	79
Orders Denying Permissive Interlocutory Appeals	125
Orders Granting Successive Petitions for Post-Conviction Relief	19
Orders Denying Successive Petitions for Post-Conviction Relief	159
Orders Granting Consolidations of Appeals	59
Orders Denying Consolidations of Appeals	7
Orders Granting Petitions to Amend Brief	94
Orders Denying Petitions to Amend Brief	12
Orders Granting Withdrawals of Record	247
Orders Denying Withdrawals of Record	41
Miscellaneous Orders	3,911

## REHEARINGS

Petitions for Rehearing Granted without Opinion	0
Petitions for Rehearing Denied without Opinion	163
Petitions for Rehearing Granted with Opinion	14
Petitions for Rehearing Denied with Opinion	0

## TIME GRANTS

Petitions for Time to File Record Granted	316
Petitions for Time to File Record Denied	7
Petitions for Time to File Appellant's Brief Granted	1,120
Petitions for Time to File Appellant's Brief Denied	64
Petitions for Time to File Appellee's Brief Granted	477
Petitions for Time to File Appellee's Brief Denied	15
Petitions for Time to File Appellant's Reply Brief Granted	96
Petitions for Time to File Appellant's Reply Brief Denied	2

## ORAL ARGUMENT ACTION

Orders Setting Oral Arguments	138
Orders Denying Petitions for Oral Arguments	73

## DISMISSALS

Orders Granting Appellant's Motions to Dismiss	212
Orders Denying Appellant's Motions to Dismiss	24
Orders Granting Appellee's Motions to Dismiss	121
Orders Denying Appellee's Motions to Dismiss	65
Court-Directed Orders of Dismissal	324

8,054 TOTAL



# COURT OF APPEALS OF INDIANA

2 0 1 8   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, 2018, through December 31, 2018, is being submitted pursuant to paragraph 6.35, Judge's 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**