



NEWS RELEASE

Release Number: 47

Release Date: September 13, 2010

JUDICIAL COUNCIL OF
CALIFORNIA
ADMINISTRATIVE OFFICE
OF THE COURTS
Public Information Office
455 Golden Gate Avenue
San Francisco, CA 94102-3688
www.courtinfo.ca.gov

415-865-7740

Lynn Holton
Public Information Officer

Supreme Court Issues Annual Report on Workload Statistics

Opinions Dip Slightly While Total Filings Reach Second Highest Level in History; Fewest Court of Appeal Decisions Depublished

San Francisco—The California Supreme Court today released its annual workload statistics for the period from September 1, 2009, through August 31, 2010, the official court year for statistical purposes.

Overall, the number of opinions issued by the court decreased from 110 last year to 105 in 2009–2010. During the same period, the total number of petitions for review and filings in original proceedings increased by almost 2 percent, while dispositions were down, particularly in original proceedings.

The Supreme Court released the statistics following the usual interval in July and August during which the court does not regularly schedule oral argument, but continues to meet weekly to vote on petitions, and opinions continue to be filed. The court resumed oral argument on September 7, 2010, in its courtroom in San Francisco.

Two factors during the 2009–2010 court year may have had an overall effect on the court's statistics. A one-day-per-month furlough was required of all court employees (the justices voluntarily took one unpaid day per month). The furlough is equivalent to a 4.63 percent loss of time worked and salary paid. In addition, the court's final dispositional conference (scheduled for August 25) was unexpectedly cancelled when it became necessary to schedule four judicial confirmation hearings on that day. The cancellation of the court's conference resulted in more than 200 dispositions not being counted in the 2009–2010 reporting period. They will be reflected in the next court year's statistics.

(over)

OPINIONS FILED

Including Death Penalty Appeals and Related Habeas Corpus Petitions

In the 2009–2010 court year, the Supreme Court filed opinions in a total of 105 cases, of which 42 involved civil cases, 37 involved noncapital criminal cases, 23 resolved automatic appeals arising from judgments of death, and an additional three involved habeas corpus petitions relating to death penalty judgments. The number of opinions filed in death penalty appeals was one more than had been filed in the previous year.

In addition to the opinions filed in the 2009–2010 court year, the court acted by order upon 30 petitions for writ of habeas corpus relating to death penalty judgments. The court issued an order to show cause in three of these matters for claims arising under *Atkins v. Virginia* (2002) 536 U.S. 304, in which the United States Supreme Court clarified that the federal Constitution bars the execution of mentally retarded individuals. The court dismissed three habeas corpus petitions as moot, and issued 24 denial orders. The total number of dispositions in these matters was down from 49 last year.

When a petition for writ of habeas corpus is denied without the issuance of an order to show cause, the court does not issue an opinion and instead disposes of the matter by order. Nevertheless, even when no opinion results, the preparation of internal memoranda and the related disposition of death-penalty-related habeas corpus petitions draws heavily upon the court's resources, because the petitions and records in such cases frequently are very lengthy and complex and are analyzed in internal memoranda that often exceed 75 to 100 pages.

OVERALL FILINGS AND DISPOSITIONS

Court staff prepare internal memoranda concerning each petition for review and original matter, except various uncontested State Bar Court proceedings, and the justices consider these requests and the related internal memoranda at weekly conferences held throughout the year. It is common for the court to review and act upon more than 250 petitions at a weekly conference. Deciding which matters are appropriate for Supreme Court review leading to a written opinion constitutes a significant part of the court's workload.

Total filings increased from 9,556 in 2008–2009 to 9,917, in 2009–2010, the second highest number of filings in the past decade.

Filings in original proceedings increased by approximately 5 percent to 3,756, while filings of petitions for review declined from 5,158, in 2008–2009 to 5,110. (The balance of filings consisted of State Bar-related matters and death penalty matters.) Civil petitions for review dropped slightly from 1,307 filings to 1,219. Criminal petitions for review increased from 3,850 to 3,891.

Original habeas corpus petitions in noncapital matters and petitions for review in these matters continue to comprise one of the fastest growing areas in the court's workload over the past decade. The number of noncapital-case original criminal habeas corpus petitions has increased more than 24 percent, from 2,657 in 1999–2000 to nearly 3,300 in 2009–2010. Petitions for review in noncapital habeas corpus matters also have grown, more than tripling from 173 petitions in 1999–2000 to 678 in 2009–2010.

In the 2009–2010 court year, the court disposed of 9,107 petitions for review, petitions in original proceedings, and actions arising out of State Bar Court disciplinary proceedings, 516 fewer matters than were disposed of in the 2008–2009 court year (a decrease of approximately 5.6 percent). This figure reflects a decrease in dispositions in original proceedings from 3697 in 2008–2009 to 3217 in the latest fiscal year. The number of dispositions in original habeas corpus proceedings decreased by more than 400 to approximately 2780, which may be attributed to a combination of factors, including those mentioned above (furloughs and a delayed conference), a direction to staff to dispose of older more complex cases in order to bring the backlog more current, and an increase of 117 in the number of dispositions in petitions for review arising in noncapital habeas corpus matters, which are handled by the same staff assigned to the original petitions. Dispositions in civil and other criminal matters also decreased, although by a somewhat smaller percentage.

Publication and Depublication Orders

Since 2001–2002, the *Court Statistics Report*, published by the Judicial Council of California, has included information concerning depublication and publication orders issued by the Supreme Court. In 2009–2010, an all time low of only four Court of Appeal opinions were ordered depublished by the Supreme Court. Since the 2002–2003 court year the number of Court of Appeal opinions ordered depublished, has ranged from a high of 25 in 2003–2004 to a previous record low of 10 in 2007–2008. In contrast, depublication orders regularly exceeded 100 per year in the late 1980's and early 1990's.

In 2009–2010 the Supreme Court ordered publication of only one Court of Appeal opinion. In the 2008–2009 court year, the Supreme Court ordered four Court of Appeal opinions published. The number of opinions ordered published depends in large part upon the number of requests to publish received by the Supreme Court. The court rarely orders publication of a Court of Appeal opinion without such a request, but it more often may depublish without a specific request to do so.

OTHER ACTIONS

Following a request by the Commission on Judicial Performance to provide a mechanism to offer opinions on judicial ethics to California's judges from an official source, the Supreme

Court created the Committee on Judicial Ethics Opinions. (See the recommendations and report of the implementation committee, which may be found on-line at www.courtinfo.ca.gov/courts/supreme/com .) The court has appointed the committee members, including Justice Ronald Robie, of the Court of Appeal for the Third Appellate District, as the Chair. Despite the lack of a budget appropriation for staff to assist the committee, the court expects to authorize the committee to begin seeking staff, funded from internal court resources, in the near future. The court's action indicates the importance it places on providing this resource for the state's jurists.

The court continued its policy of holding one session per year at a site other than its regular places of oral argument. Last fall, the court heard oral argument at the University of California, Berkeley, School of Law. As is its custom, the court posted the briefs in the relevant cases on its website, and efforts were made to engage not only students at the law school, but also local high school students in observing and discussing the cases heard by the court.

Chief Justice Ronald M. George, who has led California's judicial branch since 1996, announced in July that he would not file for election to a new term in the November 2010 election. Governor Arnold Schwarzenegger nominated Justice Tani G. Cantil-Sakauye of the Court of Appeal for the Third Appellate District to succeed Chief Justice George, whose term concludes on January 3, 2011. Justice Cantil-Sakauye was confirmed by the Commission on Judicial Appointments on August 25, 2011, and her name will now appear on the ballot on Tuesday, November 2, 2010, for election to the position of Chief Justice of California.

BACKGROUND INFORMATION

Beginning in 1996, the California Supreme Court has issued statistics utilizing a reporting period of September 1 through August 31. The court designated this period as the official court year for statistical purposes after determining that this period best corresponds with the flow of the court's opinion production and facilitates consistency in monitoring the pace of the court's work.

Although the court does not schedule oral argument in July and August, it continues to hold weekly conferences during those months on all other matters, including petitions seeking review. During those months, the court concentrates on completing and filing opinions in cases that have been argued through the June oral argument calendar and continues the process of preparing calendar memoranda for future oral argument sessions.

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