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Supreme Court Issues Annual Workload Statistics Report

Increase in Opinions and Disposition of Capital Case Habeas Corpus Proceedings; Decrease in Historic Levels in Overall Filings and Dispositions

San Francisco—The California Supreme Court today released its annual workload statistics for the period from September 1, 2008, through August 31, 2009, the official court year for statistical purposes.

Overall, the number of opinions issued by the court increased from 107 last year to 110 in 2008–2009. During the same period the total number of petitions for reviews, and filings in original proceedings decreased by 9 percent.

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 2, 2009, in its courtroom in San Francisco.

OPINIONS FILED ***Including Death Penalty Appeals and Related Habeas Corpus Petitions***

In the 2008–2009 court year, the Supreme Court filed opinions in a total of 110 cases, 3 more than were filed in the 2007–2008 court year. Of the court's 110 opinions, 52 involved civil cases, 34 involved noncapital criminal cases, 22 involved automatic appeals arising from judgments of death, 2 involved habeas corpus petitions relating to death penalty judgments. The 22 opinions in death penalty appeals were 7 fewer than the number filed in the previous year.

(more)

In addition to the opinions filed in the 2008–2009 court year, the court acted by order upon nearly twice as many (49) petitions for writ of habeas corpus relating to death penalty judgments than last year, and the most ever disposed of in a single year by the court. The court issued an order to show cause in 7 matters, including 5 involving claims 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 7 habeas corpus petitions as moot, and issued another 35 denial orders. In the 2007–2008 court year, the court acted upon 26 petitions for writ of habeas corpus related to capital cases, including 3 in which an order to show cause issued.

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 in such cases frequently are very lengthy and complex and are analyzed in internal memoranda that often exceed 75 to 100 pages in length.

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.

In the 2007–2008 court year, filings spiked to an all time high of almost 10,400. In the just concluded court year (2008–2009), filings dipped back to 9,556, a level similar to the approximately 9,600 total filings in the 2006–2007 period, and the third highest level of filings in the past decade.

Filings in original proceedings decreased by approximately 8 percent to 3,566, and filings of petitions for review decreased to 5,158, a decrease of approximately 11 percent. (The balance of filings consisted of State Bar-related matters and death penalty matters.) Civil petitions for review dropped slightly from approximately 1,400 filings to 1,307. Criminal petitions for review dropped more than 10 percent from approximately 4,300 to 3,850, again, a level nearly identical to that of the number of criminal petitions for review filed in 2006–2007.

As in other areas, the number of non-capital case habeas corpus matters filed declined from the all time high levels of 2007–2008. In the past 10 years the number of non-capital case original criminal habeas corpus petitions has increased more than 20 percent, from approximately 2,500 in 1998–1999 to nearly 3,100 in 2008–2009. Likewise, petitions for review in non-capital habeas corpus matters have more than tripled from 173 petitions in 1998–1999 to 581 in 2008–2009.

In the 2008–2009 court year, the court disposed of 9,623 petitions for review, petitions in original proceedings, and actions arising out of State Bar court disciplinary proceedings—1178 (or 12 percent) fewer matters than were disposed of in the 2007–2008 court year, but only 90 fewer matters than the average number of dispositions recorded for the previous five court years.

As noted in last year’s report on year end statistics, part of the increase in last year’s totals was attributable to the circumstance that the court had granted and held approximately 250 cases pending the resolution of two cases, which were decided in July 2007. Part of the increase in dispositions also occurred because the court assigned extra staff to assist in clearing the backlog of non-capital habeas corpus matters caused by the increases in filings. Continuing focus on this area has led to a higher number of dispositions in these matters over the past 2 years.

Publication and Depublication Orders

The *Court Statistics Report*, issued by the Judicial Council of California, since 2001–2002 has included information concerning depublication and publication orders issued by the Supreme Court. In 2008–2009, 13 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 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 2008–2009 the Supreme Court ordered publication of 4 Court of Appeal opinions. In the 2007–2008 court year, the Supreme Court ordered 2 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 appointed an implementation committee to recommend to the court rules and procedures to govern a court-appointed but independent Committee on Judicial Ethics Opinions. The court adopted the recommendations and report of the implementation committee, which may be found on-line at www.courtinfo.ca.gov/courts/supreme/comm . The court awaited the final budget determinations before proceeding. It anticipates appointing the members of the committee in the next few months, despite the failure to provide funding for staff in the budget appropriation.

Studies of appropriate changes to the processing of death penalty appeals and related habeas corpus petitions continue. The Supreme Court continues to pursue its proposal to amend the constitution to permit the Supreme Court to transfer appeals in these matters to the Courts of Appeal, while maintaining the obligation to grant review of any Court of Appeal decision in such a matter under a broader standard of review. The court is keenly aware, however, that changes to the handling of these matters will be successful only if sufficient resources are provided.

The court also focused on decreasing its backlog of briefed habeas corpus petitions arising out of death penalty cases, and as reported above, substantially increased its disposition of these matters.

In September 2008, the Berkeley Law School at the University of California, Berkeley (formerly known as Boalt Hall) held a special one day conference on the Supreme Court of California. All of the justices of the court were in attendance and several participated in panels. The law school intends to issue a volume of essays discussing issues concerning the California Supreme Court in the near future.

The court continued its policy of holding one session per year at a site other than its normal place of oral argument. Law fall, the court heard oral argument in Riverside County at the Palm Desert Campus of the California State University San Bernardino, where the members of the court also met with the local bench and bar and members of the community.

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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