



**Practicing Before the Fifth Circuit Court of
Appeals:
A Conversation and Q&A with Clerk of Court
Lyle Cayce**

**Appellate Section Webinar
April 25, 2025
Moderated by Steve Hayes**



Topics

- Court overview
- Accessing case-related information
- Key resources for attorneys (including our “Attorney Toolbox”)
- Practice Tips – Errors to avoid
- Court procedures, statistics, and opinion trivia

THE FIFTH CIRCUIT

NINE DISTRICTS IN THREE STATES

(28 USC §41)

3 Louisiana Districts:

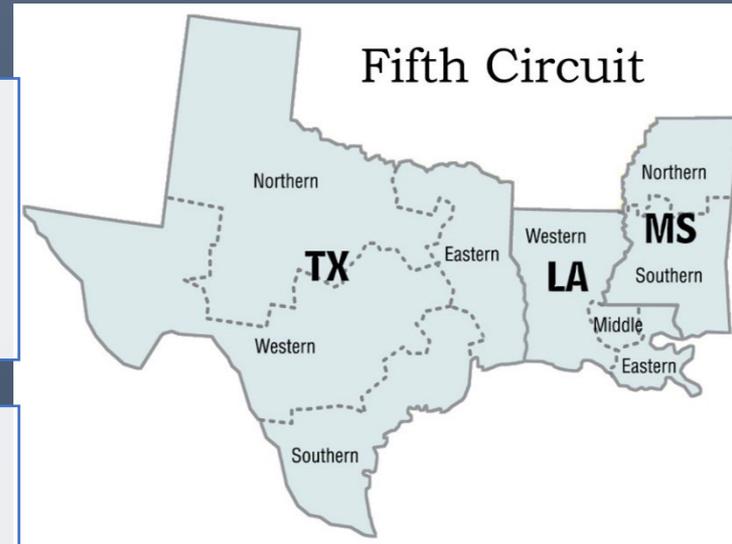
- Eastern District, New Orleans
 - Chief Judge Nannette Jolivette Brown - Clerk Carol L. Michel
- Middle District, Baton Rouge
 - Chief Judge Shelly D. Dick - Clerk Mike L. McConnell
- Western District, Shreveport
 - Chief Judge Terry A. Doughty - Clerk Daniel J. McCoy

2 Mississippi Districts:

- Northern District, Oxford
 - Chief Judge Debra M. Brown - Clerk David Crews
- Southern District, Jackson
 - Chief Judge Halil S. Ozerden- Clerk Arthur Johnston, III

4 Texas Districts:

- Eastern District, Beaumont
 - Chief Judge Rodney Gilstrap - Clerk David O'Toole
- Northern District, Dallas
 - Chief Judge David C. Godbey - Clerk Karen Mitchell
- Southern District, Houston
 - Chief Judge Randy Crane - Clerk Nathan Ochsner
- Western District, San Antonio
 - Chief Judge Alia Moses - Clerk Philip Devlin



Court sits in New Orleans and Fort Worth and elsewhere as required (28 USC §48)



The court has 17 Active and 8 Senior* Judges, in the locations noted.

Houston: Chief Judge
Elrod and Judges
King*, Jones, and
Smith

Austin: Judges
Richman, Willett,
Oldham and
Higginbotham*

Dallas: Judges
Haynes, Ho, and
Ramirez

Jackson: Judges
Jolly*, Barksdale*,
Southwick, Graves,
and Wilson

Shreveport: Judge
Stewart

New Orleans: Judges
Davis*, Wiener*,
Dennis*, Clement*,
Higginson, Engelhardt
and Douglas

Baton Rouge: Judge
Duncan

HOW CAN ATTORNEYS AND THE PUBLIC ACCESS CASE INFORMATION, ARGUMENTS, AND OPINIONS?

Sign up to receive notice of case activity and access documents through PACER.



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UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

Honorable Jennifer W. Elrod, Chief Judge



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Links to upcoming hearings are contained in the document listed below. Live audio links are active only during arguments and are paused between cases or during any technical issues. For those unable to listen live, we continue to post audio recordings after the proceeding, on the oral argument recordings page: [Oral Argument Recordings](#).

[February 3 - 6 Oral Argument Links](#)

[Press Release - New Chief Judge](#)

[Attention CM/ECF Filers](#)

Effective immediately, electronic case filing (CM/ECF) will be unavailable every Saturday from 6:00 a.m. to approximately 7:00 a.m. central standard time to permit scheduled maintenance.



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LISTENING TO LIVE ARGUMENTS



LIVE STREAMS

BY DAY

BY CASE

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Court and Special Hearing Calendars					
Live Streams for Today					
Number ↑	Style		Nature	Time	Venue
23-10735	USA v. Tammy Walden Thomas, Appellant.	Listen	Criminal (DCRIM)	9:00 AM	West Courtroom
23-20354	USA v. Sha Kendrick Smith, Appellant.	Listen	Criminal (DCRIM)	9:00 AM	En Banc Courtroom
23-20448	Petrobras America, Appellant-Appellee v. Samsung Heavy Industries Company.	Listen	RICO (Fed Q)	9:00 AM	En Banc Courtroom
23-30424	Michael Holmes v. Corbett Reddoch, Et Al., Appellants.	Listen	Other Civil Rights	9:00 AM	East Courtroom
23-30444	USA v. Terrell Moore, Appellant.	Listen	Criminal (DCRIM)	9:00 AM	West Courtroom
23-50720	Rainbow Energy Marketing Corporation, Appellant v. DC Transco.	Listen	Other Contract Actions (Dvsty)	1:00 PM	En Banc Courtroom
23-50928	Crystal Clear Special Utility District v. HK Baugh Ranch, Appellant.	Listen	Agricultural Acts (Fed Q)	9:00 AM	West Courtroom
24-10084	Elio Cerkezi, Et Al., Appellants v. City of Arlington, Et Al.	Listen	Other Civil Rights	9:00 AM	En Banc Courtroom
24-20007	Banco Mercantil De Norte, S.A., Et Al. v. Juan Jose Paramo, Appellant.	Listen	Other Statutory Actions (FedQ)	9:00 AM	East Courtroom
24-40248	M.D., Et Al. v. Greg Abbott, Et Al., Appellants.	Listen	Other Civil Rights	4:30 PM	En Banc Courtroom

[Return to Calendars Home](#)

ABOUT THE COURT ATTORNEY INFORMATION CASE INFO & E-FILING ORAL ARGUMENT INFORMATION RULES & PROCEDURES FORMS, FEES & GUIDES OTHER LINKS					
Court and Special Hearing Calendars					
Pending Hearings by Case					
Number ↑	Style	Date	Nature	Time	Venue
19-70022	Rodney Reed, Appellant v. Bryan Goertz, Et Al. (30 MINUTES PER SIDE)	9/23/2024	Habeas Corpus - Death Penalty	10:30 AM	West Courtroom
23-10661	Michael Ray Senn, Appellant v. Bobby Lumpkin.	9/3/2024	Habeas Corpus	1:00 PM	East Courtroom
23-10735	USA v. Tammy Walden Thomas, Appellant.	8/5/2024	Criminal (DCRIM)	9:00 AM	West Courtroom
23-10773	J.T., Appellant v. Uplift Education.	9/5/2024	Civil Rights	9:00 AM	West Courtroom
23-10904	Munck Wilson Mandala, Appellant v. Mark Jordan, Et Al.	8/6/2024	RICO (Fed Q)	9:00 AM	En Banc Courtroom
23-10911	Highland Capital Management, L.P. v. NexPoint Asset Management, L.P., Et Al., Appellants	8/6/2024	Bankruptcy	9:00 AM	East Courtroom
23-11023	Steve Biggers, Appellant v. Ron Massingill.	9/5/2024	Other Civil Rights	9:00 AM	East Courtroom
23-11065	Southwest Airlines Pilots Association, Appellant v. Southwest Airlines Company.	8/6/2024	Railway Labor Act (Fed Q)	9:00 AM	East Courtroom
23-11084	Nathaniel King, Appellant v. DFW International Airport Board.	8/8/2024	Americans w/Disab Act-Empl	9:00 AM	East Courtroom
23-11120	Placid Oil, Appellant v. Avalon Farms.	9/5/2024	Bankruptcy	9:00 AM	En Banc Courtroom
23-11132	USA v. Ruel M. Hamilton, Appellant.	8/7/2024	Criminal (NCRIM)	9:00 AM	East Courtroom
23-11208	Suzann Ruff, Appellant v. Destination Development Partners, Et Al.	9/4/2024	Bankruptcy	9:00 AM	East Courtroom
23-11247	Fonda Wicks, Appellant v. Metropolitan Life Insurance Company.	8/6/2024	Employee Retirement (Fed Q)	9:00 AM	West Courtroom
23-20140	Scott Sullivan, Et Al. v. Stewart Feldman, Et Al., Appellants. (30 MINUTES PER SIDE)	8/7/2024	Recovery/Enforcement (Dvsty)	9:00 AM	En Banc Courtroom
23-20188	Michel Keck, Appellant-Appellee; Mathew Kidman Higbee, Et Al. v. Mix Creative Learning Center, Et Al.	8/6/2024	Copyright (Fed Q)	9:00 AM	En Banc Courtroom
23-20354	USA v. Sha Kendrick Smith, Appellant.	8/5/2024	Criminal (DCRIM)	9:00 AM	En Banc Courtroom
23-20435	Feanyichi E. Uvukansi, Appellant v. Bobby Lumpkin.	9/3/2024	Habeas Corpus	1:00 PM	West Courtroom
23-20448	Petrobras America, Appellant-Appellee v. Samsung Heavy Industries Company.	8/5/2024	RICO (Fed Q)	9:00 AM	En Banc Courtroom
23-20502	Kimaletha Wynn, Et Al., Appellants; Vincent Leday, Et Al., Appellants v. Harris County, Texas, Et Al.	8/7/2024	Other Civil Rights	9:00 AM	West Courtroom
23-20513	USA v. Arturo Garza, Jr., Appellant.	9/4/2024	Criminal (DCRIM)	9:00 AM	East Courtroom
23-20516	Great Lakes Dredge & Dock Company, Appellant v. Chris Magnus, Et Al.; American Petroleum Institute.	9/3/2024	Other Statutes	1:00 PM	East Courtroom
23-20523	Zyla Life Sciences, Appellant-Appellee v. Wells Pharma of	8/29/2024	Other personal prop	9:00 AM	East Courtroom



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<p><i>Disability Rights Texas v. Hollis</i></p> <p>MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>JEFFERY T. NORRIS BRANT LEVINE 43:04</p>	<p><i>Mieco, L.L.C. v. Pioneer</i></p> <p>MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>CREIGHTON MAGUIRE CHRISTOPHER R. J. ... 43:04</p>	<p><i>Amer Pearl Grp v. Natl Payment Sys</i></p> <p>MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p>	<p><i>Lewis v. Crochet</i></p> <p>MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>BRANDON KELLY BLANK LARRY ENGLISH 39:44</p>	<p><i>Marsh v. Chas Kurz</i></p> <p>MONDAY, MARCH 4, 2024 LSU SCHOOL OF LAW PANEL: JUDGES STEWART, DUNCAN, AND ENGELHARDT</p> <p>MEREDITH KAY CLARK JOSEPH EDWARD LE... 40:40</p>
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YouTube Features

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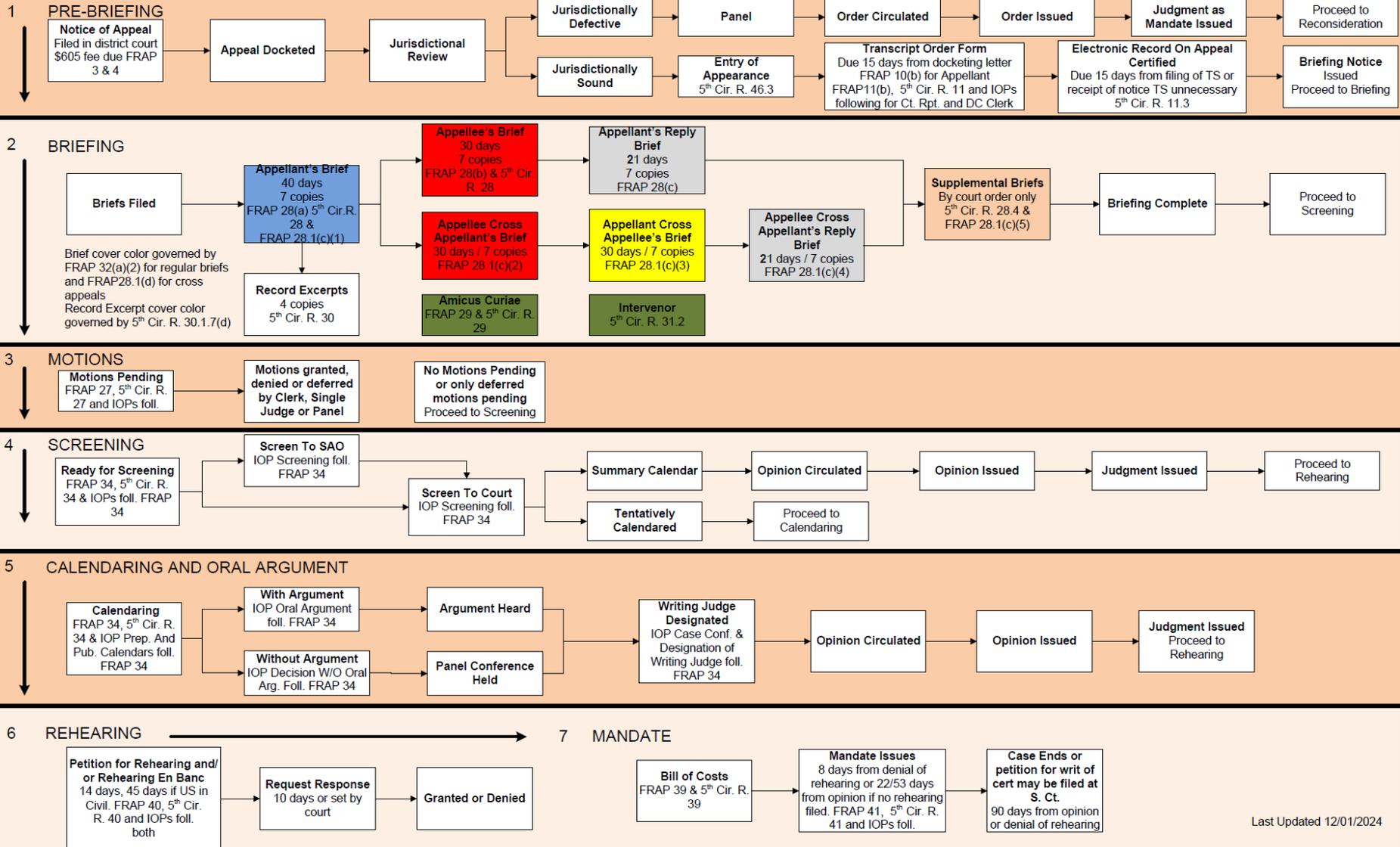
The image shows a YouTube video player interface. The video content is a court hearing recording. The top of the video frame has a red banner with the text "23-20171" and "DISABILITY RIGHTS TEXAS V. HOLLIS" in white. Below this is a white banner with the seal of the United States Court of Appeals for the Fifth Circuit. To the right of the seal is a blue banner with white text: "MONDAY, MARCH 4, 2024", "LSU SCHOOL OF LAW", "PANEL:", "JUDGES STEWART, DUNCAN, ENGELHARDT", "JEFFERY T. NOBLE", "BRANT LEVINE", and "COURTNEY LUTHE". The video player controls at the bottom show a play button, a progress bar at 0:04 / 43:03, and a volume icon. Below the video player, the title "23-20171 Disability Rights Texas v. Hollis, March 4, 2024" is displayed. The channel name is "U.S. Court of Appeals for the Fifth Circuit" with "1.79K subscribers" and a "Subscribe" button. There are also "Like" and "Share" icons.

ITEMS OF INTEREST - KEY RESOURCES FOR ATTORNEYS

- ▶ Website: www.ca5.uscourts.gov (Access to OA livestreams, calendars, opinions, and so much more!)
 - ▶ [Practitioner Guide](#) (please review!)
 - ▶ [Fifth Circuit Life of the Appeal Flow Chart](#)
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 - ▶ [Guide to Filing Emergency Motions](#)
 - ▶ [Record Reference Guide \(Cite link\)](#)
 - ▶ [Case Management Teams Contact List](#)
 - ▶ [5th Circuit YouTube Channel](#)
 - ▶ Help Desk: 877.232-1038 or Webmaster@ca5.uscourts.gov
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THE LIFE OF AN APPEAL IN THE FIFTH CIRCUIT COURT OF APPEALS*

* Does not encompass Mandamus, Original Proceedings or Petitions for Review



Last Updated 12/01/2024

<https://www.ca5.uscourts.gov/docs/default-source/forms-and-documents---clerks-office/documents/5CCAppellateFlowChart>

CALLING THE CLERKS OFFICE ABOUT YOUR APPEAL

CASE MANAGEMENT TEAMS		
Case Administration Manager: Peter Connors 310-7685		All Clerk's Office Numbers are 504 Area Code
NORTHERN AND WESTERN TEXAS 10001-19999 50001-59999 Group Main No. 310-7806	SOUTHERN AND EASTERN TEXAS 20001-29999 40001-49999 Group Main No. 310-7807	LOUISIANA, MISSISSIPPI, & AGENCY 30001-39999 60001-69999 Group Main No. 310-7808
<u>CASE MANAGER</u> Christina Gardner (CAG) 310-7684	<u>CASE ADMINISTRATOR TEAM LEADER</u> Angelique Tardie (ABT) 310-7715	<u>CASE MANAGER</u> Shea Pertuit VanVoorhis (SEP) 310-7666
<p>Case Management Nos. Ending in 0: are routed as identified below based on the second to last number.</p> <p>Nos. Ending in 1, & 2: Casey Sullivan (CAS): 310-7642</p> <p>Nos. Ending in 3, & 4 and Death Penalty: Mary Frances Yeager (MFY): 310-7686</p> <p>Nos. Ending in 5, & 6: Lisa Ferrara (LEF): 310-7675</p> <p>No. ending in 7, & 8: Melissa Courseault (MBC): 310-7701</p> <p>No. ending in 9: Jasmine Forman (JF): 310-7649</p> <p><u>Generalist Work Only:</u> Eyonka Falls (EMF): 310-7670 Rebecca Jeanfreau (RLJ): 310-7645</p> <p>Nos Ending in Even#s: Renee McDonough (RSM): 310-7673</p> <p>Nos Ending in Odd#s: Routed to Case Management Clerks</p>	<p>Nos. Ending in 0: Melissa Mattingly (MRM): 310-7719</p> <p>Nos. Ending in 1: Rebecca Andry (RCA): 310-7638</p> <p>Nos. Ending in 2: Amanda Duroncelet (AMD): 310-7636</p> <p>Nos. Ending in 3: Christy Combel (CMC): 310-7651</p> <p>Nos. Ending in 4, & 5: Rebecca Leto (RLL): 310-7703</p> <p>Nos. Ending in 6, & 7: Dantrell Johnson (DLJ): 310-7689</p> <p>Nos. Ending in 8, & 9: Roeshawn Johnson (RAJ): 310-7998</p> <p><u>Generalist Work Only:</u> Sean Hannan (SRH): 310-7702 Shatyra Rasheed (SMR): 310-7646 Shani Hudson (STH): 310-7707</p> <p>Record Clerk: Dawn LeBlanc (DDL): 310-7717</p>	<p>Nos. Ending in 0: Melissa Mattingly (MRM): 310-7719</p> <p>Nos. Ending in 1: Rebecca Andry (RCA): 310-7638</p> <p>Nos. Ending in 2: Amanda Duroncelet (AMD): 310-7636</p> <p>Nos. Ending in 3: Christy Combel (CMC): 310-7651</p> <p>Nos. Ending in 4, & 5: Rebecca Leto (RLL): 310-7703</p> <p>Nos. Ending in 6, & 7: Dantrell Johnson (DLJ): 310-7689</p> <p>Nos. Ending in 8, & 9: Roeshawn Johnson (RAJ): 310-7998</p> <p><u>Generalist Work Only:</u> Sean Hannan (SRH): 310-7702 Shatyra Rasheed (SMR): 310-7646 Shani Hudson (STH): 310-7707</p> <p>Record Clerk: Dawn LeBlanc (DDL): 310-7717</p>
DEATH PENALTY 70000 Mary Frances Yeager (MFY): 310-7686; 1 st Backup: Casey Sullivan (CAS) 310-7642; 2 nd Backup: Dantrell Johnson (DLJ): 310-7689		
ALL TEAMS/ALL CASE NUMBERS		
OPINION SPECIALIST TEAM LINE: 310-7800 Peter Connors: 310-7685 Christy Combel: 310-7651	RECORDS DATA QUALITY ANALYSTS Dawn LeBlanc (DDL): 310-7717	

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Show Pending Deadlines

Pending Deadlines/Filings

Case ▾	Title	Item Due ⇅	Party Type/Name	Date Due ⇅	File Event
25-50685	USA v. Bayona-Montes	A/Pet's Brief Due	Appellant <u>Bayona-Montes</u>	05/17/2025	Appellant/Petitioner Brief Filed Anders Brief Filed Rule 28i letter filed adopting brief

NEW ATTORNEY TOOLBOX



Attorney Toolbox

United States Court of Appeals for the Fifth Circuit



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Case Number	Title	Type	Date accepted
24-50950	USA v. Gamboa-Herrera	Original	Jan 31, 2025, 8:34:13 AM
24-50952	USA v. Mena Bonilla	Original	Feb 10, 2025, 10:17:37 AM
24-50963	USA v. Smith	Original	Jan 7, 2025, 8:12:52 AM
24-50969	USA v. Martinez-Fajardo	Original	Feb 4, 2025, 11:03:53 AM
24-50970	USA v. Roberson	Original	Jan 13, 2025, 4:17:01 PM
24-50974	USA v. Currier	Original	Feb 14, 2025, 11:27:08 AM
24-50981	USA v. Williams	Original	Feb 21, 2025, 11:16:54 AM
24-51009	USA v. Soria	Original	Feb 7, 2025, 3:42:46 PM
24-51016	USA v. Aguilar-Martinez	Original	Feb 17, 2025, 8:11:49 AM
24-51029	USA v. Vonallman	Original	Feb 3, 2025, 12:32:05 PM
24-51032	USA v. Roberts	Original	Mar 6, 2025, 7:55:32 AM
25-50002	USA v. Macias-Lopez	Original	Feb 19, 2025, 3:39:55 PM
25-50011	USA v. Menchaca-Segura	Original	Feb 11, 2025, 8:43:16 AM
25-50018	USA v. Lozano	Original	Feb 18, 2025, 10:10:38 AM
25-50023	USA v. Rodriguez-Salas	Original	Feb 13, 2025, 11:13:49 AM

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APPEAL,APPEAL_NAT,CLOSED

**U.S. District Court
SOUTHERN DISTRICT OF TEXAS (McAllen)
CRIMINAL DOCKET FOR CASE #: 7:22-cr-01627-1
Internal Use Only**

Case title: USA v. Luna-Soto

Magistrate judge case number: 7:22-mj-01796

Date Filed: 10/05/2022

Date Terminated: 01/17/2024

Assigned to: Judge Micaela Alvarez

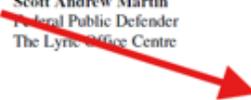
Defendant (1)

Andro Sergio Luna-Soto
TERMINATED: 01/17/2024

represented by **Juan Jose Becerra**
Federal Public Defender
1701 W Hwy 83
Ste 405
McAllen, TX 78501
956-630-2995
Fax: 956-631-8647
Email: Juan_J_Becerra@fd.org
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ATTORNEY TO BE NOTICED
Designation: Public Defender or Community Defender Appointment

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LEAD ATTORNEY
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Scott Andrew Martin
Federal Public Defender
The Lyric Office Centre

 **25-50023.1**

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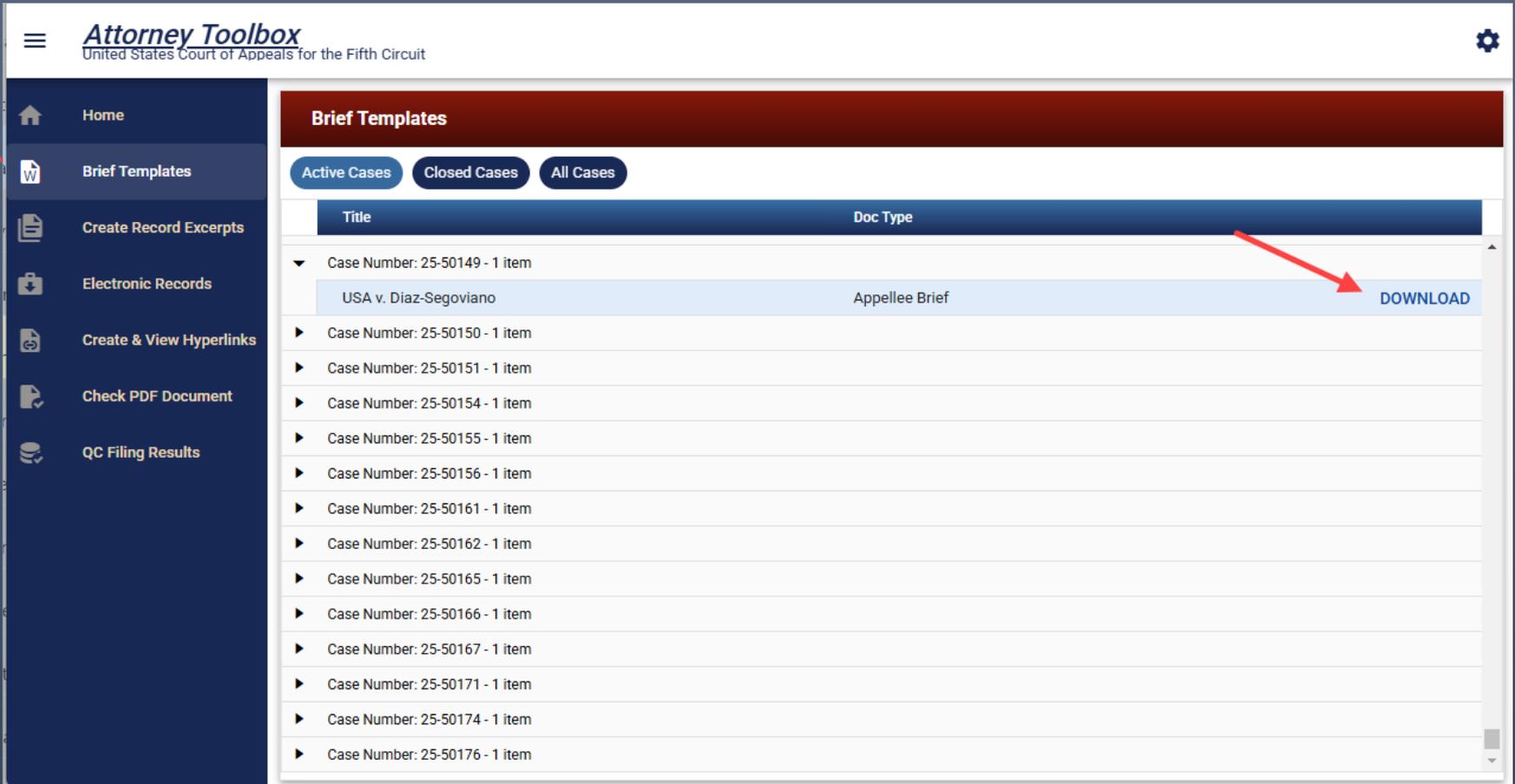
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Title	Doc Type	
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USA v. Díaz-Segoviano	Appellee Brief	DOWNLOAD
Case Number: 25-50150 - 1 item		
Case Number: 25-50151 - 1 item		
Case Number: 25-50154 - 1 item		
Case Number: 25-50155 - 1 item		
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Case Number: 25-50161 - 1 item		
Case Number: 25-50162 - 1 item		
Case Number: 25-50165 - 1 item		
Case Number: 25-50166 - 1 item		
Case Number: 25-50167 - 1 item		
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Case Number: 25-50174 - 1 item		
Case Number: 25-50176 - 1 item		

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CERTIFICATE OF INTERESTED PERSONS

STATEMENT REGARDING ORAL ARGUMENT

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No. 25-50149

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States of America,

Plaintiff - Appellee

v.

Juan Martin Diaz-Segoviano,

Defendant - Appellant

On Appeal
United States District Court for
4:24-CR

BRIEF OF APPELLEE UNIT

SUE

JURISDICTIONAL STATEMENT

Type here a Jurisdictional Statement as required by FED. R. APP. P. 28(a)(4)(A) through (D)

STATEMENT OF THE ISSUES

Type here a Statement of Issues presented for review as required by FED. R. APP. P. 28(a)(5).

STATEMENT OF THE CASE

Type here a Statement of the Case as required by FED. R. APP. P. 28(a)(6).

CERTIFICATE OF INTERESTED PERSONS

The undersigned counsel of record certifies that the following listed persons and entities as described in the fourth sentence of 5th CIR Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this court may evaluate possible disqualification or recusal.

Appellees:	Counsel for Appellees:
United States of America	Carmen Mitchell of U.S. Attorney's Office Houston, TX

Appellants:	Counsel for Appellants:
Sixto Gonzalez	Marjorie Meyers of Federal Public Defender's Office Houston, TX
Sixto Gonzalez	Scott Martin of Federal Public Defender's Office Houston, TX
Sixto Gonzalez	Evan Howze of Federal Public Defender's Office Houston, TX

Other Interested Parties:	Counsel for Interested Parties:
Type Here	Type Here

S/Scott Andrew Martin
Attorney of record for Type Here

A Certificate of Interested Persons is required by 5th CIR. R. 28.2.1.

iii

STATEMENT OF THE ARGUMENT

Type here a Statement of the Argument as required by FED. R. APP. P. 28(a)(7).

SUMMARY OF THE ARGUMENT

2

CERTIFICATE OF COMPLIANCE

1. This document complies with the type-volume limit of FED. R. APP. P. 32(a)(7)(B) because, excluding the parts of the document exempted by FED. R. APP. P. 32(f) and 5th CIR. R. 32.1: this document contains [state the number of] words.

2. This document complies with the typeface requirements of FED. R. APP. P. 32(a)(5), and 5th CIR. R. 32.1 and the type-style requirements of FED. R. APP. P. 32(a)(6) because:

this document has been prepared in a proportionally spaced typeface using [state name and version of word-processing program] in [state font size and name of type style].

S/Scott Andrew Martin

A certificate of compliance is required by FED. R. APP. P. 32(g)(1), and 5th CIR. R. 32.3, and FED. R. APP. P. 28(a)(10).

5

CREATE RECORD EXCERPTS REQUIRED BY LOCAL RULE 30



Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Record Excerpts Due

Enter appellate case number [SEARCH](#) [RESET](#)

Case Number	Title		Due Date
24-50883	USA v. Terry	CREATE	Apr 16, 2025
24-50914	USA v. Garza-Gomez	CREATE	Apr 23, 2025
24-50915	USA v. Rubio	CREATE	Apr 1, 2025
24-50925	USA v. Davalos	CREATE	Mar 20, 2025
24-50930	USA v. Jackson	CREATE	Mar 24, 2025
24-50931	USA v. Fuentes	CREATE	Apr 30, 2025
24-50932	USA v. Fuentes	CREATE	Apr 30, 2025
24-51032	USA v. Roberts	CREATE	Apr 15, 2025
25-50001	USA v. Varela-Angel	CREATE	Apr 21, 2025
25-50011	USA v. Menchaca-Segura	CREATE	Mar 24, 2025

SELECT THE APPEAL REQUIRING RECORD EXCERPTS

1. Verify Pre-Selected Documents.

2. Add Optional Content.

3. Finalize and Download.

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Create Record Excerpts for 25-50011

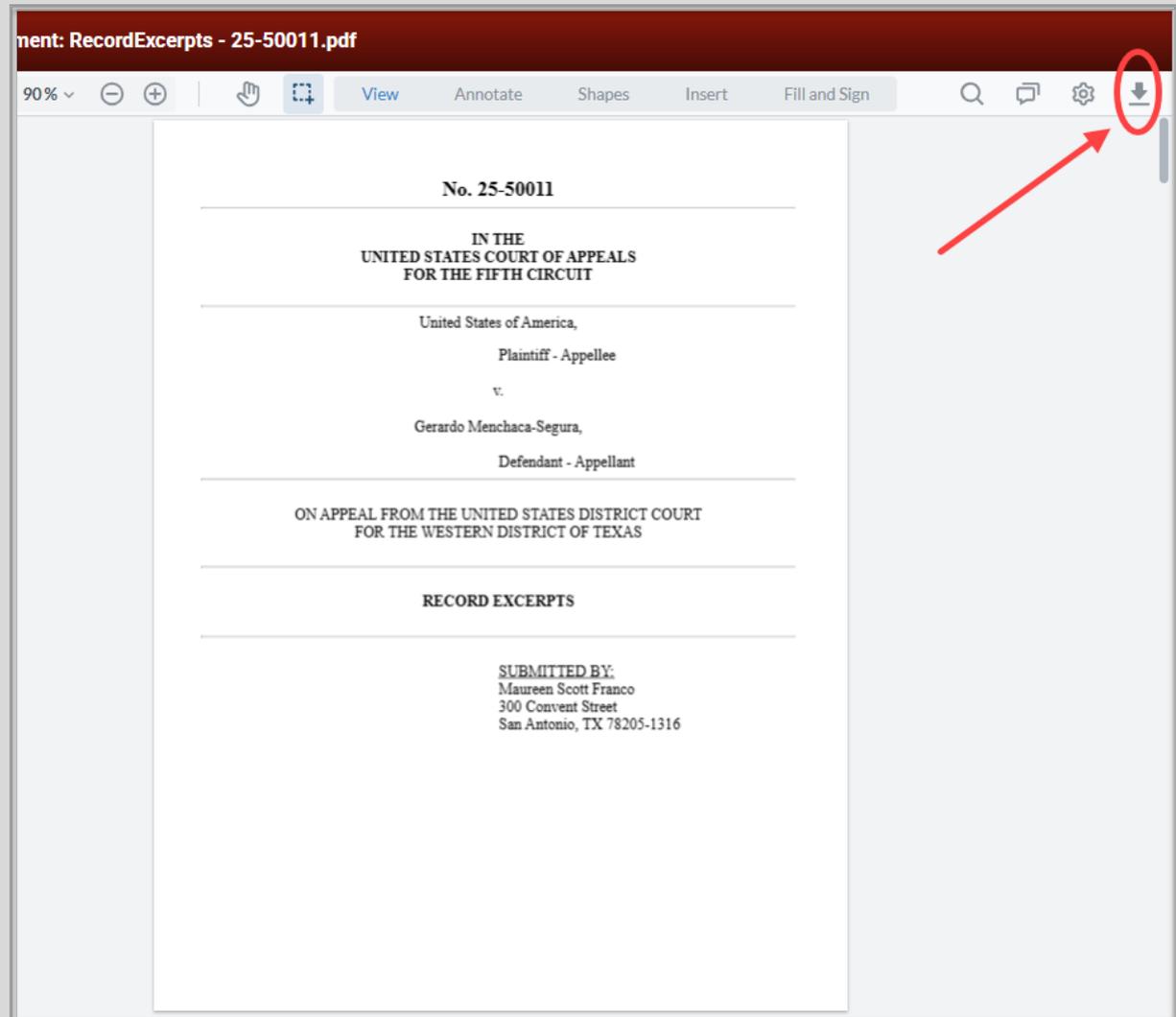
DISPLAY INSTRUCTIONS

1 Verify Required Documents 2 Select Optional Documents 3 Finalize and Download

Document	Doc.	Pages	Selected	Action
Category: Docket Sheet - 2 items				
DOCKET SHEET - 2:20-CR-890-1	-	233 - 244	<input checked="" type="checkbox"/>	REMOVE
DOCKET SHEET - 2:20-CR-890-1	-	1 - 10	<input checked="" type="checkbox"/>	REMOVE
Category: Indictment - 1 item				
INDICTMENT	1	245	<input checked="" type="checkbox"/>	REMOVE
Category: Judgment/Order/Opinion - 17 items				
PROPOSED ORDER	3	13	<input checked="" type="checkbox"/>	REMOVE
PROPOSED ORDER	4	16	<input type="checkbox"/>	ADD
ORDER ON MOTION FOR ISSUANCE OF	5	17	<input type="checkbox"/>	ADD
ORDER ON MOTION TO SEAL	6	18	<input type="checkbox"/>	ADD
ORDER ON MOTION TO UNSEAL CASE	9	21	<input type="checkbox"/>	ADD
ORDER APPOINTING PUBLIC DEFENDE	10	22	<input type="checkbox"/>	ADD
BRADY ORDER	11	23	<input type="checkbox"/>	ADD
SCHEDULING ORDER/WAIVER	13	24 - 27	<input type="checkbox"/>	ADD

PREVIOUS NEXT

When review is complete, download and save for filing.



No. 25-50011

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States of America,

Plaintiff - Appellee

v.

Gerardo Menchaca-Segura,

Defendant - Appellant

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS

RECORD EXCERPTS

SUBMITTED BY:

Maureen Scott Franco
300 Convent Street
San Antonio, TX 78205-1316

The PDF
complies with
Local Rules.

PDF includes all required sections, such as the Table of Contents

Table of Contents

Document	Record Citation	Tab
Docket Sheet - 2:20-CR-890-1	ROA.233-244	Tab 1
Docket Sheet - 2:20-CR-890-1	ROA.1-10	Tab 2
Notice of Appeal - Judgment and Sentence	ROA.103-104	Tab 3
Clerk's Notice of Filing of an Appeal	ROA.105	Tab 4
notice of appeal	ROA.106-107	Tab 5
Indictment	ROA.245	Tab 6
Proposed Order	ROA.13	Tab 7

TAB 1

PDF even inserts a numbered Tab page between sections (required if you are later instructed to submit Paper excerpts).

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

UNITED STATES OF AMERICA)
)
v.)
)
Gerardo Menchaca-Segura)

EP-24-CR-02159-DB

NOTICE OF APPEAL

Comes now, GERARDO MENCHACA-SEGURA, by and through his undersigned attorney, and hereby gives notice of appeal to the United States Court of Appeals for the Fifth Circuit from the Judgment in the Criminal Case and the Sentence entered on December 19, 2024.

Respectfully submitted,

MAUREEN SCOTT FRANCO
Federal Public Defender

/s/

REGINALDO TREJO JR.
Supervisory Assistant Federal Public
Defender
Western District of Texas
Richard C. White Federal Building
700 E. San Antonio Street, Suite D-401
El Paso, Texas 79901

Attorney for Defendant



25-50011.45

Excerpts include the
Proper EROA
Pagination

Certificate of Service

I certify that on March 11, 2025, the foregoing document was served, via the Court's CM/ECF Document Filing System, upon all counsel of record.

S/Maureen Scott Franco

Maureen Scott Franco

Program
includes a
Certificate of
Service with the
date you provide.

QUALITY CONTROL (QC) SCAN TO AVOID REJECTED FILINGS

A QC program scans briefs at filing to ensure compliance with FRAP and Local Rules. Toolbox permits you to use the same program to scan a draft brief **before** filing.

Each scan generates a pop-up message showing “Critical” and “Minor” errors. We do not reject a pleading for Minor errors.

Attorneys can file the brief without correcting errors, but:

When the scan finds critical errors, we probably will later reject it and require the attorney to file a corrected copy.

A deputy clerk reviews the QC results and decides whether the brief should be rejected. There is no automatic rejection.

HOW TO PERFORM A QC CHECK BEFORE FILING

The screenshot displays the 'Attorney Toolbox' interface for the United States Court of Appeals for the Fifth Circuit. A dark blue sidebar on the left contains navigation links: Home, Brief Templates, Create Record Excerpts, Electronic Records, Create & View Hyperlinks, and Check PDF Document. The 'Check PDF Document' link is highlighted with a red arrow. The main content area features a dark red header with the text 'Upload PDF to Check for Compliance With Rules'. Below this, a red instruction reads 'Select the document type to test for compliance with rules.' Three buttons are shown: 'Appellants Brief' (highlighted in blue with a red arrow), 'Appellees Brief', and 'Reply Brief'. A second red instruction says 'Enter the case number for testing or leave blank for the system to automatically retrieve it from the document.' Below this is a text input field containing '25-40036' and a 'RESET' button. A third red instruction states 'Upload the PDF you wish to process by either pressing the Browse button below or dragging it from your computer into the box captioned "Or drop files here."' Below this is a 'BROWSE...' button and a drop zone, with a red arrow pointing to the 'BROWSE...' button.

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Home
Brief Templates
Create Record Excerpts
Electronic Records
Create & View Hyperlinks
Check PDF Document

Upload PDF to Check for Compliance With Rules

Select the document type to test for compliance with rules.

Appellants Brief Appellees Brief Reply Brief

Enter the case number for testing or leave blank for the system to automatically retrieve it from the document.

Enter appellate case number
25-40036 RESET

Upload the PDF you wish to process by either pressing the Browse button below or dragging it from your computer into the box captioned "Or drop files here."

BROWSE... Or drop files here

The QC scan results are displayed in a pop-up message.

If the issue is on a particular page, we provide a blue hyperlink so attorneys can easily see possible issue.

The screenshot shows the Attorney Toolbox interface. On the left is a dark blue sidebar with navigation links: Home, Brief Templates, Create Record Excerpts, Electronic Records, Create & View Hyperlinks, and Check PDF Document. The main content area has a dark red header for the 'Deficiency Check Results' pop-up. The text in the pop-up explains that a computer program scanned the brief for compliance with FRAP and local rules, identifying critical issues that could lead to rejection. It notes that minor deficiencies do not result in rejection. The user is informed that they are not required to correct the brief before filing, but doing so is recommended to avoid rejection and the need to re-file. A 'Three-day extension' is mentioned as an option if the deadline is approaching. A note states that the program may sometimes report a deficiency incorrectly, and users are encouraged to email feedback to Margaret_Dufour@ca5.uscourts.gov. The pop-up lists two categories of deficiencies: 1. Critical deficiencies found that normally result in rejected brief: The Appeal Number on the title page is incorrect (correct case number is 25-40036); The brief exceeds word count and/or page limitations; The program cannot determine if the Certificate of Compliance complies with FED. R. APP. P. 32(g); Record References are not supported by a reference to the page number of the record. 2. Minor deficiencies we call to your attention: There may be a problem with the signature following the Certificate of Service required by FED. R. APP. P. 25(d)(1)(B).

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Home
Brief Templates
Create Record Excerpts
Electronic Records
Create & View Hyperlinks
Check PDF Document

Deficiency Check Results

A computer program scanning this brief for compliance with FRAP and local rule requirements has identified critical issues that might require rejection of the brief. Those issues are listed below, with any minor deficiency we found. Briefs will not be rejected for minor errors.

You are not required to correct the brief before filing. If you decide to docket without correction, simply click [Done] in the lower right corner of this page.

However, to avoid possible rejection and having to file a corrected document later, please consider addressing the critical deficiencies and uploading a corrected brief now.

Three-day extension. If you are filing on the deadline and need additional time to make corrections, we will give you an automatic three working day extension, unless your case has a special briefing requirement. To determine if this extension is available in your case, click on the 'File Extension' button displayed at the bottom of the screen and docket the extension. If the automatic extension is not available, you will be returned to docketing.

Note: The program may mistakenly report a deficiency when none exists, such as when it does not find a close or identical match for required contents or sections, or when graphics, text or characters confuse the engine. Please help us improve this program by letting us know if the program incorrectly identifies a deficiency in your brief by emailing us at Margaret_Dufour@ca5.uscourts.gov.

1. Critical deficiencies found that normally result in rejected brief:

- The **Appeal Number** on the title page is incorrect. The correct case number is 25-40036. See FED. R. APP. P. 32(a)(2)(A). [\(Show Details\)](#)
- The brief exceeds the word count limitation and/or the page limitations. See FED. R. APP. P. 32(a)(7). You must reduce the size of the brief or electronically file a motion for leave to exceed the word count limitation and/or the page limitations.
- The program is unable to determine if the **Certificate of Compliance** complies with FED. R. APP. P. 32(g). The certificate must state the number of words or the number of lines of monospaced type that are included in the argument. If either of these are included, please disregard this notice.
- **Record References:** Every assertion in briefs regarding matters in the record must be supported by a reference to the page number of the record, using the record citation form as directed by the Clerk of Court. This pleading cites to pages that do not exist in the record or the citations do not match the required format. The proper format for citations to a single record appeal is "ROA, page number. (For example, ROA.123.) For multi record appeals, the format is ROA, case number, page number. (For example ROA.18-20668.123.) Note the hyphen is required when you cite the case number. Finally, "id" is not permitted when citing to the record on appeal. See FED. R. APP. P. 28(a)(8)(A) and 5th CIR. R. 28.2.2. See [Form 1](#).

The record citations must be in the correct form or the brief will be rejected.

- PDF page 2: contains an invalid citation, roa.182-184; 188. [\(Show Details\)](#)

2. Minor deficiencies we call to your attention:

- There may be a problem with the signature following the Certificate of Service required by FED. R. APP. P. 25(d)(1)(B). The signature is either missing or does not match the name of the attorney whose credentials were used for log-in. The filing attorney's name should be typed on the line where the attorney would normally sign, preceded by an "s". An image of the signature is not allowed. Based upon a comparison of the log-in credentials and information in court records, the expected signature is: s/Demetrius Tarver.

Clicking on “**Show Details**” displays the error, in the pleading.

Here, the critical error was an incorrect case number.

The correct number was 25-40036.

In the
United States Court of Appeals
for the Fifth Circuit

No. 25-40035

UNITED STATES OF AMERICA,
Plaintiff - Appellee,

v.

DEMARIO D. HENDERSON,
Defendant - Appellant

Appeal from the United States District Court
For the Western District of Louisiana
USDC No. 5:24-CR-19-1

ORIGINAL BRIEF FOR THE APPELLANT
DEMARIO D. HENDERSON

The scan found two other critical errors but did not include hyperlinks because the nature of the errors could not be explained by a link to a particular page.

- The brief exceeds the word count limitation and/or the page limitations. See FED. R. APP. P. 32(a)(7)). You must reduce the size of the brief or electronically file a motion for leave to exceed the word count limitation and/or the page limitations.
- The program is unable to determine if the **Certificate of Compliance** complies with FED. R. APP. P. 32(g). The certificate must state the number of words or the number of lines of monospaced type that are included in the argument. If either of these are included, please disregard this notice.

The last critical error involved an incorrect ROA cite -- using a semicolon instead of a comma.

The format requires a comma between consecutive and non-consecutive pages cited.

This error seems trivial, it would prevent our hyperlink program from accurately linking to the cited page.

STATEMENT OF THE CASE

The appellant Demario D. Henderson was charged below with one count of being a felon in possession of a firearm in violation of 18 U.S.C. § 922(g)(1). ROA.8. This case arose when Henderson stole a firearm from a convenience store clerk on July 22, 2023. ROA.167. At the time Henderson possessed the stolen firearm, he had numerous prior felony convictions for aggravated criminal damage to property, possession of a firearm by a convicted felon, possession or introduction of contraband into a penal institution, and resisting a police officer with force or violence. ROA.182-184; 188.

The minor deficiency identifies a possible error with the signature on the Certificate of Service.

2. Minor deficiencies we call to your attention:

- There may be a problem with the signature following the Certificate of Service required by FED. R. APP. P. 25(d)(1)(B). The signature is either missing or does not match the name of the attorney whose credentials were used for log-in. The filing attorney's name should be typed on the line where the attorney would normally sign, preceded by an "s/". An image of the signature is not allowed. Based upon a comparison of the log-in credentials and information in court records, the expected signature is: s/Demetrius Tarver.

ABOUT THE QC RESULTS...

If you are filing on the last day, we offer a three-day automatic extension to encourage corrections.
(Note: This is not available for expedited appeals.)

We regularly contact attorneys who had trouble filing documents and ask for feedback on how to improve the QC program or process.

WE NOW LET YOU CREATE AND USE HYPERLINKS IN BRIEFS

Select “Create and View Hyperlinks” from the Toolbox menu.

Identify your search engine for legal authority hyperlinks. Westlaw, Lexis, and several free engines are supported.

“Drag and drop” a PDF copy of a brief (your own draft brief or the PDF copy of the opponent’s brief from PACER) into the Toolbox.

The program creates the hyperlinks in the document, and you can immediately view the links, or save the document to your computer.

The hyperlink program is the same one used by judges and court staff.

SELECT A SEARCH ENGINE, THEN “DRAG AND DROP” A PDF COPY OF A PLEADING INTO THE TOOLBOX.

The screenshot displays the Attorney Toolbox website interface. On the left is a dark blue sidebar with navigation options: Home, Brief Templates, Create Record Excerpts, Electronic Records, Create & View Hyperlinks, and Check PDF Document. The main content area has a dark red header with the text "Upload PDF to Check ROA Citations". Below this, a red instruction reads: "Select your desired search engine. Please note that for Westlaw and Lexis you must have an account, the system does not authenticate for you." There are buttons for "Westlaw Next", "Lexis", "Google Scholar", "Bing", "Yahoo", and "None". A second red instruction says: "Upload the PDF you wish to process by either pressing the Browse button below or dragging it from your computer into the box captioned 'Or drop files here.'" A "BROWSE..." button is visible. A red arrow points from a Windows File Explorer window to a PDF icon on the page. The File Explorer window shows the "Downloads" folder with a file named "25-40036.pdf" dated "3/7/2025 3:06 PM" and a size of "147 KB".

Attorney Toolbox
United States Court of Appeals for the Fifth Circuit

Upload PDF to Check ROA Citations

Select your desired search engine. Please note that for Westlaw and Lexis you must have an account, the system does not authenticate for you.

Westlaw Next Lexis Google Scholar Bing Yahoo **None**

Upload the PDF you wish to process by either pressing the Browse button below or dragging it from your computer into the box captioned "Or drop files here."

BROWSE... Or drop files here

PDF + Copy

File Home Share View

Navigation pane Preview pane Details pane

Panes

Layout

Extra large icons Large icons Medium icons Details

Small icons List Content

Tiles

Sort by

Group by

Add columns

Size all columns to fit

Current view

This PC > Downloads

Name	Date modified	Type	Size
Last month (1)			
25-40036.pdf	3/7/2025 3:06 PM	Adobe Acr...	147 KB

ROA Hyperlinks display that page of the record

box
FORUMS for the Fifth Circuit

View Document: 25-40036_preview.pdf

100% View Annotate Shapes Insert Fill and Sign

ARGUMENT

II. FORECLOSED - 18 U.S.C. § 922(g)(1) *facially* violates the Second Amendment because firearm possession is protected by the plain text of the Amendment, and the government cannot show a historical tradition of categorically disarming felons

A. Standard of review

Henderson challenged the constitutionality of § 922(g)(1) below.

ROA.14 Although Henderson pled guilty, the guilty plea was conditional, and the government agreed in the plea agreement that:

The United States also acknowledges that this is a conditional plea, pursuant to Federal Rule of Criminal Procedure 11(a)(2), and that the defendant reserves his right to appeal the Court's adverse ruling as to his Motion to Dismiss and, should such appeal be successful, the defendant shall be allowed to withdraw his guilty plea.

ROA.160 Nevertheless, a guilty plea does not bar a criminal defendant from later appealing his conviction on the ground that the statute of conviction violates the Constitution. *Class v. United States*, 583 U.S. 174 (2018). The Court reviews constitutional challenges to a statute *de novo*. *United States v. Clark*, 582 F.3d 607, 612 (5th Cir. 2009).

ROA: 25-40036.14

100% View Annotate Shapes Insert Fill and Sign

DEFENDANT'S MOTION TO DISMISS COUNT 1 OF THE INDICTMENT AND INCORPORATED MEMORANDUM IN SUPPORT

NOW INTO COURT comes the defendant, DEMARIO D. HENDERSON, through undersigned counsel, who respectfully moves this Court to dismiss the Indictment under Fed. R. Crim. P. 12(b)(1), 12(b)(2) and 12(b)(3)(B)(v).

I. The Basis of the Motion.

Count 1 of the indictment charges the defendant with being a felon in possession of a firearm on July 22, 2023. The defendant brings this motion to raise two separate grounds for dismissing the indictment in this case. His first claim is grounded in the plain text of the Second Amendment. It asserts that the statutory prohibition set forth in § 922(g)(1) violates the Second Amendment's guarantee-of "the right of the people to keep and bear Arms."

The defendant's second claim is grounded in Congress' lack of power to criminalize conduct relating to the possession of firearms which have already traveled in interstate commerce, but are no longer doing so. It asserts that § 922(g)(1)'s prohibition against felons possessing firearms is not supported by any enumerated power granted to Congress in the Constitution and

1 **25-40036.14**

HYPERLINKS CAVEATS

An attorney can view hyperlinks while logged in to CM/ECF or save the document for later viewing.

ROA hyperlinks only work while an attorney is logged in to CM/ECF, because the links point to a copy of the EROA on our internal server.

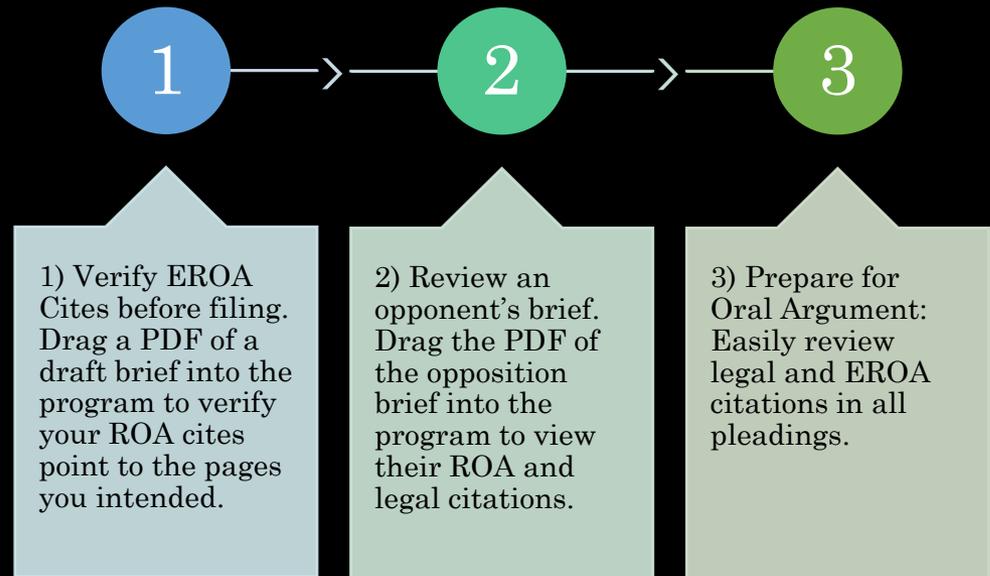
Hyperlinks to legal authority work even when if the attorney is not logged into CM/ECF.

If an attorney selects a paid subscription legal research engine (either Westlaw or Lexis) then the attorney will be prompted to log-in to that service to access hyperlinks to legal authority.

We are willing to support legal research engines provided by state bar associations if sufficient interest is expressed.

BEST PRACTICES:

USING HYPERLINKS





PRACTICE TIPS: How to AVOID COMMON MISTAKES!

Use the correct relief when filing a document. (Searchable list on court ECF Page).

Use our exact caption.

File a Transcript Order Form (it is required to be filed in both District Court and our court even if you don't need transcripts).

Cite to the record following Local Rule 28.2.2 format (ROA.123). Cites are required.

Don't wait until the last minute to ask for extension. Provide justification for the extension and indicate whether the opposing counsel objects.

When requesting more than a 30-day extension, comply with local rule 31.4.3 (show more than ordinary good cause, demonstrate diligence and substantial need and explain **IN DETAIL** what special circumstances exist.

Avoid asking for extension for a reply or a rehearing petition. Rule 31.4.4 greatly disfavors extensions for reply briefs and Rule 35.4 says extensions for rehearing are only for "the most compelling reasons."

PRACTICE TIPS:

AVOID THESE OTHER COMMON MISTAKES!

Don't wait till the last minute to verify active status in court bar and file an appearance form.

Don't refile a document incorrectly filed. Please call us first.

Protect sealed matters. Use the Event "ECF Motion and/or Document Filed Under Temporary Seal."

Do remember to comply with 5th Cir. R. 27.3 when filing emergency motions. (Must be filed before 2:00 p.m. and requires certification that the facts supporting emergency consideration of the motion are true and complete.)

File record excerpts as a separate event, not with a brief.

A MOST IMPORTANT TIP: DON'T FORGET TO RENEW BAR MEMBERSHIP

FINAL NOTICE: 5TH CIRCUIT BAR MEMBERSHIP RENEWAL DUE



CA05db_BarRenewals

Mon 3/10/2025 3:06 PM

You are receiving this notice because your membership is expiring. The fee to renew is \$50.00. Please be advised that failure to renew by the end of this month will invalidate your membership and require you to reapply for admission to the bar. The fee for readmission is \$249.00. If you are an attorney with a US Government agency, you are still required to renew your membership, however, you are exempt from the \$50.00 renewal fee.

Please visit us at <http://www.ca5.uscourts.gov/attorneys/membership/renewal-2> for additional information on renewing your membership with the 5th Circuit Bar.

Please note: you must renew through our website at the address above. Some attorneys renew membership in the Bar Association of the Fifth Federal Circuit, a private organization, and mistakenly think they have renewed their court bar membership.

Keep your email address up to date! If you miss the notice, you may have to reapply and pay an admission fee, not a renewal fee. (\$249.00 vs. \$50.00)

Attorneys often discover membership expired only while trying to file a document near a deadline!

THINGS YOU NEED TO KNOW: HOW LONG DOES AN APPEAL TAKE?

From Notice of Appeal to Filing of Last Brief is
4.9 Months



From Submission to screening panel or from
OA Hearing to Final Disposition is 1.7 Months



From Notice of Appeal to Final disposition is
8.1 months



The median time from Notice of Appeal to
final disposition in oral argument cases is 12.2
Months.

OTHER IMPORTANT THINGS TO KNOW: HOW DOES THE COURT CREATE PANELS AND ASSIGN CASES FOR DECISION?

The court uses a computer program to create administrative, screening, and OA panels each year.

The program randomly assign judges to panels and tries to avoid duplicating panel compositions for the same or the past few years.

When active judges are unavailable to serve on panels, the Chief Judge can approve other judges sitting by designation. (Normally 2-3 visiting judges each year).

Every case assignment to the court's panels (Administrative, Screening, or Oral Argument) is random.

A computer program randomly assigns cases to OA panels, subject to two exceptions. First, the program ensures that each panel serving in a given month receives approximately the same number of criminal and civil appeals; and second, that no case is assigned to a recused judge.

Screening and administrative panel assignments follow a rotation pattern established before the court year begins. Strictly following this rotation for assignment ensures both equitable work distribution and random assignment.



INQUIRING MINDS WANT TO KNOW:

DOES THE COMPOSITION OF A PANEL MATTER AS MUCH AS MANY BELIEVE?



What is the impact of randomly assigning matters to randomly created panels?



Panels decide an overwhelming percentage of appeals unanimously, based upon precedent and the factual record.



Conclusion: facts and precedent matter more than composition of a panel.

PANEL CONCURRENCES AND DISSENTS

5th CIRCUIT OPINION CONCURRENCE AND DISSENT RATES THREE JUDGE PANELS FOR 2024

Calendar Year ending December 31, 2024

Number of Panel Opinions	2275		% of Panel Opinions
Number of Panel Opinions without Dissent	2177		96.0%
Number of Panel Opinions with Separate Dissents or Concurrences	98		4.3%
Panel Opinions with a Dissenting Opinion		39	2.0%
Panel Opinions with Concurring and Dissenting in part Opinions		21	0.9%

Other Things You Need to Know: What is an Appellant's Chance of Reversal?



For the court year ending June 30, 2024, the court reversed 7.1% of appeals, down from 7.4% during 2023. This was the fourth lowest reversal rate for all appellate courts.

2.0% of criminal appeals
15.2% of non-prisoner "U.S. Civil Cases"
17.2% of other civil cases

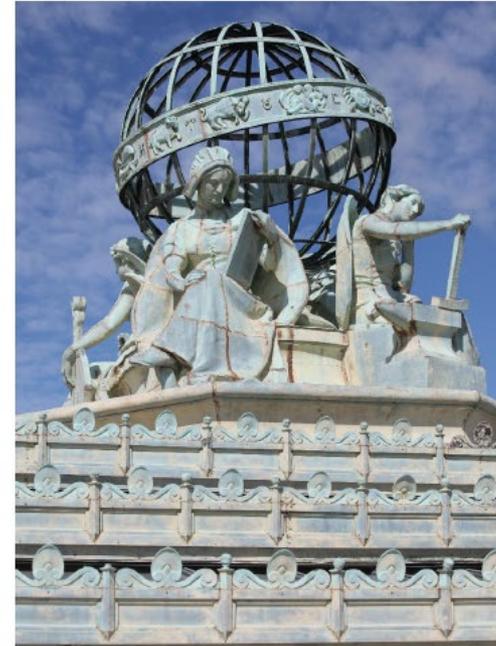


Detailed statistical information can be found in the Clerk's Annual Statistical Report on the Court's internet site, under the "About the Court" tab, in the "Court Statistics" section. The 2024 report will be available in September.

CLERK'S ANNUAL REPORT

► https://www.ca5.uscourts.gov/docs/default-source/default-document-library/clerk's-annual-report-july-2023-to-june-2024.pdf?sfvrsn=f70cc92d_2

JUDICIAL
WORKLOAD
STATISTICS



*UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT*

CLERK'S ANNUAL REPORT
JULY 2023 - JUNE 2024

SOME INTERESTING FACTS ABOUT THE COURT'S WORKLOAD

We were the second busiest appellate court in two categories. For total new appeals filed, we were second only to the 9th Cir. For filings adjusted for complexity, our active judges each handled 660 filings – second only to the 11th Cir where judges handled 678 adjusted filings.

We issued 2,509 written opinions last year. Each active judge wrote approximately 109 opinions.

The court's workload included a significant number of emergency and expedited appeals. We handled 133 such appeals in 2024, compared to only 88 the previous year.

Amicus filings significantly added to the workload. We received 383 amicus briefs in 2023, and 380 in 2024.

JANUARY 1, 2024, TO DECEMBER 31, 2024

	Cases Commenced	Procedural Terminations	Total Merits Terminations	Merits Terminations After Oral Hearing	Merits Terminations on Briefs	% Placed on the Oral Argument Calendar	% Reversed
Criminal	2,147	508	1,486	200	1,117	13.4	3.0
U.S. Prisoner Petitions	289	135	133	8	105	6.0	1.8
Other U.S. Civil	225	78	151	68	55	45.0	22.0
Private Prisoner Petitions	728	421	310	35	230	11.3	4.9
Other Private Civil	1,146	541	753	393	191	52.2	15.6
Bankruptcy	44	8	56	27	14	48.2	22.0
Administrative Agency	365	143	195	55	110	28.2	12.1
Original Proceedings*	391	146	239	0	234	0.0	0.0
Miscellaneous	33	3	30	0	27	0.0	0.0
TOTAL**	5,368	1,983	3,353	786	2,083	23.4	7.7
Louisiana	782	402	534	177	175	33.1%	8.4%
Texas	3,523	1,197	2,210	532	1,063	24.1%	6.2%
Mississippi	307	95	175	53	59	30.3%	5.7%
Northern Mississippi	63	27	45	18	19	40.0%	4.4%
Southern Mississippi	244	68	130	35	40	26.9%	6.1%
	Total Number of Published Opinions	Total Number of Unpublished Opinions	Number of Petitions for Panel Rehearing	Number of Panel Rehearings Granted	Number of Petitions for Rehearing En Banc	Number of Petitions for Rehearing En Banc Granted	
Fifth Circuit**	436	1,854	168	6	199	7	

*Including successive habeas corpus and pro se mandamus petitions.

**The breakdowns by state will not equal the totals provided as agency appeals are excluded from state totals.

MANDATE HOLDS AND EN BANC POLLS

During court year 2023-2024, Judges held the mandate in 63 cases.



A poll was requested in 20 appeals.



The court voted to grant en banc 6 times and denied en banc in 14 appeals.



Orders denying en banc after a poll list the votes of individual judges.

OPINION TRIVIA

What was the longest recent en banc opinion?

--Env't Tex. Citizen Lobby, Inc. v. ExxonMobil Corp., 123 F.4th 309 (5th Cir. 2024) (170 pages with 2 concurrences and 3 dissents)

What was the longest panel opinion?

--Texas v. United States, 126 F.4th 392 (5th Cir. 2025) (38 pages with no concurrences or dissents)

MORE OPINION TRIVIA

HOW OFTEN DO PANELS WITHDRAW AND REISSUE OPINIONS? AND WHEN THEY DID SO, HAD A JUDGE HELD THE MANDATE?

During calendar year 2024, panels withdrew and reissued 26 modified opinions.

In 13 of those instances, a judge on the court had held the mandate.

In the first three months of calendar year 2025, panels withdrew and reissued 5 opinions.

But a judge had held the mandate in only one of those appeals.

OPINION TRIVIA: HOW OFTEN DOES THE COURT CERTIFY QUESTIONS TO A STATE COURT?

When the court faces unresolved issues of state law, it can make an “Erie guess” or certify the question to the state supreme court, giving states the opportunity to interpret the state law.

During the past four years, the Fifth Circuit certified 33 questions to state supreme courts – consistent with our historical averages.

We certified more questions to Texas (22), than Louisiana (9), or Mississippi (2).

DID THE PARTIES IDENTIFY CASES WORTHY OF CERTIFICATION?

In 29 appeals, one or both parties asked the court to certify a question to a state supreme court. The court certified in only 6 of those appeals. (20.69% success rate.)

The court sua sponte certified questions in 27 other appeals, where neither party requested certification. (0% success rate?)



What prevented parties from correctly identifying when issues warranted certification?

SOME ADDITIONAL OBSERVATIONS REGARDING CERTIFIED QUESTIONS

A state supreme court decides, in its discretion, whether to accept certified questions.

Texas and Mississippi accepted all certifications, but Louisiana accepted only 6 of the 9 questions certified to that court.

In 3 appeals where the court sua sponte certified, the parties settled the case before the state court responded. (Perhaps the parties didn't want to see what the state court would do.)

FIFTH CIRCUIT MEDIATION PROGRAM

Cases considered: most counseled civil cases. Exceptions – Social Security, immigration, cases involving constitutional challenges to statutes or regulations.

Timing: we contact attorneys soon after the notice of appeal is filed and offer settlement assistance before briefing. Occasionally, attorneys want to await briefing before discussing settlement, but in those cases, mediators seek to resolve the appeal before assignment to a panel.

Methods: an initial telephone conference with attorneys. This can be followed either with further telephone diplomacy, or live mediation (either in-person or by Zoom).

Occasionally, a panel will refer a matter to us before or after argument. These typically are close cases where the panel thinks both sides have clear risk. However, sometimes the panel just thinks it would be beneficial for both sides to settle.

Settlement rate: historically, 30 to 35 percent of cases where we mediate.

COURT'S PRO BONO PROGRAM

Court Mediation and Judicial Support Office maintains a list of attorneys willing to accept pro bono appointments. We encourage members of the bar to offer services.

Panels normally request counsel at either screening or oral argument, although a pro se may make an earlier request.

A pro bono coordinator contacts counsel on the list and determines who is available and submits recommendations for appointment. We average 2 to 5 such requests per year.

CLOSING THOUGHTS

- Clerk staff take pride in our reputation as an attorney friendly court.
- We developed innovative processes and tools to help attorneys comply with procedural and technical pleading requirements, to help attorneys focus on the substantive legal issues in appeals.
- Our goal is to make an attorney's experience litigating in our court easier and less stressful, and to provide Platinum Service.
- Help us achieve that goal by giving feedback on all aspects of our operations.

