

The Fourth Court of Appeals: Fiscal Year 2010-2011 Review
By: Chief Justice Catherine Stone

As we begin a new fiscal year at the Fourth Court, it is time to review the past year and analyze the Court's performance. The collective goal of the seven justices of the Fourth Court is to provide thoughtful and well-reasoned resolutions to the issues brought before the Court. We strive to issue our opinions expeditiously, but without sacrificing the necessary research and content. Fiscal year 2011, spanning from September 1, 2010 through August 31, 2011, was busy in a variety of ways.

How Many Cases?

During the past fiscal year the Fourth Court disposed of 928 cases. 470 of those cases were civil appeals, while the remaining 458 cases were criminal. Not all cases represent direct appeals; for example, the court's mandamus filings were very high in FY 2011 — 203 filings for the year.

How Long Does It take To Complete An Appeal?

The average time between the filing of a notice of appeal in the trial court and disposition of the case on appeal was 6.35 months. That's the statistical truth; but for most attorneys who are not pure statisticians, the practical truth is that in cases decided on the merits (as opposed to being dismissed early for various reasons) the average time between filing the notice of appeal and disposition by appellate opinion was a little longer. The bulk of that time period was devoted to obtaining the record from the court reporter and the court clerk, and obtaining the briefs from the parties.

The submission date of a case is the date it is officially considered by the Court. In FY 2011 if your case was submitted on briefs, your decision from the Fourth Court would issue 0.60 months later. For an oral argument case the average time between submission and disposition was only 2.22 months. Only one case with a submission date during the last fiscal year was not disposed of by the end of the fiscal year. In other words, the Court concluded the year without a backlog of submitted cases. The Court's performance in this regard is borne out by the Court's near-perfect compliance with legislatively-mandated performance measures that establish time-sensitive goals for appellate courts to complete their consideration of appeals.

For the last several years the Court has sought to "work forward," with the judges receiving their opinion assignments (drawn by blind lot) approximately 60 days in advance of the submission date. This allows the judges and their staff to begin researching the issues in a case two months before the submission date. This system seems to work well for the Court, as it continues to be one of the most efficient of the fourteen intermediate appellate courts. The public can access a statistical report regarding the performance of the fourteen appellate courts using the following link: <http://www.courts.state.tx.us/pubs/annual-reports.asp>.

What Happened? My Case Was Transferred!

In the past fiscal year, the Fourth Court transferred 10 cases to the 13th Court of Appeals in Corpus Christi and 12 cases to the 8th Court of Appeals in El Paso. The transfer of cases among courts of appeals in Texas is mandated by the Legislature. The purpose of the transfers is to equalize the dockets of the fourteen courts of appeals. When the Fourth Court receives an order from the Texas Supreme Court instructing us to transfer cases, we must comply. We are on record as opposing the transfer of cases out of our court. It would be the preference of the justices of the Fourth Court of Appeals to retain all appeals filed in the Fourth Court; however, the justices recognize our duty to participate in the statutory transfer system.

Did The Court Get It Right?

One final factor we consider in evaluating our performance is reversals. During the last fiscal year, 70 petitions for review were filed seeking review of our opinions by the Texas Supreme Court, and 86 petitions for discretionary review were filed seeking review of our opinions by the Texas Court of Criminal Appeals. Only six of the Fourth Court's opinions were reversed by the Texas Supreme Court during the last fiscal year, and only three of our opinions were reversed by the Texas Court of Criminal Appeals.

Changes At The Court.

During the last fiscal year, we said goodbye to long-time clerk John Davila, who has gone back to college, and added a new deputy clerk, Jonathan Quintero. The opening of the Elizondo Tower has brought changes to the Fourth Court's space, and those changes will continue. Although the Fourth Court remains in the same location in the Cadena-Reeves Justice Center, adjustments were made to secure the access to the offices of the justices and attorneys. In November of 2011, construction began to accommodate two elevator shafts necessary for inmate access to the new trial courts to be constructed on the fourth floor of the Justice Center. We hope the construction necessary to make these adjustments will have minimal impact on the attorneys and parties who utilize our services, and we apologize in advance for any inconvenience this may cause.

The judiciary is funded by the Legislature, and, as with other state-funded entities, the Fourth Court's budget was reduced during the last legislative session. The Fourth Court will continue to strive to maintain its high standards and efficiency despite the budget reduction. The Fourth Court's mission is for judicial excellence in its service to Texas. Concerns and suggestions are always welcome.