

REPORT OF THE UNITED STATES COURT OF APPEALS FOR THE ARMED FORCES

October 1, 2024, to September 30, 2025

The Judges of the United States Court of Appeals for the Armed Forces (USCAAF) submit their Annual Report on the administration of the Court and military justice during the October 2024 Term of Court to the Committees on Armed Services of the United States Senate and the United States House of Representatives, and to the Secretaries of Defense, Homeland Security, Army, Navy, and Air Force in accordance with Article 146a, Uniform Code of Military Justice (UCMJ), Title 10, United States Code (U.S.C.), § 946a.

THE BUSINESS OF THE COURT

During the October 2024 Term of Court, the Court heard oral argument in 34 cases and issued opinions in 35 cases. (One case from the 2023 term was decided during the 2024 term.) A summary by the Court staff of selected decisions is presented in *Appendix A*. Statistical reporting and graphical representations of the filing and disposition of cases are set forth in *Appendix B*.

The Court heard cases with a full complement of five currently-appointed Judges. Information pertaining to specific opinions is available from the Court's published opinions and Daily Journal, available on the Court's website. Other dispositions may be found in the Court's official reports, the Military Justice Reporter, and on the Court's website. Additionally, the Court's website contains a consolidated digest of past opinions of the Court, information on the Court's history and jurisdiction, the Rules of Practice and Procedure, previous Annual Reports, a schedule of upcoming hearings, audio recordings of past hearings, and information on clerkship opportunities, bar admission, electronic filing, and the Court's library.

RULES OF PRACTICE AND PROCEDURE

During the October 2024 Term, the Court approved changes to Rules 19, 21(b), 21A(c), 22, 24, 26, 36(b), and 37. The amendments to Rules 19, 21A, and 36(b) standardize the general 7-day time scheme of the Rules. The change to Rule 21(b) was approved to add "the Constitution" to its subsection (D). The amendment to Rule 22 was approved to facilitate compliance with the procedural notification requirement of Article 67(a)(2), UCMJ. The changes to Rule 24 add clarity to the Rule's "Relevant

Authorities” requirement. The changes to Rule 26(a) were adopted to expand the circumstances allowing for the filing of amicus curiae briefs. The changes to Rule 36(b) simplify the Court’s electronic filing requirements. The new subsection 37(d) was added to incorporate word count requirements by consolidating similar requirements relocated from Rules 21(b), 24, and 26(f).

BAR OF THE COURT

During the October 2024 Term, 173 attorneys were admitted to practice before the Court, bringing the cumulative total of admissions to the Bar of the Court to 38,261.

JUDICIAL OUTREACH

The practice known as “Project Outreach” was developed as part of a public awareness program to demonstrate the operation of a federal Court of Appeals and the military’s criminal justice system. During the October 2024 Term, with the consent of the parties, the Court conducted hearings at Naval Station Norfolk, Norfolk, VA, and at Hampton University, Hampton, VA.

CONTINUING LEGAL EDUCATION AND TRAINING PROGRAM

In May 2025, the Court held its Continuing Legal Education and Training Program at the George Mason University Antonin Scalia Law School in Arlington, VA. The program opened with welcoming remarks from the Honorable Kevin A. Ohlson, Chief Judge, United States Court of Appeals for the Armed Forces. He preceded the following speakers: MAJ ReAnne R. Wentz, U.S. Army, Associate Professor, The Judge Advocate General’s School and Legal Center; Judge Gregory Maggs, U.S. Court of Appeals for the Armed Forces, moderator; CAPT Robert Monahan, JAGC, U.S. Navy (Ret.), Commissioner to the Honorable Kevin A. Ohlson, U.S. Court of Appeals for the Armed Forces; Judge Alan Large, Judge Advocate General of the United Kingdom; Captain (Navy) C. Julie Deschênes, Chief Military Judge of Canada; Wing Commander Joshua Liddy, Legal Officer - Director Space Legal, Australia Space Command; Professor Craig Lerner, Antonin Scalia Law School, George Mason University; Dr. Elizabeth Hillman, Chair; COL Tara Osborn, U.S. Army (Ret.), Vice-Chair; Maj Gen John Ewers, U.S. Marine Corps (Ret.); Ms. Suzanne Goldberg, Herbert and Doris Wechsler Clinical Professor of Law at Columbia Law School; William Cassara, Attorney at Law, DAC-IPAD Committee Member; Mark A. Drumbl, Class of 1975 Alumni Professor of Law and Director,

Transnational Law Institute, Washington and Lee University; COL Fred L. Borch, U.S. Army, (Ret.), Professor of Legal History & Leadership, The Judge Advocate General's Legal Center and School, (Ret.), Regimental Historian & Archivist, The Judge Advocate General's Corps, (Ret.); RDML Moira Modzelewski, JAGC, U.S. Navy, (Ret.), Chair, Appeal Board, Defense Office of Hearings and Appeals; Senior Judge Andrew S. Effron, U.S. Court of Appeals for the Armed Forces; John Cooke, Director, Federal Judicial Center; Dwight H. Sullivan, Senior Counsel, U.S. Air Force Appellate Defense Division; Clinical Professor Timothy MacArthur; M-VETS Student Advisor Samantha Hargis; Judge Advocates Association, MAJ Amanda Williams, U.S. Army; Maj Casey Keppler, U.S. Air Force; Maj Jeffrey C. Sullivan, U.S. Air Force; Maj Nicole Rimal, U.S. Marine Corps; LTJG Stephen Paul, JAGC, U.S. Navy; Mr. Cooper Millhouse; and the Honorable Martin Mitchell, Veterans Law Judge, Board of Veterans' Appeals.

Kevin A. Ohlson
Chief Judge

John E. Sparks, Jr.
Judge

Gregory E. Maggs
Judge

Liam P. Hardy
Judge

M. Tia Johnson
Judge

APPENDIX A

United States v. Csiti, 85 M.J. 414 [C.A.A.F. 2025]. The three questions in this case were whether USCAAF has statutory authority to decide whether a conviction is factually sufficient; whether Appellant's conviction for sexual assault was factually and legally insufficient; and whether the lower court erroneously interpreted and applied the amended factual sufficiency standard under Article 66(d)(1)(B), UCMJ. The Court found that it does not have statutory authority to review the factual sufficiency of evidence and therefore could not answer questions regarding factual sufficiency. However, as the Court may review the legal sufficiency of evidence, the Court held that the evidence in question was legally sufficient. Further, the majority determined that any misconception by the Air Force Court of Criminal Appeals (AFCCA) about the amended standards applicable to the AFCCA's factual sufficiency review was harmless.

United States v. Johnson, __ M.J. ____ [C.A.A.F. 2025]. The question in this case was whether USCAAF has jurisdiction and authority to direct the modification of the 18 U.S.C. § 922 prohibition noted on the Staff Judge Advocate's (SJA) indorsement to the entry of judgment (EOJ). The majority found that this Court lacks authority to act upon a § 922 indication because no Court of Criminal Appeals has the authority to act upon that indication in the first instance. The opinion concurring in part and in the judgment disagreed with the Court's decision that judgment is entered, not when the military judge signs the EOJ but when the SJA endorses it, and expressed that there is a basis in the text of Article 60c and the Rules for Courts-Martial (R.C.M.) to equate the military judge's signature with entering the judgment of the court into the record.

United States v. Miller, __ M.J. ____ [C.A.A.F. 2025]. The question in this case was whether the total closure of the court for a Military Rule of Evidence (M.R.E.) 412 hearing over Appellant's objection violated his right to a public trial. The majority held that neither the Sixth Amendment public trial right nor the R.C.M. 806 public trial right extends to hearings conducted pursuant to M.R.E. 412, and thus the military judge did not err when he closed the M.R.E. 412 hearings during the pretrial phase of Appellant's court-martial. The dissent argued that a hearing under M.R.E. 412 is the kind of hearing for which an individualized determination is necessary under precedents of the Supreme Court of the United States and USCAAF.

United States v. Taylor, __ M.J. ____ [C.A.A.F. 2024]. The question in this case was whether the AFCCA erred by using the absurdity doctrine to interpret Article 2(d)(2), UCMJ, 10 U.S.C. § 802(d)(2), which sets forth the authority to involuntarily order members of reserve components to active duty for trial by court-martial, in a manner that conflicts with the plain and unambiguous meaning of the statutory language. The Court held that the plain reading of Article 2(d), UCMJ, as amended by Congress, does not lead to a result that is so shocking to the general moral or common sense that it qualifies as absurd. Therefore, the Court found that Article 2(d)(2), UCMJ, did not authorize ordering Appellant to active duty for trial by court-martial because Appellant was not “on active duty” or “inactive-duty training” at the time of the charged offenses, as the provision requires.

United States v. Mendoza, 85 M.J. 213 [C.A.A.F. 2024]. A unanimous Court found that Article 120, UCMJ, establishes “incapable of consent” and “did not consent” as separate theories of liability, and remanded this case to the Army Court of Criminal Appeals (ACCA) to re-consider its legal and factual sufficiency analysis, which did not explain how or why the evidence of the victim’s intoxication factored into its decision. On remand, the ACCA found the victim’s high level of intoxication, alongside the other evidence in the case, was circumstantial evidence of lack of consent, and that Appellant’s conviction was legally and factually sufficient. USCAAF will now review three certified issues: whether Appellant’s conviction should be reversed for a due process violation; whether the Army court erred in its application of the law finding that the conviction was legally and factually sufficient; and whether the Army court erred in its application of the law in applying a “mainly but alongside other evidence” framework to find Appellant’s conviction legally sufficient.

APPENDIX B

USCAAF STATISTICAL REPORT OCTOBER 2024 TERM OF COURT

CUMULATIVE SUMMARY

CUMULATIVE PENDING OCTOBER 1, 2024

Master Docket	33
Petition Docket	51
Miscellaneous Docket	<u>2</u>
TOTAL	86

CUMULATIVE FILINGS

Master Docket	73
Petition Docket	235
Miscellaneous Docket	<u>26</u>
TOTAL	334

CUMULATIVE DISPOSITIONS

Master Docket	68
Petition Docket	246
Miscellaneous Docket	<u>26</u>
TOTAL	340

CUMULATIVE PENDING OCTOBER 1, 2025

Master Docket	38
Petition Docket	39
Miscellaneous Docket	<u>2</u>
TOTAL	79

OPINION SUMMARY

<u>CATEGORY</u>	<u>SIGNED</u>	<u>PER CURIAM</u>	<u>MEM/ORDER</u>	<u>TOTAL</u>
Master Docket	35	1	37	73
Petition Docket	0	0	246	246
Miscellaneous Docket	<u>0</u>	<u>0</u>	<u>26</u>	<u>26</u>
TOTAL	35	1	309	345

MASTER DOCKET SUMMARY

PENDING AT BEGINNING OF TERM 33

FILINGS

Petitions granted from the Petition Docket	57
Certificates filed	16
Mandatory appeals filed	0
Remanded/Returned cases	<u>0</u>
TOTAL	73

DISPOSITIONS

Affirmed	56
Reversed in whole or in part	6
Certificates dismissed	0
Other	<u>6</u>
TOTAL	68

PENDING AT END OF TERM

Awaiting briefs	3
Awaiting oral argument	15
Awaiting lead case decision (trailer cases)	1
Awaiting final action	<u>19</u>
TOTAL	38

PETITION DOCKET SUMMARY

PENDING AT BEGINNING OF TERM	51
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FILINGS

Petitions for grant of review filed	235
Petitions for new trial filed	0
Returned cases	<u>0</u>
TOTAL	235

DISPOSITIONS

Petitions for grant of review denied	182
Petitions for grant of review granted	57
Petitions for grant of review withdrawn	2
Petitions for grant of review dismissed	<u>5</u>
TOTAL	246

PENDING AT END OF TERM

Awaiting pleadings	18
Awaiting staff review	19
Awaiting final action	<u>2</u>
TOTAL	39

MISCELLANEOUS DOCKET SUMMARY

PENDING AT BEGINNING OF TERM	2
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FILINGS

Writ appeals sought	11
Writs of habeas corpus sought	9
Writs of coram nobis sought	3
Other extraordinary relief sought	<u>3</u>
TOTAL	26

DISPOSITIONS

Petitions or appeals denied	14
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Petitions or appeals granted	1
Petitions or appeals dismissed	11
Petitions or appeals withdrawn	<u>0</u>
TOTAL	26

PENDING AT END OF TERM

Awaiting briefs	0
Awaiting staff review	1
Awaiting final action	<u>1</u>
TOTAL	2

PETITIONS FOR RECONSIDERATION

ALL CASES

Begin pending	5
Filed	<u>27</u>
TOTAL	32

DISPOSITIONS

Denied	20
Granted	2
Dismissed	<u>1</u>
TOTAL	23

End Pending	9
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MOTIONS

ALL MOTIONS

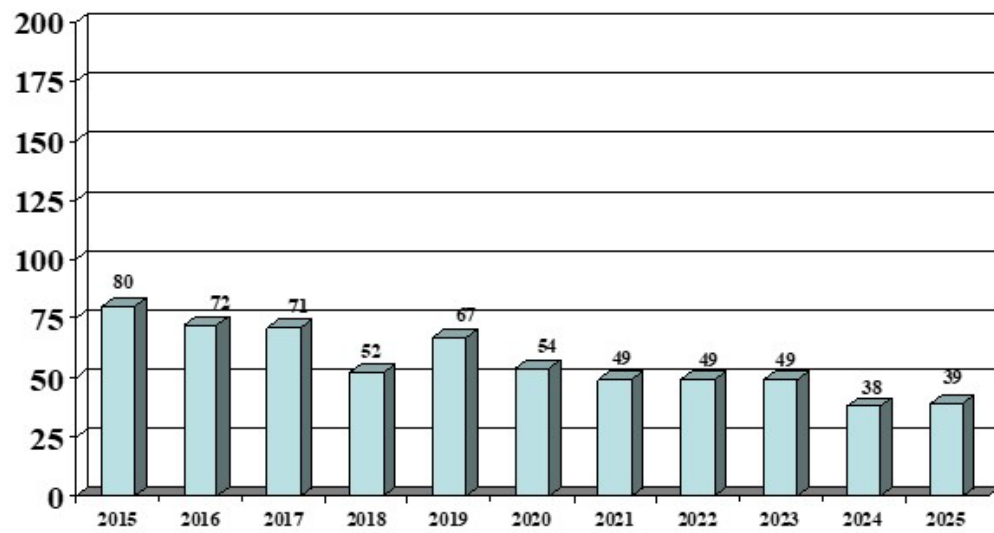
Begin pending	7
Filed	<u>401</u>
TOTAL	408

DISPOSITIONS

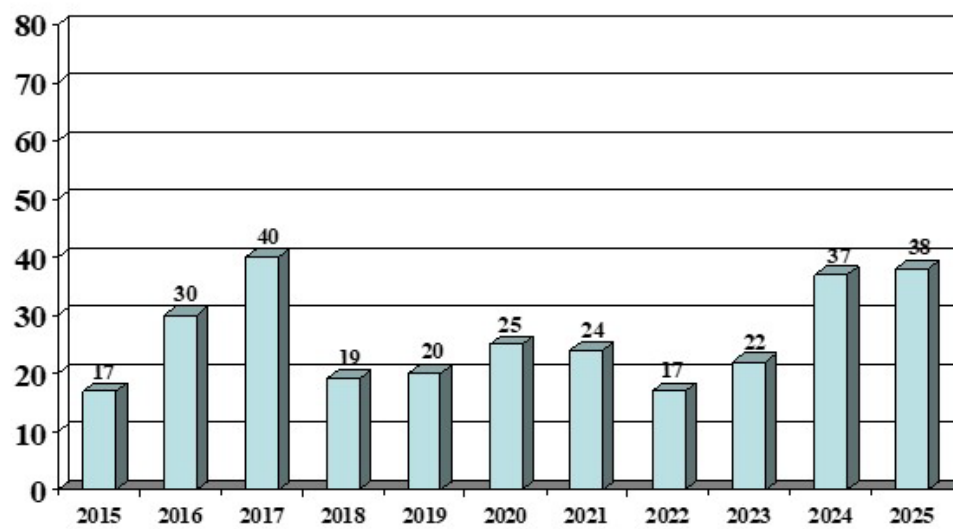
Granted	357
Denied	47
Dismissed	<u>1</u>
TOTAL	405

End Pending	3
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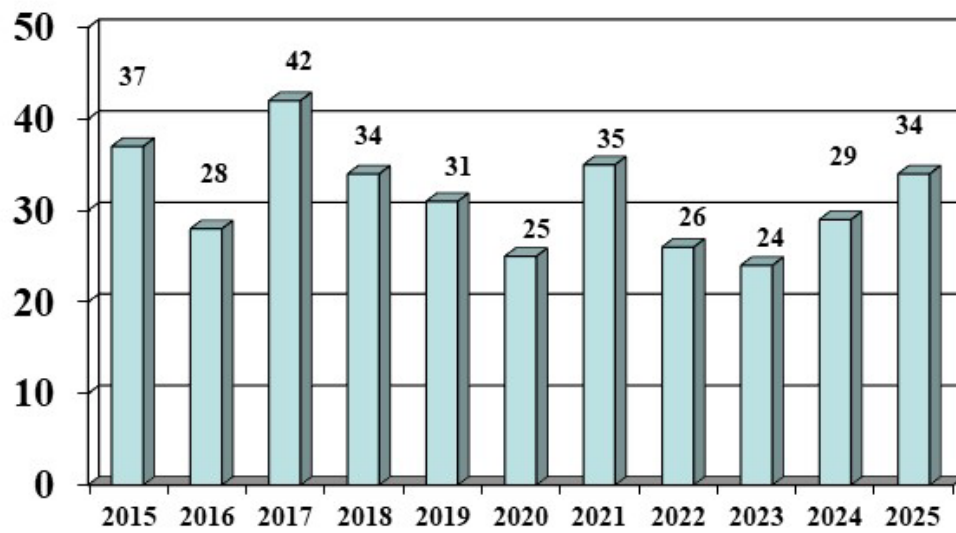
Petitions Pending at End of Term



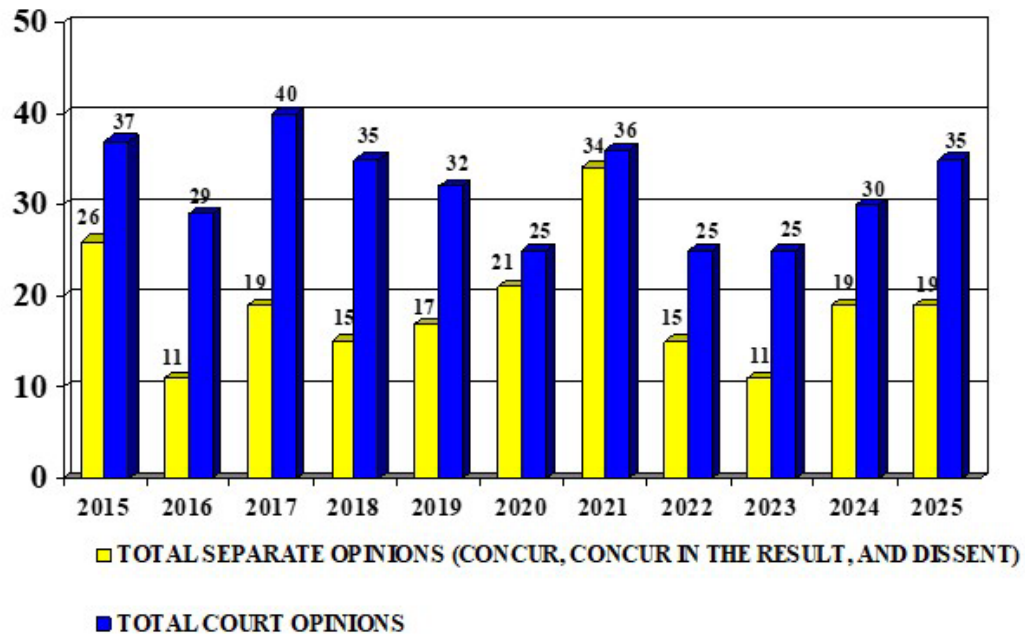
Master Docket Cases Pending at End of Term



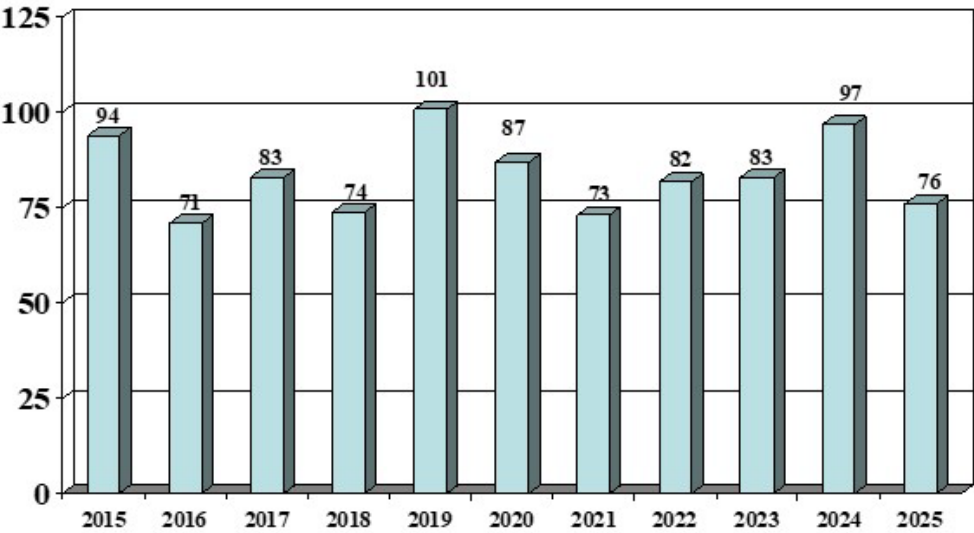
Oral Arguments Per Year



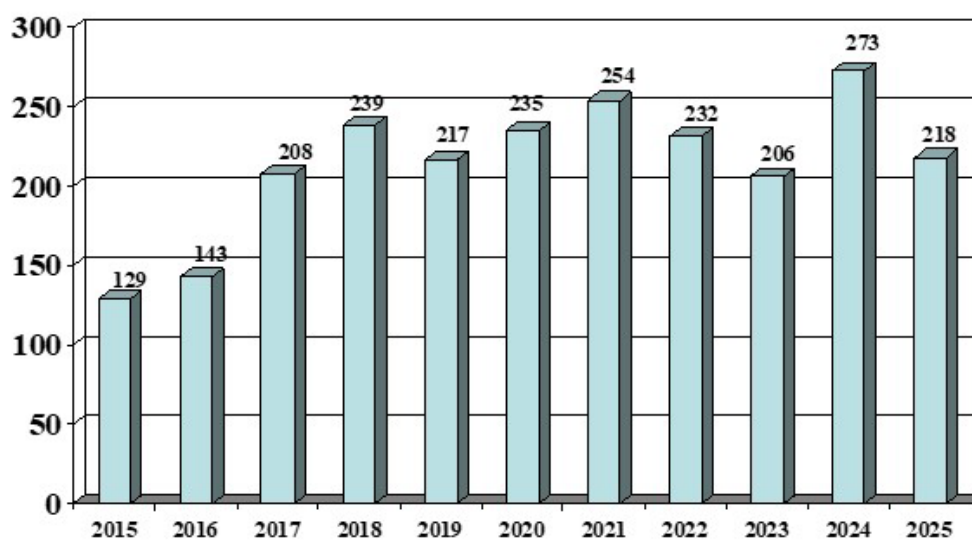
Total Opinions Per Year



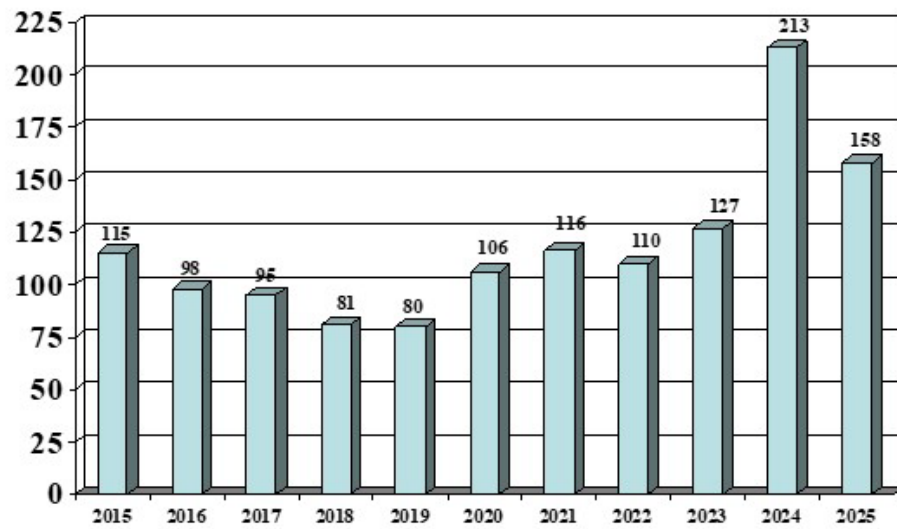
Days from Petition Filing to Grant



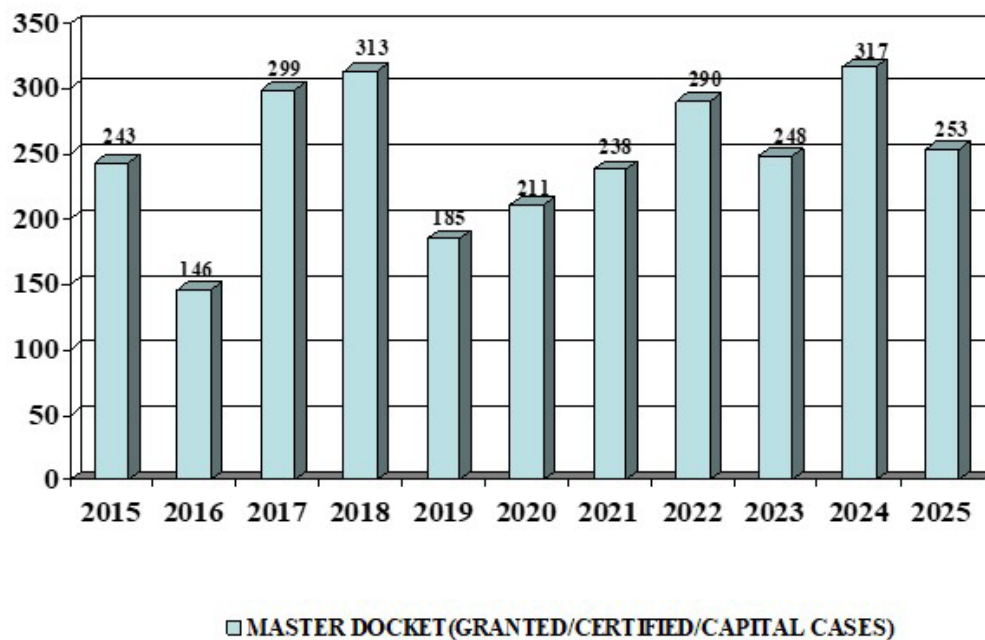
Days from Petition Filing to Oral Argument



Days from Oral Argument to Final Decision



Days from Petition Filing to Final Decision



Total Petitions Filed Per Year

