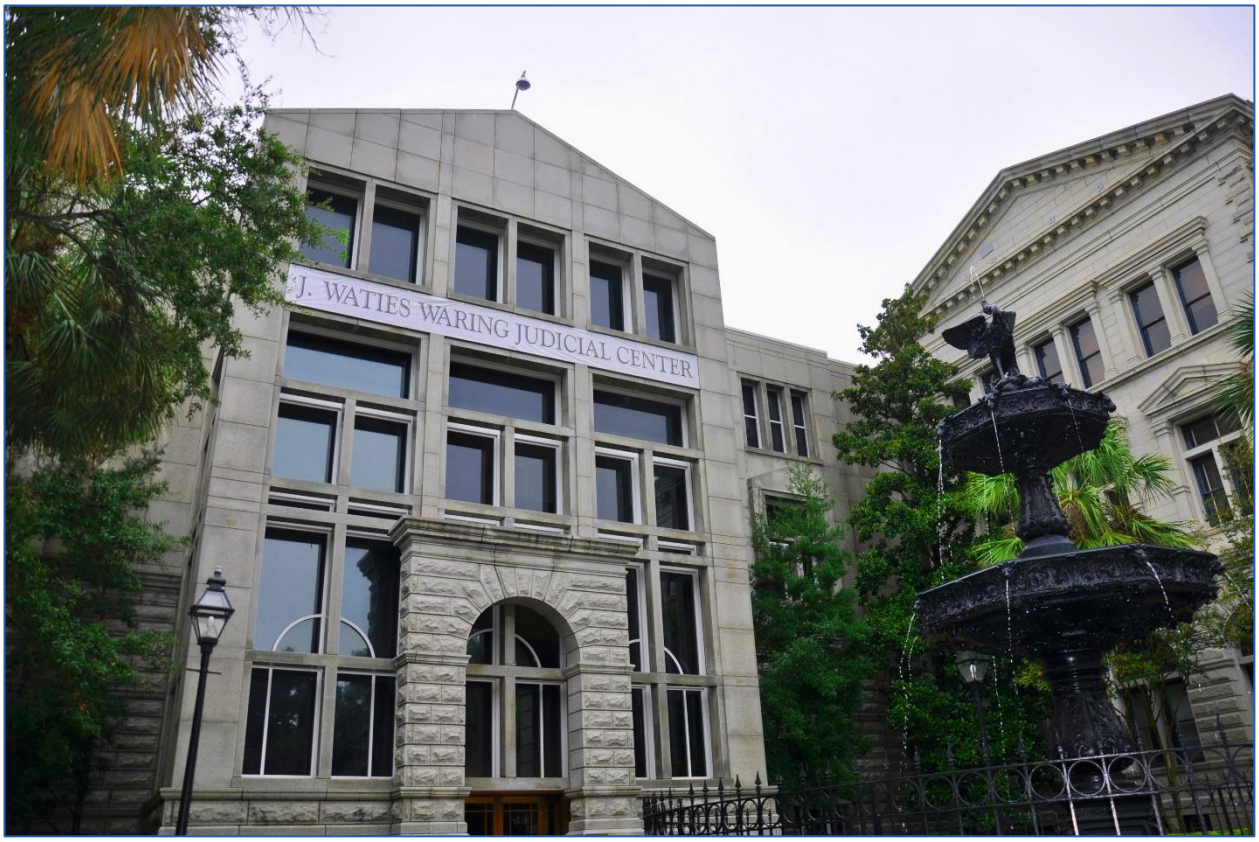


J. Waties Waring Judicial Center, Charleston, South Carolina

2024 Year End Report on the Federal Judiciary

In December 1761, a little more than one year into what would be a fifty-nine year reign, King George III decreed that from that date forward, colonial judges were to serve "at the pleasure of the Crown." This royal edict departed from the long-standing practice in England, enshrined by Parliament in the 1701 Act of Settlement, of allowing judges to retain their offices "during good behavior."

The King's order was not well received. To the colonists, stripping lifetime appointments from judicial officers marked yet another instance in which British subjects living on the west side of the Atlantic Ocean were treated as second class. George III compounded the insult about a decade later, in 1772, when he established a salary set by the Crown for superior court judges in Massachusetts, preventing

them from accepting the then-prevailing local government wages for their services. A prominent Boston lawyer by the name of John Adams protested that the King's actions made colonial judges "entirely dependent on the Crown for Bread [as] well as office."[1]

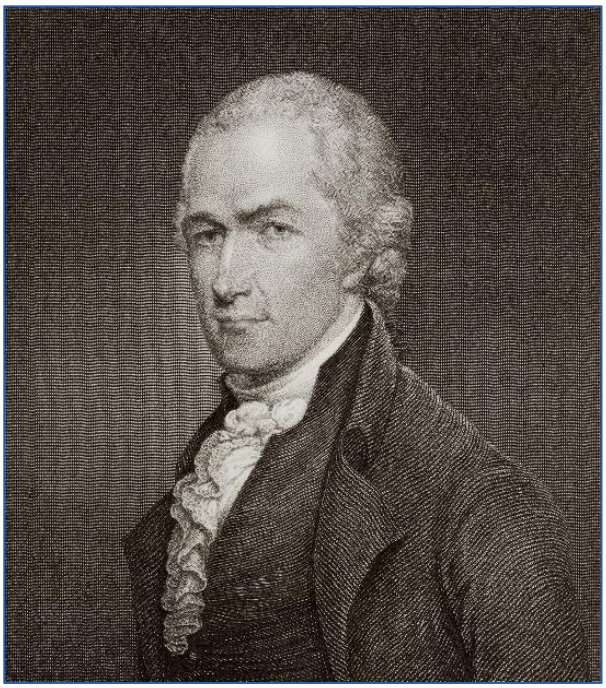
Despite widespread disapproval in the colonies over this interference with the independence of their judges, the King held his ground. Accordingly, the ninth of twenty-seven grievances enumerated in the Declaration of Independence charged that George III "has made Judges dependent on his Will alone for the tenure of their offices, and the amount and payment of their salaries."

After securing independence, the fledgling United States did not immediately set about creating a national judiciary. Indeed, among the many defects of the Articles of Confederation, the absence of any mention of a judicial branch—or judges at all—seems particularly glaring.

The Constitutional Convention of 1787 remedied that oversight. In a tidy rebuttal to the King, Article III, Section 1 of the Constitution of the United States states that "The Judges, both of the supreme and inferior courts, shall hold their Offices during good Behaviour, and shall, at stated Times, receive for their Services, a Compensation, which shall not be diminished during their Continuance in Office."

You might have expected the man who soon would become the first Chief Justice of the United States, John Jay, to have authored the portions of the Federalist Papers devoted to the judicial branch. But, as I explained in my 2019 Year End Report, Jay spent the winter of 1788 recovering from a severe head injury sustained while trying to protect a group of medical students from an angry mob who thought, erroneously, that the students were stealing cadavers from graves to practice surgery. As Jay rested to heal the "two large holes in his forehead," the task of championing judicial independence fell to Alexander Hamilton.

Quoting the French political philosopher Montesquieu, Hamilton endorsed in Federalist No. 78 the principle that "there is no liberty, if the power of judging be not separated from the legislative and executive powers."[2] Hamilton anticipated that the relatively weak judicial



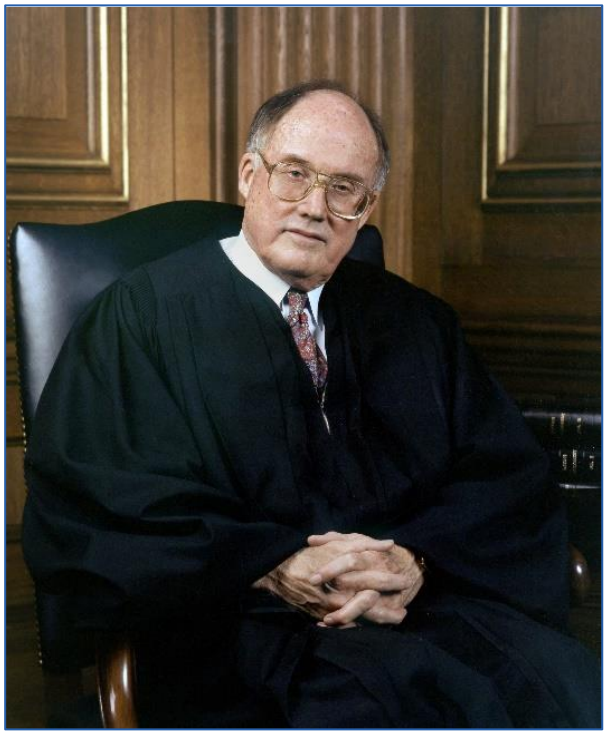
Stipple engraving of Alexander Hamilton, c. 1834

[1] J. Adams, Diary and Autobiography of John Adams, Vol. 1, 1961.

[2] Federalist No. 78.

branch—possessing neither the sword nor the purse—would require "all possible care . . . to defend itself" against the attacks of the other branches.[3] To that end, "permanent tenure of judicial offices" would free judges to perform their essential role as "the bulwarks of a limited Constitution against legislative encroachments."[4] In Federalist No. 79, Hamilton argued for judicial compensation that could not be diminished—noting that "power over a man's subsistence amounts to a power over his will."[5] Hamilton's masterful defense of judicial independence also went on to presage Chief Justice Marshall's foundational decision in *Marbury v. Madison*, recognizing the duty of the courts "to declare all acts contrary to the manifest tenor of the Constitution void."[6]

The independent federal judiciary established in Article III and preserved for the past 235 years remains, in the words of my predecessor, one of the "crown jewels of our system of government."[7] Indeed, it is no exaggeration to conclude, as Chief Justice Rehnquist did, that "the creation of an independent constitutional court, with the authority to declare unconstitutional laws passed by state or federal legislatures, is probably the most significant contribution the United States has made to the art of government."[8] Before the American founding, no other country had found a way to ensure that the people *and* their government respect the law. One reason judicial review has endured and served us well lies in yet another insight from Chief Justice Rehnquist, articulated in his 2004 Year End Report: "The Constitution protects judicial independence not to benefit judges, but to promote the rule of law."[9] Or, as Justice Kennedy put it, "Judicial independence is not conferred so judges can do



Chief Justice William H. Rehnquist, 1993

[3] Ibid.

[4] Ibid.

[5] Federalist No. 79.

[6] Federalist No. 78.

[7] W. H. Rehnquist, Remarks of the Chief Justice at the Washington College of Law Centennial Celebration, American University, April 9, 1996.

[8] W. H. Rehnquist, Judicial Independence, 38 U. Rich. L. Rev. 579-80 (Mar. 1, 2004).

[9] W. H. Rehnquist, 2004 Year End Report on the Federal Judiciary.

as they please. Judicial independence is conferred so judges can do as they must."[10]

In that same 2004 Report, which would prove to be his last, Chief Justice Rehnquist observed that "[c]riticism of judges has dramatically increased in recent years, exacerbating in some respects the strained relationship between the Congress and the federal Judiciary."[11] That statement is just as true, if not more so, today.

In truth, some tension between the branches of the government is inevitable and criticism of judicial interpretations of the people's laws is as old as the Republic itself. In Hamilton's and Jefferson's time, the debate was framed by pitting those who believed that the government's powers extended only to those specifically enumerated in the document against those who found in it more expansive powers. Today we often use terms like originalism and pragmatism to describe these differences of opinion. The political branches sometimes inquire into judicial philosophy when considering nominees for the federal courts. But the oath—and the duties that follow—are the same regardless of the President who nominated and the Senate that confirmed every new Article III judge.

Judicial review makes tensions between the branches unavoidable. Judicial officers resolve crucial matters involving life, liberty, and property. At times, as Hamilton recognized, an independent judiciary must uphold the Constitution against the shifting tides of public opinion, as "no man can be sure that he may not to-morrow be the victim of a spirit of injustice, by which he may be a gainer to-day."[12] It should be no surprise that judicial rulings can provoke strong and passionate reactions. And those expressions of public sentiment—whether criticism or praise—are not threats to judicial independence.

To the contrary, public engagement with the work of the courts results in a better-informed polity and a more robust democracy. Indeed, when working in panels, judges themselves join from time to time the ranks of critics through concurring and dissenting opinions. Two district judges independently looking at the same legal issue can also come to different conclusions, leaving it to higher courts to resolve the split of authority. And room for disagreement is almost endless when it comes to the vast swath of trial court work that involves the application of variable legal tests to unique fact patterns in individual cases. In last year's Year End Report, I opined that the application of discretion in these situations explains why machines will never fully replace human judges. But it also creates fertile ground for debate and criticism.

At the end of the day, judges perform a critical function in our democracy. Since the beginning of the Republic, the rulings of judges have shaped the Nation's development and checked the excesses of the other branches.

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[10] A. M. Kennedy, Testimony in Senate Judiciary Committee Hearing on Judicial Independence, 2007.

[11] W. H. Rehnquist, 2004 Year End Report on the Federal Judiciary.

[12] Federalist No. 78.

Of course, the courts are no more infallible than any other branch. In hindsight, some judicial decisions were wrong, sometimes egregiously wrong. And it was right of critics to say so. In a democracy—especially in one like ours, with robust First Amendment protections—criticism comes with the territory. It can be healthy. As Chief Justice Rehnquist wrote, "[a] natural consequence of life tenure should be the ability to benefit from informed criticism from legislators, the bar, academy, and the public."[13]

Unfortunately, not all actors engage in "informed criticism" or anything remotely resembling it. I feel compelled to address four areas of illegitimate activity that, in my view, *do* threaten the independence of judges on which the rule of law depends: (1) violence, (2) intimidation, (3) disinformation, and (4) threats to defy lawfully entered judgments.

There is of course no place for violence directed at judges for doing their job. Yet, in recent years, there has been a significant uptick in identified threats at all levels of the judiciary. According to United States Marshals Service statistics, the volume of hostile threats and communications directed at judges has more than tripled over the past decade. In the past five years alone, the Marshals report that they have investigated more than 1,000 serious threats against federal judges. In several instances, these threats have required the assignment of full-time U.S. Marshals Service security details for federal judges, and approximately fifty individuals have been criminally charged. In extreme cases, judicial officers have been issued bulletproof vests for public events.

Fortunately for our Nation's judges, the vigilance of law enforcement officers and investigators has stopped many threats of violence before they could be carried out. Indeed, from the founding of the Republic in 1789 until 1979, only one federal judicial officer, Chief Justice John Slough of the New Mexico Territorial Supreme Court, was killed in office. And the quarrel that led to Slough's shooting in the billiard room of a Santa Fe hotel in December 1867 did not stem from a judicial ruling, but rather from the judge's off-the-bench criticism of a territorial legislator.

In more recent decades, however, disgruntled litigants have perpetrated acts of violence against several judges and members of their families. Between 1979 and 1989, three federal judicial officers—two district judges and a circuit judge—were killed for doing their jobs. In 2005 and 2020, close relatives of federal judges were shot to death by assailants intent on harming the judges who had handled their cases. More recently, in 2022 and 2023, state judges in Wisconsin and Maryland were murdered, also at their homes. Each instance constituted a targeted attack following an adverse ruling issued by the judge exercising ordinary judicial duties.

These tragic events highlight the vulnerability of judges who sign their names to the decisions they render each day and return home each night to communities, where they remain involved as neighbors, volunteers, and concerned citizens. Judges cannot hide, nor should

[13] W. H. Rehnquist, 2004 Year End Report on the Federal Judiciary.

they. I am grateful to the many federal and state legislators who have stepped forward to sponsor bills shielding judges' personal identifying information from the public domain. I also thank Congress for providing additional funding to protect the physical security of judges and justices. And I commend the Marshals and other officers who work on the front lines day and night to keep judicial officers across the country as safe as possible. It is regrettable that law enforcement officers must now dedicate significant additional resources to protecting judges, tracking and investigating threats against them, and prosecuting those who cross the line between lawful criticism and unlawful threats or actions.

Of course, attempts to intimidate need not physically harm judges to threaten judicial independence. In earlier times, these provocations usually were directed at judges' homes. Perhaps the most egregious example involved U.S. District Judge Julius Waties Waring. As a judge in South Carolina from 1942 to 1952, Judge Waring issued numerous rulings opening voting and educational opportunities for Black Americans. Local residents outraged by these decisions burned a cross in the judge's lawn, fired gunshots at his home, and hurled a large lump of concrete through his front window. Elected officials called for his impeachment. But Judge Waring stood strong until taking senior status at age 71, secure in the knowledge that an equal protection challenge to racial segregation had made its way to the Supreme Court. By the time the landmark decision in *Brown* was issued in May 1954, Waring had moved to New York City, returning to South Carolina only in 1968 to be buried in Charleston, near the federal courthouse that now bears his name.

Today, in the computer era, intimidation can take different forms. Disappointed litigants rage at judicial decisions on the Internet, urging readers to send a message to the judge. They falsely claim that the judge had it in for them because of the judge's race, gender, or ethnicity—or the political party of the President who appointed the judge. Some of these messages promote violence—for example, setting fire to or blowing up the courthouse where the target works.

Occasionally, court critics deploy "doxing"—the practice of releasing otherwise private information such as addresses and phone numbers—which can lead to a flood of angry, profane phone calls to the judge's office or

This cross was burned on the lawn of Chief Justice Warren's apartment building early in the morning on July 14, 1956.

home. Doxing also can prompt visits to the judge's home, whether by a group of protestors or, worse, an unstable individual carrying a cache of weapons. Both types of activity have occurred in recent years in the vicinity of the Nation's capital. Activist groups intent on harassing judges have gone so far as to offer financial incentives for posting the location of certain judicial officers.

Public officials, too, regrettably have engaged in recent attempts to intimidate judges—for example, suggesting political bias in the judge's adverse rulings without a credible basis for such allegations. Within the past year we also have seen the need for state and federal bar associations to come to the defense of a federal district judge whose decisions in a high-profile case prompted an elected official to call for her impeachment. Attempts to intimidate judges for their rulings in cases are inappropriate and should be vigorously opposed. Public officials certainly have a right to criticize the work of the judiciary, but they should be mindful that intemperance in their statements when it comes to judges may prompt dangerous reactions by others.

Disinformation, even if disconnected from any direct attempt to intimidate, also threatens judicial independence. This can take several forms. At its most basic level, distortion of the factual or legal basis for a ruling can undermine confidence in the court system. Our branch is peculiarly ill-suited to combat this problem, because judges typically speak only through their decisions. We do not call press conferences or generally issue rebuttals.

To make matters worse, as I noted in my 2019 Year End Report, the modern disinformation problem is magnified by social media, which provides a ready channel to "instantly spread rumor and false information." At that time, I endorsed a renewed emphasis on civic education as the best antidote for combating the epidemic of misinformation. I am happy to report that the bench, bar, and academy have embraced this essential project—writing and speaking about the distinct role of courts in American government and explaining what they do and don't do.

But much more is needed—and on a coordinated, national scale—not only to counter traditional disinformation, but also to confront a new and growing concern from abroad. In recent years, hostile foreign state actors have accelerated their efforts to attack all branches of our government, including the judiciary. In some instances, these outside agents feed false information into the marketplace of ideas. For example, bots distort judicial decisions, using fake or exaggerated narratives to foment discord within our democracy. In other cases, hackers steal information—often confidential and highly sensitive—for nefarious purposes, sometimes for private benefit and other times for the use of state actors themselves. Either way, because these actors distort our judicial system in ways that compromise the public's confidence in our processes and outcomes, we must as a Nation publicize the risks and take all appropriate measures to stop them.

The final threat to judicial independence is defiance of judgments lawfully entered by courts of competent jurisdiction. As noted above, two of the major pillars of our Republic—separation of powers and judicial review—create an inevitable tension between the branches of our government. Hamilton foresaw, and Chief Justice Marshall confirmed, the

role of the judicial branch to say what the law is. But judicial independence is undermined unless the other branches are firm in their responsibility to enforce the court's decrees.

After *Brown v. Board of Education*, for example, multiple state governors sought to defy court orders to desegregate schools in the South. The courage of federal judges to uphold the law in the face of massive local opposition—and the willingness of the Eisenhower and Kennedy Administrations to stand behind those judges— are strong testaments to the relationship between judicial independence and the rule of law in our Nation's history.

It is not in the nature of judicial work to make everyone happy. Most cases have a winner and a loser. Every Administration suffers defeats in the court system—sometimes in cases with major ramifications for executive or legislative power or other consequential topics. Nevertheless, for the past several decades, the decisions of the courts, popular or not, have been followed, and the Nation has avoided the standoffs that plagued the 1950s and 1960s. Within the past few years, however, elected officials from across the political spectrum have raised the specter of open disregard for federal court rulings. These dangerous suggestions, however sporadic, must be soundly rejected.

Judicial independence is worth preserving. As my late colleague Justice Ruth Bader Ginsburg wrote, an independent judiciary is "essential to the rule of law in any land," yet it "is vulnerable to assault; it can be shattered if the society law exists to serve does not take care to assure its preservation."[14] I urge all Americans to appreciate this inheritance from our founding generation and cherish its endurance. I also echo the words of Chief Justice Charles Evans Hughes, who remarked—in the aftermath of a significant prior threat to judicial independence—that our three branches of government "must work in successful cooperation" to "make possible the effective functioning of the department of government which is designed to safeguard with judicial impartiality and independence the interests of liberty."[15]

Our political system and economic strength depend on the rule of law. The rule of law depends, in turn, on Article III of the Constitution and judges and justices appointed and confirmed under it. Those men and women remain connected to the people they serve and do their work in the public eye. Chief Justice Taft is the only person to have served as head of the judicial and a political branch. As he put it, "Nothing tends more to render judges careful in their decisions and anxiously solicitous to do exact justice than the consciousness that every act of theirs is to be subject to the intelligent scrutiny of their fellow men, and to their candid criticism."[16] But violence, intimidation, and defiance directed at judges because of their work undermine our Republic, and are wholly unacceptable.

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[14] R. B. Ginsburg, Remarks on Judicial Independence, Conference of American Judges Association, 2006.

[15] C. E. Hughes, Address of the Chief Justice of the United States to Joint Session of Congress, Mar. 4, 1939.

[16] W. H. Taft, Remarks at the Annual Meeting of the American Bar Association, American Law Register and Review 43(9) 577 (1895).

The federal courts must do their part to preserve the public's confidence in our institutions. We judges must stay in our assigned areas of responsibility and do our level best to handle those responsibilities fairly. We do so by confining ourselves to live "cases or controversies" and maintaining a healthy respect for the work of elected officials on behalf of the people they represent. I am confident that the judges in Article III and the corresponding officials in the other branches will faithfully discharge their duties with an eye toward achieving the "successful cooperation" essential to our Nation's continued success.

As always, I am privileged and honored to thank all the judges, court staff, and other judicial branch personnel throughout the Nation for their commitment to upholding judicial independence and the rule of law through their outstanding public service.

Best wishes to all in the New Year.

John G. Roberts, Jr.
Chief Justice of the United States
December 31, 2024

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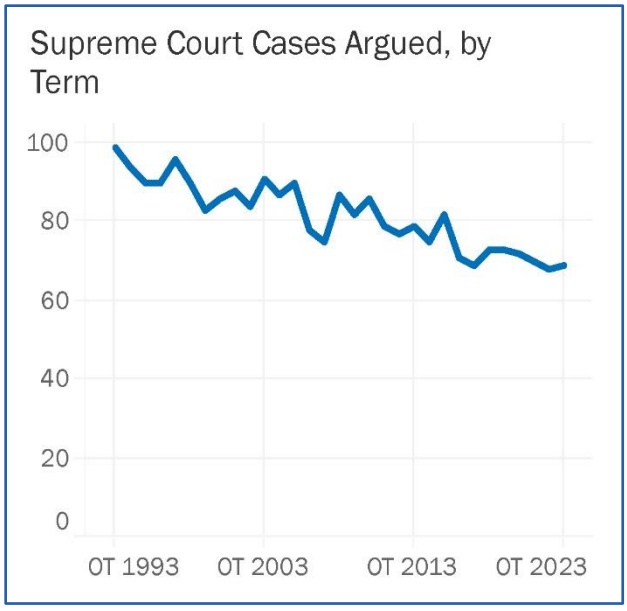
Appendix
Workload of the Courts

In October Term 2023, the number of cases filed in the Supreme Court increased by two percent compared to the prior year.[1] For the 12-month period ending September 30, 2024, the number of cases filed in the U.S. courts of appeals remained relatively stable, decreasing by less than one percent. Civil cases filed in the U.S. district courts decreased 14 percent and cases filed in the U.S. bankruptcy courts increased 16 percent. Pretrial supervision cases increased two percent and post-conviction supervision case numbers decreased by one percent.

The Supreme Court of the United States

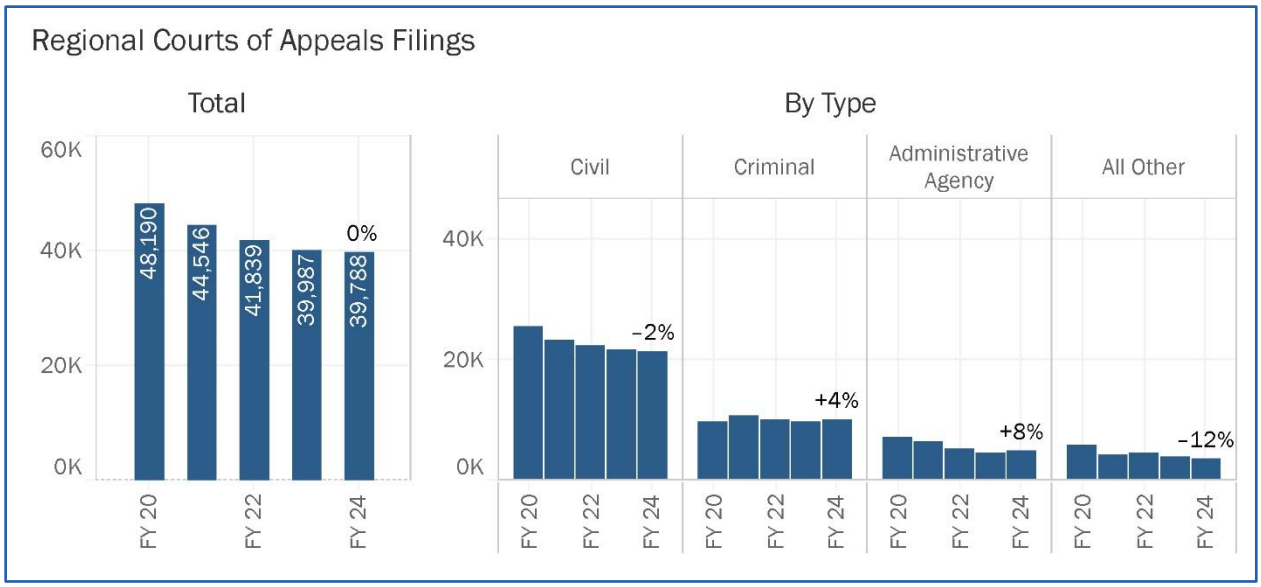
The total number of cases filed in the Supreme Court increased two percent from 4,159 filings in the 2022 Term to 4,223 in the 2023 Term. The number of cases filed in the Court's *in forma pauperis* docket decreased two percent from 2,907 filings in the 2022 Term to 2,847 filings in the 2023 Term. The number of cases filed in the Court's paid docket increased 10 percent from 1,252 filings in the 2022 Term to 1,376 filings in the 2023 Term. During the 2023 Term, 69 cases were argued and 64 were disposed of in 55 signed opinions, compared to 68 cases argued and 66 disposed of in 55 signed opinions in the 2022 Term. The Court also issued four *per curiam* opinions in argued cases during the 2023 Term.



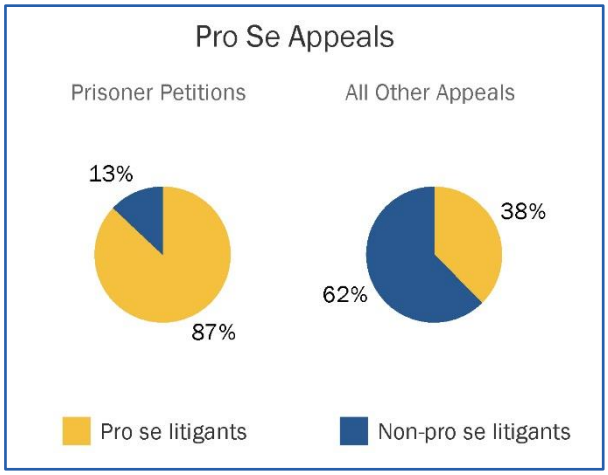
[1] The October Term 2023 workload statistics cover the period between the docketing of the first case with the 23- prefix on June 30, 2023 and the release of opinions and an orders list on July 2, 2024.

The Federal Courts of Appeals

In the regional courts of appeals, filings remained fairly stable, falling less than one percent from 39,987 in fiscal year (FY) 2023 to 39,788 in FY 2024. This was an 18 percent drop from FY 2019, the last full fiscal year prior to the COVID-19 pandemic. Total civil appeals were down two percent from the prior year to 21,270. Criminal appeals increased four percent to 10,067. Appeals of administrative agency decisions went up eight percent to 4,992. All other appeals (bankruptcy appeals, original proceedings, and miscellaneous applications) decreased 12 percent to 3,459.



Appeals by pro se litigants, which amounted to 48 percent of filings, increased three percent to 19,101. Prisoner petitions accounted for 21 percent of appeals filings (a total of 8,388), and 87 percent of prisoner petitions were filed pro se, compared with 38 percent of other appeals filings.



The Federal District Courts

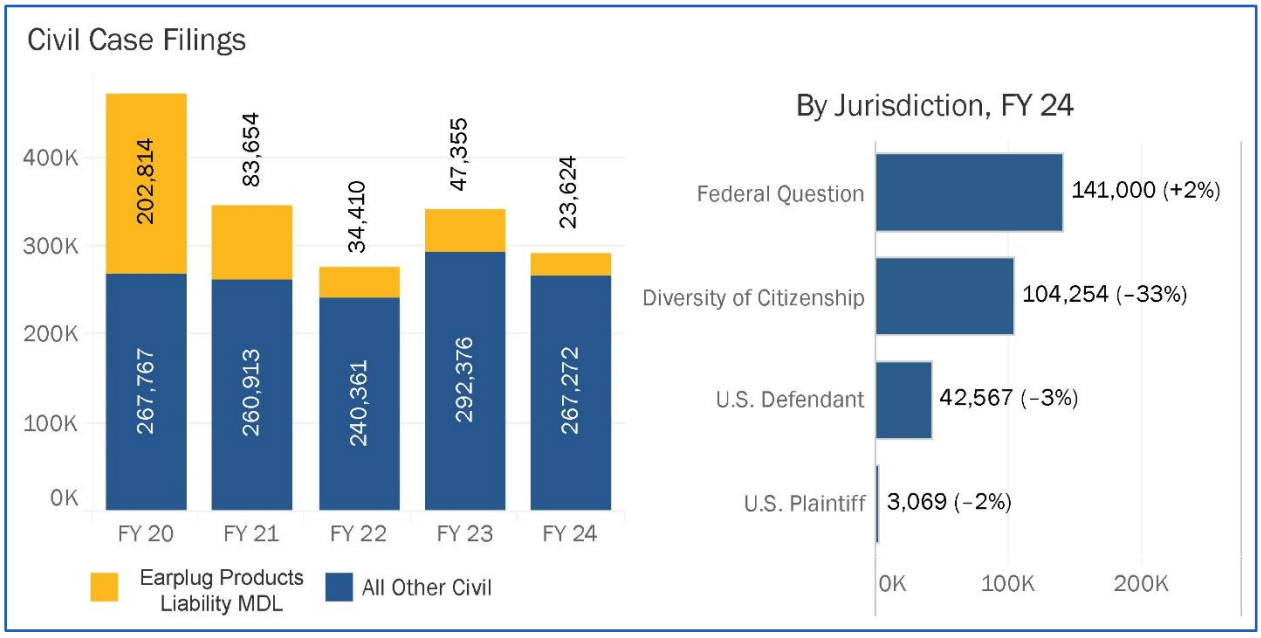
The federal district courts docketed 290,896 civil cases in FY 2024, a decrease of 14 percent from the prior year. In the ongoing earplug products liability multidistrict litigation (MDL), 23,624 cases were filed in the Northern District of Florida in FY 2024, down 50 percent from the prior year. All other civil case filings fell nine percent to 267,272, less than one percent below the number filed in FY 2020.

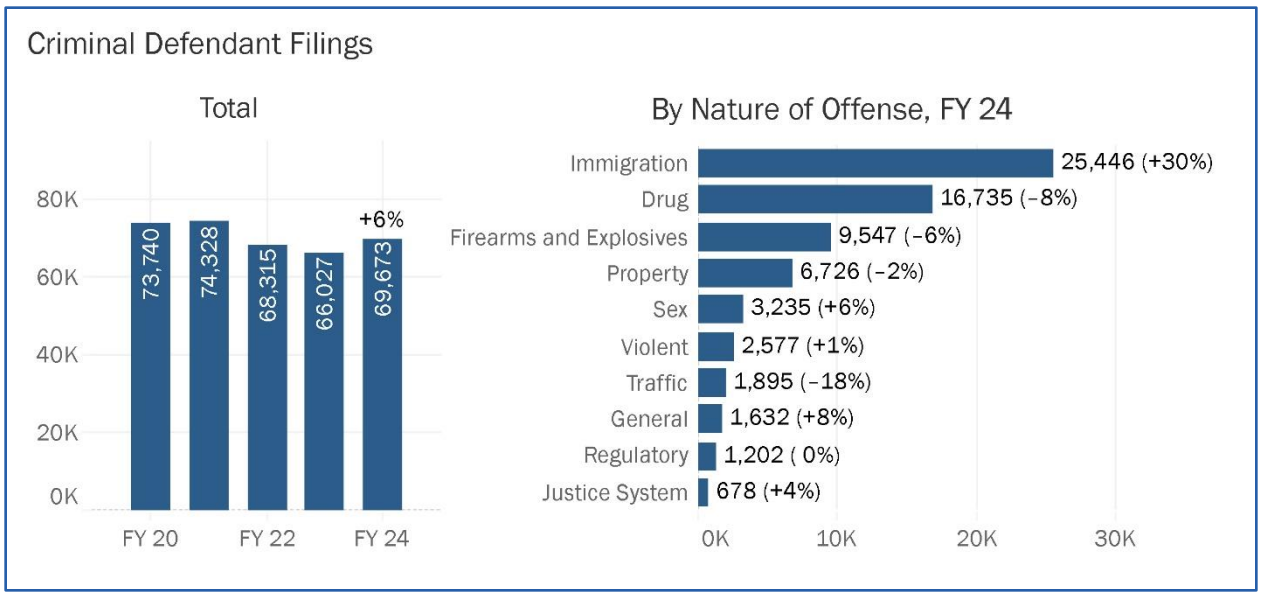
Cases involving diversity of citizenship (*i.e.*, disputes between citizens of different states), which had climbed 47 percent from FY 2022 to FY 2023, fell 33 percent to 104,254 filings in FY 2024. These fluctuations are closely tied to the cases involving earplugs, as many MDL filings are in the category of diversity of citizenship.

Federal question cases (*i.e.*, actions under the Constitution, laws, or treaties of the United States in which the United States is not a party) increased two percent to 141,000 filings in FY 2024. Filings involving civil rights or prisoner petitions accounted for 58 percent of all federal question filings. These civil rights filings grew 10 percent from the prior year to 40,719, while these prisoner petition filings dropped less than one percent to 40,841.

Cases with the United States as a plaintiff decreased two percent to 3,069 in FY 2024, while cases with the United States as a defendant fell three percent to 42,567. Filings involving Social Security, civil immigration, and prisoner petitions accounted for 81 percent of all cases in which the United States was a defendant. Civil immigration filings increased 10 percent from the prior year to 12,183, prisoner petition filings decreased 12 percent to 8,341, and Social Security filings decreased eight percent to 13,845.

Civil immigration cases address topics such as petitions for naturalization and adjudication of immigration status. Criminal immigration cases, discussed below, deal with matters such as unlawful entry and reentry into the United States, alien smuggling, and fraud and misuse of visas or other permits.





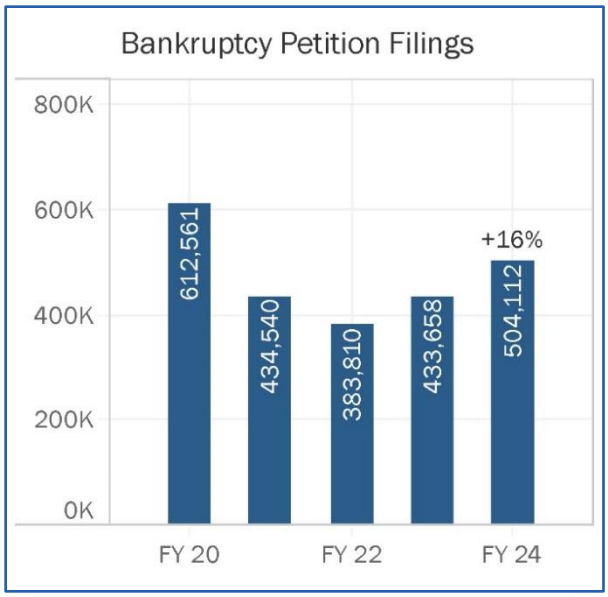
The federal district courts docketed 69,673 criminal defendant filings (excluding transfers) in FY 2024, an increase of six percent from the prior year and a reduction of six percent from FY 2020. The largest categories were filings for defendants accused of immigration offenses, which increased 30 percent to 25,446, and filings for defendants charged with drug offenses, which fell eight percent to 16,735.

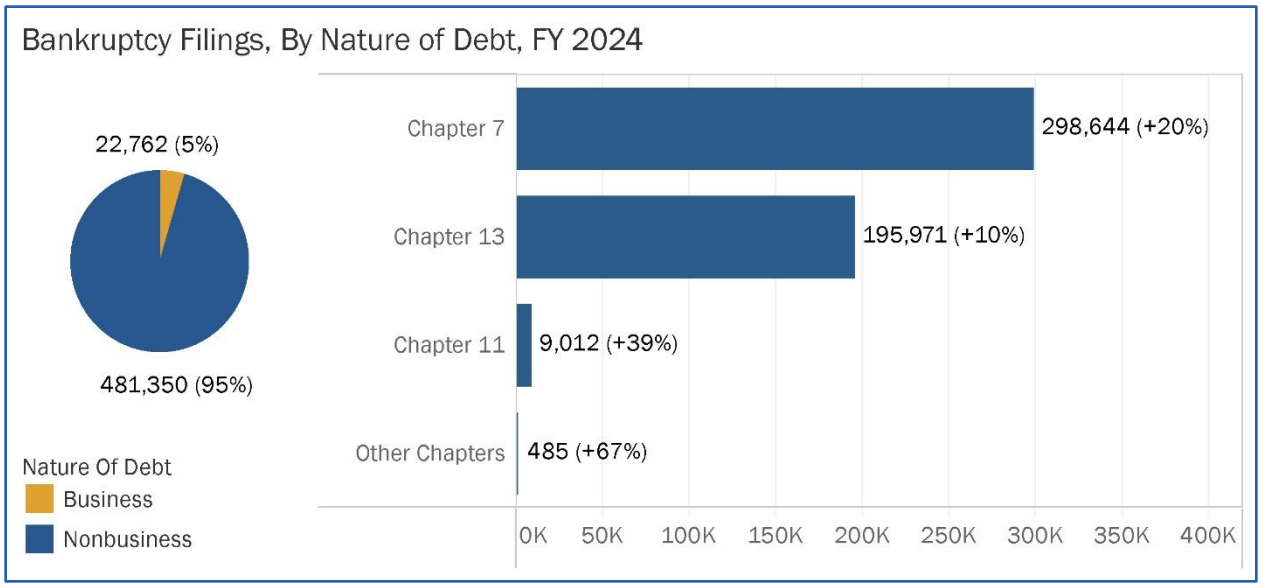
Ninety percent of total filings for defendants charged with immigration-related offenses were received by the five districts on the southwestern border: the District of Arizona, the Southern District of California, the District of New Mexico, the Southern District of Texas, and the Western District of Texas.

The Bankruptcy Courts

The bankruptcy courts docketed 504,112 new filings in FY 2024, representing a 16 percent increase from the prior year, but 18 percent below the total for FY 2020.

Of the 90 bankruptcy courts, 87 courts received more petitions in FY 2024 than in the prior year. In FY 2023, 85 courts received more petitions than in the prior year, which suggests that some of the impacts of the COVID-19 pandemic on bankruptcy filings—including moratoriums on evictions and certain foreclosures, as well as reduced consumer spending—continued to subside.

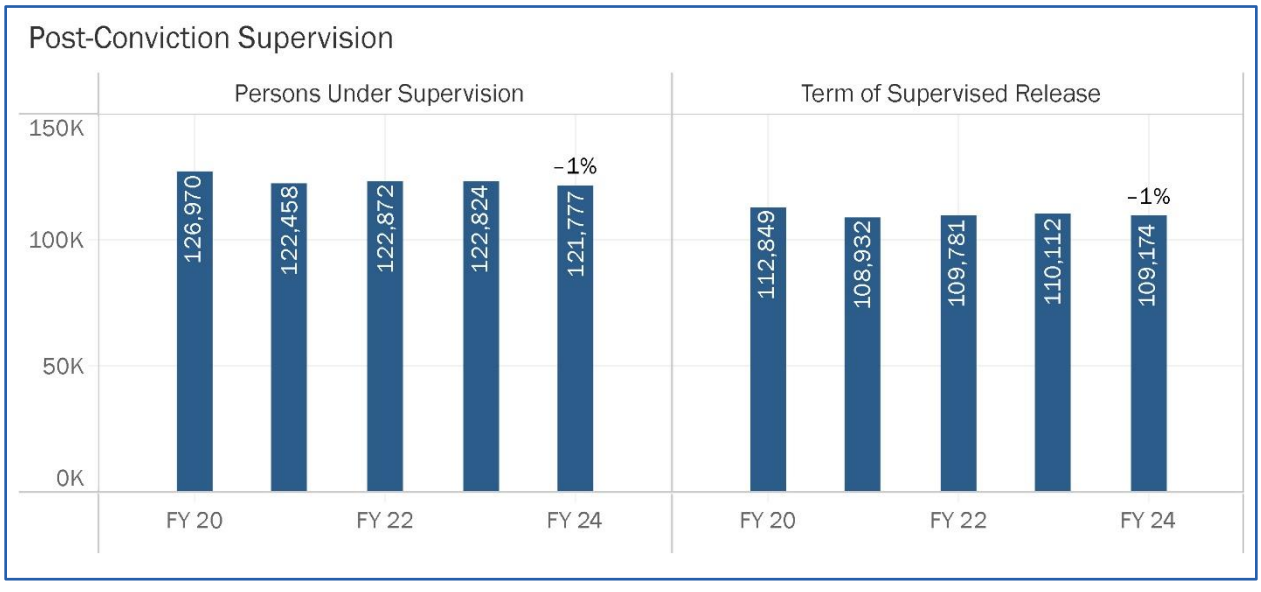




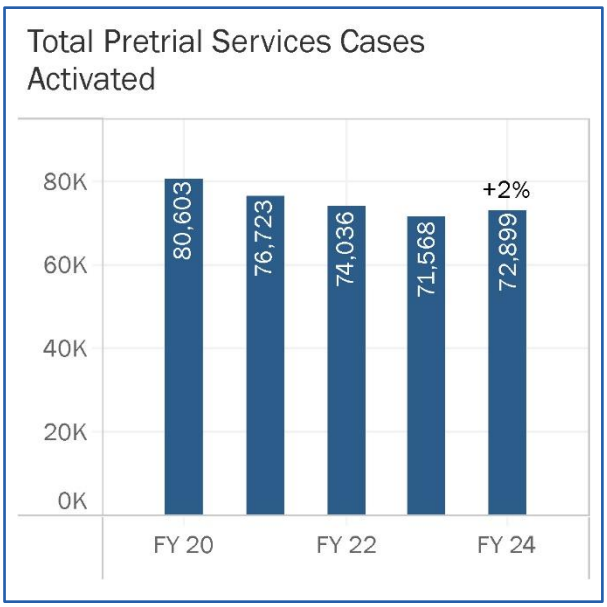
Nonbusiness (*i.e.*, largely consumer) petitions, which amounted to 95 percent of bankruptcy petitions in FY 2024, increased 16 percent to 481,350. Business petitions rose 33 percent to 22,762. Petitions filed under Chapter 7 accounted for 59 percent of all bankruptcy filings, up 20 percent from the previous year. Petitions filed under Chapter 13 increased 10 percent, and those filed under Chapter 11 rose 39 percent.

Pretrial Services, Federal Probation, and Supervised Release System

A total of 121,777 persons were under post-conviction supervision on September 30, 2024, a decrease of one percent from the prior year and a reduction of five percent from FY 2020. Of that number, 109,174 were serving terms of supervised release after leaving correctional institutions, a decrease of one percent from FY 2023.



Cases activated in the pretrial services system, including pretrial diversions, rose two percent to 72,899.[2]



[2] In the 2022 and 2023 Year End Reports, pretrial services case activations were reported *excluding* pretrial diversions.