

Court of Appeals of Virginia

Frequently Asked Questions

Disclaimer

The answers to the Frequently Asked Questions are only generalized statements believed to be accurate at the time of publication. The information is intended to assist in understanding the appellate process and how the Court of Appeals functions.

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About the Court

What is the Court of Appeals?

The Court of Appeals is Virginia's intermediate appellate court. Most cases appealed from Virginia's circuit courts go to the Court of Appeals.

As an appellate court, the Court of Appeals does not preside over trials or re-try cases. Court of Appeals proceedings do not involve witnesses, juries, new evidence, or court reporters. Instead, the Court reviews the written record of the trial court to determine whether any significant legal errors occurred.

The Court only reviews errors that a litigant raises on appeal. The Court does not review the entire record in search of errors.

Additionally, the Court does not review appeals from federal court cases. See the [Virginia Judicial System flow chart](#).

Where can I find the clerk's office for the Court of Appeals?

The clerk's office for the Court of Appeals is located at 109 North Eighth Street, in Richmond, Virginia, 23219-2321.

The Clerk's office is open from 8:15 a.m. to 4:45 p.m., Monday to Friday. The phone number for the clerk's office is (804) 786-5651.

Can the Court of Appeals provide legal advice or help me find an attorney?

No. The Court of Appeals cannot provide legal advice or refer attorneys. Its function is to decide legal cases on appeal. Other groups provide legal advice; the Virginia State Bar may provide guidance. Their website is <https://vsb.org>.

The Court of Appeals may appoint a lawyer to represent you if you cannot afford one in criminal appeals. You may also be eligible for appointed counsel in limited types of civil cases, such as termination of parental rights and involuntary commitment proceedings. See [Appellant Rights Regarding Counsel](#).

What kinds of cases are appealed to the Court of Appeals?

The Court of Appeals hears both civil and criminal appeals. The Court also has original jurisdiction to issue writs of mandamus, prohibition, and habeas corpus in any case over which the Court would have appellate jurisdiction. In addition, the Court of Appeals has original jurisdiction to issue writs of actual innocence based on non-biological evidence upon petition of a person who has been convicted of a felony.

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How many judges decide each case? How do three-judge panels work?

The Court of Appeals hears cases in three-judge panels to review the decision of a single trial court judge, and to prohibit the chances of an evenly divided panel. Judges regularly rotate panels and cases are randomly assigned.

Occasionally, the Court will review a case *en banc*, which means that all active judges will consider a case to determine an issue raised on appeal.

What are the regions of the Court of Appeals? How does the region system work?

Although the clerk's office of the Court of Appeals is based in Richmond, the Court hears arguments in four regions to provide litigants throughout the Commonwealth convenient local access to the Court. The Court divides appeals and oral arguments into four regions: Northern, Eastern, Western, and Central. See [Regions of the Court](#)

What is a senior judge and what do they do?

Senior judges are former judges who work part-time at the Court of Appeals. Former judges of any age apply to be certified as senior judges. Once approved, a senior judge is assigned to work at the Court of Appeals based on its need for assistance. Senior judges at the Court of Appeals have the same powers and responsibilities of current judges and serve on three-judge panels.

How do I request a translator or interpreter?

If you have a case pending before the Court of Appeals and you do not speak English, you may file a motion with the clerk's office to have translation and interpretation services provided to you.

About the appeals process

Where do I file my notice of appeal?

Generally, a person wanting to contest a judgment or order must file a notice of appeal with the clerk of the circuit court in the county or city where the judgment or order was entered. Filing a notice of appeal in the Court of Appeals does not initiate an appeal; all appeals begin with filing a notice of appeal in the circuit court. The notice of appeal form appears after Rule 5A:6 and is available online. [Notice of Appeal from Trial Court](#)

A notice of appeal must be filed in the trial court within 30 days after entry of the final judgment or other appealable order or decree.

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What are the filing fees?

The Court of Appeals collects a \$50 filing fee for each case. The filing fee is due within ten days of the Court's receipt of the notice of appeal. The filing fee may be waived if the notice of appeal is accompanied by a qualifying affidavit of indigence, the trial court has already made a finding of indigency, or if counsel for the appealing party is court-appointed. [In forma pauperis Affidavit](#)

Is an appeal bond required?

Appeal bonds are not required for criminal cases. For civil cases, appeal bonds with sufficient security or an irrevocable letter of credit must be filed in the clerk's office of the trial court. See Code § 8.01-676.1. Bond forms appear after Rule 5A:38 and are available online. [Appendix of Forms found in Rules of Court Part 5A](#)

Can the Court of Appeals choose whether to accept an appeal?

No. The Court of Appeals must accept all appeals sent to it.

What is an "appellant?" What is an "appellee?"

The party asking for the appeal is called the appellant. The responding party—the other side in the case—is called the appellee.

What is the record on appeal?

The record on appeal consists of the original papers and exhibits filed in the trial court, each order entered by the trial court, any opinion or memorandum decision rendered by the judge of the trial court, and a transcript or written statement of facts of the proceedings. The transcript or written statement of facts must be filed in the trial court no later than 60 days after entry of the order being appealed. [Appellate Process Timeline](#)

How do I file a pleading in the Court of Appeals?

Counsel must file documents electronically through the [VACES system](#).

Pro se/self-represented litigants may, but are not required to, file pleadings through the VACES system. Otherwise, pro se litigants may file a pleading by mailing or delivering one paper copy of it to the clerk's office.

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When do I file an opening brief?

The clerk of the trial court sends the trial court record to the Court of Appeals. Generally, the Court of Appeals receives the record within three months of the notice of appeal being filed in the trial court. Upon receipt, the clerk's office of the Court of Appeals notifies the parties, either by email or by U.S. mail, of the date on which the record was filed. The record acknowledgement will inform the parties whether the record is electronic or paper. The opening brief is due 40 days after the Court of Appeals receives the record. [Opening Brief Template](#)

Do you have forms I can fill out for my case?

Yes. The Court of Appeals provides a limited number of sample forms. The appellate process is guided by rules and other legal authority, and litigants should seek legal advice for questions regarding their individual cases.

<https://www.vacourts.gov/courts/cav/forms/home.html>

Can I request an extension of time to file my brief or other pleadings?

Yes. A party in need of more time to file a brief or other pleading may submit a motion requesting additional time for briefing. The motion should be filed with the Court of Appeals and served on the opposing party. If the motion has consent, meaning that the other party does not object to it, the Court will act on the motion quickly. If the motion does not have consent, the opposing party may file a response to the motion within 10 days of the motion being filed. The motion should explain why an extension is needed. [Motion for Extension Template](#)

How long will an appeal take?

After a notice of appeal is filed, it usually takes twelve months for all briefs to be filed and for the full review process to take place. There is no time limit for Court of Appeals judges to issue a decision in a case, but the Court strives to be timely.

How are cases assigned to judges?

Cases are randomly assigned to each judge. Judges of the Court may not pick and choose their cases. In certain instances, a judge may recuse themselves if they have a conflict with a particular party in an appeal.

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How do I obtain copies of documents from Court of Appeals cases?

Document requests may be sent to cavrecordrequests@vacourts.gov. If the documents requested are available digitally, the clerk's office will provide them via email. If the documents requested are not digital or cannot be sent via email, the clerk's office must charge 25 cents per page for paper copies in accordance with Virginia Code § 17.1-328(2). There is no exemption for indigents. Once payment is received, the clerk's office will send paper copies of the requested documents via U.S. Mail.

How do I mediate my case?

The Appellate Mediation Pilot Program is available to parties in civil cases when all sides are represented by counsel. Participation in this project is voluntary. The parties pay for mediation, and it is up to individual mediators to set the rates for the services they provide.

The Appellate Mediation Pilot Program website includes a list of Virginia-certified appellate mediators, although parties may use a mediator of their choosing.

<http://www.vacourts.gov/courtadmin/aoc/djs/programs/drs/mediation/ampp/home.html>

About Oral Argument

What is an 'oral argument?'

Most cases before the Court of Appeals are presented in written form, as briefs. Generally, the parties are allowed to orally present their case to the panel of judges to whom their case is assigned. The attorneys or pro se parties representing the two sides will present the oral argument to the panel of judges. Each side is usually given 15 minutes to argue their case. The Court's opinion is based on both the written briefs and the oral argument.

Recordings of oral arguments are available online, but arguments are not live streamed.

https://www.vacourts.gov/courts/cav/oral_arguments/home.html

Does the Court of Appeals hear oral argument in every case?

No. Oral arguments do not occur in every appeal. Many cases are decided on the briefs or other pleadings. Either party may waive oral argument, or the Court may determine that oral argument is not necessary.

How may I request oral argument for my case?

Parties may request an oral argument by stating in their respective brief that they want to present oral argument to the Court.

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Where do oral arguments take place?

The Court of Appeals hears oral argument at venues across the Commonwealth to allow the public to watch and learn about the judiciary. Arguments are typically heard in the region from which the appeal arises. See [Schedule and Dockets](#)

About Court of Appeals Decisions

Where may I find Court of Appeals decisions?

Decisions are posted on the Court's website. [Opinions Search](#)

What is the basis for determining whether a decision is “Published” or “Unpublished”?

The three-judge panel for each case decides whether the opinion is “Published,” meaning it can be cited as precedent in future cases, or “Unpublished,” meaning it may not be cited as precedent. The determination is made by the judges on the panel after a written opinion has been completed. “Published” cases are those that establish, modify, or clarify a rule of law; call attention to existing or overlooked areas of law; or involve a legal or factual issue of unique interest or substantial public importance.

Who writes the opinion in each case? How is this determined?

All three judges assigned to the panel review the briefs in the case and sit for oral argument if there is one. Once the three judges confer on the case, they determine who will write the majority opinion. Sometimes while exchanging drafts of a decision, individual opinions on points of law shift, and a different judge among the three takes over the lead role. Cases are decided by a 3-0 or 2-1 majority. At times, the judge in the minority will issue a written dissent.

How are Court of Appeals decisions appealed to the Virginia Supreme Court?

A party seeking review of a Court of Appeals decision may file in the Court of Appeals clerk's office a notice of appeal to the Supreme Court of Virginia. Information regarding the Supreme Court of Virginia's appellate process should be directed to that Court.