

Insider's Guide to the Ninth Circuit

SUSAN GELMIS - CHIEF DEPUTY CLERK, OPERATIONS

Insider's Guide Overview

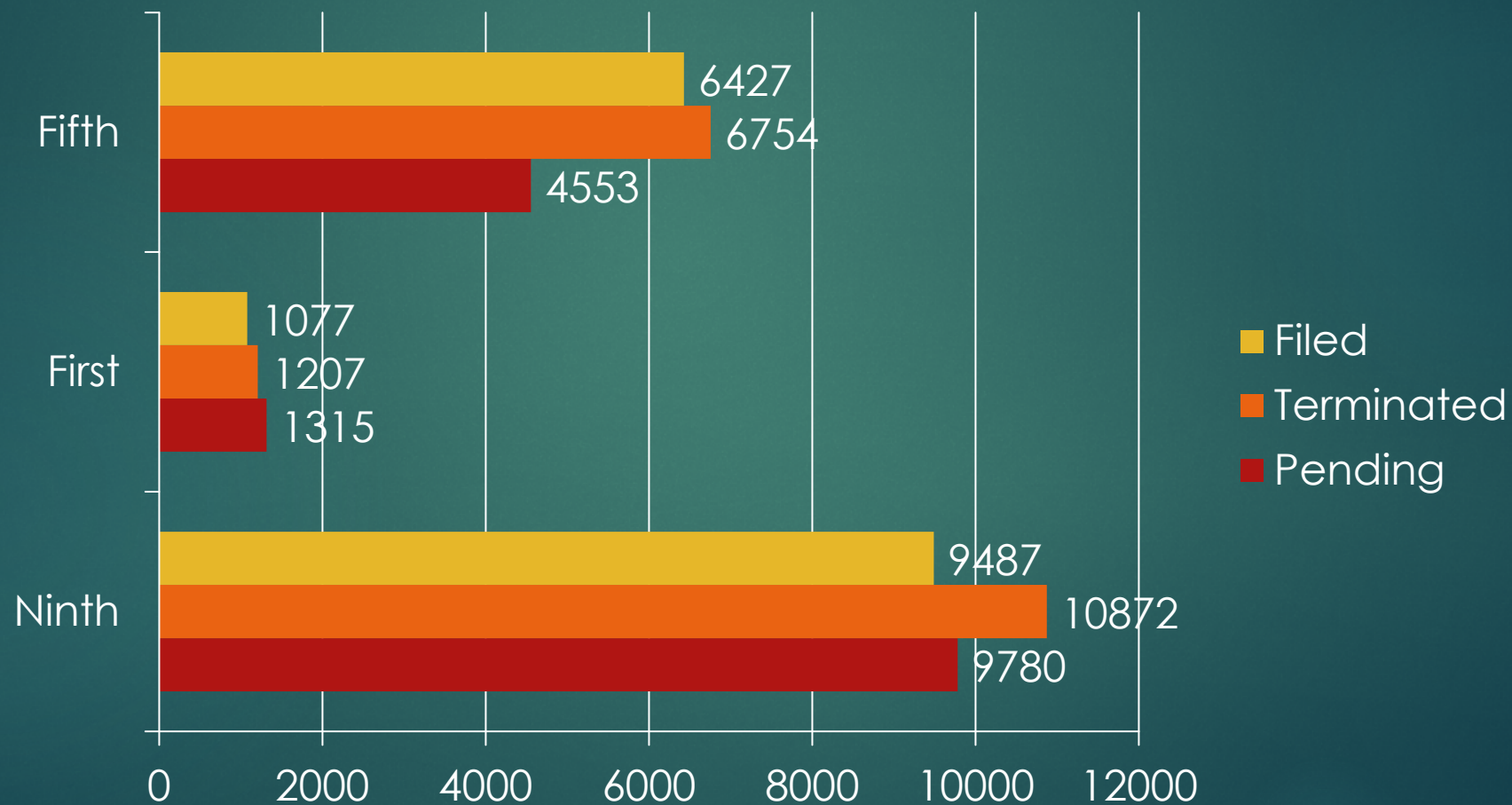
- COVID Updates and Impacts
- Caseload Statistics
- Appeals Process and Motions
- Case Management and Assignment to Panels
- Rules and Resources
- Tips and Common Errors

COVID IMPACTS and UPDATES

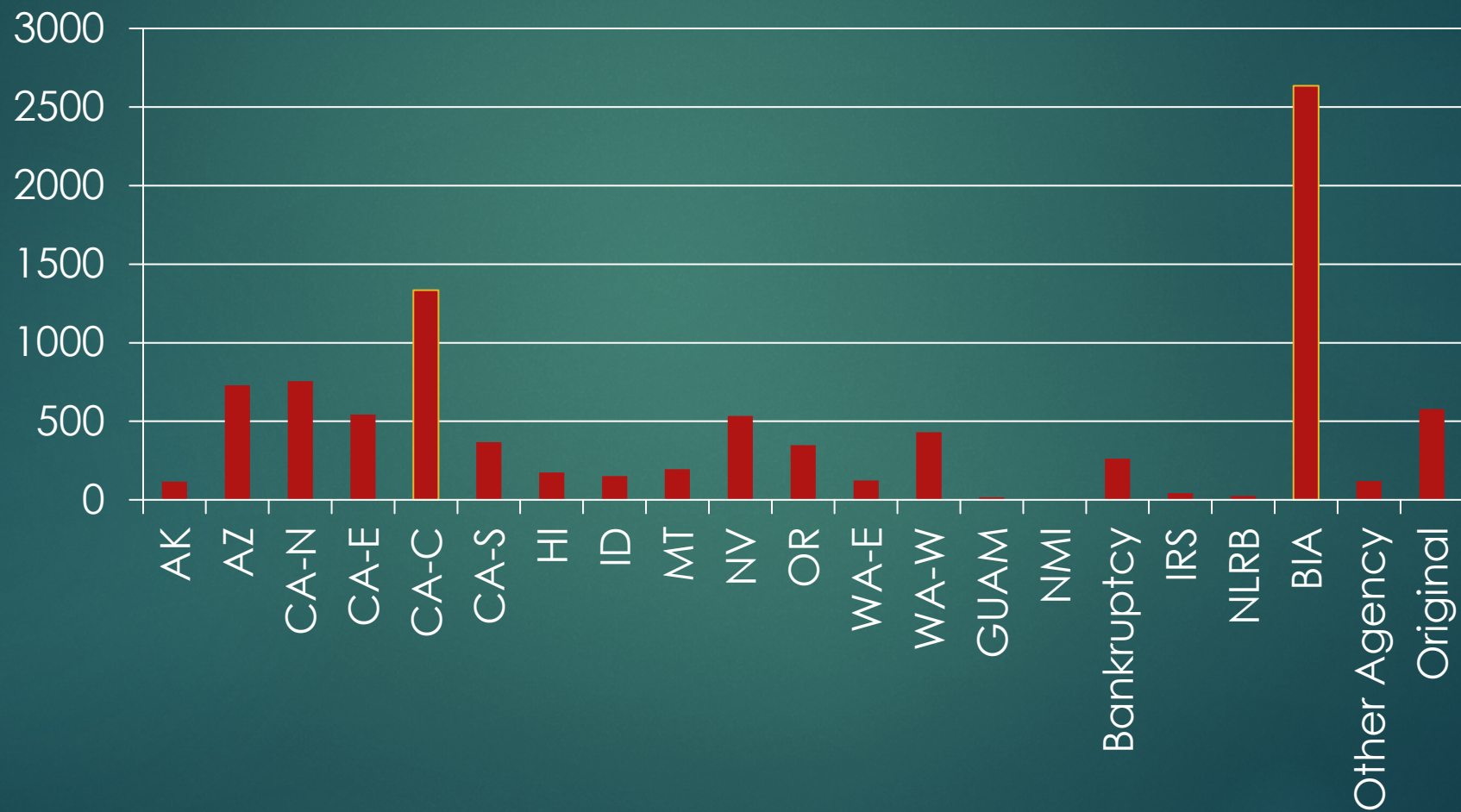
- ▶ In person hearings are finally back! Only the arguing attorneys and up to 2 guests each, as well as anyone invited to the courthouse to participate in specific meetings or events are permitted in our four courthouses at this time. We are still not open to the general public yet, not clear when that will change.
- ▶ At this time, attorneys may still appear by video for hearings without cause or the need to file a motion. We don't know how long that will be the case or what the future will look like.
- ▶ We have an administrative order in place that requires everyone seeking entry to our courthouses to be fully vaxed and boosted.
- ▶ Case filings have gone down significantly, due at least in part to the inability of district courts and agencies to hold trials/hearings over the last two years.
- ▶ Our case processing unaffected, backlog is significantly reduced.

Caseload

as of September 30, 2021



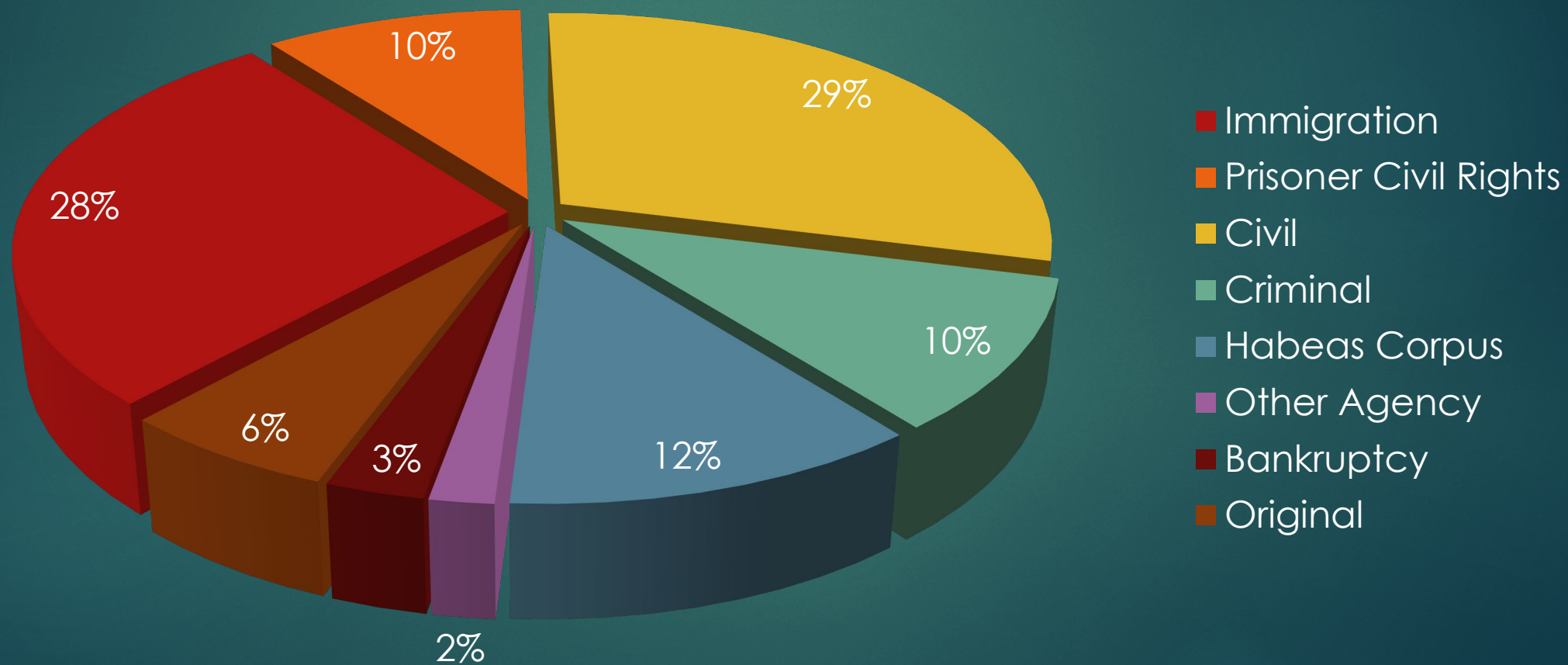
Where Do our Appeals Come From?



12 months ending Sept 2021 Filings

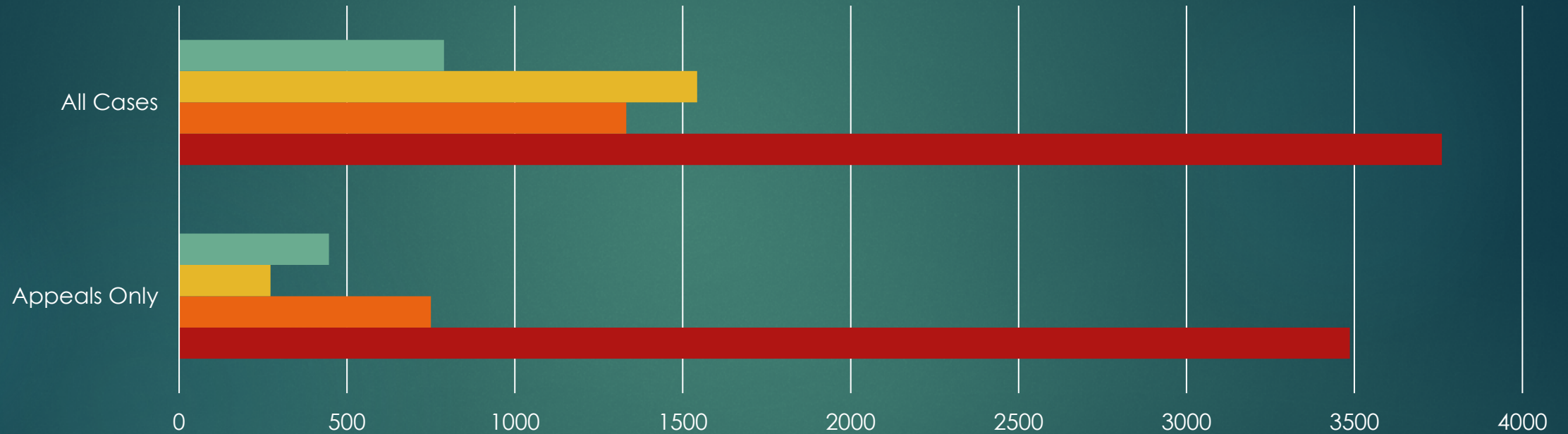
Case Types

For the 12 months ending 9/30/21



AGE OF PENDING CASES

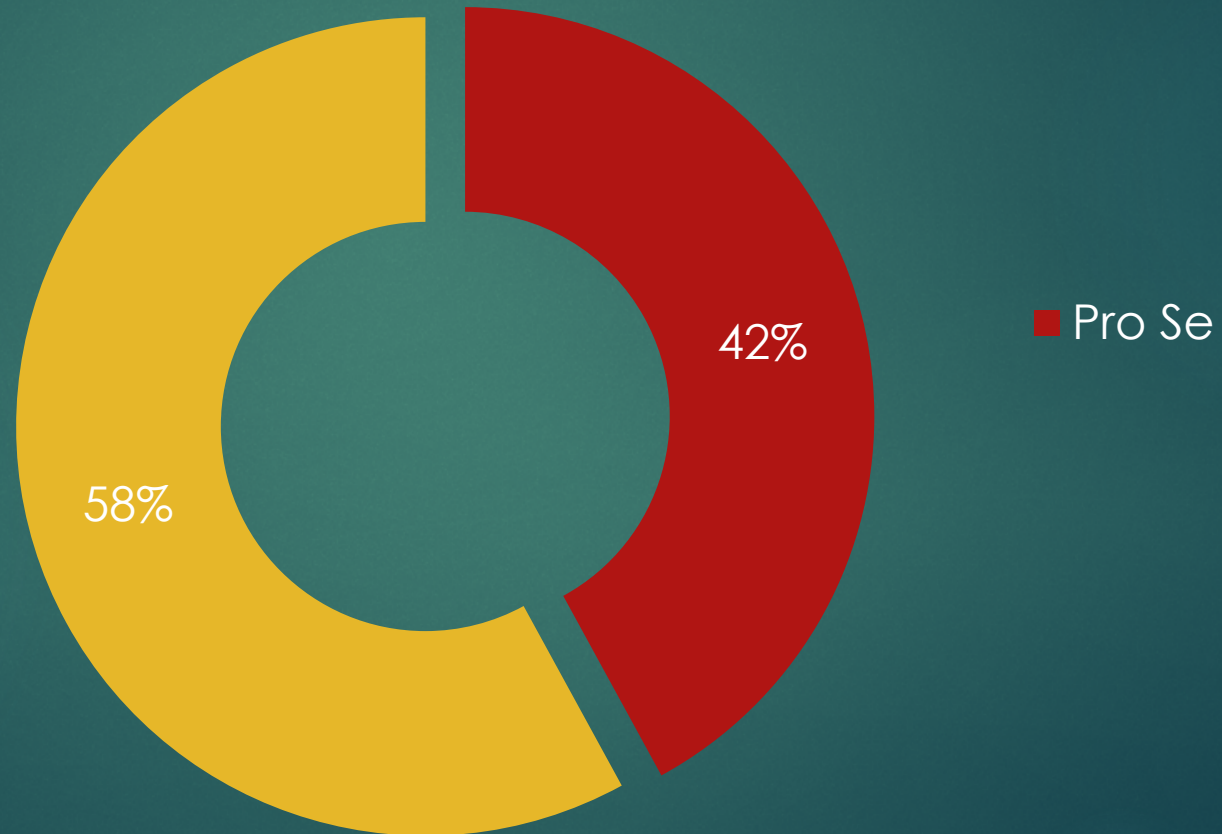
As of Mar 18, 2022



	Appeals Only	All Cases
In Abeyance	446	789
Older than 2	272	1543
Between 1 and 2	750	1332
Less than 1 year	3486	3760

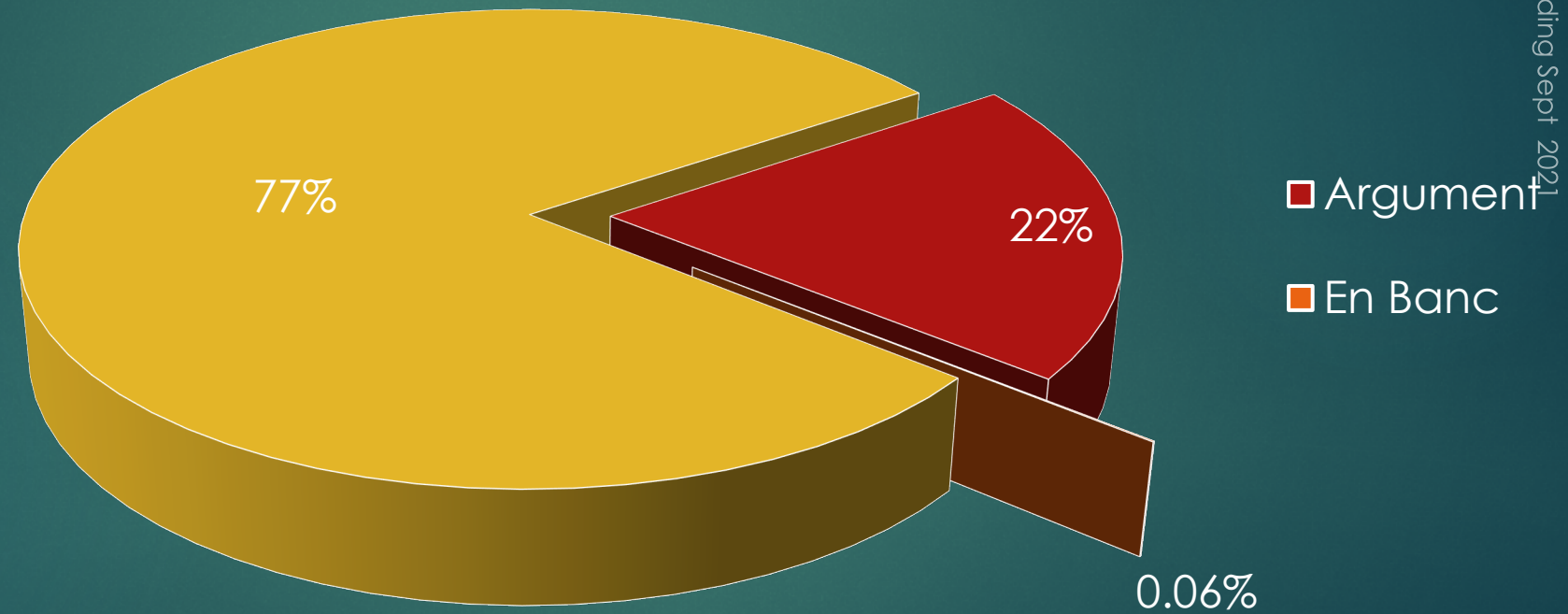
In Abeyance Older than 2 Between 1 and 2 Less than 1 year

Pro Se Cases

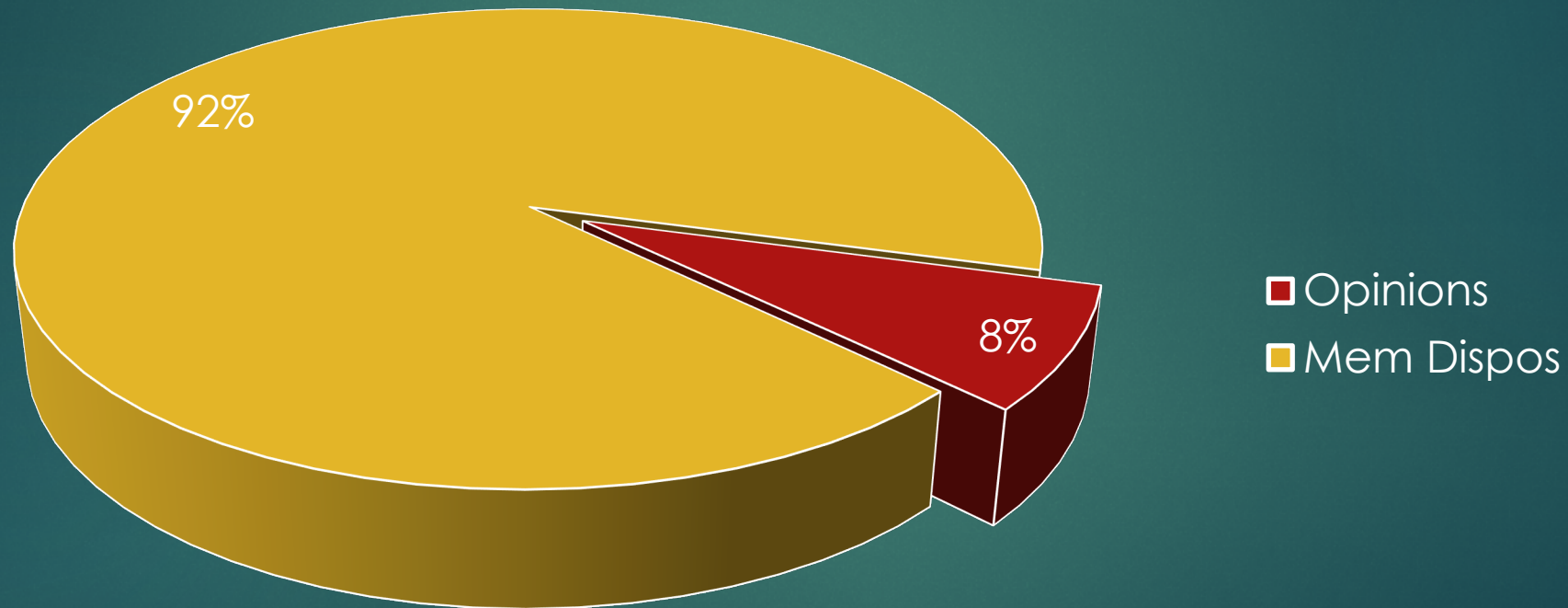


12 months ending Sept 2021 Filings

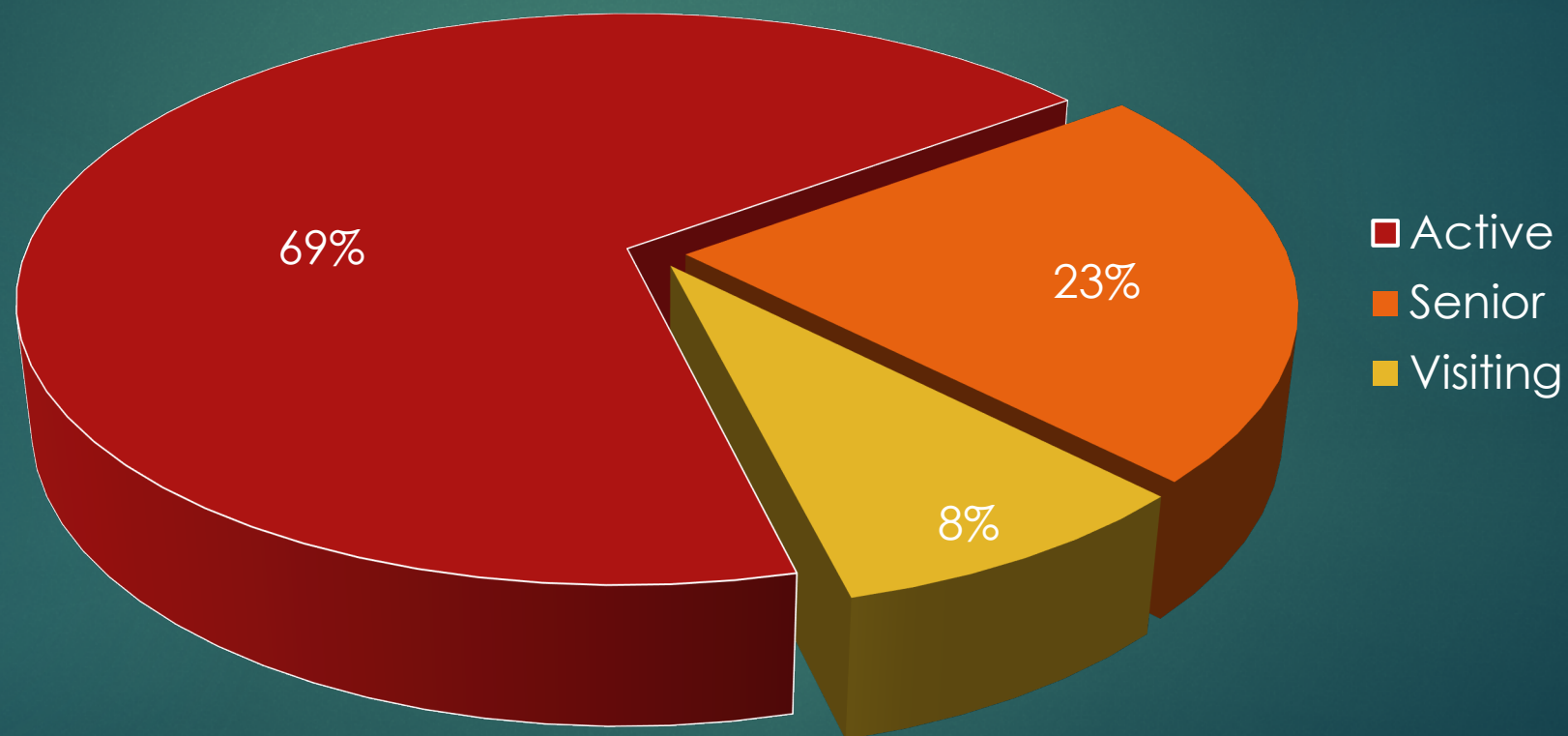
Merit Terminations



Types of Merits Decisions



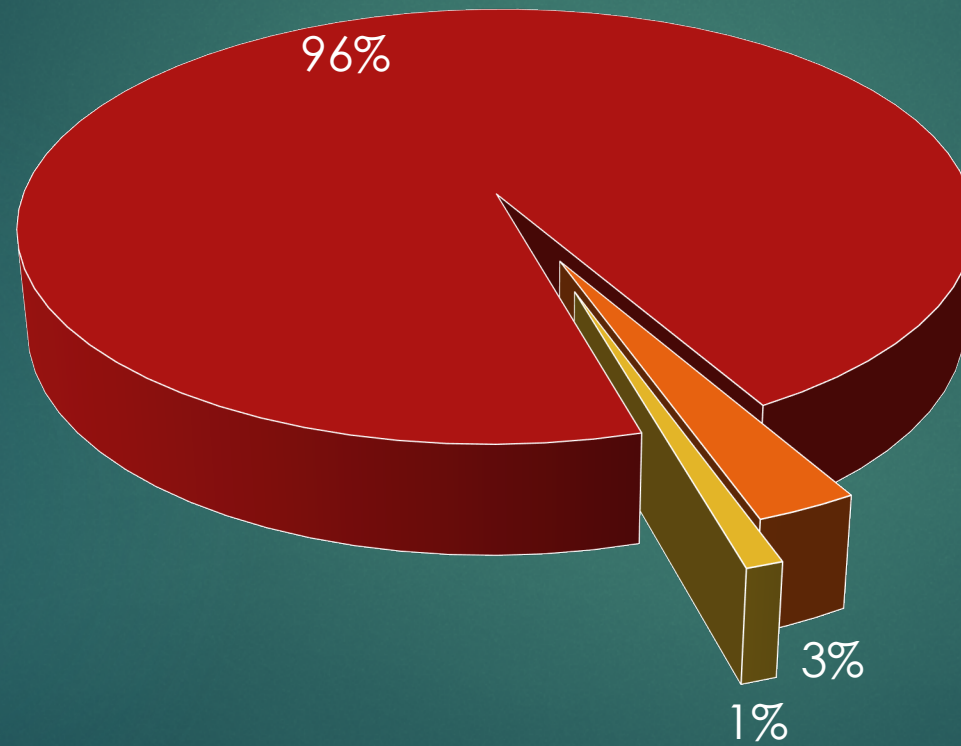
Senior & Visiting Judges



12 Months ending Sept. 2021

En Bancs 2021

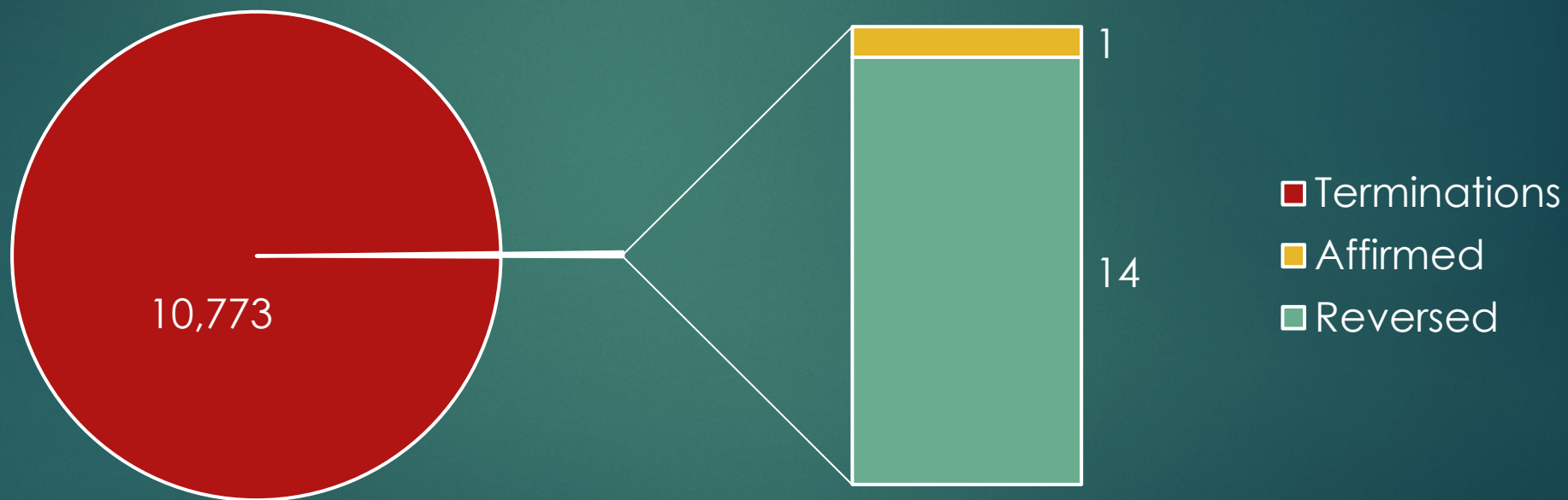
(calendar year 2021)



- PFREBs
- Ballots
- Yes Votes

Reversals by supreme court

2020-2021 Term



Supreme Court data (2020-21 term)

Processing Appeals: Initial Case Management

- All new appeals and petitions are referred to staff attorneys' office
- Civil Counseled Appeals also go to Mediation
- Jurisdictional review
- Case management issues – filing fees, counsel status
- Certificates of Appealability
- Original proceedings (mandamus, SOS)
- Permissive Appeals
- Orders to show cause
- Initial motions (stay of removal, ifp, counsel, bail)

Motions Types and Delegation

- Assignment of Motions to OSA
- Most Common Types of Motions
- Dispositive vs Non-Dispositive
- Original Proceedings and Urgent Appeals
- Certificates of Appealability
- Delegation of Authority
- Update on Appellate Commissioner role/functions
- CJA Administrative Attorney

Case Management and Assignment to Merits Panels

- Case management and inventory process
- Screening vs Argument Track
- Oral and written screening process
- Calendaring process and timing

Rules and Resources

Recent/Pending Rule Changes

- Archived rule changes (and pending when any) and administrative orders are available in redline version at http://www.ca9.uscourts.gov/content/view.php?pk_id=0000000682
- ACMS now in use for all new immigration petitions for review and SOS Applications, plans for next case types
- Recent Big Rule Changes (2020) – Oversized Briefs, Excerpts of Record
- New and Revised Forms, Instructions, Case information packets
- New CJA Administrative Attorney
- In Person Hearing Protocols and Forms, COVID Updates

Rules and Resources

Ninth Circuit Website

- Appellate Practice Guide, Shell Brief, Sample Excerpts
<http://cdn.ca9.uscourts.gov/datastore/uploads/guides/AppellatePracticeGuide.pdf>
- Other guides and legal outlines
- Court sponsored CLE program materials and video
https://www.ca9.uscourts.gov/content/view.php?pk_id=0000000887
- Mentor Program
http://cdn.ca9.uscourts.gov/datastore/general/2013/03/22/ninth_circuit_applt_lawyer_rep_mentoring_project.pdf
- CM/ECF questions – Help Desk
- Feel free to call or email me if you are not sure who to ask

CM/ECF Tips and Common Errors

- Filing original proceedings and petitions for review electronically
- Filing briefs and motions – use generic events
- Filing types that don't need forms or other attachments
- Descriptions of briefs and excerpts and related documents
- Filing sealed documents – service and timing and basis
- Help Guide is very useful and informative, new how-to videos
- Updating Pacer account and email
- Physical and documentary trial exhibits – submit by separate motion
- ▶ ACMS Help and Instructions now also available