

Insider's Guide to the Ninth Circuit

SUSAN GELMIS - CHIEF DEPUTY CLERK, OPERATIONS

Insider's Guide Overview

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

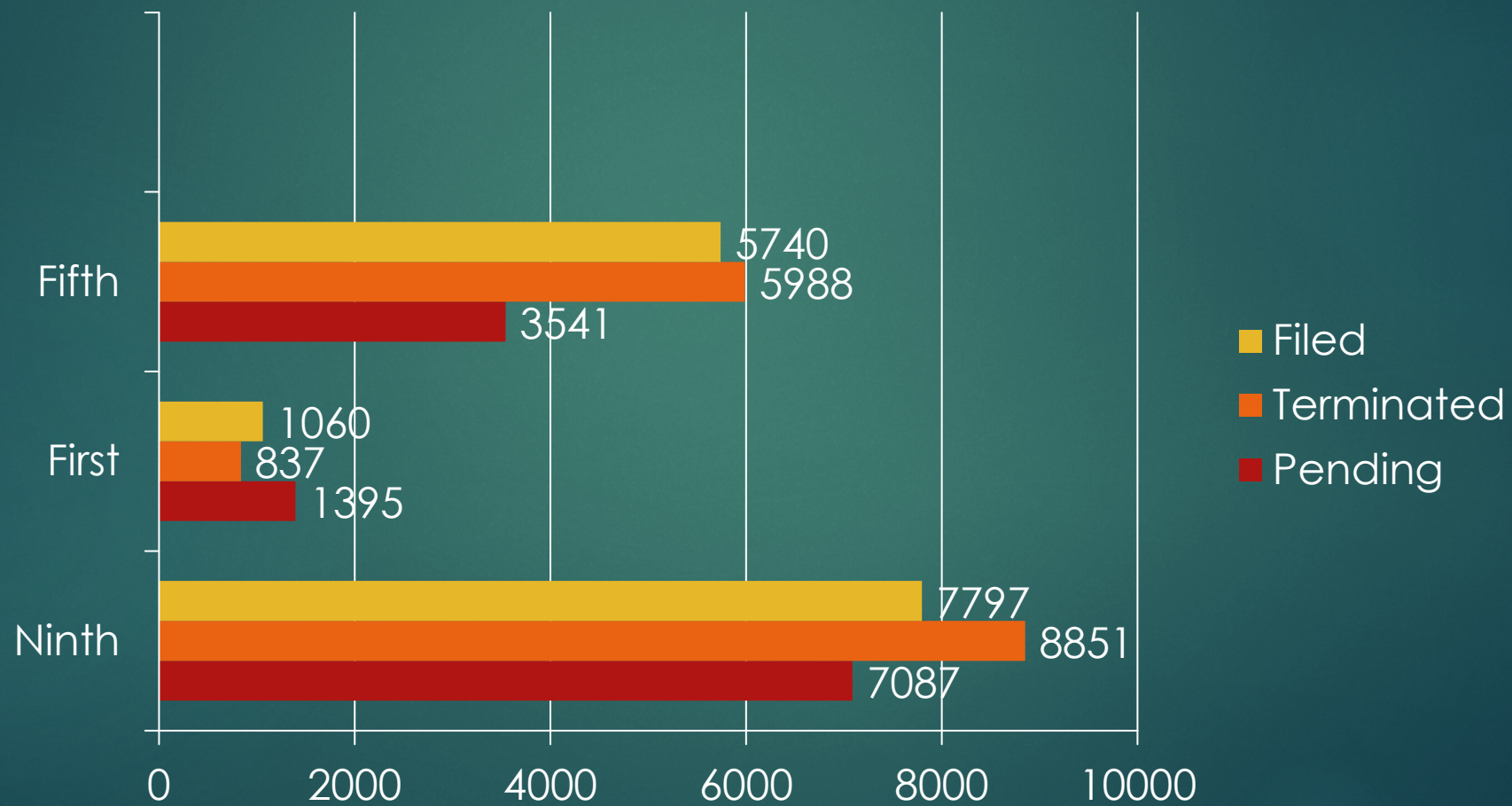
COURT OPERATIONS UPDATES

- ▶ Our courthouses and courtrooms have been open to the general public since September 2022. As of January 2024 all attorneys are expected to appear in person for oral argument. If that would pose a hardship they must file a motion.
- ▶ We have resumed law school sittings, both as special one day events and as part of our sittings in other locations, and our civics program and group tours have recommenced.
- ▶ Case filings nationally have decreased significantly over the last few years, exacerbated by the pandemic.
- ▶ Our case processing has been unaffected, resulting in a significantly reduced backlog (down 18% from 2021 to 2022). This has resulted in more expeditious resolution of appeals and the tightening of extensions and delays.
- ▶ We will be opening all new cases in our new case management system (ACMS) by October 2023.

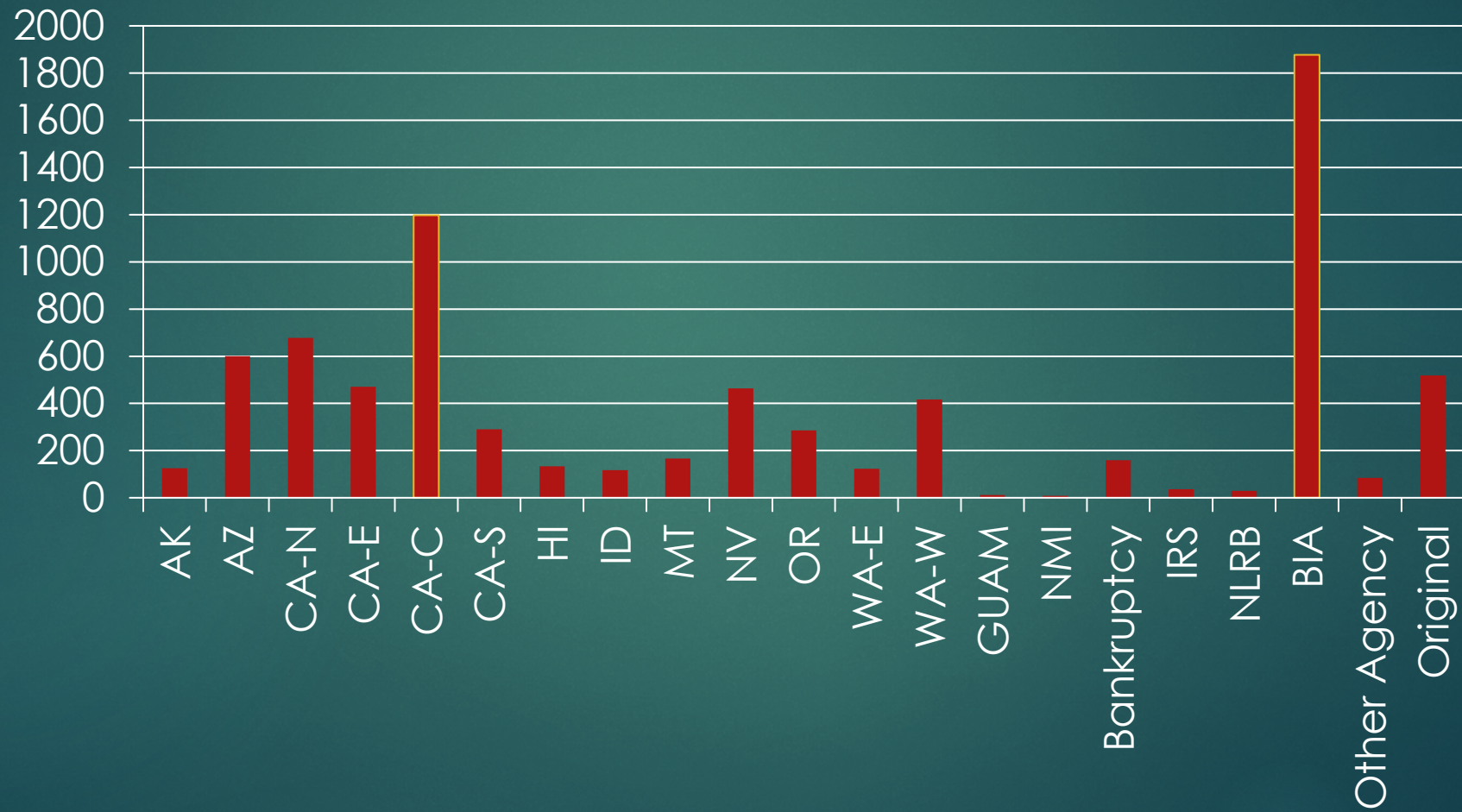


Caseload

12 Months Ending June 2023



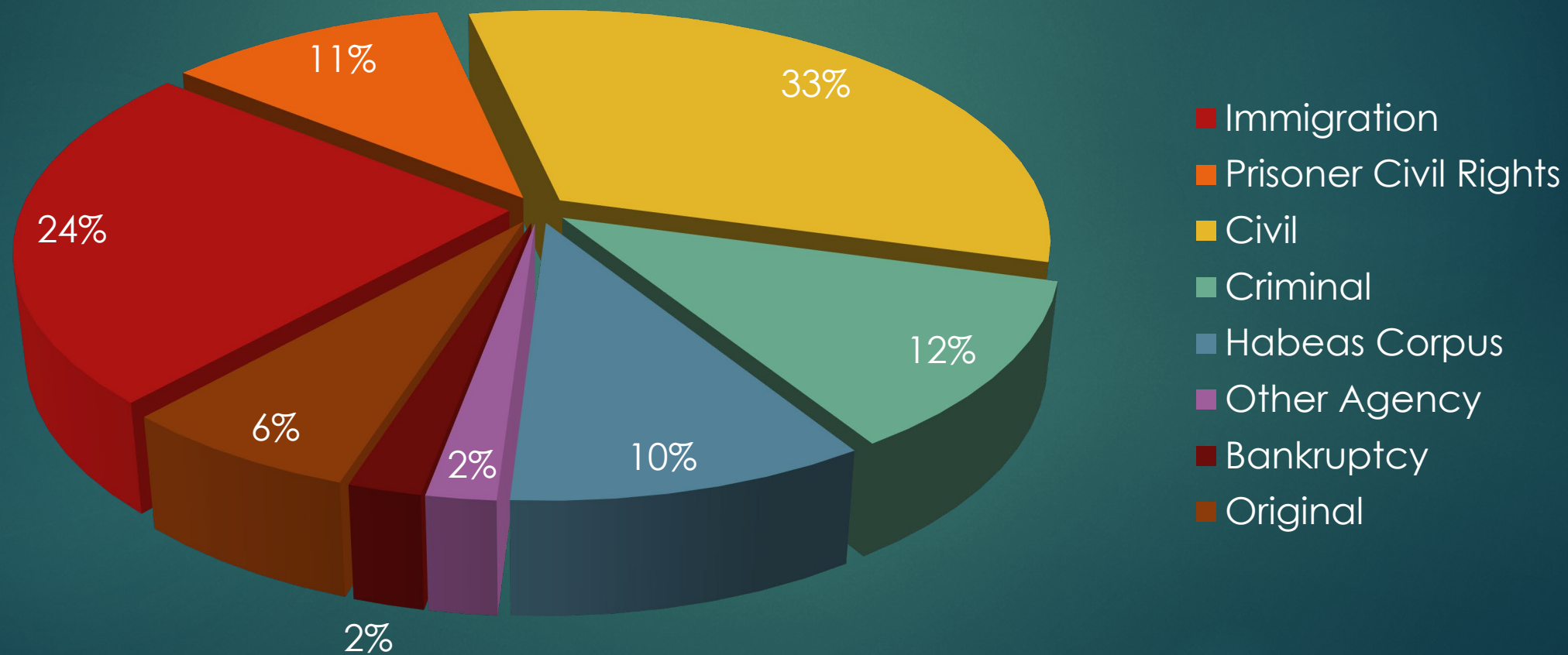
Where Do our Appeals Come From?



12 Months Ending June 2023

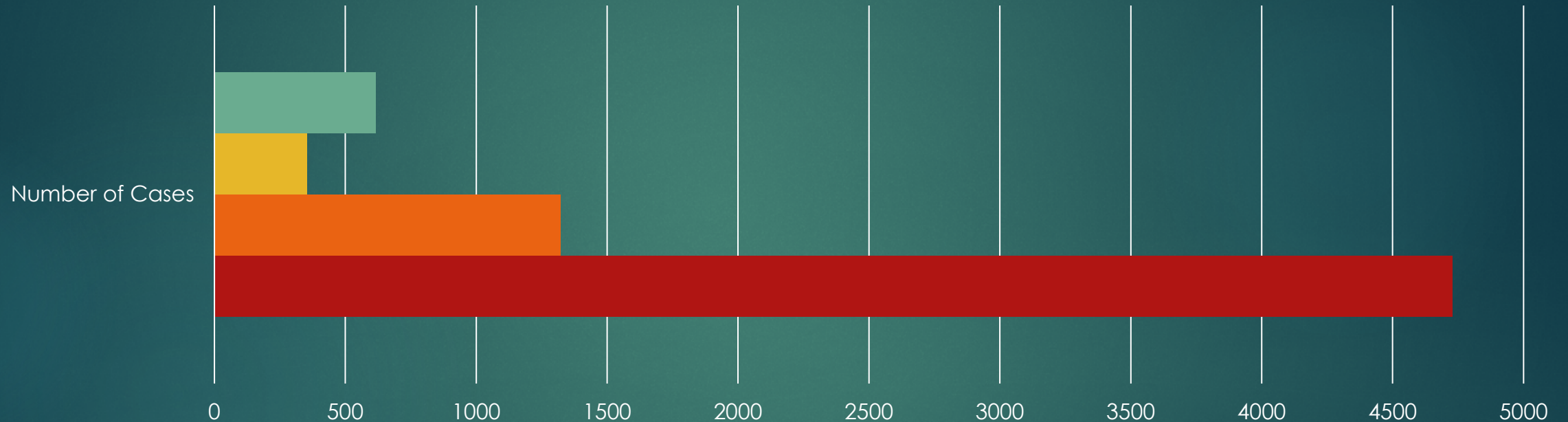
Case Types

12 Months Ending June 2023



AGE OF PENDING CASES

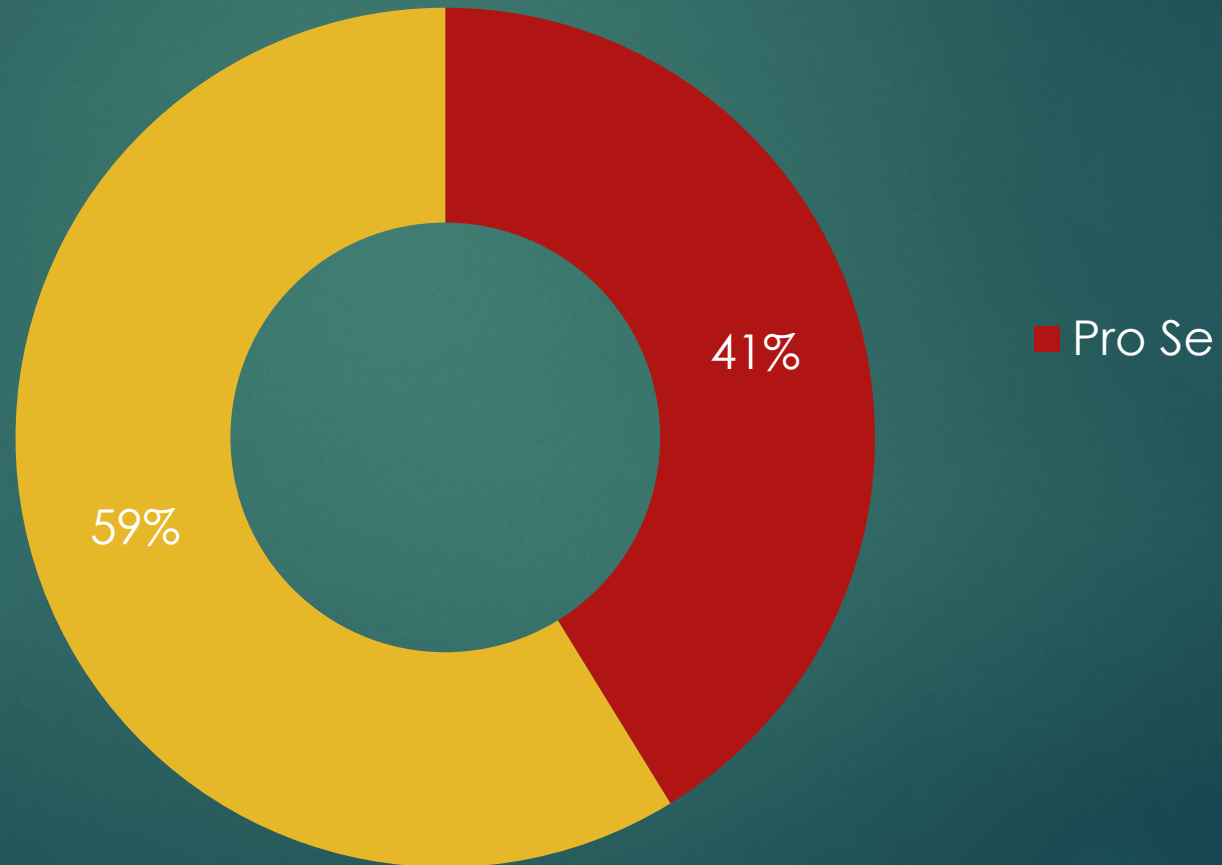
As of August 16, 2023



	Number of Cases
In Abeyance	616
Older than 2	354
Between 1 and 2	1323
Less than 1 year	4729

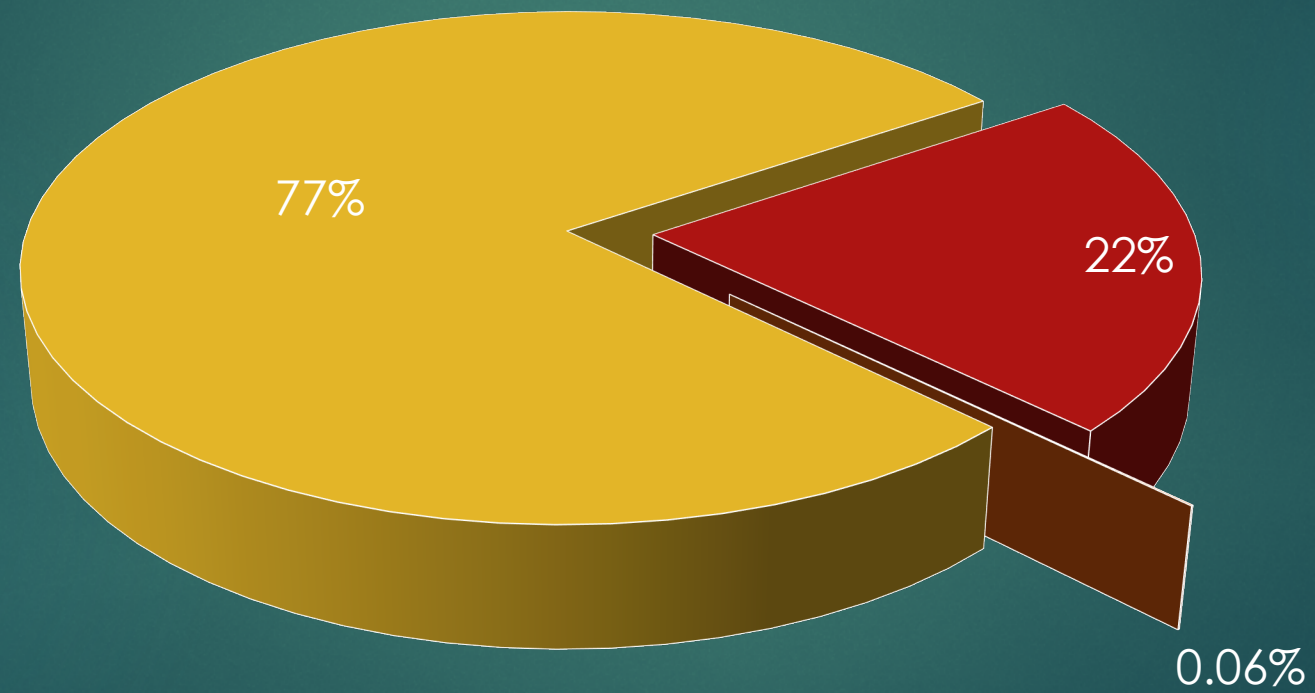
In Abeyance Older than 2 Between 1 and 2 Less than 1 year

Pro Se Cases



Filings for 12 Month Period Ending June 2023

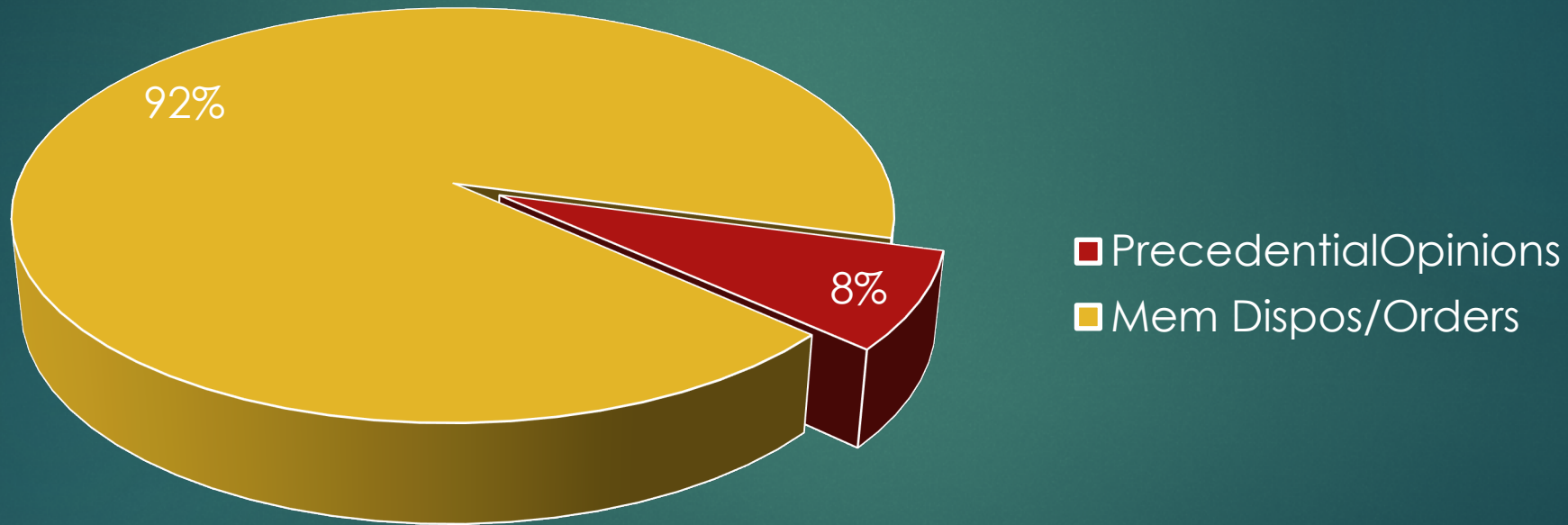
Merit Terminations



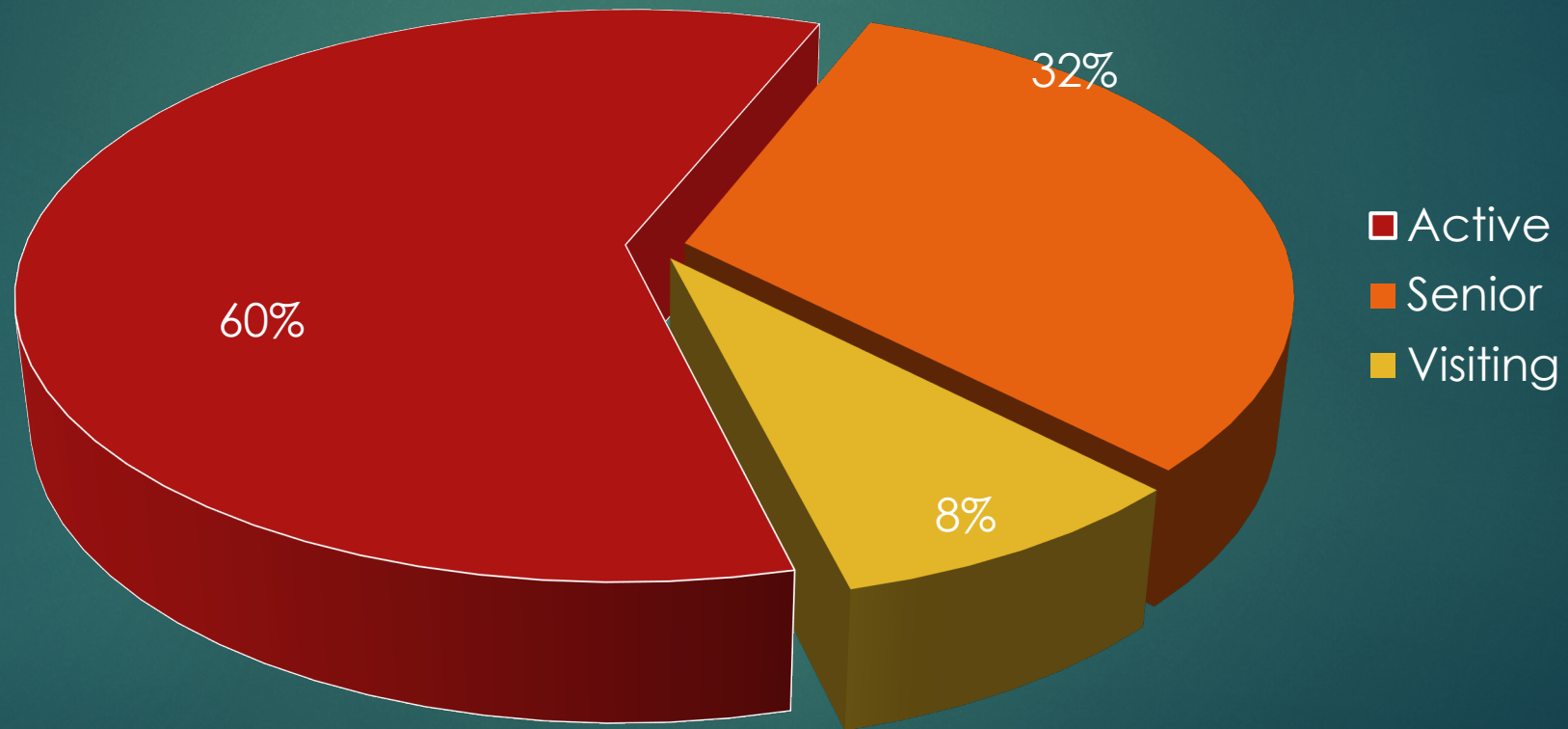
■ Argument
■ En Banc

12 Month Period Ending June 2023

Types of Merits Decisions

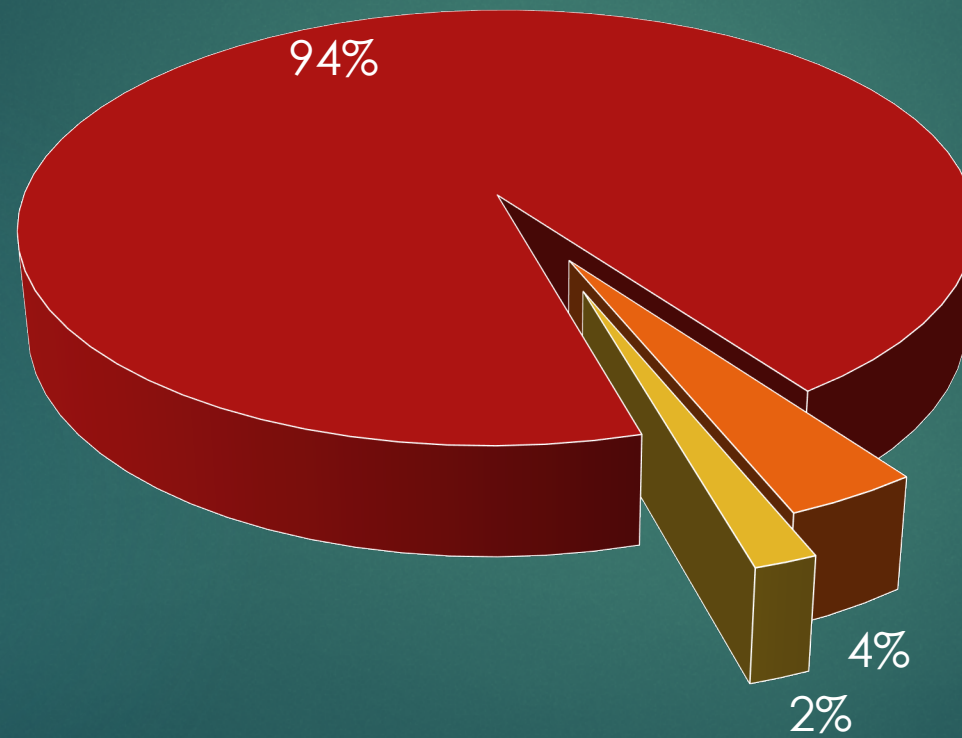


Senior & Visiting Judges



12 Month Period Ending June 2023

En Bancs 2022



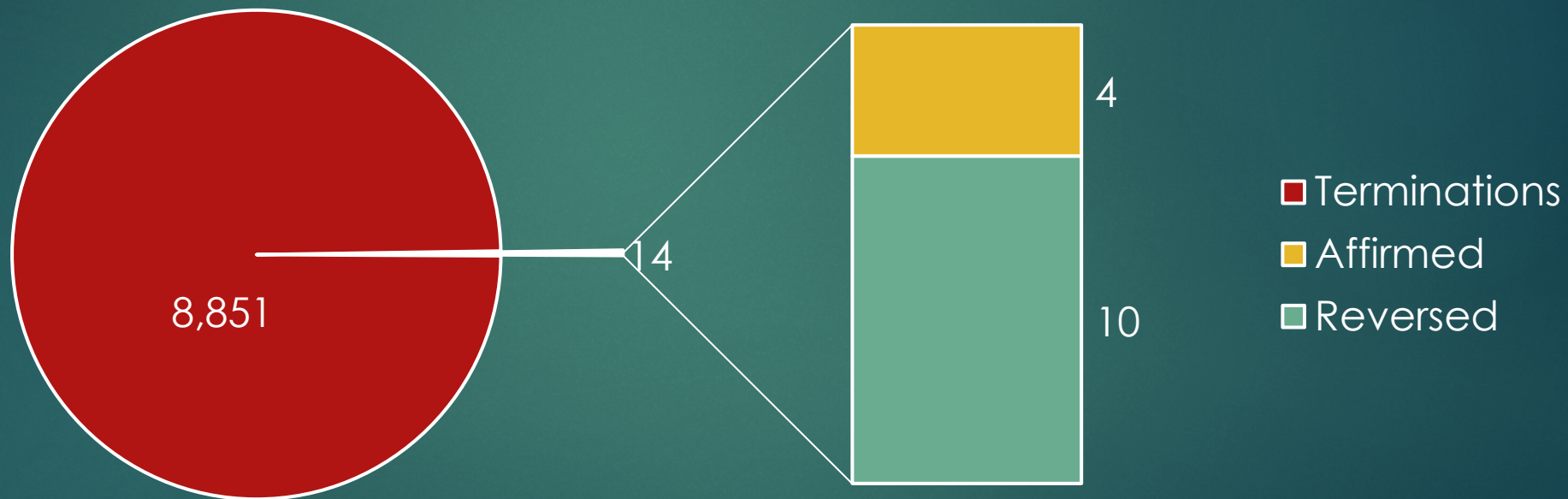
■ PFREBs
■ Ballots
■ Yes Votes

(calendar year 2022)



Reversals by supreme court

2022-2023 Term



Supreme Court data (2021-22 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) in redline version and administrative orders are available at http://www.ca9.uscourts.gov/content/view.php?pk_id=0000000682
- ACMS now in use for all new agency petitions for review, criminal appeals, and SOS Applications, all remaining case types will be live as of October 1, 2023. Find information and training videos [here](#)
- Recent Rule Changes– Oversized Briefs, Excerpts of Record (2020), Visual Images in Briefs (2022)
- New and Revised Forms, Instructions, Case information packets

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 and ACMS issues/problems – efilerhelp@ca9.uscourts.gov
- Feel free to call or email me if you are not sure who to ask

Filing Tips and Common Errors

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