

COURT OF CRIMINAL APPEALS

Analysis of Activity for the Year Ending August 31, 1985

The Court of Criminal Appeals is the highest state court for criminal appeals and is composed of a Presiding Judge and eight judges. Additionally, pursuant to sec. 22.106 of the Texas Government Code, special commissioners may be designated to aid and assist the court as needed.

Until September 1, 1981, the Court of Criminal Appeals received all criminal cases appealed from the district and county-level trial courts of the State. On that date, a constitutional amendment and implementing legislation became effective which conferred on the 14 Courts of Appeals intermediate appellate jurisdiction in all criminal cases except those in which the death penalty was assessed. Appeal of death penalty cases remains direct to the Court of Criminal Appeals.

Decisions of the Courts of Appeals in criminal cases may be appealed to the Court of Criminal Appeals by petition for discretionary review, filed either by the State, or the defendant, or both. In addition, the Court may review a decision on its own motion.

Matters Added to the Docket

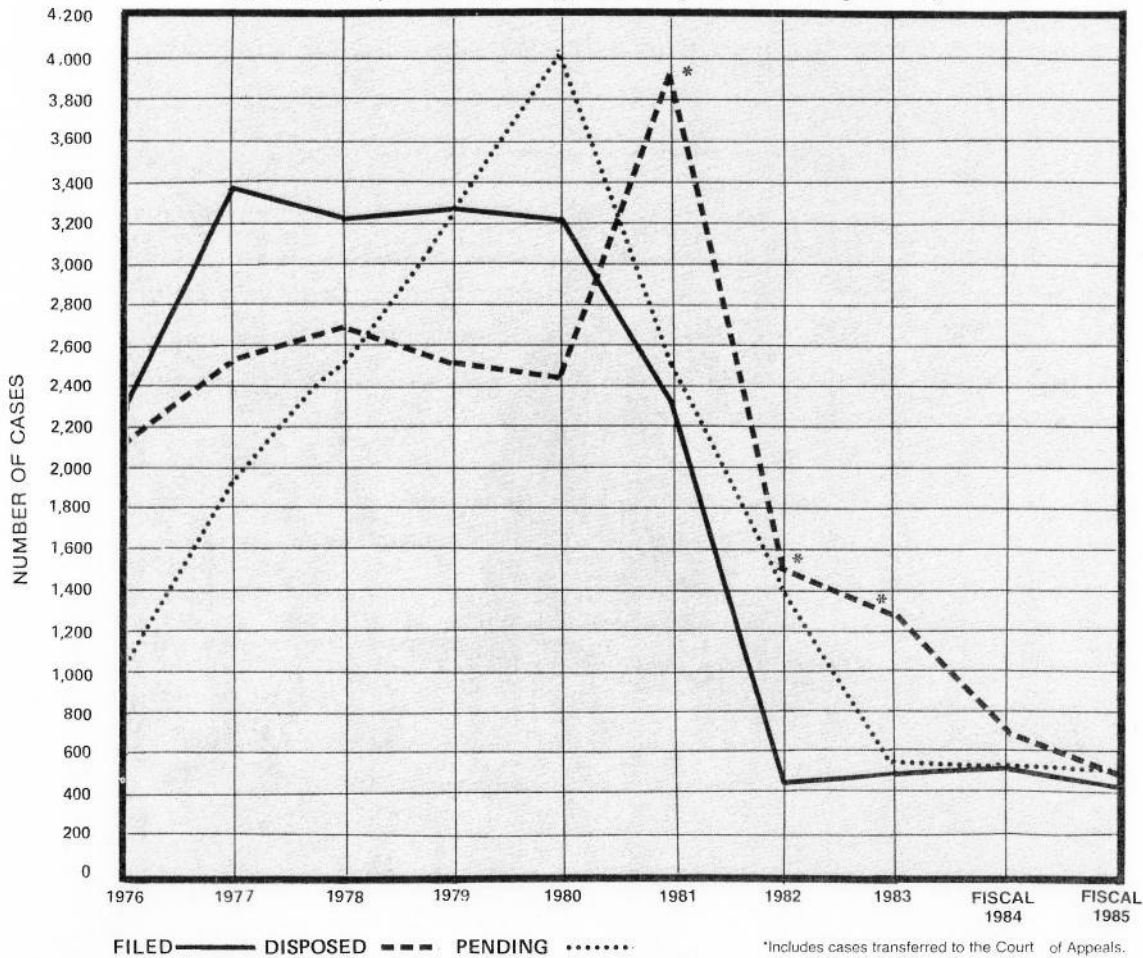
During the state fiscal year 1985 which ended August 31, 1985, there was a total of 443 cases added to the docket of the Court of Criminal Appeals. Two hundred sixty of these were cases where discretionary review was granted by the Court and 183 were direct appeals, death penalty appeals, writs of habeas corpus granted, and extraordinary writs. Death penalty appeals in fiscal 1985 numbered 42, compared to 35 in fiscal 1984.

The 443 cases added in fiscal year 1985 represent a decrease of 8.8 percent from the 486 cases added during fiscal year 1984, which ended August 31, 1984.

In addition to the cases added:

(1) The Court had 1,360 petitions for discretionary review filed during fiscal 1985, compared to 1,281 during the previous year (an increase of 6.2 percent). Petitions for discretionary review were received from 125 counties

Figure 3.
COURT OF CRIMINAL APPEALS
Cases filed, disposed and pending, calendar year 1976 through fiscal year 1985



during 1985, with 49 percent of them originating from Harris or Dallas Counties;

(2) There were 1,815 applications for writs of habeas corpus filed during fiscal 1985 (a slight increase over the 1,797 filed in fiscal 1984); and

(3) 1,145 other motions or applications were handled by the Court (27.4 percent more than the 899 considered the previous year).

Rate of Dispositions Decreases

During fiscal year 1985, the Court disposed of 476 cases considered on their merits, compared to 702 such dispositions in fiscal 1984. In 1985 those 476 dispositions represented 49 percent of all cases on the docket (that is, cases filed during the year or carried over from previous years). In fiscal 1984, this disposition rate was 59 percent.

In fiscal 1985, 1,046 petitions for discretionary review were disposed of, 228 (or 22 percent) of which were granted and the remainder were refused or dismissed. In fiscal 1984, 1,081 petitions for discretionary review were disposed of, 300 (or 28 percent) of which were granted.

There were 1,891 applications for writs of habeas corpus disposed of in fiscal 1985, compared

to 1,751 in 1984, and increase of 8 percent.

Judges of the Court of Criminal Appeals wrote 833 opinions during fiscal 1985, 565 (68 per cent) of which were "deciding" opinions which disposed of cases. The remainder were dissents, concurrences, and opinions on rehearing. Of the deciding opinions, 279 were signed and 286 were per curiam. During 1984, members of the Court wrote 871 opinions, 79 percent of which were deciding opinions.

Total Pending Caseload Increases

On August 31, 1985, there were 1,682 total matters (excluding miscellaneous motions and applications) pending in the Court. This represented an increase of 14 percent over the 1,477 matters pending on September 1, 1984.

Despite the increase in total pending, there were actual decreases in the number of pending cases in which discretionary review had been granted, and in the number of pending applications for writs of habeas corpus. On August 31, 1985, there were pending 231 granted discretionary review cases, 274 applications for writs of habeas corpus, 901 petitions for discretionary review, and 276 direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs.



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AUSTIN, TEXAS

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1985

SUMMARY OF DOCKET ACTIVITY DURING THE YEAR ENDING AUGUST 31, 1985

A. Cases Passed on During the Year Ending August 31, 1985:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs disposed of by the Court	193
Cases disposed of after granting petitions for discretionary review	283
Petitions for discretionary review disposed of by the	1,046
Applications for writs of habeas corpus, etc., disposed of by the Court in.	<u>1,891</u>
TOTAL CASES PASSED ON BY THE COURT.	3,413

B. Motions and Applications Passed on During Year Ending August 31, 1985:

Motions for leave to file motions for rehearing on direct appeal.	90
Motions for rehearing of direct appeals	20
Motions for rehearing of petitions for discretionary review	193
Applications for extensions of time to file transcriptions of court reporters' notes, bills of exceptions, briefs, and petitions for discretionary review considered and disposed of	<u>842</u>
TOTAL MOTIONS AND APPLICATIONS PASSED ON BY THE COURT	<u>1,145</u>

GRAND TOTAL OF MATTERS PASSED ON BY THE COURT. 4,558

C. Matters Pending August 31, 1985:

Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs	276
Cases on granted discretionary review pending	231
Petitions for discretionary review pending.	901
Applications for writ of habeas corpus, etc., pending	<u>274</u>
TOTAL MATTERS PENDING AUGUST 31, 1985	<u>1,682</u>

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1985 (Continued)

CASES

A. Cases Pending September 1, 1984:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs	216
2. Cases with granted petitions for discretionary review (including rehearings granted)	<u>324</u>
SUB-TOTAL CASES PENDING SEPTEMBER 1, 1984	540

B. Cases Added to Docket During the Year Ending August 31, 1985:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs filed	176
2. Direct appeals reinstated on docket	7
3. Granted petitions for discretionary review	228
4. Rehearings granted on cases considered under discretionary review	<u>32</u>
SUB-TOTAL CASES ADDED	<u>443</u>
TOTAL CASES ON DOCKET	<u>983</u>

C. Disposition of Cases During the Year Ending August 31, 1985:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs:	
Affirmed	44
Reformed and affirmed	4
Reversed and remanded	17
Reversed and dismissed or reformed to show acquittal	11
Remanded to trial courts	7
Appeals abated	5
Appeals dismissed	5
Habeas corpus relief granted	66
Habeas corpus relief denied	20
Habeas corpus applications dismissed	7
Mandamus relief granted	2
Habeas corpus relief in part and denied in part granted	<u>5</u>
SUB-TOTAL	193

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1985 (Continued)

2. On granted petition for discretionary review:

Court of Appeals affirmed	62
Court of Appeals and trial court affirmed	7
Court of Appeals affirmed; remanded to trial court.	5
Court of Appeals affirmed; trial court reformed and affirmed	1
Court of Appeals reversed; remanded to Court of Appeals	36
Court of Appeals reversed; remanded to trial court.	16
Court of Appeals reversed; trial court reformed to show acquittal	2
Court of Appeals and trial court reversed; remanded to trial court.	7
Remanded to Court of Appeals.	80
Court of Appeals reversed; trial court affirmed	15
Court of Appeals reformed and affirmed	2
Court of Appeals reformed; trial court reformed and affirmed	3
Court of Appeals and trial court reversed; reformed to show acquittal	2
Court of Appeals reversed, bond set	1
Trial court reversed; remanded to trial court	1
Remanded to trial court	1
Petition refused.	10
Petition denied	1
Court of Appeals vacated; remanded to Court of Appeals.	1
Reversed in part; affirmed in part.	1
Dismissed	9
Dismissed/refused as improvidently granted.	19
Abated.	<u>1</u>
SUB-TOTAL	<u>283</u>
TOTAL DISPOSITIONS	<u>476</u>

D. Cases Pending August 31, 1985:

1. Direct appeals, death penalty appeals, granted habeas corpus writs, and extraordinary writs:

Under original submission	154
Under submission on rehearing	21
Pending on motions for rehearing.	5
Pending on motions for leave to file motions for rehearing	7
Waiting to become final or on appeal to the U.S. Supreme Court	16
Unsubmitted	<u>16</u>
SUB-TOTAL	276

2. Pending on granted discretionary review:

Under original submission, unsubmitted and pending on motions for rehearing.	<u>231</u>
SUB-TOTAL	<u>231</u>
TOTAL CASES PENDING AUGUST 31, 1985	507

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1985 (Continued)

PETITIONS FOR DISCRETIONARY REVIEW

A. <u>Petitions for Discretionary Review Pending September 1, 1984</u>	587
B. <u>Petitions for Discretionary Review Filed During Year</u>	<u>1,360*</u>
TOTAL PETITIONS ON DOCKET	<u>1,947</u>
 C. <u>Disposition of Petitions for Discretionary Review:</u>	
Granted.	228
Refused.	806
Dismissed.	<u>12</u>
TOTAL PETITIONS DISPOSED	<u>1,046</u>
 D. <u>Petitions for Discretionary Review Pending August 31, 1985</u>	 <u>901</u>

APPLICATIONS FOR WRITS OF HABEAS CORPUS

A. <u>Applications Pending September 1, 1984</u>	350
B. <u>Applications Filed During Year Ending August 31, 1985</u>	<u>1,815</u>
TOTAL APPLICATIONS ON DOCKET	<u>2,165</u>
 C. <u>Disposition of Applications for Writs of Habeas Corpus, etc.:</u>	
Applications ordered filed and set for submission.	118
Hearings ordered on applications	43
Applications granted with written orders	2
Applications denied with written orders.	44
Applications denied without written orders	1,605
Applications dismissed	12
Applications marked "no action".	43
Out of time appeals granted.	<u>24</u>
TOTAL APPLICATIONS DISPOSED.	<u>1,891</u>
 D. <u>Applications for Writ of Habeas Corpus Pending August 31, 1985</u>	 <u>274</u>

*Because more than one petition for discretionary review may be filed in a case, this figure is higher than the actual number of cases brought to the court on petition for discretionary review.

COURT OF CRIMINAL APPEALS
Activity for the Year Ending August 31, 1985 (Continued)

MOTIONS FOR REHEARING AND APPLICATIONS FOR EXTENSION OF TIME

A. Motions for Rehearing of Direct Appeals:

Motions granted with written opinions	8
Motions overruled/denied with written opinions.	9
Motions overruled/denied without written opinions	3
Leave to file motions for rehearing granted	6
Leave to file motions for rehearing denied.	<u>84</u>
SUB-TOTAL	110

B. Motions for Rehearing of Discretionary Review Cases or Petitions:

Motions denied.	190
Motions granted	<u>3</u>
SUB-TOTAL	193

C. Applications for Extension of Time to File Transcriptions of Court Reporters' Notes, Bills of Exceptions, Briefs, and Petitions for Discretionary Review Considered and Disposed of by the Court.

TOTAL MOTIONS FOR REHEARING AND APPLICATIONS.	<u><u>1,145</u></u>
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OPINIONS DELIVERED BY THE COURT DURING YEAR ENDING AUGUST 31, 1985

Original opinions (Per curiam).	286
(Signed).	279
Concurring opinions	91
Dissenting opinions	140
Opinions concurring in part, dissenting in part	18
Opinions granting rehearing	10
Opinions denying rehearing.	<u>9</u>
TOTAL OPINIONS DELIVERED	<u><u>833</u></u>

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1985 (Continued)

OPINIONS WRITTEN BY JUDGES OF THE COURT OF CRIMINAL APPEALS

JUDGES	DECIDING OPINIONS		Concurring Dissenting Opinions	Dissenting Opinions	Concurring In Part & Dissenting In Part	Opinions Granting Rehearing	Opinions Denying Rehearing	TOTAL
	Per Curiam Opinions	Signed Opinions						
JOHN F. ONION, JR. Presiding Judge	21	38	4	15	3	3	1	85
¹ WENDELL A. ODOM Judge	2	14	0	1	0	0	1	18
TOM G. DAVIS Judge	60	27	1	0	2	0	0	90
W. C. DAVIS Judge	39	36	0	1	0	0	2	78
SAM HOUSTON CLINTON Judge	35	30	43	45	2	2	2	159
MICHAEL J. MCCORMICK Judge	26	43	1	9	1	3	1	84
MARVIN O. TEAGUE Judge	39	17	26	59	10	1	2	154
CHUCK MILLER Judge	29	34	15	9	0	1	0	88
CHARLES F. CAMPBELL Judge	31	30	1	1	0	0	0	63
² BILL WHITE Judge	4	10	0	0	0	0	0	14
TOTAL	286	279	91	140	18	10	9	833

1. Retired 12-31-84

2. Assumed office 1-1-85

COURT OF CRIMINAL APPEALS

Activity for the Year Ending August 31, 1985 (Continued)

COUNTIES FROM WHICH PETITIONS FOR DISCRETIONARY REVIEW WERE FILED

DURING YEAR ENDING AUGUST 31, 1985

<u>County</u>	<u>Cases</u>	<u>County</u>	<u>Cases</u>	<u>County</u>	<u>Cases</u>	<u>County</u>	<u>Cases</u>
Harris	335	Fort Bend	5	Hunt	2	Hill	1
Dallas	325	Hopkins	5	Hutchinson	2	Howard	1
El Paso	67	McLennan	5	Kendall	2	Jackson	1
Tarrant	63	Val Verde	5	Kerr	2	Johnson	1
Bexar	54	Bowie	4	Lampasas	2	Karnes	1
Travis	41	Erath	4	Nacogdoches	2	Kaufman	1
Jefferson	35	Freestone	4	Ochiltree	2	Kimble	1
Cameron	19	Lamar	4	Shelby	2	Lavaca	1
Nueces	18	Live Oak	4	Titus	2	Lee	1
Potter	18	Orange	4	Washington	2	Leon	1
Galveston	17	Terry	4	Wichita	2	Limestone	1
Hidalgo	16	Tyler	4	Williamson	2	Llano	1
Midland	16	Randall	3	Wise	2	Mitchell	1
Taylor	16	Van Zandt	3	Anderson	1	Morris	1
Brazos	15	Palo Pinto	3	Burnet	1	Navarro	1
Lubbock	14	Ward	3	Andrews	1	Nolan	1
Montgomery	13	Burleson	3	Bailey	1	Pecos	1
Denton	12	Gonzales	3	Cass	1	Rains	1
Brazoria	9	Hale	3	Collingsworth	1	Reeves	1
Gregg	9	Hays	3	Colorado	1	Rusk	1
Bell	8	Liberty	3	Crane	1	San Jacinto	1
Collin	8	Moore	3	Crosby	1	Shackelford	1
Smith	7	Upton	3	Dallam	1	Somervell	1
Tom Green	7	Angelina	2	Delta	1	Starr	1
Walker	7	Aransas	2	Eastland	1	Stephens	1
Parker	6	Bee	2	Falls	1	Victoria	1
San Patricio	6	Fannin	2	Fayette	1	Wheeler	1
Brown	5	Gray	2	Frio	1	Willbarger	1
Caldwell	5	Grayson	2	Gaines	1	Willacy	1
Conal	5	Grimes	2	Goliad	1	Wood	1
Ector	5	Hardin	2	Hamilton	1	Young	1
		Hudspeth	2	Henderson	1		

CASES IN WHICH PETITIONS FOR DISCRETIONARY REVIEW WERE FILED AS RECEIVED FROM COURTS OF APPEALS

DURING YEAR ENDING AUGUST 31, 1985

FIRST, Houston	203	EIGHTH, El Paso	87
SECOND, Fort Worth	124	NINTH, Beaumont	59
THIRD, Austin	81	TENTH, Waco	44
FOURTH, San Antonio	62	ELEVENTH, Eastland	62
FIFTH, Dallas	298	TWELFTH, Tyler	30
SIXTH, Texarkana	34	THIRTEENTH, Corpus Christi	80
SEVENTH, Amarillo	34	FOURTEENTH, Houston	162