

U.S. Attorney's Report to the District

One of the important aspects of work done by this office that is often overlooked, particularly in the media, is the litigation of appeals. Our work is not done when a criminal defendant is convicted, or, in a civil case, when a final judgment is issued in the district court. Appeals from the Eastern District of California go to the U.S. Court of Appeals for the Ninth Circuit, which has federal appellate jurisdiction over a vast area of nine states and two overseas territories, including a total of 15 federal judicial districts. Because of the high caseloads in this district, the Eastern District of California is second only to the Central District, which includes Los Angeles, as a source district for appeals to the Ninth Circuit.

While the bulk of our time is spent representing the United States in criminal and civil cases in the district courts in Sacramento and Fresno, we also devote substantial time to handling appeals, most of which are heard by panels of Ninth Circuit judges sitting in San Francisco. We handle about 125 appeals per year, with more in criminal cases than in civil cases.

Effective appellate advocacy calls for different skills than those usually deployed in the district courts. Appellate briefs, which typically involve the application of broad legal precedents to facts drawn from the district court record in addressing narrow legal or procedural issues, are quite different than the briefs filed in district court, which often address pleading or discovery issues, or evidentiary issues tightly connected to the facts of the case. Oral argument to a three-judge panel is very different than closing arguments to a jury in a felony trial. In this office, however, we do not have a separate team of appellate lawyers, and instead require that Assistant U.S. Attorneys handle the appeals that arise from their own district court cases. We believe that handling both trials and appeals develops well-rounded attorneys, providing experience that equips them to be better litigators in both forums. It also creates a positive incentive for attorneys in trial to focus not only on the facts of their cases, but also on the larger legal principles that will impact the final results in those cases. Finally, working on appeals is challenging and stimulating work, which is welcomed by the industrious litigators who work in this office.

While we do not have a separate team of appellate lawyers, we do have experienced supervisors who provide guidance on appellate procedure and strategy, who prepare Assistant U.S. Attorneys for oral argument in the Ninth Circuit, and who review and edit every appellate brief we file. Camil Skipper oversees our appeals in criminal cases, and David Shelledy in civil cases. Their outstanding work is evident in the results obtained. For fiscal year 2013, and for the first three quarters of fiscal year 2014, this office has had a success rate of over 90% in both civil and criminal appeals, measured by the percentage of defendants whose appeals were terminated in favor of the United States.

If you would like to communicate with our office, contact the main number in Sacramento, or submit a suggestion by clicking on the button below. Thank you.

United States Attorney

Benjamin B. Wagner