



FY2023 Immigration Court Data: Case Outcomes

February 7, 2024

U.S. immigration courts within the Department of Justice’s Executive Office for Immigration Review (EOIR) adjudicate removal cases involving foreign nationals whom the Department of Homeland Security (DHS) has charged with an immigration violation under the Immigration and Nationality Act (INA). During removal proceedings, immigration judges (IJs) determine whether such individuals (*respondents*) are subject to removal from the United States, and if so, whether they qualify for relief or protection from removal for which they have applied (e.g., asylum). Respondents who fail to appear for their hearings are ordered removed in absentia.

This Insight reviews immigration court case outcomes for FY2023, including removal case decisions, in absentia removal orders, and asylum application decisions. Another [Insight describes FY2023 caseload data](#), including case receipts and the pending cases backlog.

Removal Case Decisions

Possible outcomes for [removal cases](#) include:

- **Removal Order:** The IJ orders the respondent removed; DHS is responsible for removing the foreign national from the United States to his/her country or to a third country.
- **Dismissal:** DHS may move to dismiss proceedings against the respondent (e.g., as a matter of [prosecutorial discretion](#)).
- **Termination:** The respondent may move to terminate a case if the charges on the NTA are substantively or procedurally defective; the IJ may also terminate a case if he/she determines the respondent has established eligibility for U.S. citizenship.
- **Relief granted:** The IJ grants the respondent a form of relief from removal—such as asylum (described below) or, less commonly, [cancellation of removal](#).
- **Voluntary departure:** The respondent may request to leave the United States during a specific timeframe at his/her own expense without being ordered removed.

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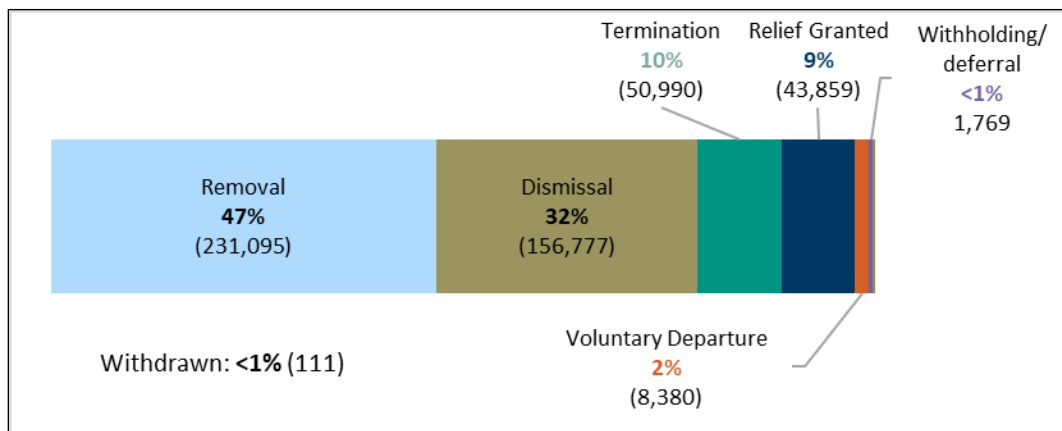
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- Withholding or Deferral of Removal:** The respondent may be eligible for forms of limited protection against return to a country where his/her life or freedom would be threatened (under the INA) or where it is more likely than not that he/she would face torture (under the United Nations Convention Against Torture). These forms of protection permit DHS to remove the respondent to a third country and provide no path to lawful permanent resident (LPR) status.

In FY2023, EOIR issued 492,981 initial case decisions (parties may [file an appeal](#)). The most common decision was issuance of a removal order (47%). The next most common outcomes were dismissals and terminations (collectively, 42%). Such outcomes likely reflect DHS's use of [prosecutorial discretion](#) to dismiss nonpriority cases; they may also capture instances in which DHS issues an NTA to a respondent but has [failed to file it in immigration court](#), resulting in a *failure to prosecute*. In such cases, DHS may file the NTA and reschedule the hearing.

Approximately 9% of cases decided ended with a grant of relief (such as asylum); less than 1% of cases were granted withholding or deferral of removal. Voluntary departure represented 2% of outcomes.

Figure 1. Removal Case Outcomes, FY2023



Source: EOIR, “FY2023 Decision Outcomes,” Adjudication Statistics, October 2023.

Notes: N=492,981. Includes outcomes for removal proceedings and *deportation and exclusion* proceedings, the precursor to removal proceedings.

In Absentia Removal Orders

Individuals failing to appear for any of their hearings [must be ordered removed in absentia](#) by the IJ if DHS presents “clear, unequivocal, and convincing evidence” notice was provided and the respondent is removable. The removal order [may be rescinded](#) if the respondent demonstrates the failure to appear occurred because of exceptional circumstances (e.g., serious illness), not receiving notice, or being in federal or state custody.

Among the 231,095 total removal orders issued in FY2023 (**Figure 1**), 69% (159,379) were [in absentia removal orders](#). Measuring the rate at which respondents fail to appear for their hearings [has been subject to debate](#). [EOIR publishes rates](#) that are the number of in absentia removal orders divided by the number of initial case completions in a given year. Other observers argue this method fails to account for the large volume of pending removal cases (2.5 million at the end of FY2023) (i.e., that EOIR’s rate fails to account for court appearances for individuals whose cases have not yet been adjudicated).

Asylum Decisions

Individuals may qualify for [asylum](#) if they demonstrate persecution or a well-founded fear of persecution based on race, religion, nationality, political opinion, or membership in a particular social group. Persons granted asylum, and their spouses and minor children, may remain in the United States and are authorized to work. After one year of physical presence in the United States, they may apply to adjust to LPR status.

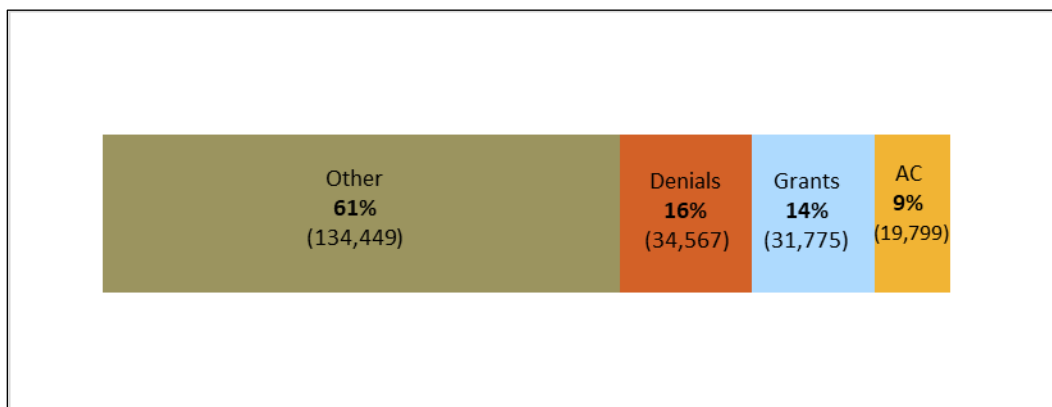
During removal proceedings, respondents may [apply for asylum](#) as a form of relief from removal. IJs also adjudicate applications during [asylum-only proceedings](#) for individuals who may be removed without being placed in removal proceedings, including crewmembers, stowaways, and individuals who entered under the Visa Waiver Program. Asylum applied for in immigration court is referred to as *defensive* asylum.

Otherwise, individuals who are physically present in the United States and not in removal proceedings, regardless of their immigration status, may apply for *affirmative* asylum with DHS’s U.S. Citizenship and Immigration Services (USCIS). If the USCIS asylum officer determines an applicant is ineligible for asylum and [appears to be inadmissible or deportable](#), the officer refers the application to EOIR. Therefore, EOIR’s asylum outcomes include decisions on both defensive asylum applications initially filed in immigration court and affirmative referrals.

EOIR’s FY2023 asylum case outcomes include asylum granted, asylum denied, “Other” (cases that were abandoned, not adjudicated, or withdrawn), and cases that were administratively closed. [Administratively closed cases](#) are temporarily removed from the docket (e.g., while the respondent pursues an application for relief outside immigration court). EOIR does not consider administrative closures to be case completions.

In FY2023, EOIR reported 220,590 asylum case decisions. The majority (61%) were “Other” outcomes. These may reflect terminated and dismissed removal cases, as described above. Individuals whose cases are dismissed or terminated [may pursue an affirmative asylum application with USCIS](#). Outcomes also included denials (16%), grants (14%), and administratively closed cases (9%).

Figure 2. Asylum Outcomes, FY2023



Source: EOIR, “Asylum Decision Rates,” Adjudication Statistics, October 2023.

Notes: N=220,590. Includes removal, deportation, exclusion, and asylum-only proceedings. AC=administratively closed cases.

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