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SUMMARY

R47504

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Immigration law permits aliens (foreign nationals) to apply for asylum if they are present in the United States or have arrived at a port of entry, irrespective of their immigration status. Individuals charged with an immigration violation by the U.S. Department of Homeland Security (DHS) may be placed in removal proceedings in immigration court within the U.S. Department of Justice's (DOJ's) Executive Office for Immigration Review (EOIR). Aliens in removal proceedings may apply for asylum as a defense against removal, referred to as *defensive asylum*. Defensive asylum applications are adjudicated by EOIR's immigration judges.

Individuals may qualify for asylum if they are unable or unwilling to return to their country because of persecution or a well-founded fear of persecution based on one of five protected grounds: race, religion, nationality, political opinion, or membership in a particular social group. Generally, an individual must apply for asylum within one year of arrival in the United States. In recent years, the Biden Administration and second Trump Administration have implemented restrictions on eligibility for asylum for certain migrants arriving at the southern border. Persons granted asylum, and their spouses and minor children, may remain in the United States and apply for work authorization. After one year of physical presence in the United States, they may apply to adjust to lawful permanent resident (LPR) status. Some individuals who are not eligible for asylum may be granted other types of protection, including withholding of removal and protection under the United Nations Convention Against Torture.

In recent years, the number of asylum applications filed in immigration courts have reached record high levels (since at least FY1996, the earliest publicly available data), with more than 897,000 defensive applications filed in FY2024 and about 831,000 filed in FY2025. At the end of FY2025, more than 2.4 million asylum applications were pending in immigration courts. This level of asylum applications (the adjudication of which is a subset of all removal proceedings) presents considerable adjudication challenges for immigration courts.

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Introduction

Under the Immigration and Nationality Act (INA), aliens (foreign nationals)[1] who are present in the United States, or who arrive in the United States at a port of entry or between ports of entry, may apply for asylum irrespective of their immigration status, subject to certain exceptions.[2] Aliens who are subject to removal from the United States may be charged with an immigration violation by the U.S. Department of Homeland Security (DHS) and placed in removal proceedings in immigration court within the U.S. Department of Justice's (DOJ's) Executive Office for Immigration Review (EOIR).[3] Aliens in removal proceedings (referred to as *respondents*) generally may apply for asylum as a defense against removal, known as *defensive asylum*. By contrast, individuals seeking asylum in the United States who are not in removal proceedings may apply for *affirmative asylum* with DHS's U.S. Citizenship and Immigration Services (USCIS).[4]

During removal proceedings, immigration judges (IJs) determine whether respondents are removable as charged and adjudicate certain applications for relief or protection from removal, including asylum.[5] Individuals may qualify for asylum if they meet the INA's definition of a "refugee"—that is, a person who is unable or unwilling to return to their home country because of persecution or a well-founded fear of persecution based on one of five protected grounds: race, religion, nationality, political opinion, or membership in a particular social group—and satisfy other requirements.[6] Those granted asylum, and their spouses and minor children, may remain in the United States and apply for work authorization. After one year of physical presence in the United States after being granted asylum, they may apply to adjust to lawful permanent resident (LPR) status.

Although aliens present in the United States have a right to apply for asylum under the INA, the asylum statute permits the DHS Secretary and Attorney General to establish requirements and procedures for asylum eligibility.[7] The Biden Administration and the second Trump Administration have both used this authority to temporarily restrict access to asylum for certain migrants arriving at the Southwest border.[8]

In recent years, the number of asylum applications filed in immigration courts has increased substantially. In FY2024, EOIR received 897,633 defensive asylum applications, the largest annual number of filings since at least FY1996 (the earliest publicly available data); in FY2025, EOIR received 831,076 defensive applications. At the end of FY2025, more than 2.4 million total

[1] Aliens are persons who are not U.S. citizens or U.S. nationals. INA §101(a)(3); 8 U.S.C. §1101(a)(3).

[2] INA §208(a); 8 U.S.C. §1158(a).

[3] INA §§239, 240; 8 U.S.C. §§1229, 1229a.

[4] For more information on affirmative asylum, see CRS Report R48249, *What Is Affirmative Asylum?*.

[5] Asylum officers within DHS's U.S. Citizenship and Immigration Services have initial jurisdiction over asylum applications filed by unaccompanied alien children, even when those children are in removal proceedings. 8 U.S.C. §1158(b)(3)(C). For more information, see CRS Report R43599, *Unaccompanied Alien Children: An Overview*

[6] INA §208(b)(B)(i); 8 U.S.C. §1158(b)(B)(i).

[7] 8 U.S.C. §1158(b)(1)(A) states, "The Secretary of Homeland Security or the Attorney General may grant asylum to an alien who has applied for asylum in accordance with the requirements and procedures established by the Secretary of Homeland Security or the Attorney General under this section" if the alien meets the definition of a "refugee" under 8 U.S.C. §1101(a)(42)(A).

[8] Authorities for such restrictions include 8 U.S.C. §1158(b)(2)(C), "The Attorney General may by regulation establish additional limitations and conditions, consistent with this section, under which an alien shall be ineligible for asylum" and §1158(d)(5)(B), "The Attorney General may provide by regulation for any other conditions or limitations on the consideration of an application for asylum not inconsistent with this chapter."

asylum applications were pending in immigration courts.[9] This included both defensive asylum applications originally filed in immigration courts and affirmative asylum applications that USCIS has referred to EOIR.[10] In general, immigration courts are contending with the highest levels of removal cases in EOIR's 42-year history amid unprecedented levels of international migration to the U.S.-Mexico border and the postponement of certain hearings during the COVID-19 pandemic.[11]

Overview and Processes

Expedited and Formal Removal

Aliens may be subject to removal from the United States when DHS charges them with one or more grounds of inadmissibility[12] or deportability,[13] either at the U.S. border or within the interior of the country. Under the INA, both *expedited* and *formal* removal processes allow a removable alien to seek asylum; each requires different processes for doing so.[14]

Expedited removal allows DHS to remove certain migrants "without further hearing or review."[15] This process generally applies to inadmissible aliens arriving at ports of entry and those apprehended within 100 miles of the U.S. land border within two weeks of arrival who entered unlawfully or lack valid documentation. The second Trump Administration has extended the use of expedited removal "to the fullest extent authorized by Congress," to include aliens anywhere within the United States who have not been admitted or paroled into the United States and who have been present in the country for less than two years.[16] Individuals subject to expedited removal who express an intent to apply for asylum or a fear of persecution or torture if removed may have their claim reviewed by a USCIS asylum officer during a credible fear interview.[17]

To establish a credible fear of persecution, the individual must establish that they have a "significant possibility" of establishing asylum eligibility—that is, a "substantial and realistic possibility of succeeding" in a hearing before an IJ.[18] Individuals who receive a negative credible

[9] EOIR, "Total Asylum Applications," Adjudication Statistics, July 31, 2025.

[10] USCIS refers cases to EOIR when it finds an applicant ineligible for asylum and the applicant does not have a lawful status.

[11] For more information, see CRS Report R47077, *U.S. Immigration Courts and the Pending Cases Backlog*.

[12] INA §212; 8 U.S.C. §1182.

[13] INA §237; 8 U.S.C. §1227.

[14] In March 2020, in response to the COVID-19 pandemic, the Centers for Disease Control and Prevention (CDC) invoked authority under Title 42 of the *U.S. Code* to limit the entry of certain foreign nationals, including those intending to apply for asylum and other humanitarian protections. Title 42 expulsions by DHS are not removal procedures under the INA and they do not involve immigration courts. For more information on Title 42, see CRS Report R47343, *U.S. Border Patrol Apprehensions and Title 42 Expulsions at the Southwest Border: Fact Sheet*.

[15] Expedited removal was established under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (P.L. 104-208, Div. C), codified at INA §235(b)(1). For more information about expedited removal, see CRS In Focus IF11357, *Expedited Removal of Aliens: An Introduction* and CRS Report R45314, *Expedited Removal of Aliens: Legal Framework*.

[16] DHS, "Designating Aliens for Expedited Removal," 90 *Federal Register* 8139, January 24, 2025. For more information about the expanded use of expedited removal, see CRS Legal Sidebar LSB10336, *The Department of Homeland Security's Authority to Expand Expedited Removal*.

[17] For more information, see CRS Report R48078, *Credible Fear and Defensive Asylum Processes: Frequently Asked Questions*.

[18] See Refugee, Asylum, and International Operations Directorate Officer Training Asylum Division Officer Training (continued...)

fear determination may request that an IJ review the determination. Those who fail to demonstrate a credible fear are typically removed by DHS's Immigration and Customs Enforcement (ICE).

Individuals who demonstrate having a credible fear enter formal removal proceedings in EOIR's immigration courts, where they may pursue applications for relief from removal, including asylum. DHS may also place a migrant directly into formal removal proceedings (i.e., without processing them for expedited removal) if the individual is not subject to expedited removal or at the agency's discretion.

Formal removal proceedings begin after DHS issues a Notice to Appear (NTA) charging document and files it in immigration court.[19] During removal proceedings, attorneys from ICE's Office of the Principal Legal Advisor (OPLA) represent DHS. The migrant, or *respondent*, may represent himself or herself or obtain counsel at his or her own expense or pro bono. Under the INA, the federal government generally may not appoint counsel for respondents in removal proceedings.[20]

Removal proceedings usually consist of multiple hearings before an IJ. If a respondent has received written notice of a hearing and does not attend it, the IJ must order the individual removed *in absentia* (in the respondent's absence).[21] During an initial master calendar hearing, an IJ explains the respondent's rights, the charges against the respondent, and the nature of the proceedings; verifies the respondent's contact information; provides information about legal representation; and sets filing dates for applications and written documents. The IJ must advise the respondent that he or she will be ineligible for any immigration benefits under the INA if the respondent knowingly files a "frivolous" asylum application.[22] Criteria for a frivolous application are set in federal regulations and generally are based on determinations that applications contain fabricated material elements.[23]

In the next stage of removal proceedings, the IJ schedules a merits hearing (also called an individual calendar hearing), an evidentiary hearing in which the IJ considers challenges to removability and the respondent's application(s) for relief.[24] During the merits hearing, parties may present testimony, evidence, and witnesses. The respondent and any witnesses may be examined and cross-examined, respectively, by their counsel (if applicable) and OPLA counsel, as well as questioned by the IJ. For some cases, there may be multiple master calendar hearings

Course, USCIS, February 13, 2017, https://www.aila.org/infonet/raio-and-asylum-division-officer-training-course (citing *Holmes v. Amerex Rent-a-Car*, 180 F.3d 294, 297 (D.C. Cir. 1999)).

[19] INA §240; 8 U.S.C. §1229a. For more information, see CRS In Focus IF11536, *Formal Removal Proceedings: An Introduction* and CRS Infographic IG10022, *Immigration Court Proceedings: Process and Data*.

[20] INA §240(b)(4); 8 U.S.C. §1229a(b)(4). For more information, see CRS In Focus IF12158, *U.S. Immigration Courts: Access to Counsel in Removal Proceedings and Legal Access Programs* and CRS Insight IN12588, *Immigration Court Legal Access Programs: Terminations and Related Litigation*.

[21] The removal order may be rescinded if a respondent files a motion to reopen proceedings and demonstrates that the failure to appear occurred because he or she did not receive proper notice of the hearing, faced "exceptional circumstances," or was in custody and unable to appear through no fault of his or her own. For more information, see CRS In Focus IF11892, *At What Rate Do Noncitizens Appear for Their Removal Hearings? Measuring In Absentia Removal Order Rates*.

[22] INA §208(d)(4)(A), INA §208(d)(6).

[23] 8 C.F.R. §208.20.

[24] In addition to asylum and the forms of relief explained in this report, respondents may pursue other forms of relief in removal proceedings, such as cancellation of removal. Respondents may also pursue certain types of immigration benefits with USCIS, such as adjustment to LPR status based on a qualifying family relationship. Others may seek voluntary departure from the United States. For a comprehensive list of common types of protection and relief from removal, see CRS Report R47077, *U.S. Immigration Courts and the Pending Cases Backlog*, Table 3.

and/or merits hearings. At the conclusion of proceedings, the IJ issues a decision determining whether the respondent is granted relief or ordered removed.[25]

During removal proceedings, IJs may also temporarily remove cases from their active dockets through *administrative closure*. Administrative closure allows respondents the opportunity to have their applications for immigration relief resolved by other agencies, such as USCIS.[26] IJs may also *terminate* cases, for example, in response to a party's motion to dismiss charges on the grounds that the respondent is not removable as charged.

January 2025 guidance from the DHS Acting Secretary directed DHS officials to apply expedited removal to any alien "amenable to expedited removal but to whom expedited removal has not been applied," which "may include steps to terminate any ongoing removal proceeding."[27] Reportedly, in some instances, OPLA attorneys have moved to dismiss removal proceedings for respondents who may then be subject to expedited removal, including respondents with pending asylum applications.[28]

At the conclusion of removal proceedings in immigration court, either party may appeal an IJ's decision to the Board of Immigration Appeals (BIA), EOIR's appellate body. The respondent may file a petition for judicial review of a BIA decision with a federal circuit court of appeals.

Asylum, Withholding of Removal, and Protection Under the Convention Against Torture

To apply for asylum in formal removal proceedings, the respondent must file Form I-589, Application for Asylum and Withholding of Removal.[29] Generally, an individual must apply for asylum within one year of arrival in the United States, with certain exceptions.[30] An individual may not apply for asylum if they were previously denied asylum or if they may be removed under a Safe Third Country agreement (e.g., to Canada). The INA also bars certain individuals from being granted asylum in certain circumstances, including those who have persecuted others, committed certain crimes, pose a danger to national security, have engaged in terrorist activity, or have been "firmly resettled in another country prior to arriving in the United States."[31]

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[25] Requirements for designating a country of removal are at INA §241(b); 8 U.S.C. §1231(b). See also Adam L. Fleming, "Around the World in the INA: Designating a Country of Removal in Immigration Proceedings," *Immigration Law Advisor*, May 2013.

[26] For more information about administrative closure, including its use under different Administrations, see "Docket Management and Administrative Closure" in CRS Report R47077, *U.S. Immigration Courts and the Pending Cases Backlog*.

[27] Benjamine C. Huffman, Acting Secretary, DHS, "Guidance Regarding How to Exercise Enforcement Discretion," memorandum, January 23, 2025.

[28] See for example, Immigrant Advocates Response Collaborative v. United States Department of Justice, Class Action Complaint, in the U.S. District Court for the District of Columbia, Case No. 25-cv-2279. The Trump Administration's expansion of expedited removal has been subject to litigation. For more information, see CRS Legal Sidebar LSB10336, *The Department of Homeland Security's Authority to Expand Expedited Removal*.

[29] Even if an applicant has undergone a credible fear interview with USCIS during expedited removal, they must apply for asylum once in formal removal proceedings. Form I-589 may also be used to apply for withholding of removal and protection under CAT.

[30] There are exceptions for applicants with changed circumstances that materially affect their eligibility for asylum, applicants with extraordinary circumstances relating to the delay in filing an application, and unaccompanied children. See INA §208(a)(2)(B).

[31] INA §208(b)(2)(A)(vi); 8 U.S.C. §1158 (b)(2)(A)(vi). For more information, see CRS Legal Sidebar LSB10815, *An Overview of the Statutory Bars to Asylum: Limitations on Applying for Asylum (Part One)* and CRS Legal Sidebar LSB10816, *An Overview of the Statutory Bars to Asylum: Limitations on Granting Asylum (Part Two)*.

In April 2025, EOIR published guidance in a policy memorandum stating that adjudicators may pretermit, without a hearing, asylum applications for aliens who "[fail] to set forth prima facie eligibility for relief," also described as "legally deficient asylum applications."[32] The memorandum suggests such action as a method of efficient docket management, stating that adjudicators "should take all appropriate action to immediately resolve cases on their dockets that do not have viable legal paths for relief or protection from removal."[33]

Individuals who are ineligible for asylum generally may pursue withholding of removal under the INA, which prohibits the removal of an individual to a country where that person's life or freedom would be threatened based on a protected ground.[34] Some individuals are ineligible for both asylum and withholding of removal because they do not qualify for protection under one of the protected grounds or because they are subject to other statutory bars. In such cases, applicants may seek protection under the United Nations Convention Against Torture (CAT), an international treaty provision that protects individuals from return to countries where it is more likely than not that they would be tortured.[35] Withholding of removal under the INA and CAT allow possible removal to a third country; unlike asylum, these forms of protection do not provide a path to LPR status. Those granted withholding of removal and CAT protection may apply for employment authorization.

Immigration courts also adjudicate asylum applications for individuals in proceeding types other than removal proceedings. Crewmembers, stowaways, and those who have entered under the Visa Waiver Program[36] are ineligible for removal proceedings and may have their applications adjudicated during *asylum-only proceedings*.[37] Individuals with a reinstated order of removal or expedited removal order based on an aggravated felony conviction may apply for asylum during *withholding-only proceedings*.[38]

Restrictions on Asylum Eligibility During the Biden Administration and Second Trump Administration

In recent years, the Biden Administration and the second Trump Administration[39] have implemented restrictions on asylum eligibility in response to high levels of enforcement encounters at the Southwest border. During the Biden Administration, in May 2023 DHS and EOIR issued a final rule ("Circumvention of Lawful Pathways") that created a "rebuttable presumption of ineligibility" for asylum. The rule applied to applicants arriving at the Southwest

[32] Sirce E. Owen, Acting Director, EOIR, "Pretermission of Legally Insufficient Applicants for Asylum," PM 25-28, April 11, 2025.

[33] A practice advisory published by the National Immigration Project and Center for Gender and Refugee Studies reports varied outcomes associated with the memorandum, as reported by immigration court practitioners, including judges advising counsel that the application is deficient and requesting them to add information in some cases and ordering respondents removed in others. National Immigration Project and Center for Gender and Refugee Studies, "Practice Advisory: Fighting for a Day in Court: Understanding and Responding to Pretermission of Asylum Applications," updated August 27, 2025.

[34] INA §241(b)(3); 8 U.S.C. §1231(b)(3).

[35] 8 C.F.R. §208.16; 8 C.F.R. §208.18.

[36] For more information, see CRS Report RL32221, *Visa Waiver Program*.

[37] 8 C.F.R. §208.2.

[38] EOIR, Immigration Court Practice Manual, Chapter 7.4, "Limited Proceedings." For more information, see CRS In Focus IF11736, *Reinstatement of Removal Orders: An Introduction*.

[39] This report covers restrictions implemented under the second Trump Administration only. For information about asylum restrictions during the first Trump Administration, see archived CRS Legal Sidebar LSB10337, *Asylum Bar for Migrants Who Reach the Southern Border through Third Countries: Issues and Ongoing Litigation*.

land border or adjacent coastal borders without valid documents after transiting through another country[40] if they did not seek asylum in that third country or avail themselves of certain lawful pathways to enter the United States, such as immigration parole programs available at that time to certain nationals.[41] Unaccompanied children were exempt from the presumption. The rule applied to those who entered the United States between May 11, 2023, and May 11, 2025, and was applicable in affirmative and defensive asylum merits adjudications and in credible fear determinations.[42]

In June 2024, the Biden Administration issued a proclamation that "suspended and limited" the entry of certain migrants at the southern border. DHS and EOIR[43] published an accompanying interim final rule ("Securing the Border") that restricted asylum eligibility for those subject to the proclamation during "emergency border circumstances."[44] The proclamation did not apply to unaccompanied children, noncitizen U.S. nationals, lawful permanent residents, victims of a severe form of trafficking in persons, noncitizens with valid visas or lawful permission to enter, or noncitizens who arrive at a port of entry for a prescheduled appointment.[45] DHS and EOIR finalized a related rule in October 2024. Individuals subject to the rule are ineligible for asylum absent "exceptionally compelling circumstances." Those deemed ineligible for asylum were given a negative credible fear screening and could be considered only for withholding of removal and CAT protection.

The second Trump Administration appears to have kept this rule in effect while also implementing new restrictions on asylum.[46] In January 2025, the Trump Administration issued a presidential proclamation, "Guaranteeing the States Protection Against Invasion," which further restricted eligibility for asylum for migrants encountered between ports of entry at the Southwest border beginning January 20, 2025.[47] Under the proclamation, "aliens engaged in the invasion across the Southern border of the United States" may not apply for asylum until the President "issue[s] a finding that the invasion at the southern border has ceased." In addition, the proclamation states that "any alien who fails, before entering the United States, to provide Federal officials with sufficient medical information and reliable criminal history and background information" is ineligible to apply for asylum. Unlike "Securing the Border," the "Guaranteeing the States Protection Against Invasion" proclamation does not provide for exceptions.[48] Aliens subject to the proclamation may be screened for CAT protection.[49]

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[40] Other than the applicant's country of citizenship, nationality, or, if stateless, last residence.

[41] At the time, special parole processes were available for Cubans, Haitians, Nicaraguans, and Venezuelans. For more information, see CRS Report R46570, *Immigration Parole*.

[42] DHS and EOIR, "Circumvention of Lawful Pathways," 88 *Federal Register* 31314-31452, May 16, 2024.

[43] Proclamation 10773, "Securing the Border," 89 *Federal Register* 48487-48493, June 7, 2024.

[44] DHS and EOIR, "Securing the Border," 89 *Federal Register* 48710-48772, June 7, 2024.

[45] This refers to appointments under the former CBP One system. For more information, see CRS In Focus IF13030, *The CBP Home Mobile Application and "Self-Departure"*.

[46] The Trump Administration has not rescinded "Securing the Border" and continues to classify enforcement encounters under the "Securing the Border" label. See CBP, "Custody and Transfer Statistics," https://www.cbp.gov/newsroom/stats/custody-and-transfer-statistics.

[47] Proclamation 10888, "Guaranteeing the States Protection Against Invasion," 90 *Federal Register* 8333-8336, January 29, 2025.

[48] Policy guidance issued by U.S. Border Patrol indicates that unaccompanied children covered by the Trafficking Victims Protection Reauthorization Act of 2008 are not subject to the proclamation. Information obtained from a court filing in *Refugee and Immigrant Center for Education and Legal Services v. Noem* (1:25-cv-00306), email from U.S. Border Patrol Headquarters to Southwest Border Sectors, February 4, 2025.

[49] Information obtained from a court filing in *Refugee and Immigrant Center for Education and Legal Services v. Noem*

(continued...)

Selected Trends

Case Receipts and Pending Cases

Immigration courts adjudicate asylum applications first filed as a defense against removal (*defensive*) as well as applications that were first filed with USCIS and subsequently referred to EOIR (*affirmative*). The annual number of asylum applications received by EOIR has generally increased since FY2015, reaching then-record levels each year from FY2017 to FY2019. Asylum applications declined slightly in FY2020 and more steeply in FY2021 reflecting circumstances of the COVID-19 pandemic.[50] Each year from FY2022 through FY2024, EOIR received the largest annual numbers of asylum applications compared to any preceding year on record.[51] Defensive asylum applications received by the courts more than doubled between FY2022 (242,921) and FY2023 (499,722) and more than tripled from FY2022 to FY2024, when 897,633 defensive asylum applications were filed with immigration courts (**Figure 1**). In FY2025, EOIR received approximately 831,000 defensive applications. This increase in applications is associated with high levels of enforcement encounters at the Southwest border in recent years, including among migrants seeking asylum who were placed into removal proceedings.[52]

The defensive proportion of EOIR's asylum application caseload has grown substantially. With the exception of one year (FY2007), from FY2000 to FY2012 EOIR received more affirmative referrals than defensive applications each year. This ratio flipped beginning in FY2013 and has continued each year since. In FY2025, defensive asylum applications represented 95% of applications received by EOIR.

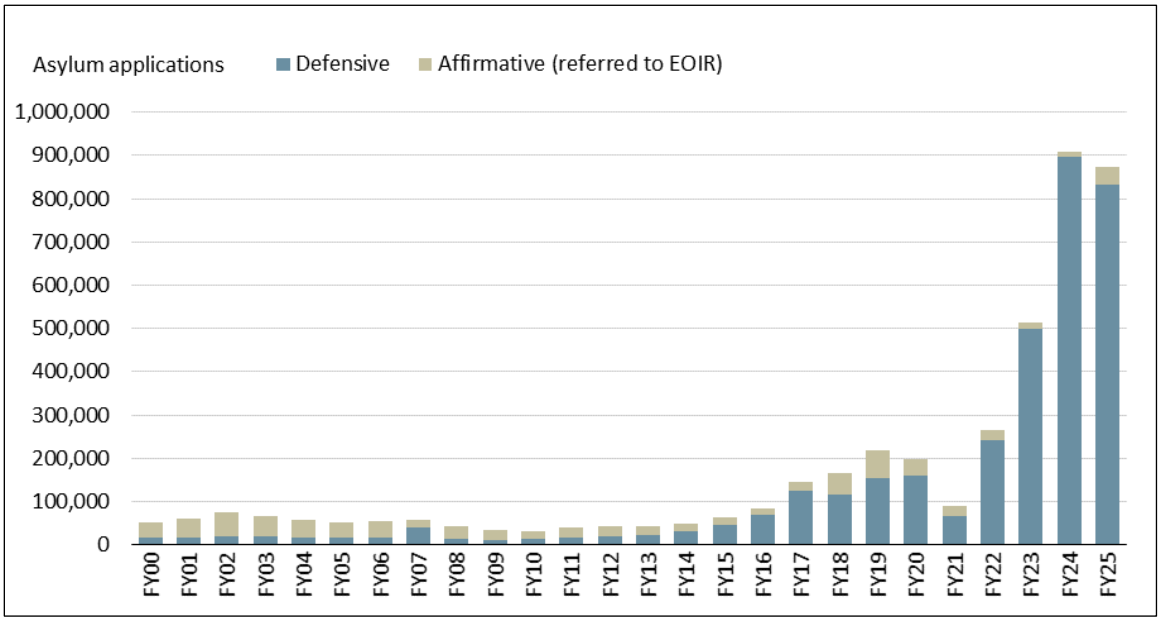
(1:25-cv-00306), email from U.S. Border Patrol Headquarters to Southwest Border Sectors, February 4, 2025. The document does not address eligibility for screening for withholding of removal under the INA.

[50] In FY2021, nearly two-thirds (63%) of migrant encounters with the U.S. Border Patrol resulted in expulsions under the Title 42 public health authority, which does not allow a process to apply for asylum. See archived CRS Report R47343, *U.S. Border Patrol Apprehensions and Title 42 Expulsions at the Southwest Border: Fact Sheet*.

[51] The earliest publicly available data goes back to 1996. EOIR, *Statistical Yearbook*, various years, and Adjudication Statistics, July 2025. Data disaggregating defensive filings and affirmative referrals are available since FY2000.

[52] For enforcement encounters data since FY2022, see U.S. Customs and Border Protection, Nationwide Encounters, https://www.cbp.gov/newsroom/stats/nationwide-encounters.

Figure 1. Defensive and Affirmative Applications Filed, FY2000-FY2025

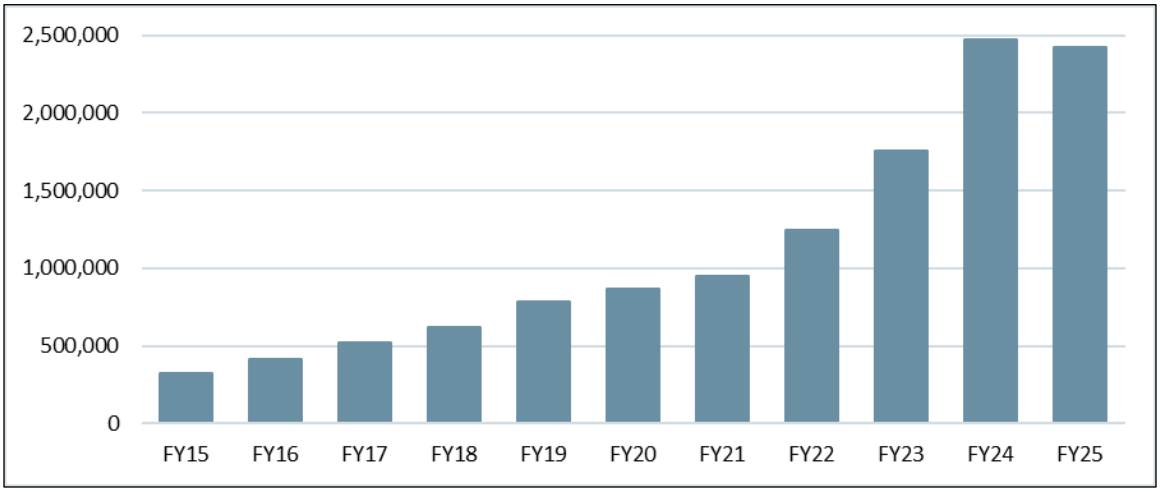


Source: CRS compilation of EOIR, Adjudication Statistics and Statistics Yearbooks, multiple years.

Notes: *Defensive* cases are those filed with an immigration court. *Affirmative* cases are those that originated with USCIS and were subsequently referred to EOIR.

The high volume of asylum applications filed relative to EOIR's adjudicatory capacity has led to a large number of pending cases (backlog), which is part of the broader backlog of removal proceedings (approximately 3.8 million). EOIR had 2,424,061 pending asylum applications as of the end of FY2025, down slightly from the end of FY2024 (2,472,766) (**Figure 2**).

Figure 2. Pending Asylum Applications, FY2015-FY2025



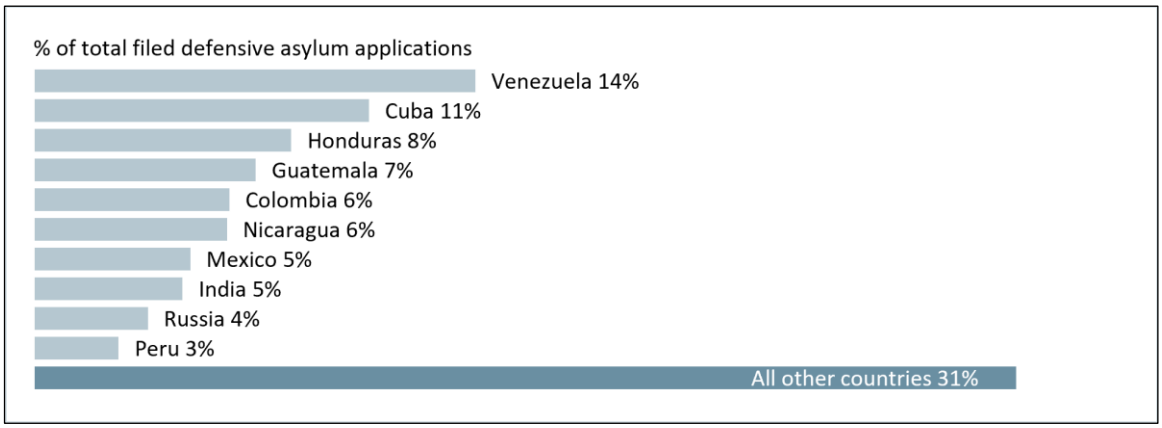
Source: EOIR, "Total Asylum Applications," Adjudication Statistics, November 18, 2025.

Notes: Includes defensive and affirmative asylum applications.

From FY2021-FY2023, more than half (58%) of asylum applications were filed by nationals of Venezuela, Cuba, Honduras, Guatemala, Colombia, Nicaragua, and Mexico (**Figure 3**).

Figure 3. Defensive Asylum Applications Filed by Country of Origin, FY2021-FY2023

(based on 838,490 total applications)



Source: Department of Homeland Security, Office of Homeland Security Statistics, *Asylees: 2023,* Table 1c.

Asylum Outcomes in Immigration Courts

EOIR publishes data on asylum outcomes that include both defensive asylum applications and affirmative asylum applications referred by USCIS. Reported outcomes include total annual numbers in the following categories: grants, denials, abandonments, not adjudicated, withdrawn, and administrative closure. CRS calculated outcome rates based on the sum total of outcomes in each fiscal year (**Table 1**). Abandonments, not adjudicated, and withdrawn are collapsed into an "Other" category in the table.

Since FY2015, the annual asylum grant rate has ranged from 9.9% (FY2025) to 20.7% (FY2018), and the denial rate has ranged from 14.3% (FY2024) to 54.5% (FY2020). The rates of administrative closures fluctuated during this period, corresponding with shifting agency guidance for this docket management tool under different Administrations.[53]

Since FY2021, the most common outcome has fallen in the "Other" category. This outcome includes terminated and dismissed proceedings, which can occur, for example, because a respondent filed a motion to terminate the proceedings based on substantive or procedural grounds, DHS moved to dismiss charges against the respondent, or proceedings were dismissed by the IJ (e.g., because DHS failed to file the NTA in immigration court).[54]

Table 1. Asylum Outcomes, FY2015-FY2025

Fiscal Year	Grant Rate	Denial Rate	Administrative Closure Rate	Other Rate	Total Outcomes
2015	18.7%	20.3%	35.6%	25.3%	43,182
2016	15.8%	21.4%	39.4%	23.4%	54,712

[53] For more information, see the "Docket Management and Administrative Closure" section in CRS Report R47077, *U.S. Immigration Courts and the Pending Cases Backlog*.

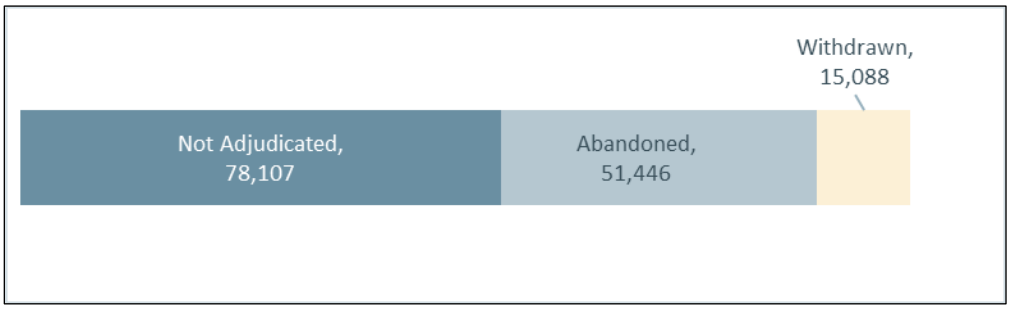
[54] In some cases, DHS may choose to dismiss charges against a respondent whom they do not consider a priority for enforcement. For more information, see CRS Legal Sidebar LSB10578, *The Biden Administration's Immigration Enforcement Priorities: Background and Legal Considerations*. For more information on DHS failures to file NTAs in immigration court, see archived CRS Insight IN12046, *Migrant Arrivals at the Southwest Border: Challenges for Immigration Courts*.

Fiscal Year	Grant Rate	Denial Rate	Administrative Closure Rate	Other Rate	Total Outcomes
2017	19.7%	32.8%	20.3%	27.2%	53,544
2018	20.7%	41.7%	3.3%	34.3%	63,474
2019	20.6%	49.5%	0.1%	29.7%	91,436
2020	19.1%	54.5%	0.6%	25.8%	76,130
2021	16.1%	30.6%	6.4%	47.0%	46,114
2022	14.2%	16.7%	12.8%	56.3%	158,608
2023	14.4%	15.6%	9.0%	61.0%	222,224
2024	12.0%	14.3%	7.7%	66.1%	270,174
2025	9.9%	30.8%	5.2%	54.1%	267,284

Source: CRS analysis of EOIR, "Asylum Decisions," Adjudication Statistics, November 18, 2025.

Notes: "Grant Rate," "Denial Rate," and "Administrative Closure Rate" are each calculated as a percentage of the total outcomes for each fiscal year. "Other Rate" includes applications that were abandoned, withdrawn, and otherwise not adjudicated. FY2025 includes first three quarters only.

Figure 4. "Other" Outcomes in FY2025



Source: EOIR, "Asylum Decisions," Adjudication Statistics, July 31, 2025.

In FY2025, 54.1% of case outcomes were "Other" outcomes, the highest rate during the period examined. About 54% of those were applications coded "not adjudicated" (**Figure 4**), which likely includes cases that were dismissed or terminated. The consequences for a respondent whose application is not adjudicated may vary. In circumstances in which a case is dismissed or terminated, applicants may be able to remain in the United States; for example, when DHS dismisses cases not deemed a priority as a form of prosecutorial discretion. In other instances, individuals with dismissed cases may be processed for removal by other means. As described previously, in recent months there have been reports of dismissed removal proceedings preceding respondents' placement into expedited removal. "Other" outcomes also include cases in which the respondent has withdrawn his or her application for asylum or failed to abide by the deadlines set by the IJ and may be ordered removed.

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