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## Over 63,000 DHS Cases Thrown Out of Immigration Court This Year Because No NTA Was Filed

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As of the end of September 2022, Immigration Court judges dismissed a total of 63,586 cases because Department of Homeland Security officials, chiefly Border Patrol agents, are not filing the actual “Notice to Appear” (NTA) with the Immigration Court. Without a filed NTA, the case cannot proceed. This means that one out of every six Court cases were thrown out for this reason this past fiscal year.

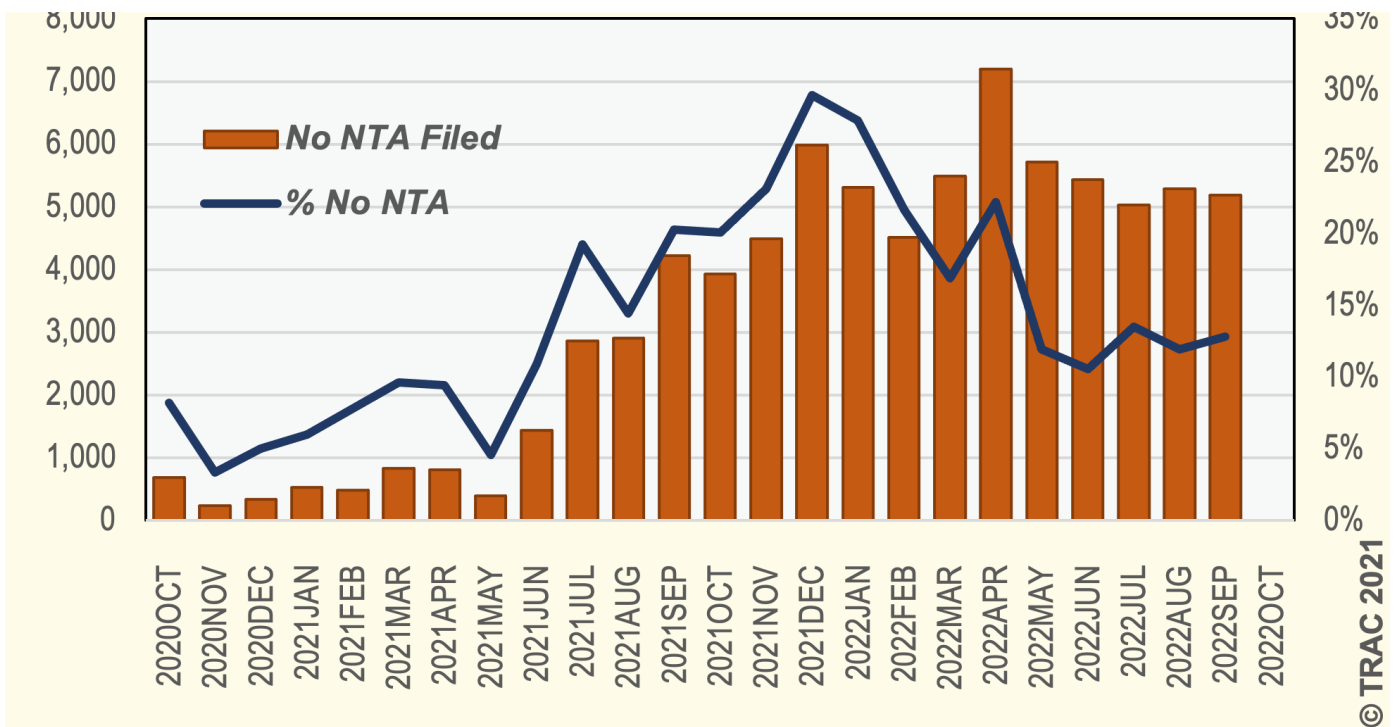
As [TRAC earlier reported](#), this failure to file a NTA was rare until Border Patrol agents were given the authority to use the Immigration Court’s Interactive Scheduling System (ISS). Using ISS, the agents can directly schedule the initial hearing (i.e. a master calendar hearing) at the Immigration Court. Supposedly, the actual NTA is created at the same time, and a copy given to the asylum seeker or other noncitizen with the scheduled hearing location and time they are to show up in Court noted on the NTA.

Thus, the process only requires that CBP actually follow up with the ministerial task of seeing that the Court also receives a copy of the NTA. With the implementation of the Court’s ECAS system of e-filing, this should have made the process quick and straightforward. But this hasn’t occurred for many cases as the latest case-by-case Court records show. These data were obtained by the Transactional Records Access Clearinghouse (TRAC) at Syracuse University through a series of Freedom of Information (FOIA) requests, and then analyzed for this report by TRAC.

### Is The Situation Improving?

The sheer number of these cases each month has not shown signs of falling. See Figure 1. The best that can be said is that as the volume of new Court cases has grown, the number of cases dismissed because no NTA was filed has not grown. Thus, the percentage of case dismissals has fallen.

## DHS Fails To File NTA - Case Dismissed



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**Figure 1. Immigration Court Cases Dismissed Because DHS Failed to File a "Notice to Appear" to Initiate Court Proceedings, FY 2021 - FY 2022**

These dismissals continue to represent a sizable number of cases. In September 2022 there were roughly 5,200 cases thrown out by judges, representing 13 percent of all cases filed that month – roughly the same as the monthly average this year. While lower than their peak of 7,200 in April 2022, these dismissals remain much higher than during the beginning months of this fiscal year. This suggests a serious disconnect continues to exist between CBP agents entering new cases and scheduling hearings through the Court’s ISS system, and other CBP personnel responsible for submitting a copy of the NTA to the Court.

This is exceedingly wasteful of the Court’s time. It is also problematic for the immigrant (and possibly their attorney) if they show up at hearings only to have the case dismissed by the Immigration Judge because the case hasn’t actually been filed with the Court.

What happens next? Does DHS correct its failure by filing a newly issued NTA, or seek to reopen that old case and belatedly submit the original NTA? Or is immigrant left in limbo? The public has also been left in the dark as to what ultimately happens to these cases and the immigrant involved. The DHS needs to provide a public accounting.

*TRAC is a nonpartisan, nonprofit data research center affiliated with the [Newhouse School of Public Communications](#) and the [Whitman School of Management](#), both at [Syracuse University](#). For more information, to subscribe, or to donate, contact [trac@syr.edu](mailto:trac@syr.edu) or call 315-443-3563.*



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