

CANADA / JUDGMENT

Equagoo v. Canada (Public Safety and Emergency Preparedness)

2026 FC 602

COURT

Federal Court

DECIDED

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Equagoo v. Canada (Public Safety and Emergency Preparedness) Court (s) Database Federal Court Decisions Date 2026-05-05 Neutral citation 2026 FC 602 File numbers IMM-21384-24 Decision Content Date: 20260505 Docket: IMM-21384-24 Citation: 2026 FC 602 Ottawa, Ontario, May 5, 2026 PRESENT: The Honourable Mr. Justice Ahmed BETWEEN: KOFI SENA EQUAGOO Applicant and THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS Respondent JUDGMENT AND REASONS I. Overview [1] The Applicant, who is known as Kofi Sena Equagoo, seeks judicial review of a decision made by an Inland Enforcement Officer (the “Officer”) of the Canada Border Services Agency (“CBSA”), dated November 13, 2024, refusing to defer the Applicant’s removal from Canada to Ghana.

[2] The Applicant submits that the Officer’s decision disregards his key arguments.

[3] For the following reasons, I disagree. The Officer’s reasoning demonstrated sensitivity to the Applicant’s context and the applicable law restraining their discretion. II. Background A. The Applicant [4] On February 13, 2017, the Applicant claimed refugee status based on an allegation that he was a bisexual man who faced persecution in Ghana. In a decision dated July 18, 2017, the Refugee Protection Division (“RPD”) granted the Applicant refugee protection.

[5] In December 2020, the Minister of Public Safety and Emergency Preparedness (the “Minister”) made an application to vacate the Applicant’s refugee protection status based on identity concerns.

[6] In a decision dated September 23, 2022, the RPD allowed the Minister’s application and vacated the Applicant’s refugee protection. The Minister had provided evidence showing that the Applicant had the same identity as an individual who had entered Canada as early as 2011. According to the record before me, the RPD found that the Applicant’s misrepresented identity undermined “all of the statements” he made in support of his claim for refugee protection in Canada.

- [7] The Applicant applied for judicial review of this decision, but, in February 2023, his application was dismissed.
- [8] In January 2024, the Applicant applied for a pre-removal risk assessment (“PRRA”). On August 21, 2024, a senior immigration officer refused the Applicant’s PRRA application because they did not find any risks or evidence of risks that were not previously analyzed by the RPD.
- [9] On October 3, 2024, the Applicant was notified of the negative PRRA determination.
- [10] On October 10, 2024, the Applicant made a spousal sponsorship application, relying on his marriage to a Canadian citizen in 2021.
- [11] On October 22, 2024, the Applicant received a direction to report for removal, which was scheduled to take place on November 17, 2024. On November 10, 2024, the Applicant requested a deferral of his removal based on the alleged risks he faces in Ghana, his ongoing spousal sponsorship application, and his mental health concerns amongst other hardships.
- [12] On November 13, 2024, the Officer refused the Applicant’s request for a deferral of removal. However, shortly before his removal, the Applicant applied for and received a stay of removal from this Court. B. The Decision Under Review [13] The Officer determined that it was not within their discretion to grant the Applicant a deferral of removal based on the facts before them.
- [14] The Officer first summarized the Applicant’s immigration history within Canada, noting in particular that the PRRA determination found that there was insufficient evidence to overcome the findings of the RPD and address the issues at the core of his claim for refugee protection.
- [15] The Officer then analyzed the status of the Applicant’s spousal sponsorship application. They noted the public policies encouraging temporary deferral of removal for eligible individuals who are applying for spousal sponsorship. However, the Officer determined that, because the Applicant had applied for spousal sponsorship a week after he had received a negative PRRA determination, despite being eligible for more than three years, the policy for an administrative deferral of removal did not apply.
- [16] The Officer further assessed the Applicant’s alleged mental health concerns presented within a letter from a psychotherapist. The Officer determined that the concerns presented did not have any estimated timeline for treatment and thus they amounted to a request for an indefinite stay of removal, which was beyond the Officer’s authority. The Officer also noted that the Applicant had not established that treatment was unavailable if he were removed to Ghana.
- [17] Finally, the Officer examined other alleged hardships that the Applicant may face upon removal, including financial and relationship distress. Noting the letters from the Applicant and his wife, the Officer determined that the hardships the Applicant is likely to face may

well be difficult but do not amount to a basis on which to defer the Applicant's removal. III. Issue and Standard of Review [18] The sole issue in this judicial review is whether the Officer's decision is reasonable (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 ("Vavilov") at para 16).

- [19] Reasonableness is a deferential, but robust, standard of review (Vavilov at paras 12-13). The reviewing court must determine whether the decision under review, including both its rationale and outcome, is transparent, intelligible, and justified (Vavilov at para 15). A reasonable decision is one that is based on an internally coherent and rational chain of analysis and that is justified in relation to the facts and law that constrain the decision-maker (Vavilov at para 85). Whether a decision is reasonable depends on the relevant administrative setting, the record before the decision-maker, and the impact of the decision on those affected by its consequences (Vavilov at paras 88-90, 94, 133-135).
- [20] For a decision to be unreasonable, the applicant must establish the decision contains flaws that are sufficiently central or significant (Vavilov at para 100). Not all errors or concerns about a decision will warrant intervention. A reviewing court must refrain from reweighing evidence before the decision-maker, and it should not interfere with factual findings absent exceptional circumstances (Vavilov at para 125). Flaws or shortcomings must be more than superficial or peripheral to the merits of the decision, or a "minor misstep" (Vavilov at para 100).
- [21] In the context of a decision on the deferral of removal, I note that CBSA officers are particularly limited in their discretion. CBSA officers cannot defer removal to an indeterminate date and their discretion focuses on imminent or short-term risks of death, extreme sanction or inhumane treatment; this means that applicants' outstanding applications for continued residence in Canada are not a bar to removal absent special circumstances (*Toney v Canada (Public Safety and Emergency Preparedness)*, 2019 FC 1018 at para 50; *Baron v Canada (Minister of Public Safety and Emergency Preparedness)*, 2009 FCA 81 ("Baron") at paras 49-51). IV. Analysis [22] The Applicant submits that the Officer failed to acknowledge that he was found credible in terms of his sexuality and the consequential risks he faces in Ghana. The Applicant further maintains that the Officer erred in assessing the professional diagnosis of depression and anxiety referenced in the letter submitted by a psychotherapist. At the hearing, the Applicant further submitted that the Officer should have more clearly considered the Applicant's pending spousal sponsorship application given that the regulatory step would have required only a short-term delay in removal in order to avoid an unnecessary separation of the spouses. The Applicant also submits that, because this Court granted a stay of his removal, there is strong merit to his claims.
- [23] I do not find any basis in the record to support the Applicant's submissions. Rather, I agree with the Respondent's position that the Applicant's arguments amount to an impermissible request to reweigh the evidence before the Officer (Vavilov at para 125).

- [24] Regarding the Applicant's alleged risk in Ghana, contrary to the Applicant's submissions, the Officer did not "fail to acknowledge" the Applicant's credibility with regards to his sexuality. Indeed, it appears that both the Applicant and his counsel have a tendency to mischaracterize the facts. The identity of the Applicant—the very foundation of his refugee claim—was at the centre of the RPD's determination to vacate his refugee status. The RPD decision is quoted in the PRRA decision as stating that their negative credibility determination undermined all of the Applicant's protection claims. There is no error in the Officer's decision to decline to address the Applicant's credibility regarding his sexuality.
- [25] Despite this negative credibility finding, the Officer dutifully reviewed the history of the Applicant's refugee protection and noted that the risks the Applicant alleged in his deferral request had already been assessed twice and refused in both instances. It is entirely consistent with this Court's practices for the Officer to thus conclude that these risks could not form the basis to support a deferral of removal. This Court has previously held that a deferral of a removal is not a second attempt to secure a positive PRRA and the Officer only needs to assess new risks or new evidence of the risks arising after the PRRA determination (*Shpati v Canada (Public Safety and Emergency Preparedness)*, 2011 FCA 286 at para 45; *Gutierrez v Canada (Public Safety and Emergency Preparedness)*, 2025 CanLII 117825 at para 18 (FC)). I agree with the Respondent that the Officer reasonably determined that, given the relatively recent negative PRRA determination and the lack of any new evidence before the Officer, there were no new risks to be assessed.
- [26] I further agree with the Respondent that the Applicant's submissions regarding the Officer's assessment of his mental health concerns and other hardships amount to mere assertions that the decision is unreasonable. The Applicant's bald assertions on this point are entirely insufficient to meet the Applicant's onus of proof (*Vavilov* at para 100). I note that the Officer made a detailed account of the Applicant's alleged mental health concerns and hardships. Relying on the documents that the Applicant provided, the Officer determined that his mental health concerns were not time limited and could continue to be addressed if he were removed. The Officer also found that the Applicant's other hardships did not constitute an imminent risk or threat to the Applicant that would warrant a deferral of removal. In reaching this conclusion, the Officer cited numerous relevant cases from this Court to support their finding that the Applicant's mental health concerns and hardships were inherent consequences of his removal and thus did not constitute grounds for deferral (*Ryabinin v Canada (Public Safety and Emergency Preparedness)*, 2016 FC 1118 at paras 8-11; *Mahuroof v Canada (Public Safety and Emergency Preparedness)*, 2019 CanLII 36998 at para 23 (FC)). I see no reason to interfere with the Officer's reasoning on this point.
- [27] At the hearing, Applicant's counsel submitted that the spousal sponsorship application was processing at the time of the request for deferral and that the Officer should have aligned their determination with the CBSA's past practice of granting a short-term deferral of removal to avoid unnecessary hardship. However, the CBSA Officer directly addressed these submissions. They analyzed the policy on deferring removals due to pending spousal

applications and determined that the Applicant was not eligible. The Officer specifically noted that the Applicant was married in 2021 but did not apply for a spousal sponsorship until a week after the negative PRRA determination was communicated to him in 2024. The Officer also found that the Applicant's delay in submitting a spousal sponsorship application was not due to a lack of financial means. Rather the record before the Officer showed the Applicant had purchased a home in 2025. In my view, this analysis is reasonable. It upholds the integrity of the immigration system, preventing untimely spousal sponsorship applications from improperly delaying removals and creating a large loophole in the immigration system.

- [28] On a final note, I wish to emphasize my respect for my colleague Justice Heneghan and her decision to stay the Applicant's removal pending the disposition of this application for judicial review. Nevertheless, there is no *res judicata* preventing the present judgement; I am faced with an entirely different legal context. In a motion for a stay made from an officer's refusal to defer removal, the judge determines whether the Applicant has presented "quite a strong case" (Baron at para 67). But this legal threshold differs from the standard applicable in a final judicial review (*Canada (Public Safety and Emergency Preparedness) v Smith*, 2019 FC 1454 at para 51; *A v Canada (Public Safety and Emergency Preparedness)*, 2021 CanLII 101072 (FC)). Indeed, this Court generally refrains from making detailed comments on the merits of an application for leave and judicial review in a motion for a stay of removal due to the urgent nature of a motion to stay and to allow the judge on the merits to decide any contested factual and legal issues (*Farkas v Canada (Public Safety and Emergency Preparedness)*, 2018 FC 658 at para 17; *Calin v Canada (Citizenship and Immigration)*, 2018 FC 707 at para 21). Although my colleague found a stay to have been warranted at a preliminary stage, upon my review of the full record, I have come to a different conclusion. V. Conclusion [29] For these reasons, the Applicant has failed to meet his burden to show any reason for this Court to intervene in the Officer's decision. The Applicant's submissions seek to usurp the decision-making role of the Officer through requesting that this Court reweigh the evidence on the record. This Court cannot accommodate such a request (*Vavilov* at para 125). Accordingly, I dismiss this application for judicial review.
- [30] The parties did not raise any question for certification, and I agree that none arises. JUDGMENT in IMM-21384-24 THIS COURT'S JUDGMENT is that: This application for judicial review is dismissed. There is no question for certification. "Shirzad A." Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-21384-24 STYLE OF CAUSE: KOFI SENA EQUAGOO v THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS PLACE OF HEARING: Toronto, Ontario DATE OF HEARING: April 16, 2026 JUDGMENT and reasons: AHMED J. DATED: May 5, 2026 APPEARANCES: Shokur Fahd For The Applicant Joseph Granton For The Respondent SOLICITORS OF RECORD: Shokur Fahd Barrister and Solicitor Toronto, Ontario For The Applicant Attorney General of Canada Toronto, Ontario For The Respondent

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