

CANADA / JUDGMENT

Gede v. Canada (Citizenship and Immigration)

2026 FC 576

COURT

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Gede v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-04-30 Neutral citation 2026 FC 576 File numbers IMM-5770-24 Decision Content Date: 20260430 Docket: IMM-5770-24 Citation: 2026 FC 576 Toronto, Ontario, April 30, 2026 PRESENT: The Honourable Mr. Justice A. Grant BETWEEN: SAMSON ROBELE GEDE Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS I. OVERVIEW [1] The Applicant, Mr. Samson Robele Gede, is seeking judicial review of a decision by a Migration Officer from Immigration, Refugees and Citizenship Canada [IRCC] to deny his application for permanent residence in Canada under the Convention refugee abroad class or humanitarian-protected persons abroad class.

- [2] For the reasons that follow, this application for judicial review will be granted. II. BACKGROUND A. Facts [3] Mr. Gede is a 42-year-old citizen of Ethiopia. He fled Ethiopia in May 2006 after being arrested and tortured for supporting an opposition political party.
- [4] Mr. Gede made his way to South Africa in July 2006, and eventually he was formally recognized as a refugee pursuant to Section 24 of the South African Refugees Act. His refugee status document also states as follows: “The holder of this certificate is entitled to Socio-economic rights as provided for in Chapter 2 of the Constitution including work and study in RSA.”
- [5] Several years later, in 2020, Mr. Gede applied for Canadian permanent residence as a member of the Convention refugee abroad class or the humanitarian-protected persons abroad class. In his application, he explained that, on a practical level at least, he cannot work, study, or travel freely in South Africa because of crime and xenophobia. In particular, he claimed that he could not work in “Governmental” or “Private” institutions without a South African ID.
- [6] Mr. Gede was interviewed by an IRCC officer in Pretoria, South Africa on February 28, 2024. Following a 15-minute interview, the officer concluded that because Mr. Gede had refugee status, he had a durable solution in South Africa per paragraph 139(2)(d)(ii) of the Immigration and Refugee Protection Regulations [IRPR]. As a result, the officer found that

Mr. Gede did not meet the definition of a Convention refugee abroad or a humanitarian-protected person abroad. This refusal is the decision under review. III. ISSUES AND STANDARD OF REVIEW [7] The Applicant alleges that the decision under review was both procedurally unfair and unreasonable.

- [8] Mr. Gede submits that the decision was tainted by procedural unfairness because he was denied a meaningful opportunity to respond to the officer's opinion that he had a durable solution in South Africa.
- [9] On the substance of the officer's reasons, Mr. Gede submits that the decision was unreasonable because the officer failed to consider his circumstances and misapprehended key evidence, including the nature of his refugee status in South Africa. He also submits that the officer failed to properly consider readily available country condition evidence about the treatment of refugees in South Africa.
- [10] The standard of review for issues of procedural fairness is one that is "akin to correctness." The reviewing court must ask whether the procedure was fair having regard to all the circumstances: *Canadian Pacific Railway Company v Canada (Attorney General)*, 2018 FCA 69 at para 54.
- [11] The standard of review for the substance of the officer's decision is reasonableness: *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 23 [Vavilov]. In conducting a reasonableness review, a court "must consider the outcome of the administrative decision in light of its underlying rationale in order to ensure that the decision as a whole is transparent, intelligible and justified" (Vavilov at para 15). IV. ANALYSIS (a) Procedural Fairness [12] Mr. Gede's procedural fairness argument has two components: first, he argues that the officer failed to advise him that the decision would be based on a durable solution and failed to provide him with a fair opportunity to respond to the officer's concerns about this issue.
- [13] Second, Mr. Gede argues that the decision is based in part on extrinsic evidence, namely the actions of other refugee claimants that had appeared before the officer. In order to rely on such information, the Applicant argues, the officer was required to disclose it to him and provide him an opportunity to respond.
- [14] I am not convinced by the Applicant's arguments in this regard. On the issue of adequate notice, Mr. Gede relies largely on the decision of this Court in *Mazzek v Canada (Citizenship and Immigration)*, 2022 FC 653. However, the facts in *Mazzek* are quite distinct. In that matter, the applicant was a Syrian national, and his wife was a national of both Syria and Armenia. They lived in the United Arab Emirates. The applicant and his wife were interviewed by an officer, and they disclosed that he could not obtain Armenian status through his wife. At the conclusion of the interview, the officer indicated that he would accept their application. Over a year later, however, a new officer wrote to the applicant to disclose a concern that he may have a durable solution in Armenia. In those specific circumstances, Justice Fuhrer found that the notice to the applicant was insufficient and

therefore constituted a breach of procedural fairness.

- [15] This is not the situation here. On the contrary, the officer's notes from the interview with the Applicant suggest that the officer provided clear and detailed notice of the durable solution issue. The officer commenced the interview by explaining that whether Mr. Gede had a durable solution in South Africa would be assessed, and then later in the interview, the officer asked detailed questions on the issue.
- [16] I am similarly unconvinced by the second argument, namely that the officer unfairly relied on the situation of other applicants to reject his case. The Applicant's concern seems to flow from the following passage in the officer's notes: "I am also satisfied that many applicants have voluntarily chosen not to report criminal incidences to local South African Police Services, which can impede their ability to investigate incidents."
- [17] I do not believe that this passage establishes that the officer unfairly relied on extrinsic evidence in rejecting Mr. Gede's application. The statement is a general one, and it merely stands for the self-evident proposition that unreported crimes are challenging to investigate. Whether this statement was relevant on the particular facts of the Applicant's case—or, indeed, whether other generalized statements in the officer's reasons were responsive to the Applicant's evidence—I will consider below. For present purposes, however, I do not agree that the above passage discloses any procedural unfairness.
- (a) Reasonableness [18] Mr. Gede also challenges the reasonableness of the decision under review. This argument is based primarily on the assertion that the officer erred in providing generic reasons for finding that Mr. Gede has a durable solution in South Africa, reasons which focused solely on his formal refugee status, while ignoring his personal circumstances. I agree with these arguments.
- [19] This Court has, with some regularity, considered decisions that turn on the question of whether a country of residence amounts to a durable solution. Many of these cases, like the Applicant's, emanate from South Africa. In some of these decisions, this Court has found that it was reasonable for officers to conclude that refugee status in South Africa amounted to a durable solution: see for example: *Ntakirutimana v Canada* (Citizenship and Immigration), 2016 FC 272 at paras 15-16; *Desalgn v Canada* (Citizenship and Immigration), 2025 FC 704; *Gebreselasse v Canada* (Citizenship and Immigration), 2021 FC 865 at para 43.
- [20] In other cases, however, this Court has found such conclusions to be unreasonable, see for example: *Haile v Canada* (Citizenship and Immigration), 2023 FC 1424 [Haile] at para 26; *Kazadi v Canada* (Citizenship and Immigration), 2025 FC 524 at paras 44, 50; *Mohamud v Canada* (Citizenship and Immigration), 2025 FC 293 at para 13 [Mohamud].
- [21] In my view, the decision under review in this case is more like those that this Court has found to be unreasonable. I say this, in part, because large passages of the decision under review are identical to the reasons in these cases. For example, the officer in this case made the following finding in response to the Applicant's claim that he had been attacked by the

police and subjected to xenophobic treatment: I note that the applicant raised the issue of crime and xenophobia at interview and in the application forms. While I note that crime is significantly more pervasive in South Africa than in Canada, I am not satisfied that the applicant does not have a durable solution as a result of crime. I am satisfied that the applicant could report crimes to the police or request assistance from authorities if they choose to do so. Likewise, I note that xenophobia is an issue in the country. I accept that xenophobia may be a greater risk in South Africa than in Canada. However, I am not satisfied that there is information before me to suggest that xenophobia is such that the applicant does not have a durable solution in South Africa, nor that they do not have rights and privileges (such as employment, education, healthcare, mobility, etc.) as a formally recognized refugee.

- [22] In *Mohamud*, my colleague Justice Sadrehashemi excerpted (at para 11) the following passage from the decision under review in that case: I note that the applicant raised the issue of crime and xenophobia. While I note that crime is significantly more pervasive in South Africa than in Canada, I am not satisfied that the applicant does not have a durable solution as a result of crime. I note that the applicant has indicated reporting incidents of crime to the police; it appears that he has received the assistance of police and authorities when requested in line with duties and obligations of a national police force. I accept that xenophobia may be a greater risk in South Africa than in Canada. However, I am not satisfied that there is information before me to suggest that the level of xenophobia in South Africa, and that the applicant may have been subject to, is such that the applicant does not have a durable solution in South Africa, nor that he does not have rights and privileges (such as employment, education, healthcare, mobility, etc.) as a formally recognized refugee. I note that many of the issues the applicant raised, such as level of crime, are issues faced by South African citizens as well.
- [23] I note that essentially identical findings were also excerpted by my colleague Justice Brown in *Haile* (at para 14).
- [24] The use of “boilerplate” language does not, per se, render a decision unreasonable. Indeed, in high volume administrative law contexts, there may be sound reasons for using consistent language to describe common factual scenarios. As Simon Stern has noted, “The bland, repetitive, and often formulaic cadences of legal writing in general, and judicial writing in particular, can be explained in large part by a commitment to the neutral and consistent application of the law”: Simon Stern, “Copyright Originality and Judicial Originality” (2013) 63:1 UTLJ, as cited in *Cojocar v British Columbia Women’s Hospital and Health Centre*, 2013 SCC 30 at 32.

- [25] The key requirement, however, is that reviewing courts must be able to discern, even on a basic level, that the decision-maker turned their mind to the specific facts of the case: *Safarian v Canada (Citizenship and Immigration)*, 2023 FC 775 at para 3; *Boukhanfra v Canada (Citizenship and Immigration)*, 2019 FC 4 at para 9; *Shaikh v Canada (Citizenship and Immigration)*, 2024 FC 1365 at para 7.
- [26] The question, then, is whether I can discern any individualized assessment of the Applicant's circumstances in the decision under review. I cannot. In his affidavit, the Applicant describes having been rushed through the interview with the officer, and states that some of his answers were cut short. However, even in the officer's notes, it is clear that the Applicant recounted his own experience of violence and xenophobia. For example, he described being attacked and assaulted by police officers in an incident in 2015. Despite being discouraged from filing a police report, the Applicant indicated that he did complain about this incident to the police.
- [27] On its own, this incident may, or may not, have rebutted any presumption that Mr. Gede has a durable solution in South Africa. Yet noticeably absent from the officer's reasons was any acknowledgment of the incident, or anything else the Applicant may have reported about his own experiences in South Africa. In its place was generic language that would equally apply to literally any refugee in South Africa, regardless of their circumstances. The result is that the reasons of the officer do not demonstrate the "responsive justification" discussed by the Supreme Court of Canada in *Vavilov* (at para 133). As noted by Justice Sadrehashemi in *Mohamud* (at para 13): The Officer did not mention Mr. Mohamud's evidence that he faced systemic discrimination, including the inability to rent a home or find stable employment or that he faced a violent, xenophobic attack without effective protection from the police. Like in *Haile*, no negative credibility inferences were made relating to Mr. Mohamud's account. Yet, as in *Haile*, the Officer did not explain how the evidence provided by Mr. Mohamud in his interview was considered in their finding that there was a durable solution in South Africa. The Officer's lack of responsiveness to Mr. Mohamud's evidence on his personal circumstances renders their assessment on this core issue to be unreasonable (*Haile* at paras 26-28; *Anku v Canada (Citizenship and Immigration)*, 2021 FC 125 at paras 30-35).
- [28] For the same reasons, I find the decision in this matter to be unreasonable. As a result, I will allow Mr. Gede's application for judicial review. The parties did not propose a question for certification, and I agree that none arises. JUDGMENT in IMM-5770-24 THIS COURT'S JUDGMENT is that: The application for judicial review is granted; The decision under review is set aside and the matter is sent back to a different decision-maker for redetermination; No serious question of general importance is certified; and There is no order as to costs. "Angus G. Grant" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-5770-24 STYLE OF CAUSE: SAMSON ROBELE GEDE v THE MINISTER OF CITIZENSHIP AND, IMMIGRATION PLACE OF HEARING: Toronto, Ontario DATE OF HEARING: April 20, 2026 JUDGMENT AND REASONS: GRANT J. DATED: April 30, 2026 APPEARANCES: Daniel Kebede For The Applicant Asha Gafar For The Respondent SOLICITORS OF RECORD: Daniel Tilahun

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