

Federal Court



Cour fédérale

Date: 20241004

Docket: IMM-3951-23

Citation: 2024 FC 1570

Ottawa, Ontario, October 4, 2024

PRESENT: Mr. Justice O'Reilly

BETWEEN:

TSEGAYE BEDANE FULASSA

Applicant

and

THE MINISTER OF CITIZENSHIP AND IMMIGRATION

Respondent

JUDGMENT AND REASONS

I. Overview

[1] In 2018, Mr Tsegaye Bedane Fulassa, a citizen of Ethiopia, arrived in Canada and claimed refugee protection on the basis that he feared persecution for his political activities. Both the Refugee Protection Division and the Refugee Appeal Division dismissed his claim, mainly for a lack of credible evidence.

[2] Mr Fulassa then applied for a pre-removal risk assessment (PRRA). The PRRA officer dismissed Mr Fulassa's application because there was no evidence that had not already been

considered in his refugee claim. Mr Fulassa filed an application for leave and judicial review of the PRRA decision but, in June 2024, he was removed from Canada and returned to Ethiopia.

[3] The Minister argues that this application for judicial review has been rendered moot because of Mr Fulassa's removal from Canada. Counsel for Mr Fulassa agrees that this application is moot, but asks that the Court use its discretion to hear and decide the matter anyway.

[4] I cannot find a basis for deciding this moot application – generally, applications for judicial review of PRRA decisions become moot when the applicant is removed from Canada (*Solis Perez v Canada (Citizenship and Immigration)*, 2009 FCA 171 at para 5). And here, there is no longer any adversarial context that would justify deciding the moot application. Therefore, I must dismiss this application for judicial review.

II. Should the Court Decide This Moot Application?

[5] Counsel for Mr Fulassa argues that this application has ongoing significance for Mr Fulassa. The negative PRRA decision could stand in the way of his making a new PRRA application if he returns to Canada. In addition, the negative PRRA could affect his chances of successfully applying for humanitarian and compassionate (H&C) relief in the future.

[6] I find that these are mere speculative possibilities. This is particularly so because Mr Fulassa's present whereabouts are unknown. He has not provided any instructions to his counsel. He has not given any indication that he might return to Canada in the future. These

circumstances distinguish this case from the principal authority on which Mr Fulassa relies:

Boakye v Canada (Citizenship and Immigration), 2018 FC 831. There, Justice Richard Southcott exercised his discretion to decide a moot application for judicial review of a PRRA because there was an ongoing adversarial context with concrete consequences for the parties (at paras 49-50).

That is not the case here.

[7] Therefore, I must conclude that this application is moot and that there is no basis for exercising my discretion to decide it.

III. Conclusion and Disposition

[8] This application for judicial is moot and there are no grounds on which to exercise a discretion to decide it. Therefore, the application for judicial review is dismissed. No question of general importance arises.

JUDGMENT IN IMM-3951-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.
2. No question of general importance is stated.

"James W. O'Reilly"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

DOCKET: IMM-3951-23
STYLE OF CAUSE: TSEGAYE BEDANE FULASSA v. THE MINISTER OF
CITIZENSHIP & IMMIGRATION
PLACE OF HEARING: TORONTO, ONTARIO
DATE OF HEARING: AUGUST 28, 2024
JUDGMENT AND REASONS: O'REILLY J.
DATED: OCTOBER 4, 2024

APPEARANCES:

Liyusew Kidane

FOR THE APPLICANT

Margherita Braccio

FOR THE RESPONDENT

SOLICITORS OF RECORD:

The Law Office of Teklemichael
Ab Sahlemariam
Toronto, Ontario
Attorney General of Canada
Toronto, Ontario

FOR THE APPLICANT

FOR THE RESPONDENT