

Federal Court



Cour fédérale

Date: 20260216

Docket: IMM-13799-25

Citation: 2026 FC 216

Ottawa, Ontario, February 16, 2026

PRESENT: The Honourable Madam Justice Turley

BETWEEN:

**MICHAEL UFOMA OZOH
ABA YAA ADOM OZOH
OGHENYOMA TUMI OZOH**

Applicants

and

**THE MINISTER OF PUBLIC SAFETY AND
EMERGENCY PREPAREDNESS**

Respondent

JUDGMENT AND REASONS

[1] In this motion, the Respondent requests that the Court dismiss the Applicants' application for leave and judicial review of a Canada Border Services Agency [CBSA] officer's decision refusing the Applicants' request for a short-term deferral of their removal from Canada for 62 days (June 27, 2025, to August 27, 2025) so that the Principal Applicant's mental health crisis could be addressed. The Respondent argues that the application is now moot because the period for which the Applicants sought a deferral of removal has since passed. I agree.

[2] Mootness is assessed based on the two-step analysis set out in *Borowski v Canada (Attorney General)*, 1989 CanLII 123 (SCC), [1989] 1 SCR 342 [*Borowski*]. The first step requires an assessment of whether there remains a “live controversy” between the parties “that affects or may affect the rights of the parties”: *Democracy Watch v Canada (Attorney General)*, 2018 FCA 195 at para 10 [*Democracy Watch*].

[3] If there is no longer a live controversy, the second step of the analysis requires the Court to decide whether it should nevertheless exercise its discretion to hear the matter: *Hakizimana v Canada (Public Safety and Emergency Preparedness)*, 2022 FCA 33 at para 11 [*Hakizimana*]. In deciding whether to hear a moot case, three factors guide the Court’s exercise of discretion: (i) the absence or presence of an adversarial context; (ii) the concern for judicial economy; and (iii) the Court’s proper law-making role: *Borowski* at 358–363; *Hakizimana* at para 20; *Democracy Watch* at para 13.

[4] This Court has consistently held that where the events or circumstances that formed the basis of an applicant’s deferral request have passed, the underlying application for leave and judicial review of the decision refusing deferral is moot: *Goitom v Canada (Public Safety and Emergency Preparedness)*, 2026 FC 190 at paras 45–54 [*Goitom*]; *Mackey v Canada (Public Safety and Emergency Preparedness)*, 2026 FC 51 at paras 3–4; *Aina v Canada (Public Safety and Emergency Preparedness)*, 2025 FC 1188 at paras 14–17 [*Aina*]; *Dimikj v Canada (Citizenship and Immigration)*, 2024 FC 2066 at paras 27–34 [*Dimikj*]; *Sosic v Canada (Public Safety and Emergency Preparedness)*, 2022 FC 13 at paras 21–25 [*Sosic*]; *Dwyer v Canada (Public Safety and Emergency Preparedness)*, 2020 FC 919 at paras 24–25; *Forde v Canada (Public Safety and*

Emergency Preparedness), 2018 FC 1029 at paras 47–49; *Adesemowo v Canada (Public Safety and Emergency Preparedness)*, 2018 FC 249 at paras 36–47.

[5] Here, the sole reason for the Applicants’ deferral request was to allow the Principal Applicant time to address his acute short-term mental health needs: Deferral request dated June 10, 2025, Respondent’s Motion Record at 25–31. Given that this time period has long since expired, there is no utility in adjudicating the Applicants’ application for judicial review and determining whether the CBSA officer erred in refusing the deferral request. The Applicants have obtained the relief they sought: *Goitom* at para 51; *Sosic* at para 23. Their application for leave and judicial review is therefore moot.

[6] Furthermore, applying the *Borowski* factors, there is no basis upon which the Court should exercise its discretion to hear the moot application. First, with respect to whether an adversarial context continues to exist, the Court notes that the Applicants did not file any submissions in response to the Respondent’s motion. According to the Principal Applicant’s affidavit filed in support of the underlying application, he applied for permanent residence on humanitarian and compassionate grounds in November 2024. There is no evidence before the Court, however, about the status of that application.

[7] The second factor relating to judicial economy strongly militates against hearing this application on its merits. The Federal Court of Appeal has emphasized the particular significance of this factor: “[m]ootness in judicial reviews has assumed new prominence in light of the recent

encouragement given to reviewing courts to avoid needless hearings”: *Public Service Alliance of Canada v Canada (Attorney General)*, 2021 FCA 90 at para 6.

[8] In the circumstances, there is simply no practical utility in determining whether the CBSA officer erred in refusing to defer the Applicants’ removal based on the Principal Applicant’s short-term medical needs. The application does not raise any legal issues that require clarification: *Goitom* at para 77; *Aina* at para 21. Moreover, if this application is dismissed, the CBSA may issue a new removal order, at which point the Applicants will be able to request the deferral of their removal based on new, updated evidence: *Aina* at para 20; *Dimikj* at para 37. It would therefore be a waste of scarce judicial resources to allow this application to proceed on its merits, rather than granting this motion: *Hakizimana* at para 20.

[9] The third factor is concerned with the Court playing its proper role. In a similar case, Justice Kane recently held that “[t]he Court is not straying into a policy or legislative role by determining or not determining the merits [of the application]”: *Goitom* at para 77. Further, courts should refrain from pronouncing judgments in the absence of a dispute affecting the rights of the parties because that may be viewed as intruding on the legislator’s role: *Borowski* at 362; *Canadian Union of Public Employees (Air Canada Component) v Air Canada*, 2021 FCA 67 at paras 9, 13.

[10] Based on the foregoing, the application for leave and judicial review is dismissed as moot, and the Court refuses to exercise its discretion to hear the application on its merits.

JUDGMENT in IMM-13799-25

THIS COURT'S JUDGMENT is that:

1. The Respondent's motion is granted.
2. The application for leave and judicial review is dismissed for mootness.
3. There are no costs awarded.

"Anne M. Turley"

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-13799-25

STYLE OF CAUSE: MICHAEL UFOMA OZOH, ABA YAA ADOM OZOH,
OGHENYOMA TUMI OZOH v THE MINISTER OF
PUBLIC SAFETY AND EMERGENCY
PREPAREDNESS

**MOTION IN WRITING CONSIDERED AT OTTAWA, ONTARIO, PURSUANT TO
RULE 369 OF THE *FEDERAL COURTS RULES*, SOR/98-106**

JUDGMENT AND REASONS: TURLEY J.

DATED: FEBRUARY 16, 2026

WRITTEN REPRESENTATIONS BY:

Sarah Sohn

FOR THE RESPONDENT

SOLICITORS OF RECORD:

Sundeep S. Grewal
Barrister and Solicitor
Abbotsford, British Columbia

FOR THE APPLICANT

Attorney General of Canada
Vancouver, British Columbia

FOR THE RESPONDENT