

Federal Court



Cour fédérale

**Date: 20260409**

**Docket: IMM-6666-24**

**Citation: 2026 FC 470**

**Toronto, Ontario, April 9, 2026**

**PRESENT: Madam Justice McDonald**

**BETWEEN:**

**LOMBAMO ABERA SHASHORE**

**Applicant**

**and**

**THE MINISTER OF CITIZENSHIP  
AND IMMIGRATION**

**Respondent**

**JUDGMENT AND REASONS**

[1] The Applicant, a citizen of Ethiopia, was granted refugee status in South Africa. In this Application, he seeks judicial review of an Immigration Officer's refusal of his Canadian permanent residency application. The Officer determined the Applicant has a durable solution for refugee protection in South Africa, where he was residing as a formally recognized refugee.

[2] For the following reasons, I am dismissing this judicial review as the Officer's decision is reasonable and the Applicant's reliance on judicial comity as a basis to grant this judicial review is misplaced.

I. Decision Under review

[3] The Officer found the Applicant had a durable solution for refugee protection in South Africa based upon paragraph 139(1)(d) of the *Immigration and Refugee Protection Regulations*, SOR/2002-227, which prevents issuance of a permanent residence visa to a foreign national in need of refugee protection if there is a "reasonable prospect, within a reasonable period, of a durable solution in a country other than Canada."

[4] The Officer found the Applicant had a durable solution in South Africa, where the Applicant already had refugee status. The Officer found that there was no risk of refoulement to Ethiopia, because South Africa is a signatory to the Geneva Refugee Convention and the Applicant had refugee status in South Africa. While the Officer accepted that crime and xenophobia were more pervasive in South Africa than Canada, they were insufficient grounds to prevent South Africa from providing a durable solution. On state protection, the Officer noted that while protection from crime was imperfect in South Africa, it was still available. Finally, the Officer noted that there was no evidence that refugees in South Africa lacked access to employment, healthcare, education, or mobility.

II. Issue

[5] The only issue on this judicial review is the reasonableness of the Officer's decision. Reasonableness requires that the decision be transparent, justified, and intelligible, and within a range of possible, acceptable outcomes defensible on the facts and law (*Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 at para 86).

III. Preliminary Issue

[6] As a preliminary issue, I note that the Applicant included documents in their Application Record that were not before the Officer and do not appear in the Certified Tribunal Record (CTR). The Respondent filed an Affidavit confirming these documents had not been provided to the Immigration, Refugees and Citizenship Canada office in Pretoria, South Africa, where the decision under review was made.

[7] The Applicant did not argue that any of the exceptions identified in *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paragraph 20 applied to these documents, therefore these documents are inadmissible on judicial review.

IV. Analysis

[8] The Applicant argues that his case is factually the same as *Haile v Canada (Citizenship and Immigration)*, 2023 FC 1424 [*Haile*], therefore, on the grounds of judicial comity, the Court is bound to follow *Haile* and grant this judicial review.

[9] Judicial comity is a principle where courts follow previous decisions by the same court that involve substantially similar facts and issues (*Almrei v Canada (Citizenship and Immigration)*, 2007 FC 1025 at para 61 [*Almrei*]). There are several exceptions to this principle, including where the decisions involve different facts and evidence (*Almrei* at para 62).

[10] The *Haile* case did concern whether South Africa provided a durable solution for refugee protection. Ms. Haile fled Ethiopia, was granted refugee status in South Africa, and then applied for permanent residence in Canada through the same program as the Applicant in this case. Like the Applicant here, Ms. Haile claimed she was a victim of xenophobic crime and that crime prevented South Africa from providing a durable solution for refugee protection.

[11] In *Haile*, the judicial review was granted, not on the basis that South Africa could not provide a durable solution, but because the Court found that the Officer in that case had failed to sufficiently grapple with Ms. Haile's personal circumstances (*Haile* at para 26). Contrary to the Applicant's submissions, *Haile* did not broadly find that South Africa could not provide a durable solution for refugee protection.

[12] I acknowledge there are similarities between *Haile* and this case, however there are critical differences regarding the evidence. For example, both Ms. Haile and the Applicant here were asked why they did not believe they had a durable solution in South Africa. In her interview, Ms. Haile provided detailed descriptions of xenophobic attacks and negative experiences with South African police (*Haile* at para 23). In contrast, the Applicant here did not

report any crimes to the police, and when asked about why he thought he was targeted for being a refugee, he stated through his interpreter (Certified Reasons p14):

Q: Why specifically do you believe this was not generalized crime?

A: because he is foreign

Q: Why specifically do you believe you were targeted due to your profile? What suggested this to you? Do you have anything to substantiate this?

A: NO

Q: In what way is the crime you experienced different than from other persons living in the same region of South Africa?

A: Doesn't know

Q: Did you have to seek medical treatment? Do you have hospital records regarding the treatment you received?

A: Says he sought medical treatment when he was stabbed but doesn't have the report

Q: What documents do you have with you to rebut the presumption of a durable solution in South Africa?

A: NONE

[13] Further, the evidence in *Haile* was that Ms. Haile faced “persistent race-based violence and criminality coupled with some degree of official indifference” (*Haile* at para 26). In contrast, here the Applicant mentions a single incident, which lacks evidence that it was motivated by xenophobia. This is an important distinction, since the judicial review in *Haile* was granted due to the Officer’s failure to grapple with Ms. Haile’s extensive account of xenophobic targeting and ineffective state protection. Unlike *Haile*, in this case, I do not find the Officer

failed to grapple with the Applicant's minimal evidence of xenophobic targeting and ineffective of state protection, as illustrated by the Officer's notes detailed above.

[14] This case is therefore factually distinguishable from *Haile*. Additionally, I note there have been cases since *Haile* where the finding that South Africa could provide a durable solution was upheld, see for example: *Abire v Canada (Citizenship and Immigration)*, 2025 FC 1133; *Desalgn v Canada (Citizenship and Immigration)*, 2025 FC 704.

[15] Finally, the Applicant presented new arguments at the oral hearing, regarding the Officer's interview with the Applicant and treatment of evidence, which were not raised in the Applicant's memoranda of argument. It is improper for a party to raise new arguments in oral hearings that were not previously provided in writing (*Tehranimotamed v Canada (Citizenship and Immigration)*, 2024 FC 548 at para 12; *Singh v Canada (Citizenship and Immigration)*, 2025 FC 1846 at para 32) as the Respondent is not given an opportunity to respond. Regardless, these submissions are without merit as the Applicant had sufficient opportunity to present his case during the interview, and the Applicant's arguments regarding the Officer's treatment of the evidence are merely a request to reweigh evidence.

[16] Overall the Applicant has not demonstrated that the Officer's decision lacked justification, transparency, or intelligibility, or was outside a range of possible, acceptable outcomes based on the facts and law. As such, the decision was reasonable.

V. Conclusion

[17] This judicial review is dismissed. There is no question for certification.

**JUDGMENT IN IMM-6666-24**

**THIS COURT'S JUDGMENT is that:**

1. This judicial review is dismissed.
2. There is no question for certification.

"Ann Marie McDonald"

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Judge

**FEDERAL COURT**

**SOLICITORS OF RECORD**

**DOCKET:** IMM-6666-24

**STYLE OF CAUSE:** LOMBAMO ABERA SHASHORE v THE MINISTER  
OF CITIZENSHIP AND IMMIGRATION

**PLACE OF HEARING:** HELD BY WAY OF ZOOM VIDEOCONFERENCE

**DATE OF HEARING:** MARCH 17, 2026

**JUDGMENT AND REASONS:** MCDONALD J.

**DATED:** APRIL 9, 2026

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