

Goel v. Canada (Public Safety and Emergency Preparedness), 2026 CanLII 98679 (FC)

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Federal Court



Cour fédérale

Date: 20260922

Docket: IMM-25671-26

Toronto, Ontario, September 22, 2026

PRESENT: The Honourable Mr. Justice A. Grant

BETWEEN:

MEHUL MAHESH GOEL

Applicant

and

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

Respondent

ORDER

[1] The Applicant brings a motion to stay his removal to India, which is scheduled to take place on September 24, 2026.

[2] In the underlying application for leave and judicial review, Mr. Goel seeks to challenge a Canada Border Services Agency [CBSA] decision denying his request to defer his removal from Canada.

[3] Interim stays of removal are governed by a three-part test, as set out in *RJR-MacDonald Inc v Canada (Attorney General)*, [1994] 1 SCR 311 and *Toth v Canada (Minister of*

Employment and Immigration) (1988), 1988 CanLII 1420 (FCA). To obtain a stay of removal, an applicant must establish:

- (i) That the underlying application for leave and judicial review raises a serious issue.
- (ii) That they, or their family members, will suffer irreparable harm if the stay is not granted.
- (iii) That the balance of convenience lies in their favour.

[4] The reason why we look at these factors is because they help to determine the real issue on an interim stay, which the Supreme Court of Canada described as being whether granting the requested relief is “just and equitable in all of the circumstances of the case”: *Google Inc v Equustek Solutions Inc*, 2017 SCC 34 at para 25.

[5] Applying the above factors, and keeping in mind the broader purpose they serve, I have concluded that this motion must be dismissed.

A. *Background*

[6] Mr. Goel’s story is a difficult one. He was severely mistreated as a child by both of his parents, who were controlling, coercive, and physically abusive. In 2009, he came to Canada on a student visa. He returned to India in 2017, and then came back to Canada in 2022, following which he initiated a claim for refugee protection, based on his fear of his parents.

[7] Although Mr. Goel is now in his mid-30s, he still fears his parents who, he maintains, continue to exert coercive control over him. They have repeatedly demanded payments from him and taken unauthorized withdrawals from his bank account. They require him to be in constant communication with them. Mr. Goel's father is a well-connected senior official at India's state bank, who apparently has friends who are police officers. He has threatened to file criminal charges against his son to maintain control over him.

[8] The Refugee Protection Division [RPD] of the Immigration and Refugee Board accepted that Mr. Goel had been abused by his parents, including as an adult, but ultimately rejected his refugee claim. In arriving at this conclusion, the RPD found that Mr. Goel was not likely to be physically harmed by his father unless he chooses to live with his parents again. It found that the other fears he articulated were either speculative or were outside the scope of protection offered by sections 96 and 97 of the *Immigration and Refugee Protection Act*, SC 2001, c 27.

[9] The RPD also acknowledged that Mr. Goel has long struggled with his mental health, but outlined in detail the health care that he was able to receive in India. In the end, the RPD found that Mr. Goel does not "face a serious possibility of discrimination, harassment, and harm that would cumulatively amount to persecution due to his ongoing need for counselling and medication."

[10] The Refugee Appeal Division [RAD] confirmed the RPD's findings and dismissed his appeal.

[11] Mr. Goel then submitted an application for leave and judicial review of the RAD decision. While the leave application was pending, this Court took the unusual step of reaching out to counsel for Mr. Goel, requesting that he provide copies of cases that he had relied on (as they did not seem to exist), and inquiring whether he had used artificial intelligence [AI] in the preparation of his arguments. Counsel appears to have provided a cryptic response to this inquiry, and the Court later dismissed Mr. Goel's application.

[12] After this, Mr. Goel retained new counsel who brought a motion before this Court for a reconsideration of the leave decision, based on allegations of counsel misconduct. These allegations extended beyond those related to previous counsel's use of AI; new counsel also alleged that other lawyers within the same law firm had incompetently represented Mr. Goel over the course of both the RPD and the RAD proceedings. In this latter regard, new counsel alleged that the previous representatives had incompetently focused Mr. Goel's refugee claim on the financial aspects of his father's abuse and had failed to make clear that his parents had gone to find him in Delhi after he relocated there.

[13] In the meantime, after Mr. Goel's leave application was dismissed, the CBSA commenced the removal process and notified him that he would be removed to India on August 6, 2026. An officer denied Mr. Goel's initial deferral request, though the CBSA later deferred removal on its own initiative, after determining that it would be appropriate to arrange escorts to accompany him on the return flight.

[14] Counsel for Mr. Goel submitted an updated deferral request on August 19, 2026. This request was denied on September 14, 2026, and it is this decision that underpins the present motion.

[15] In the updated request, counsel urged the CBSA to defer Mr. Goel's removal for three main reasons.

[16] First, counsel argued that, because Mr. Goel's refugee claim, appeal, and judicial review were compromised by counsel incompetence, a deferral was warranted until he becomes eligible for a Pre-Removal Risk Assessment [PRRA]. This, counsel maintains, will be the first fulsome and fair opportunity for Mr. Goel to articulate his fears of returning to India.

[17] Second, counsel argued that Mr. Goel's removal should be deferred until a stage 1 decision is made on his outstanding application for permanent residence on humanitarian and compassionate [H&C] grounds.

[18] Finally, counsel argued that Mr. Goel should not be removed at this point because of his fragile mental health condition, and the likelihood that his condition will significantly deteriorate if his removal is pursued at this point.

[19] Meanwhile, in a detailed Order dated July 21, 2026, Justice Andrew Little dismissed Mr. Goel's motion to set aside this Court's leave determination. In denying the motion, Justice Little considered the various claims of incompetence related to Mr. Goel's previous

representation, but ultimately concluded that they were not sufficient to grant the motion, and would not have altered the leave determination.

B. *Deferral Decision*

[20] The latest deferral request was denied. In that decision, the CBSA Officer found that Mr. Goel had not raised any new risk factors which would warrant deferring his removal until such time as he becomes PRRA eligible.

[21] The Officer further found that Mr. Goel's recent H&C application, which was submitted in July 2026, was not an impediment to removal.

[22] Finally, the Officer found the evidence on Mr. Goel's mental health to be insufficient to justify a deferral. In arriving at this conclusion, the Officer relied on a July 20, 2026 "Medical Requirements for Removal Assessment" which determined that travel for Mr. Goel was "permissible". The Officer also relied on the RPD decision which, as noted above, considered in some detail Mr. Goel's history of mental health treatment, and outlined the relatively significant and consistent care that he had received in India.

C. *The Applicant Has Not Raised a Serious Issue*

[23] At the outset, I note that in cases that arise from a judicial review of a deferral decision, I must apply an elevated standard in assessing whether there is a serious issue for consideration. This is because the stay, if granted, effectively grants the relief sought in the underlying application: *Wang v Canada (Minister of Citizenship and Immigration)*, 2001 FCT 148 (CanLII)

at para 11; *Baron v Canada (Minister of Public Safety and Emergency Preparedness)*, 2009 FCA 81 at para 67 [*Baron*].

[24] Mr. Goel argues that a serious issue arises from each of the three grounds on which he sought a deferral. Respectfully, I cannot agree.

[25] Justice Little's Order provides a complete answer to the argument that Mr. Goel was seriously deprived of an opportunity to assert his refugee claim, or that the incompetence of his previous counsel undermined his application for leave and judicial review. Given that there are no new allegations of risk, aside from those that were raised in his refugee claim, there is no serious issue in the Officer's refusal to defer removal to allow for a PRRA application.

[26] Second, in the particular circumstances of this case, I do not believe that the Officer was obliged to defer removal pending a first-stage determination on his H&C application. As the Respondent argues (and the Applicant acknowledges), the jurisprudence is clear: the existence of a recently filed H&C application is not a basis for deferring removal, absent "special considerations" and/or threats to personal safety: *Baron* at para 51.

[27] I believe that the Officer in this case was entitled to find that there were no special considerations that required a deferral: Mr. Goel's claimed risks in India had recently been assessed. Moreover, I believe that the Officer was entitled to rely on the combination of the recently prepared Medical Requirements for Removal Assessment and the Applicant's

background of having been able to access psychiatric care in India in the past to conclude that Mr. Goel's present mental health condition did not require a deferral of his removal.

[28] In arriving at this conclusion, I acknowledge the medical documentation that was in the record, indicating that Mr. Goel remains in a very fragile condition, and that he has had recent bouts of depression and passive suicidal ideation. At the same time, recent medical documentation also indicates that Mr. Goel does not currently have a suicidal plan, that his major depression disorder is in "partial remission" and that there are no "acute safety concerns at this time." In the end, I have concluded that the evidence in the record reasonably supported the Officer's conclusion that Mr. Goel's circumstances did not require a deferral pending his recently filed H&C application.

[29] Having said this, I do not condone the Officer's reliance on the backlog of H&C applications (the current processing time being over ten years) as a justification for denying the deferral. As the Applicant notes, this is not the relevant date to consider, as only a positive first stage decision is required to trigger a stay of removal. Nevertheless, given my other findings, I do not believe that this error raises a serious issue in this application.

[30] My analysis above dictates my conclusion as to whether the Officer erred on the third basis offered for deferring Mr. Goel's removal, namely his present mental health concerns. I do not minimize those concerns here: they are real and they are serious. However, given: i) the somewhat mixed evidence contained in the record; ii) the presence of a Medical Requirements for Removal Assessment; and iii) the evidence that Mr. Goel has been able to access psychiatric

care in India in the past, I have concluded that there was a reasonable basis justifying the Officer's conclusion that a deferral was not warranted in this case.

D. *No Irreparable Harm*

[31] The above provides a sufficient basis on which to dismiss this motion. However, I also find that the Applicant has failed to establish that he would experience irreparable harm upon his removal.

[32] To meet this part of the *Toth* test, applicants must provide clear and specific evidence that they will suffer irreparable harm if the requested relief is not granted: *Stoney First Nation v Shotclose*, 2011 FCA 232 at para 48.

[33] As the Applicant notes, in this case there is considerable overlap between his "serious issue" and "irreparable harm" arguments. Mr. Goel argues that he will face irreparable harm on each of the same grounds that he asserts are serious issues: namely the need to defer removal to enable a risk assessment, to allow for the processing of his H&C application, and because of his fragile mental health.

[34] For the reasons set out above, I do not view any of these grounds as meeting the irreparable harm standard. On the issue of the Applicant's risk, I agree with the Respondent that, despite the perceived shortcomings in the Applicant's representation before the Immigration and Refugee Board, he was given an opportunity to present his case, and the tribunal's reasons for rejecting his claim were responsive to the case he presented. Moreover, I am unprepared to make

any kind of finding as to the fairness of the IRB or previous Federal Court processes, given the detailed reasons provided by my colleague Justice Little in the reconsideration decision.

[35] On the question of the Applicant's H&C process, I do not agree with the Applicant that his application will essentially be rendered moot if he is removed prior to its determination:

Palka v Canada (Public Safety and Emergency Preparedness), 2008 FCA 165 at paras 13-16.

This is not to say that an H&C would *never* be rendered moot by removal, but such assertions must be supported by evidence. In the circumstances, I do not believe that the Applicant has established that his H&C application would be so undermined if he is removed that it would amount to irreparable harm.

[36] Finally, for the reasons that I have already articulated above, I do not believe that Mr. Goel's current mental health condition establishes that he would experience irreparable harm if removed at this point. In brief, Mr. Goel's condition in the present moment appears not to be critical. A medical practitioner has determined that travel for Mr. Goel is permissible. Finally, Mr. Goel has a demonstrated history of obtaining psychiatric services in India.

E. *Balance of Convenience*

[37] While also not strictly necessary to consider, given my findings above, I conclude that the balance in this case rests with the Minister. Mr. Goel has spent a considerable period of time in Canada. He clearly wishes to stay. His current treatment team is here, and they appear to be very supportive of him.

[38] At the same time, Mr. Goel has now had multiple opportunities to make out his case before Canadian decision-makers. And while he makes the argument that these processes were unfair, I have already explained why I disagree with this claim.

[39] Mr. Goel has also now submitted an H&C application, the processing of which will continue following his departure. Further, he has had access to the deferral regime, which has proven to be flexible in terms of both the timing and the manner of his departure.

[40] Taking into consideration these factors, I am satisfied that the balance of convenience now lies with the Minister's duty to enforce removal orders as soon as possible.

FOR THESE REASONS, THIS COURT ORDERS that:

1. The Applicant's motion is dismissed.
2. There is no order as to costs.

"Angus G. Grant"
Judge