

Federal Court



Cour fédérale

Date: 20160824

Docket: IMM-5754-15

Toronto, Ontario, August 24, 2016

PRESENT: The Honourable Mr. Justice Hughes

BETWEEN:

**B.B. AND JUSTICE FOR
CHILDREN AND YOUTH**

Applicants

and

**THE MINISTER OF CITIZENSHIP AND
IMMIGRATION**

Respondent

ORDER

UPON MOTION for judgment in writing, dated the 19th day of August, 2016, filed by the Respondent on the consent of both parties, for an Order:

- (a) Granting the application for leave and for judicial review;
- (b) Vacating the judicial review hearing date of August 30th, 2016 at 9:30 am;
- (c) Regulation 245 of the *IRPA* is non-exhaustive and can include the presence of a child in Canada and the interests of that child as a factor in assessing whether the

detained parent will be motivated (because of the specific needs or interests of their child) to comply with terms and conditions should the parent be released from detention. This factor could also fall under strong ties to the community as per R. 245(g). The interests of the child would not be a primary factor but would be a factor to be considered on a case by case basis. The overall focus of the analysis under R. 245 would remain on the detained parent.

- (d) Regulation 248 is not exhaustive. If the Immigration Division determines that grounds for detention exist it must consider all 5 mandatory factors listed in R. 248 as well as other relevant factors as determined by the facts of the specific case. The interests of a child who is housed in an Immigration Holding Centre at the request of the detained parent can be considered under other relevant factors. The interests of the child who is housed in an Immigration Holding Centre at the request of the detained parent is a factor to be weighed along with the other 5 mandatory factors listed in R. 248. The overall focus of the analysis under R. 248 remains on the detained parent.

- (e) No costs to be awarded to either party.

AND UPON READING the material filed;

THIS COURT ORDERS that:

- 1. The motion is granted on the terms recited.

I HEREBY CERTIFY that the above document is a true copy of
 the original issued out of / filed in the Court on the _____
 day of _____ A.D. 20____
 Bated this _____ day of _____ 20____

 "Roger T. Hughes"
 Judge