

Federal Court



Cour fédérale

**Date: 20160824**

**Docket: IMM-5754-15**

**Citation: 2016 FC 1423**

**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 19<sup>th</sup> 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 30<sup>th</sup>, 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.

“Roger T. Hughes”  
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Judge