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Form IR-1 (Rule 5)

Court File No.

FEDERAL COURT

Between:

[redacted] (minor)

Applicants

and

(1) The Minister of Citizenship and Immigration; and (2) The Minister of Public Safety and Emergency Preparedness

Respondents

Application for Leave and for Judicial Review

TO THE RESPONDENT(S)

AN APPLICATION FOR LEAVE TO COMMENCE AN APPLICATION FOR JUDICIAL REVIEW has been commenced by the applicant(s) under

- **[]** SUBSECTION 22.1(1) OF THE *CITIZENSHIP ACT*; or
- **[X]** SUBSECTION 72(1) OF THE *IMMIGRATION AND REFUGEE PROTECTION ACT.*

UNLESS A JUDGE OTHERWISE DIRECTS, THIS APPLICATION FOR LEAVE will be disposed of without personal appearance by the parties, in accordance with paragraph 22.1(2)(c) of the *Citizenship Act* or paragraph 72(2)(d) of the *Immigration and Refugee Protection Act*, as the case may be.

IF YOU WISH TO OPPOSE THIS APPLICATION FOR LEAVE, you or a solicitor authorized to practise in Canada and acting for you must prepare a Notice of Appearance in Form IR-2 prescribed by the *Federal Courts Citizenship, Immigration and Refugee Protection Rules*, serve it on the tribunal and each applicant's solicitor or, in the case where an applicant does not have a solicitor, serve it on the applicant, and file it, with proof after service, in the Registry, within 10 days after the day on which this application for leave is served.

- **Note:**
  Copies of the relevant Rules of Court and other necessary information may be obtained from any Federal Court office or from the main Registry office in Ottawa (telephone: [redacted]

The applicant seeks leave of the Court to commence an application for judicial review of:

Name of tribunal Canada Border Services Agency

Decision maker(s): L. BEDROS (badge 6M93)
Officer "A.J." (identity not recorded in available documents)
Address: Montreal Pierre Elliott Trudeau International Airport POE, Dorval, QC
Phone number: Not known

Date of decision: March 21, 2026
Date decision was communicated: March 21, 2026

Type of Proceeding: Purported voluntary withdrawal of refugee protection claims and consequential departure decisions (PT17)

Principal Applicant: [redacted]
Tribunal File Number: [redacted]

Applicant #2: [redacted] (minor)
Tribunal File Number: [redacted]
Relationship to principal applicant: Son of the principal Applicant

Clearly explain the common factual or legal basis for submitting a joint Application for Leave and Judicial Review:
COMMON FACTUAL BASIS:
Both Applicants arrived together as a family unit at Montreal Pierre Elliott Trudeau International Airport on March 20, 2026, seeking refugee protection. Both refugee claims were processed and purportedly withdrawn in the same compressed sequence, on the same day (March 21, 2026), by the same CBSA officer (L. BEDROS, badge 6M93). Both Applicants were removed from Canada the following day as a direct consequence of the same impugned decisions. The minor Applicant's claim was withdrawn through his mother, as he is a 7-year-old child incapable of consenting independently. The grounds for judicial review arise from the same set of facts, the same decisions, and the same decisional chain, and are common to both Applicants.

LEGAL BASIS FOR JOINT APPLICATION:
- Special Order (Annex C, June 2025): authorizes family applications where multiple applicants share a common factual and legal basis
- Section 121 of the Federal Courts Rules: permits a party who is not a solicitor to act on behalf of a minor in proceedings before the Court
- Federal Courts Citizenship, Immigration and Refugee Protection Rules, SOR/93-22: the IR-1 form expressly provides for family applications where the decisions under review arise from the same facts and the same decisional process
- Section 167(2) of the IRPA: the withdrawal before referral prevented the minor Applicant from accessing the designated representative protections that the statutory scheme provides for minors subject to immigration proceedings
- [redacted] acts as designated representative of the minor Applicant pursuant to the Special Order (Annex C, June 2025) and section 121 of the Federal Courts Rules

This application was prepared by:

[redacted]
35, rue de Port-Royal Est, 5e étage, Montréal, QC H3L 3T1
[redacted]

The applicant's electronic address for the service of documents is:

vmgtz36@gmail.com

If the application for leave is granted, the applicant seeks the following relief by way of a judicial review:

ARTIFICIAL INTELLIGENCE DECLARATION: This document was prepared with the assistance of artificial intelligence tools. The Applicants are self-represented and used AI-based language models to help draft, translate, and organize the legal arguments contained in this application. All factual assertions are based on the Applicants' direct knowledge and on documents in their possession. The Applicants take full responsibility for the content of this application.

The principal Applicant, [redacted], acts on her own behalf and as the designated representative of the minor Applicant, [redacted], pursuant to the Special Order (Annex C, June 2025) and section 121 of the Federal Courts Rules.

DECISIONS UNDER REVIEW:
The Applicants seek judicial review of the following decisions made on March 21, 2026, at Montreal Pierre Elliott Trudeau International Airport, Port of Entry, by CBSA officer L. BEDROS (badge 6M93) and associated officers:
(a) The acceptance of the purported withdrawal of the refugee protection claims of [redacted] and [redacted] (IMM 5317 forms, Client IDs [redacted] and [redacted]
(b) The report prepared under subsection 44(1) of the Immigration and Refugee Protection Act (Document no. [redacted] Application no. [redacted]
(c) The Allowed to Leave Canada authorizations issued pursuant to paragraph 42(1) of the Immigration and Refugee Protection Regulations (IMM 1282 forms); and
(d) Any related or consequential decisions, directions, or administrative actions taken in connection with the foregoing on the same date.

RELIEF SOUGHT:
(a) An Order setting aside the purported withdrawal of the refugee protection claims of [redacted] and [redacted];
(b) An Order setting aside the report prepared under subsection 44(1) of the Immigration and Refugee Protection Act and any related inadmissibility findings;
(c) An Order restoring the refugee protection claims of both Applicants and directing their referral to the Refugee Protection Division of the Immigration and Refugee Board for determination on the merits;
(d) As a direction necessary to give practical effect to the remedy sought in paragraphs (a) and (b), an Order requiring the Respondents to facilitate the Applicants' lawful return to Canada, in the measure indispensable for the restoration and effective redetermination of the interrupted refugee-claim process, given that: (i) the Applicants were physically present at the port of entry when the impugned decisions were made; (ii) they were removed from Canada the following day as a direct consequence of those decisions; (iii) the impugned refugee-claim process was initiated at a Canadian port of entry and cannot be meaningfully restored or redetermined while the Applicants remain outside Canada; and (iv) without physical return, any order setting aside the withdrawal would be rendered illusory and devoid of practical effect. The Applicants note that subsection 52(2) of the IRPA expressly contemplates the return of a foreign national to Canada at the expense of the Minister when a removal order without right of appeal has been enforced and subsequently set aside in judicial review, which confirms that the legislature has recognized the principle that the State bears responsibility for facilitating return where its own actions caused the departure;
(e) Costs of this application; and
(f) Such further or other relief as this Honourable Court may deem just.

If the application for leave is granted, the application for judicial review is to be based on the following grounds:

GROUND 1 — Ultra vires: CBSA appears to have allowed a withdrawal-and-departure sequence contrary to subsection 42(2) of the IRPR once subsection 44(1) was engaged

CBSA's same-day record indicates that [redacted] was moved through a compressed sequence that included refugee-claim processing, a purported withdrawal of that claim, a report under subsection 44(1) of the Immigration and Refugee Protection Act, and Allowed to Leave Canada documentation issued on the basis of the withdrawal. Once a report is being prepared or has been prepared under subsection 44(1), subsection 42(2) of the Immigration and Refugee Protection Regulations prohibits the officer from allowing the foreign national to withdraw the application to enter Canada or leave Canada unless the Minister first decides either not to make a removal order or not to refer the report to the Immigration Division for an admissibility hearing.

No intelligible antecedent ministerial decision is identified in the documents presently available to the Applicants. That omission matters because CBSA did not merely record a simple withdrawal by an unprocessed traveller. On its own account, it had already placed [redacted] into the refugee-protection stream and then, within the same decisional continuum, accepted the withdrawal, treated her as a person seeking to remain in Canada without lawful means, and authorized her departure. If that sequence occurred without the prior ministerial step required by subsection 42(2), the withdrawal-and-departure outcome was effected without demonstrated statutory authority and is ultra vires.

GROUND 2 — The withdrawal was not free, informed, or unequivocal because CBSA's same-day record places Rosa in five irreconcilable procedural positions

CBSA's same-day record places [redacted] in five irreconcilable procedural positions within a single compressed sequence. First, she seeks refugee protection, without knowing whether it will be granted. Second, CBSA's contemporaneous records indicate that she was being treated as eligible for refugee processing under the "One Touch" approach at the port of entry. Third, she is said to have voluntarily withdrawn that very claim. Fourth, she is simultaneously treated as a foreign national who still seeks to remain in Canada without lawful means to do so. Fifth, the sequence culminates in an expedited departure outcome for both Rosa and the minor child, without any antecedent ministerial authorization being apparent on the face of the documents presently available to the Applicants.

Those five positions cannot be reconciled into a legally reliable decisional sequence. If [redacted] had already been placed into refugee processing, and was being treated as eligible for that process, the later withdrawal was inherently suspect and called for caution, not administrative acceleration. A claimant who has already been moved into an eligibility-based refugee-processing track cannot, in the next breath, be treated as having freely and unequivocally abandoned that protection unless the record shows a coherent, lawful, and intelligible transition. This record shows no such transition.

If Rosa then truly and validly withdrew her refugee claim, CBSA could not coherently continue, in the same decisional continuum, to characterize her as a foreign national who still sought to remain in Canada without lawful means to do so. That later characterization does not explain the withdrawal; it impeaches it. It shows that, even after the supposed withdrawal, CBSA's own paperwork still treated Rosa as someone whose objective remained staying in Canada. That is fundamentally inconsistent with the proposition that she had just made a free, informed, and unequivocal renunciation of the only legal avenue then available to remain.

The subsection 44(1) report does not rescue the withdrawal; it exposes how incoherent the withdrawal was. The expedited departure sequence does not rescue it either; it confirms that the process moved too quickly and too inconsistently to support any safe finding of voluntariness. On the face of the record alone, the Court cannot treat the withdrawal as legally reliable.

This is not a minor drafting inconsistency or administrative untidiness. It goes to the core reliability of the impugned withdrawal itself. These irreconcilable positions were not generated by separate officers acting independently; they emerge from the same officer's decisional chain on the same day. CBSA cannot coherently say, in the same sequence, that Rosa sought refugee protection, that she was being processed as eligible for that protection, that she voluntarily gave it up, that she nevertheless remained a person seeking to stay in Canada without lawful means, and that she was then properly moved into an expedited

GROUND 3 — Failure to consider the best interests of the minor child and failure to apply child-specific safeguards

The minor Applicant was not an ordinary accompanying child. [redacted] is a severely disabled minor with documented complex medical needs. Yet the CBSA documents presently available to the Applicants do not disclose any intelligible assessment of how accepting the withdrawal of his refugee claim, and facilitating his immediate return to Mexico, was consistent with his safety, medical needs, psychological welfare, or protection interests. The record shows the outcome, but not a child-centred reasoning process capable of justifying that outcome.

The same-day processing sequence is especially troubling because the child's refugee claim was withdrawn through his mother in circumstances already marked by fatigue, isolation, language dependence, uncertainty, and acute vulnerability. No document presently available discloses any independent safeguard proportionate to the child's condition, or any intelligible explanation of why returning a severely disabled child to the country from which protection was being sought was treated as compatible with his best interests.

The available record is silent as to any meaningful assessment of the practical consequences of return for this child — no intelligible analysis of continuity of care, immediate welfare impact, or protection-sensitive consequences flowing from the withdrawal and return. Where the direct consequence of the withdrawal was the immediate return of a severely disabled child to the country from which protection was being sought, CBSA was required to proceed with heightened child-centred caution. Nothing presently available in the record shows that such caution was actually applied.

GROUND 4 — Procedural unfairness: the withdrawal was obtained in a coercive environment created, controlled, and materially reinforced by CBSA

The impugned withdrawal was not obtained in a neutral administrative setting. It was obtained in an environment of cumulative travel fatigue, sleep deprivation, prolonged waiting, uncertainty, language dependence, and controlled separation. [redacted] was left alone with a severely disabled child, without meaningful access to Victor Manuel Gutierrez Verduzco, without counsel, and without any genuine ability to read, verify, or safely assess the documents being put before her. In those circumstances, CBSA could not reasonably equate apparent compliance with a free, informed, and unequivocal withdrawal of refugee protection.

The coercive character of the process was not incidental. It was materially reinforced by CBSA's refusal to permit even brief contact between Rosa and Victor, despite repeated attempts to see one another and despite the child's visible distress. That refusal was not a minor logistical choice. It was the operational condition that made Rosa more isolated, more dependent on the officers, and more vulnerable to pressure. A withdrawal obtained only after the removal of the only immediately available adult family support cannot be treated as procedurally trustworthy merely because a signature was ultimately produced.

The surrounding process likewise did not provide the minimum indicia of informedness that CBSA would need to rely upon. The documents were advanced in circumstances of language dependence and officer-controlled interpretation, and the interpreter declaration on the IMM 5317 forms is unsigned. The deficiencies in interpretation were not confined to Rosa's processing; CBSA's own detention records reflect that Victor Manuel Gutierrez Verduzco questioned documents and requested translations before any were provided, indicating that the default processing approach did not include unprompted reading or explanation of documents to the persons concerned. That pattern matters not as a collateral complaint, but because it undermines any safe inference that Rosa's signature alone established real understanding.

CBSA's own records characterize Victor's requests for document reading and translation not as the exercise of a procedural right, but as uncooperative or erratic conduct. If that was the institutional response to a person who actively questioned the process, there is no basis to infer that Rosa — who did not resist, and who was already at the point described in the preceding paragraphs — received any fuller or more careful explanation. Her lack of resistance does not evidence understanding; it evidences the degree of pressure already reached

The presence of an officer, an interpreter, and an English-language document does not by itself establish that the legal consequences of the withdrawal were actually explained to Rosa in terms she could understand. Nor does her signature on a form stating that she understood the nature and consequences of the withdrawal prove that such understanding actually existed. A pre-printed acknowledgment clause on an English-language form, signed in circumstances of exhaustion, isolation, and language dependence, cannot safely be treated as evidence of genuine informed consent.

By the time the withdrawal was accepted, Rosa had already been brought to a breaking point by the conditions created and maintained around her and the child. In that setting, CBSA could not safely act on apparent compliance without first pausing to verify that the course being advanced had been meaningfully explained and was being accepted with real understanding of its immediate consequences. Procedural fairness required more protection, more verification, and more caution — not less.

GROUND 5 — CBSA relied on an officer-authored attributed narrative to justify detention, isolation, and the sequence that culminated in the withdrawal

The M-1 and related detention materials were officer-generated records used to justify the arrest and detention of Victor Manuel Gutierrez Verduzco. They should not be treated as [redacted]'s own adopted account. Rosa did not receive those records at the time, and she later denied having said that she feared Victor or that the child was in danger from him, rejecting the attributed narrative as materially false. The legally relevant point is therefore not that "Rosa said" what appears in those materials. The point is that an officer recorded that narrative in CBSA's own documents and then used it as the operational basis for detaining Victor, isolating Rosa, and restructuring the family's processing.

That attributed narrative was not treated as a mere observation. It was operationalized. It was sufficient, in CBSA's own handling of events, to justify detention and separation. Yet the same narrative was not treated as requiring any serious pause, safeguard, or protective reconsideration before accepting a withdrawal and facilitating the return of Rosa and the minor child to Mexico. That internal inconsistency matters. If the situation was serious enough to justify separating the family, it was serious enough to require heightened caution before acting on a withdrawal with immediate consequences for a severely disabled child.

The point, therefore, is not that the officers merely misunderstood or imperfectly translated what was happening. The point is that CBSA's own documents reflect an attributed narrative that was strong enough to justify coercive control over the family's processing, but somehow not strong enough to trigger real protection before return. That makes the process not only unfair, but internally incoherent.

CBSA cannot rely on an officer-authored attributed narrative to remove Victor from the process and then rely on the isolation it produced as part of the basis for treating Rosa's later signature as proof of voluntariness.

SCOPE OF THIS APPLICATION

This application does not challenge five unrelated decisions. It challenges one impugned withdrawal and the same-day decisional chain through which CBSA processed, operationalized, and gave effect to that withdrawal. The withdrawal is the core impugned act; the subsection 44(1) report, the Allowed to Leave Canada authorizations, and the same-day administrative measures are challenged as inseparable parts and consequences of the same decisional sequence, all arising from the same facts, the same officer, and the same compressed processing on March 21, 2026.

STATUTORY AND LEGAL AUTHORITIES RELIED UPON

The Applicants rely on the following statutory provisions, regulations, and legal authorities in support of the foregoing grounds:

Statutes and Regulations:
- Immigration and Refugee Protection Act, S.C. 2001, c. 27, ss. 3(3)(f), 44(1), 55(2), 60, 72(1), 99(3), 100(1), 115(1), 167(2)

held at the airport for approximately 30 hours with passports seized and no ability to leave, constituting de facto detention or prolonged retention of a severely disabled child
- Immigration and Refugee Protection Regulations, [redacted] ss. 42(1), 42(2), 248(f), 248.1
- Federal Courts Citizenship, Immigration and Refugee Protection Rules, SOR/93-22, Rule 5
- Federal Courts Rules, SOR/98-106, s. 121
- Canadian Charter of Rights and Freedoms, ss. 7, 10(b), 14, 15(1)

Jurisprudence:
- Baker v. Canada (Minister of Citizenship and Immigration), [1999] 2 SCR 817 (procedural fairness, best interests of the child, duty to be alert, alive, and sensitive to children's interests)
- Kanthasamy v. Canada (Citizenship and Immigration), 2015 SCC 61 (best interests as primary consideration, examined with care and substantial weight)
- Mason v. Canada (Citizenship and Immigration), 2023 SCC 21 (best interests of the child must be given substantial weight in immigration decisions; decision-makers must be alert, alive, and sensitive to children's interests)

International Instruments (interpretive, per s. 3(3)(f) IRPA):
- Convention on the Rights of the Child (CRC), Art. 3 (best interests as primary consideration)
- Convention on the Rights of Persons with Disabilities (CRPD) (protection of disabled minors)

IRB Guidelines:
- Chairperson's Guideline 3: Child Refugee Claimants — Procedural and Evidentiary Issues (designated representative, child-specific safeguards, procedural adaptations for minors)

The applicants ***have not*** received written reasons from the tribunal.

If the application for leave is granted, the applicant proposes that the application for judicial review be heard at ***Montreal, QC - 30 McGill Street***, in the ***English*** language.

Signature:
Rosa Lizeth [redacted]
35, rue de Port-Royal Est, 5e étage, Montréal, QC H3L 3T1
[redacted]
April 5, 2026 Rosa lizeth Morales Ochoa

To:
(1) The Minister of Citizenship and Immigration; and (2) The Minister of Public Safety and Emergency Preparedness
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