

Federal Court



Cour fédérale

**Date: 20251006**

**Docket: IMM-20947-24**

**Citation: 2025 FC 1648**

**Ottawa, Ontario, October 6, 2025**

**PRESENT: The Honourable Madam Justice Blackhawk**

**BETWEEN:**

**GLENROY ANTHONY GRAHAM  
LUCAS ELIJAH GRAHAM**

**Applicant**

**and**

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

**Respondent**

**JUDGMENT AND REASONS**

**I. Overview**

[1] This is an application for judicial review of a decision of an officer with the Canada Border Services Agency (Officer), dated October 23, 2024, denying the Applicants entry into Canada under an exception to the Safe Third Country Agreement (STCA) and issuing exclusion orders (Decision).

[2] The Applicants argue that the Decision is unreasonable and a breach of the principles of natural justice.

[3] The Respondent argues that the Decision was reasonable. The Respondent raised a preliminary issue; the Applicants were not granted an extension of time to file the application for leave and judicial review and has not met the test for the granting of such an extension.

[4] For the reasons that follow, this application is dismissed.

## II. Background

[5] The Applicants are Glenroy Anthony Graham (Principal Applicant), and his minor son, Lucas Elija Graham. The Applicants are citizens of Jamaica.

[6] The Principal Applicant states that he entered a same-sex relationship with Denzil Fitzroy Buckley, also a citizen of Jamaica, in 2015. They allegedly began to cohabitate in Jamaica in 2016. Due to discrimination, Mr. Buckley fled Jamaica in October 2017 and began living in the Bahamas.

[7] The Principal Applicant states that he continued his relationship with Mr. Buckley, using long-distance communication tools and visiting him in the Bahamas.

[8] In June 2022, Mr. Buckley traveled to Canada, and in November 2022 sought refugee protection in Canada due to ongoing discrimination and persecution faced in the Caribbean

because of his sexual orientation. Mr. Buckley listed the Principal Applicant as his partners in his Basis of Claim form.

[9] In February 2024, Mr. Buckley's refugee claim was approved.

[10] On October 21, 2024, the Principal Applicant, with his minor son, traveled from Jamaica to the United States of America. On October 22, 2024, the Applicants presented at a Canada-United States of America land border crossing at Saint-Bernard-de-Lacolle, Quebec, and informed the Officer of a desire to make a refugee claim.

[11] On October 23, 2024, the Officer denied the Applicants entry into Canada and issued exclusion orders against them.

[12] The Applicants filed an application for leave and judicial review (ALJR) on November 8, 2024, one day past the 15-day deadline set out in paragraph 72(2)(b) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 (*IPRA*).

### III. Extension of Time

[13] The order granting leave to apply for judicial review, did not address the Applicants request for an extension of time to file an ALJR. I agree with the Respondent that, in situations where the order granting leave is silent on the extension of time, the judge seized with the application has the jurisdiction to rule on the extension of time (*Deng Estate v Minister of Public*

*Safety and Emergency Preparedness*, 2009 FCA 59 at paras 14–17; *Huang v Minister of Public Safety and Emergency Preparedness*, 2015 FC 28 (*Huang*) at para 67–69).

[14] In the present case, Justice Régimbald did not expressly grant an extension of time in his order granting leave. Accordingly, this Court has jurisdiction to address this matter.

[15] For a court to grant an extension of time, the applicant must meet the test set out in *Canada (Attorney General) v Hennelly*, 1999 CanLII 8190 (FCA) (*Hennelly*):

1. a continuing intention to pursue his or her application;
2. that the application has some merit;
3. that no prejudice to the respondent arises from the delay;  
and
4. that a reasonable explanation for the delay exists.

[16] I have considered the explanation for the delay advanced by counsel for the Applicant.

[17] I have reviewed the record for this ALJR and I agree with the Respondent, the Applicant's affidavit does not address the *Hennelly* factors for an extension of time. The Applicant's memorandum of argument indicates that the deadline for filing was missed because of a counsel error, however, there is no evidence in the record to support this assertion. Accordingly, I am unable to consider the explanation set out in the Applicants argument.

[18] As I explained during the hearing of this ALJR oral and written argument is not evidence.

[19] The Applicant has not satisfied the first and last elements of the test for an extension of time, as there is no evidence that addresses an ongoing intention to pursue the application nor evidence that sets out a reasonable explanation for the delay. The failure to satisfy two elements for the test for an extension of time is determinative and I am not exercising my discretion to grant an extension of time (*Huang* at para 76).

[20] This issue is dispositive of the ALJR, as the Court does not have jurisdiction to entertain the ALJR in the absence of an extension of time.

[21] I am sympathetic and understand the impacts of my decision on the Applicants. Nonetheless, the record clearly indicates that the Applicants were advised that, pursuant to section 72 of *IRPA*, they had 15 days from the date of the removal order to file an ALJR with the Federal Court. The failure to properly adduce evidence to address a request for an extension of time is fatal.

**JUDGMENT in IMM-20947-24**

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

1. The application for judicial review is dismissed.
2. No question is certified.

"Julie Blackhawk"

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Judge

**FEDERAL COURT**  
**SOLICITORS OF RECORD**

**DOCKET:** IMM-20947-24

**STYLE OF CAUSE:** GLENROY ANTHONY GRAHAM, LUCAS ELIJAH  
GRAHAM v THE MINISTER OF PUBLIC SAFETY  
AND EMERGENCY PREPARDNESS

**PLACE OF HEARING:** HELD BY VIDEOCONFERENCE

**DATE OF HEARING:** SEPTEMBER 29, 2025

**JUDGMENT AND REASONS:** BLACKHAWK J.

**DATED:** OCTOBER 6, 2025

**APPEARANCES:**

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Leila Jawando	FOR THE RESPONDENT

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Attorney General of Canada Toronto, Ontario	FOR THE RESPONDENT