

CANADA / JUDGMENT

Jaber v. Canada (Citizenship and Immigration)

2026 FC 179

COURT

Federal Court

DECIDED

9 February 2026

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Jaber v. Canada (Citizenship and Immigration) Court (s) Database Federal Court Decisions Date 2026-02-09 Neutral citation 2026 FC 179 File numbers IMM-2202-25 Decision Content Date: 20260209 Docket: IMM-2202-25 Citation: 2026 FC 179 Ottawa, Ontario, February 9, 2026 PRESENT: The Honourable Mr. Justice Zinn BETWEEN: MOHAMMAD ABBAS MOSBAH JABER Applicant and THE MINISTER OF CITIZENSHIP AND IMMIGRATION Respondent JUDGMENT AND REASONS

- [1] The Refugee Appeal Division [RAD] dismissed the Applicant's appeal, agreeing with the Refugee Protection Division [RPD] that he has viable internal flight alternatives [IFA] in Irbid, Aqaba, and Southern Shuna, Jordan.
- [2] The Applicant, Mr. Mohammad Abbas Mosbah Jaber, is a Jordanian national. He claims that his life and safety are at risk in Jordan due to threats from his sister's husband, arising from a family dispute and the alleged involvement of his tribe.
- [3] The RPD found that the Applicant has viable internal flight alternatives in Jordan and that relocation to those locations would be safe and reasonable. This finding was dispositive of the Applicant's claim.
- [4] The RAD dismissed the appeal and upheld the RPD's decision. The determinative issue was the availability of viable internal flight alternatives.
- [5] The issue raised by the Applicant in this application is whether he "was denied procedural fairness and natural justice in his appeal before the RAD (and also the case before RPD) because of the Consultant's (a) breach of trust, loyalty, honesty and conflict of interest; and (b) Incompetence."

- [6] A claim that ineffective assistance of counsel resulted in a miscarriage of justice raises an issue of procedural fairness. Questions of procedural fairness are reviewed on a standard of correctness: *Stephen v Canada (Citizenship and Immigration)*, 2019 FC 1331 at para 10, citing *Mcintyre v Canada (Citizenship and Immigration)*, 2016 FC 1351 at para 16 [*Mcintyre*]; *Ghuri v Canada (Citizenship and Immigration)*, 2016 FC 548 at para 22.
- [7] The Applicant submits that his former representative's negligence and or incompetence resulted in a breach of procedural fairness. He submits that this gave rise to multiple deficiencies, including an alleged conflict of interest in representing both him and his wife, a failure to submit purported "new evidence" due to a misunderstanding of procedure, nondisclosure of an IRCC procedural fairness letter, and a failure to seek or secure a hearing before the RAD.
- [8] In particular, the Applicant submits that his former representative, Mr. Amro Hayek, breached the duty of loyalty owed to him by revising the Applicant's narrative and his wife's affidavit to depict the Applicant as having anger issues and engaging in physical abuse, allegedly to advance his former spouse's claim for refugee protection. Mr. Hayek denied the allegations.
- [9] I note at the outset that the Applicant is not challenging the reasonableness of the RAD's or RPD's decisions. Rather, his primary submission is that counsel's conduct undermined the internal flight alternative analysis, thereby contributing to the adverse IFA findings that were determinative in the refusal decision and appeal.
- [10] To establish that counsel's incompetence resulted in a breach of procedural fairness, an applicant must satisfy the following tripartite test: (a) the representative's alleged acts or omissions constituted incompetence; (b) there was a miscarriage of justice in the sense that, but for the alleged conduct, there is a reasonable probability that the result of the original hearing would have been different; and (c) the representative was given notice and a reasonable opportunity to respond (*Stephen v Canada (Citizenship and Immigration)*, 2019 FC 1331 at para 11, citing *Mcintyre* at para 33).
- [11] The second branch of the test is determinative of this application.
- [12] The Applicant has not shown a reasonable probability that the RPD's or RAD's decisions would have been different but for the alleged misconduct.
- [13] The alleged amendments to the Applicant's narrative and his former spouse's affidavit had no bearing on the findings of either the RPD or the RAD. Both decisions turned on the internal flight alternative analysis, and that analysis did not rely on this evidence. The RPD transcript further records that the Member expressly drew the Applicant's attention to his wife's amended narrative and invited his response to the allegations of physical and verbal abuse. The Applicant did not deny those allegations, stating that he "push[ed] her away from me because of the anger that I was feeling" and that he was "emotionally unstable" during the relationship.

- [14] The Applicant's assertion that unspecified "new evidence" could have affected the outcome is also unsupported. He has not identified what this evidence would have been or how it could have altered the result.
- [15] I accept and agree with the Respondent's submission at paragraph 30 of its written memorandum: The Applicant has not identified any evidence that would have qualified as 'new evidence' before the RAD, such as information that his alleged persecutor was still interested in him or his family members, that should have been submitted. In fact, the Applicant's sister, and ex-wife of the alleged persecutor, is living in a location identified as an IFA for the Applicant by the RPD and RAD, and there is no indication that she has had any difficulties. Nor did the Applicant have any difficulties when he returned to Jordan for 5 months.
- [16] The Applicant further submits that his representative failed to tender new evidence on appeal, with the result that no hearing was held before the RAD. However, he has not identified what evidence could have met the statutory threshold for admission on appeal, which requires that the evidence arose after the RPD decision or could not have been reasonably obtained earlier, and that it be credible, relevant, and capable of proving a new fact or contradicting a finding of fact.
- [17] The Applicant has similarly failed to adduce any evidence of the alleged April 4, 2024 procedural fairness letter that he claims not to have received from his former representative. Nor has he explained how receipt of that letter would have affected the outcome of the proceedings.
- [18] I will briefly address the Applicant's submission that his former representative failed to advance an argument based on the principle of family unity under the 1951 Convention Relating to the Status of Refugees. This omission would not have created a reasonable probability of a different outcome, as the mandates of the RPD and RAD are confined to assessing whether the Applicant faces a serious possibility of persecution or a risk under section 97, not to determining broader international humanitarian obligations. In any event, this Court has held that family unity does not form part of the definition of a Convention refugee and does not, on its own, confer protected person status on associated applicants (*Dawlatly v Canada (Minister of Citizenship and Immigration)*, 1998 CanLII 7952 (FC) at 17–18, citing *Casetellanos v Canada (Solicitor General)* (TD), 1994 CanLII 3546 (FC), [1995] 2 FC 190 at 199–201).
- [19] The application is dismissed. No question for certification was proposed. JUDGMENT in IMM-2202-25 THIS COURT'S JUDGMENT is that this application is dismissed, and no question is certified. "Russel W. Zinn" Judge FEDERAL COURT SOLICITORS OF RECORD DOCKET: IMM-2202-25 STYLE OF CAUSE: MOHAMMAD ABBAS MOSBAH JABER v THE MINISTER OF CITIZENSHIP AND IMMIGRATION PLACE OF HEARING: HELD BY VIDEOCONFERENCE DATE OF HEARING: January 28, 2026 JUDGMENT and reasons: ZINN J. DATED: february 9, 2026 APPEARANCES: Haider Ashraf For The Applicant Mary Matthews

For The Respondent SOLICITORS OF RECORD: HAIDER ASHRAF OAKVILLE, ON For The
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