

Federal Court



Cour fédérale

Date: 20250910

Docket: IMM-12420-24

Citation: 2025 FC 1494

Toronto, Ontario, September 10, 2025

PRESENT: The Honourable Mr. Justice Lafrenière

BETWEEN:

LINA MOHAMMAD ZAYED ITAIWAH

Applicant

and

**THE MINISTER OF CITIZENSHIP
AND IMMIGRATION**

Respondent

JUDGMENT AND REASONS

[1] At the hearing of the application for judicial review, the parties were advised that the application would be granted. Here are my brief reasons.

[2] In April 2023, the Applicant applied for a Temporary Resident Visa [TRV] to Immigration, Refugees and Citizenship Canada for herself and her son Mohammed, for the purpose of tourism in Canada.

[3] On December 12, 2023, the Applicant was issued a Procedural Fairness Letter [PFL] as the Visa Officer processing the application had concerns she had provided untruthful information regarding her nationality in her application. The letter explained that in answer to the travel document information question at page 2 of the application form – “What’s the nationality on your passport?” [Passport Nationality Question] – the Applicant answered “Jordan.” A review of the passport by the Officer revealed it was in fact a temporary travel document issued by the Hashemite Kingdom of Jordan for Stateless Palestinians. The letter further noted that the Applicant’s Qatar Residency Card, submitted in support of the application, listed her nationality as “Palestin.” The Officer expressed concern the Applicant may have directly or indirectly misrepresented or withheld material facts to a relevant matter that could have induced an error in the administration of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [IRPA]. The PFL gave the Applicant fifteen days to reply.

[4] On December 15, 2023, the Applicant, through her former representative, submitted a letter in response in the PFL. The representative explained that the Applicant’s parents had been Palestinian, but she herself had never been to Palestine. He clarified that the Applicant had only ever had a Jordanian passport, had never been issued a Palestinian passport, and although she had been born in Qatar, her nationality had been listed as Jordanian on her birth certificate. A copy of the birth certificate was attached as evidence. The representative stated that the confusion came from the volatility of the region and the conflict surrounding Palestine, and the Applicant had always intended to be truthful and transparent without any intention to directly or indirectly misrepresent information or withhold material facts.

[5] The Officer reviewed the Applicant's submissions and her newly provided birth certificate. The Officer found that it was not reasonable for the Applicant to have assumed herself to be Jordanian. The Officer repeated that the travel document provided was not a passport, but a temporary travel document, and that it did not list a citizenship number. The Officer gave limited weight to the Applicant's birth certificate, as the Officer noted that the Applicant's own submissions indicate that she was aware her parents were Palestinian nationals with Jordanian travel documents. The Officer therefore made a finding of misrepresentation against the Applicant.

[6] On June 23, 2024, the Applicant received a letter from the Officer refusing her TRV application [Decision] citing the following grounds:

- The purpose of your visit to Canada is not consistent with a temporary stay given the details you have provided in your application.
- I am not satisfied that you have truthfully answered all questions asked of you.
- You have been found inadmissible to Canada in accordance with paragraph 40(1)(a) of IRPA for directly or indirectly misrepresenting or withholding material facts relating to a relevant matter that induces or could induce an error in the administration of the IRPA. In accordance with paragraph A40(2)(a), you will remain inadmissible to Canada for a period of five years from the date of this letter or from the date a previous removal order was enforced.

[7] The Applicant seeks an order setting aside the Decision on the basis that the Officer did not reasonably assess the circumstances of the alleged misrepresentation.

[8] The Applicant submits that the Officer breached procedural fairness because the PFL disclosed only a concern with the Passport Nationality Question and did not indicate any concern with the Applicant's nationality generally. However, a fair reading of the PFL, and the Applicant's response to it, does not support this argument.

[9] The Applicant further submits that she did not misrepresent a material fact at all, but answered the question posed reasonably based on the wording and the context of her documents. In the alternative, she submits that the Officer's reasons did not explain why the innocent mistake exception did or did not apply in this case. I find that there is merit to these arguments on the particular facts of this case.

[10] The Officer's misrepresentation analysis is set out below:

The REP letter states "Her parents were Palestinian national and the Government of Jordan issued travel documents...". As such, it does not appear reasonable that the PA would assume her citizenship to be Jordanian. I have given limited weight to the PA's birth certificate issued by Qatar in 1974 stating "Jordanian" as justification for the alleged "confusion" as the PA would have been well aware of her lack of citizenship status in Jordan.

[11] That the Applicant is responsible for ensuring her application contains correct and truthful information is a given. However, the reasons for the Decision fail to meaningfully address whether the innocent mistake exception might apply.

[12] An error or a misstatement in completing an application is not necessarily tantamount to a misrepresentation. An application must be considered holistically and not in a piecemeal fashion.

[13] In the present case, the Applicant indicated in her application that she was born in Doha, Qatar. She also attached her Qatar Residency Card that reflects that her nationality is “Palestin.” While the application for the TRV may have contained inconsistent or incorrect information, there is no indication that the Applicant was attempting to withhold or conceal information regarding her nationality. Quite the opposite.

[14] The Officer noted that the Applicant’s travel document, while issued by Jordan, was not a passport, as might be issued to citizens. There is no evidence the Officer was somehow misled by the nature of the document. The Officer recognized that on its face it was a temporary travel document issued to stateless Palestinians.

[15] In the Global Case Management System notes, the Officer gives short shrift to the Applicant’s explanations and, in a conclusory sentence, finds that it was not reasonable for the Applicant to have assumed herself to be Jordanian. However, the Officer does not appear to have been alive and attentive to the unique circumstances of Palestinians, who do not have a unified nationality in the traditional sense; they are a stateless people who have been displaced from their homeland and whose legal status and rights vary significantly by region.

[16] Moreover, no explanation is provided as to why the Officer gave essentially no weight to the birth certificate tendered by the Applicant in response to the PFL that reflects that the State of Qatar recognizes the nationality of the Applicant’s parents as “Jordanian.”

[17] I find that the Officer failed to adequately consider the Applicant's explanations or justify the finding of misrepresentation that carries serious and harsh consequences. It is also unclear whether the Officer's finding that the purpose of the Applicant's visit to Canada is not consistent with a temporary stay may have been tainted by the Officer's misrepresentation finding.

[18] In the circumstances, I conclude that the Decision is unreasonable and should be set aside.

JUDGMENT IN IMM-12420-24

THIS COURT’S JUDGMENT is that:

1. The application is allowed.
2. The Visa Officer’s Decision is set aside and the matter is remitted for redetermination by a different visa officer.
3. No question is certified.

“Roger R. Lafrenière”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: IMM-12420-24

STYLE OF CAUSE: LINA MOHAMMAD ZAYED ITAIWAH v THE
MINISTER OF CITIZENSHIP AND IMMIGRATION

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: SEPTEMBER 9, 2025

JUDGMENT AND REASONS: LAFRENIÈRE J.

DATED: SEPTEMBER 10, 2025

APPEARANCES:

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