

Republic of Iraq
Federal Supreme Court
Ref 324/ federal/2023



Kurdish text

The Federal Supreme Court (F S C) has been convened on 13/2/2024 headed by Judge Jassim Mohammed Abood and membership of Judges Sameer Abbas Mohammed, Ghaleb Amir Shunain, Khalef Ahmed Rajab, Hayder Ali Noori, Hayder Jaber Abid, Abdul-Rahman Suleiman Ali, Dyar Mohammed Ali and Munther Ibrahim Hussain, who are authorized in the name of the people to judge and they made the following decision:

The Plaintiff: Tami Ahmed Maarof – His agents the barristers/ Hayder Salahalden Kamil and Suhaila Hameed Habeeb.

The Defendants: 1.Head of the Iraqi Council of Representatives / being in this capacity - His agents the official jurists/ Saman Mohsen Ibrahim And Aseel Samir Rahman.

2.Ahmed Abdulah Khalaf Aljubori / being in this capacity – His agent the barrister Salah Hasan Salim .

The Claim:

The plaintiff claimed through the mediation of his agents that the second defendant Ahmed Abdullah Abd Khalaf Al-Jubouri won the membership of the Council of Representatives in the elections that took place in 2021, and since his representation is contrary to the Constitution and the law, and that the House of Representatives according to the provisions of Article (47) of the Constitution is a federal authority and its members must be an example for proper conduct as they represent the Iraqi people in all its components, and the validity of membership requires that the member has acquired membership of the Council of Representatives in the correct manner prescribed by the Constitution and the law and the availability of the necessary conditions for the acquisition of this membership, and the

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availability of the condition of candidacy is that there is no legal impediment to the continuation of his membership, Article (8/3rd) of the Council of Representatives Elections Law No. (9) of 2020 requires that a member of the Council of Representatives be a member of the Council of Representatives. Not convicted of a felony or misdemeanor involving moral turpitude, and whereas the Salah al-Din Criminal Court issued Decision No. (78/Jim/1996) on 16/7/1996, which sentenced the second defendant (15 years imprisonment). According to the provisions of Article (442 /3rd - Qaf.Ain) and the existence of a criminal record against him, and a second restriction in accordance with the provisions of Article (446 - P.S.) for being accused of stealing a white supercar, and for the second defendant being the leader of (Our Masses Alliance, Our Identity) The Board of Commissioners Resolution No. (7) was issued on 11/10/2023 canceling the leave granted to the (Our Masses Alliance, Our Identity) led by the aforementioned, Based on the provisions of Article (12/3rd) of the Law of the Council of Representatives and its formations No. (13) of 2018, which stipulates that (the prosecution in the Council shall be terminated in the following cases: Third: Proven loss one of the requirements of the prosecution stipulated in the Constitution and the Electoral Law), so the plaintiff asked this court ruling on the invalidity of the membership of the representative Ahmed Abdullah Abd Khalaf Al-Jubouri, The second defendant shall be charged fees, expenses and attorneyship fees. After registering the case with this court No. (324/Federal/2023) and collecting the legal fee for it, and informing the defendants of its petition and documents in accordance with the provisions of the article in accordance with the provisions of Article (21/I and II) of the Internal Regulations of the Federal Supreme Court No. (1) of 2022, The first defendant's agents replied with the answering

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draft dated 26/12/2023 in conclusion: that the plaintiff did not indicate his interest in filing the lawsuit based on the text of Article (20/I and II) of the Rules of Procedure of the Federal Supreme Court, The Independent High Electoral Commission is also responsible for meeting the necessary conditions for candidacy for membership of the House of Representatives in accordance with the provisions of Article (10) of the Council of Representatives Elections Law No. (9) of 2020, and that (Ahmed Abdullah Abdul Khalaf Al-Jubouri) is a member of the House of Representatives for the fifth election cycle. The election results were approved in accordance with the Federal Supreme Court Resolution No. (175/Federal/2021) dated 27/12/2021, and the Constitution delineated, in Article (52) thereof, the mechanism for challenging the validity of the membership of the members of the Iraqi Council of Representatives, and the plaintiff did not follow this mechanism, and as the decisions of the Federal Supreme Court are final and binding on all authorities, and are not subject to appeal by any of the usual or unusual means of appeal in accordance with the provisions of Article (94) of the Constitution, whereas the court had previously decided on the merits of the lawsuit by virtue of its decision No. (219/Federal/2021) dated 30/3/2022, so this lawsuit became rejectable in form of a previous decision on its merits, and when a request was submitted to dismiss the lawsuit and charge the plaintiff fees, expenses and attorneyship fees. The second defendant's agent responded with the answering draft dated 24/12/2023, and requested the dismissal of the lawsuit in terms of litigation against his client, in addition to the fact that the plaintiff does not have any legal capacity to file a lawsuit against his client, Whereas the court had previously decided on the merits of the lawsuit by virtue of its decision No. (219/Federal/2021) dated 30/3/2022, so this lawsuit became rejectable

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in form of a previous decision on its merits, and when a request was submitted to dismiss the lawsuit and charge the plaintiff fees, expenses and advocacy fees. The second defendant's agent responded with the reply dated 24/12/2023, and requested the dismissal of the lawsuit in terms of litigation against his client, In addition, the plaintiff does not have any legal capacity to file a lawsuit against his client, and the subject matter of the lawsuit has already been decided by the Federal Supreme Court by its decision No. (104 / Federal / Cassation / 2013) on 7/3/2013 in which the plaintiff's lawsuit was also dismissed, bearing the same reasons mentioned by the plaintiff in this lawsuit, and its decision No. (219/Federal/2021) on 30/3/2022 in the plaintiff's lawsuit (Meshaan Rakad Damen Al-Jubouri) It also bears the same reasons and reasons as the plaintiff in this lawsuit, In addition to the decision issued by the Administrative Court No. (38/2013) in the lawsuit numbered (266/Q/2012) on 6/2/2013, and what confirms the absence of a judicial ruling against his client is the certificate of non-conviction issued by directorate of Criminal . Evidence Investigation on 6/5/2019, after completing the procedures required by the rules of procedure, a date was set for the consideration of the case without pleading, in which the court was formed and scrutiny the plaintiff's requests and his support and the defenses of the defendants' agents, and after completing its scrutinies, the end of the argument has been made clear has been made clear and the court issued the following judgment:

The Dicism

Upon scrutiny and deliberation by the Federal Supreme Court, it was found that the plaintiff (Tami Ahmed Maarouf) filed this lawsuit against the defendants, the Head of the Council of Representatives, in addition to his job, and Ahmed Abdullah Abd Khalaf Al-Jubouri, in

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addition to his job. In which a judgment is requested to invalidate the membership of MP Ahmed Abdullah Abd Khalaf Al-Jubouri due to the loss of one of the conditions of membership, for the reasons mentioned in the lawsuit, and this court finds that the plaintiff's lawsuit must be dismissed because its subject matter has already been decided according to the judgment decision No. (219/Federal/2021) issued by this court on 30/3/2022, where the decisions of this Court are final and binding on all authorities and persons in accordance with the provisions of Article (94) of the Constitution of the Republic of Iraq of 2005, Article (5/Second) of the Federal Supreme Court Law No. (30) of 2005, as amended, and Article (36) of the Court's Rules of Procedure No. (1) of 2022, Whereas, the judgments issued about the Iraqi courts that have obtained the binding and final degree to be an argument to all people in which the rights were detailed, evidence that contradicts the argument of binding judgments may not be accepted Based on the provisions of Articles (105 and 106) of the Evidence Law No. (107) of 1979, as amended, accordingly and in view of the foregoing, the Federal Supreme Court decided the following: First: Reject of the plaintiff's lawsuit (Tami Ahmed Maarouf) due to the previous adjudication of its subject matter according to the judgment decision Issued by this court in the number(219/Federal/2021) dated 30/3/2022. Second: Charging the plaintiff with fees, expenses and attorneyship fees for the first defendant's agents in addition to his job each of the official jurists Saman Mohsen Ibrahim and Aseel Samir Rahman, and the agent of the second defendant, lawyer Salah Hassan Salim, an amount of one hundred thousand dinars equally, and the share of the first defendant's agents shall be distributed in accordance with the law. The decision has been issued unanimously, final and binding on all authorities in

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accordance with the provisions of Articles (93 and 94) of the Constitution of the Republic of Iraq for the year 2005, and Articles (4 and 5/2nd) of the Federal Supreme Court Law No. (30) of 2005 as amended by Law No. (25) of 2021. The decision has been made clear on 2/Shaaban/1445 AH Corresponding to 13/February/2024 AD.

Judge
Jasem Mohammad Abbood
President of the Federal Supreme Court

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