

*

.

.

:

(3) .

.

(4)

(1)

(5) .

.

- —

(6) .

.

.

" .

.

(2) " .

.

*

.2005/7/25

2005/4/17

.

" :

" :

(7)"

(660/ 40)

" :

(8) "

(11)

" :

(9)"

(10)"

.

(12)1975 39
1989 34

:

:

" :

(19)

:

(20)

(13) "

:

(13)

.

.

:

:

(21)

:

(22)

(23)

(24)

.

" (14)"

"

" :

(15)"

(25)"

(26)

" :

(27)

(16)

" :

(28) "

...

(17)

(29) ... "

(18)

(30)

.

(40) . (31)

:

" :

(32) "

(41) .

(33) .

(34) .

(35) .

.

(42) . (36) .

.

(43) .

.

:

(37) .

.

.

(38) .

(39) .

.

.

(44) .

...

...

.

.

.

:

.

.

.

:

(45)

.

(46)

(47)

(48)

.

.

—

(49)

—

(50)

.

(51)

.

(52)

(53)

.

.

(54)

.

(1794)

"

(55)"...

.

(56)

： () 2001
： ”
“ -1
“
(57)
(44) “ :
“ : (59) -
- ... - ... - .
“ ”
“ ”
(58)
:
.
.
.
(2)
:
“ -1
-2 .
(60) .
-3 .
“ ...
(1448)
:
:
“ -1
“ ”
.
.
.
(61)
:
“ : (1794)

(62)

(70)

:

:

-1

-2

()

:

-1

(63)

(64)

(71)

:

(72)

(65)

(73)

:

:

(66)

(67)

(68)

-2

(74)

(69)

·

(75)

·

∴

·

∴

·

(76)

(77)

·

∴

(78)

-1

(79)

(80)

(81)

·

∴

(82)

-2

·

(83)¹¹

" ∴

·

(84)

-3

·

— —

·

— —

(85)

(86)

·

·

"

(94)"

(1794)

(87)

(88)

(89)

(95)

:

(90)

(96)

(91)

(97) "

":

" :

:

-1

(92)

(99)

(98)

" :

- ...

."

(44)

" :

(93)

- ...

(100)

."

-

-

:

(1794)

(101)

(102)

.

.

(104)

.

(103)

.

.

:

()

-1 :

"

.

"

.

:

.

" :

.

- ...

"

.

(44)

:

.

—

-

"

—

.

"

.

(1794)

(105)

:

(106)

.

.

⋮

.

(108)

" ⋮

⋮

"

.

(109)

⋮

(110)

" ⋮

(111)"

⋮

⋮

(26)

⋮

" ⋮

"

.

(44)

(112)

(107)

(113)

" ⋮

(1812)

(114)

⋮

"

.

.

⋮

(26)

" ⋮

"

(1794)

⋮

.

.

" .

.

... (115)"

:

.

-1

-

-

:

-2

-

-

-

-

-

-3

-

-

.

.

.

.

.

.

-4

-

-

.

.

	1358/4	262/2				
		.96 95				
	.172		(28)	.34		(1)
	.72		(29)			(2)
	.321/2		(30)		.59	
			(31)	.6		(3)
		.		352/4	454 /5	(4)
	.236 235/3		(32)		.461/3	
323/2	84/1		(33)	.86/6	375/4	(5)
	.109			. 5/1	.3	(6)
			(34)		93/4	(7)
					.88	
				130		(8)
					.131	
	1359/4	324/2	(35)		.286	(9)
	.136				. 7	(10)
		.	(36)	1179	3173/4	(11)
		.	(37)		.599/2	
		.	(38)	.30		(12)
	.114		(39)	34		(13)
	.115		(40)		. 1989	
	.115		(41)		.286	(14)
	.116		(42)		.7	(15)
	.116		(43)	146/1	82/2	(16)
333/2	114/1		(44)		.194/1	
	29	84/1		.121/2		(17)
	1364/4				.194/1	(18)
	.135/1			39/1	164/1	(19)
	217/4	4079/9	(45)		.1245	
129/4	453/5	109/16		83/1	152/1	(20)
	499/2	23/1		161/2	1358/4	
	375/4	619/1			245/2	
	380/11	307/2			.70	
		.462/4			.	(21)
	.375/4		(46)			(22)
	.129/4		(47)		.936/1	
129/4	138/4		(48)	:		(23)
	.24/1			.		
	.4		(49)	.		
	.155		(50)			(24)
24/1	375/4	65			.	
		.43/9			.84/1	(25)
:	:		(51)	.1434	286/1	(26)
"					351	(27)

		.130/4	124/7			)
	.124/7		(73)			.
		.100/6	(74)	.	:	
	" : (100/6)		(75)	.	:	
		:		.	:	
				685/4	:	
	"			100/6	389/4	
97	96/11	226/8	(76)		.(161/10	
	.41/9	177/11		.65		(52)
		.637/10	(77)	.307		(53)
		.131/3	(78)	.621 – 620	1	(54)
	.375/4	296/4	(79)	.39	1	(55)
		.296/4	(80)			(56)
		.106/10	(81)			.8
	.387/11	381/11	(82)	. 2001	15	(57)
		.49	(83)			(58)
	.387/11	381/11	(84)			.89
	.465/3		(85)			.
		.26/1	(86)			(60)
125/11	299/4		(87)			
	183/4	500/5				
		480/11	33		.97	96/11
		.465/3		419/2	280/6	(61)
	380/4	244/8	(88)	500/2	4079/9	113/16
		.465/3			183/5	
	.465/3	182/11	(89)	375/4	96/11	130/4
		.465/3	(90)		381/11	372/2
	.8		(91)	.464/3	387/11	
	.2001	15	(92)		130/4	(62)
		.	(93)		.99/6	421/2
			(94)	375/4	96/11	(63)
		.15	1994	407/3	381/11	
	.263/1		(95)	.467/6	465/3	
	.375/4	238/8	(96)		.25/1	(64)
		.375/4	(97)		.183/5	(65)
97/11	307/3		(98)		.381/11	(66)
		.238/8		387/11	381 /11	(67)
	263/1		(99)		.407/2	
	212/4	283/6			.26/1	(68)
	.264/1		(100)		.110/16	4079/9
.89		625/1	(101)	.387/11	381/11	(70)
	.66		(102)			(71)
97/11			(103)		.28	
		.275/4		99/6		(72)

40/9	465/3	(110)	.240		(104)
	.291/6			.16	
.291/6	.380/4	(111)		304/4	(105)
	.125/11	(112)		.299	2
357/6	.307/3	(113)		.299/2	(106)
	.238/8		.39/1		(107)
	.375/4	(114)	380/4	308/1	(108)
.584/4		(115)		.500/2	24/1
				.380/4	(109)

(681)

. 1389

. 1378

(1046)

.1982

(1046)

.1982

(458)

.1996

1990

(456)

(954)

. 1988

.1992

(520)

1978/ 1389

.1996

. 1992

(1004)

.1958

.1984

(620)

. 1982 3

(275)

.1978 3

. 1986

(204)

. 1993

.1975 3

1973

. 2

.2

- .1989 1
- .1971 .1995
- .2001 15
- (593)
- .1991
- 1965
- .1985 2
- (671)
- .2
- . 1315 . 2
- 1983 (261)
- 2000
- .2 (587)
- .1982 2

The Eligibility of the Disabled to Obtain the Position of a Judge in Islam and in the Jordanian Legal System

*Sery Z. Al-Kilani and Bashar A. Malkawi**

ABSTRACT

Judiciary is one of the important authorities in the state. Considering the importance and magnitude of the judge's status; Islam stipulates certain conditions for the eligibility of obtaining this position. The same thing is in the statute law, where no one can hold this legal status unless he meets the conditions specified for obtaining this position in the effective codes.

This research aims to investigate the eligibility of the disabled person to be a judge taking into account the different types and degrees of their disabilities. However, this study comes to a conclusion that the mentally disabled individual is absolutely ineligible to be a judge according to Islamic law and the Jordanian legal system. On the other hand, the physically disabled person is eligible to hold that status provided that his disability does not prevent him from carrying out the duties related to this position. However, being healthy and well-conditioned is more suitable for respecting the prestige of this kind of people who hold such public authorities. For this reason, the Jordanian shar'i judiciary system tends to regard the physically disabled person as being ineligible to hold the judge status at all. In addition to this, the latter legal system considers the occurrence of the unexpected physical disability to the shar'i judge as being a reason for dismissing him from his position.

KEYWORDS: Eligibility of the Disabled, Judge Position, Jordanian Legal System.

* Faculty of Shari'a; and Faculty of Law, University of Jordan. Received on 17/4/2005 and Accepted for Publication on 25/7/2005.