

Anwar loses third bid for judge's recusal
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Anwar Ibrahim failed to reverse the sodomy trial judge's refusal to recuse himself when the Court of Appeal dismissed his appeal today.

The three-member panel of justice istana kehakiman headed by Justice Hasan Lah was unanimous in allowing the prosecution's preliminary objection today.

"The application does not fall within the ambit of a decision under Section 3 of the Courts of Judicature Act," said Justice Hasan.

"Hence, it is unwise for us to disturb the ruling. We uphold the High Court decision and dismiss the appeal. We will provide the detailed grounds of judgment later."

The other two judges were Justice Abdul Malik Ishak and Justice Ahmad Maarop.

Defence lawyer Karpal Singh (left) immediately applied for a stay of proceedings for the matter to be heard at the Federal Court.

"In the event, Federal Court allows our appeal, there will be a waste of public funds in the trial," he submitted.

However, Justice Hasan rejected the stay application, pointing out that the decision had been unanimous.

Karpal said the legal team will file a notice of appeal at the Federal Court tomorrow.

"We hope the court can fix an early date with the case fixed for mention on July 13," he said.

DPP Nordin Hassan, who is the prosecution division deputy head II, leads a team of prosecutors that also included DPP Noorin Badaruddin.

Nordin brought up the preliminary objection that Justice Mohamad Zabidin Mohd Diah's decision not to recuse himself does not fall under the meaning of the word decision under Section 3 of the Court of Judicature Act.

"The decision does not dispose of the rights of the accused person as the trial had yet to end. If Anwar is not satisfied he can make an appeal over the whole decision later. This is to prevent a delay of the trial with the upper courts handling the appeal," he said in his submission.

Nordin further pointed out that when Anwar was unsuccessful in his bid to recuse the judge for the second time, an appeal was brought to the Court of Appeal and when a similar preliminary objection was brought up, the panel accepted the objection.

Karpal, in reply to the preliminary objection, said the court had an opportunity to correct an injustice and it can depart from the decision made by an earlier panel.

The senior lawyer, in asking for a retrial, said the trial judge had gone overboard in calling for Anwar's defence, adding that the judge had pre-judged his client and this was unfair.

Anwar 'not surprised'

Anwar said outside the court that he was not surprised with the decision.

"The court did not hear the merits of our application as it allowed the preliminary objection. Now we will

focus on (the) Bersih (2.0 rally)," he said.

Also present in court were PKR president Dr Wan Azizah Wan Ismail, Lembah Pantai MP Nurul Izzah Anwar, Subang MP Sivarasa Rasiah, Penang assemblyperson Jagdeep Singh Deo, Kota Alam Shah assemblyperson M Manoharan and Human Rights Party leader P Uthayakumar.

This was the third attempt by Anwar to obtain the recusal of KL High Court judge Justice Mohamad Zabidin Mohd Diah, who is presiding over the sodomy trial.

Earlier attempts had followed the court's decision not to reprimand Utusan Malaysia and not to abide by a Supreme Court decision.

Anwar, 63, has been ordered to enter his defence on a charge of sodomising former aide Mohd Saiful Bukhari Azlan, 24, at the Desa Damansara condominium in Bukit Damansara between 3pm to 4pm on June 26, 2008.

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