

US denies trying to block Najib from accessing 1MDB-linked material

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The United States government has denied seeking to bar Najib Abdul Razak from accessing 1MDB-linked documents and testimonies.

It has also rubbished allegation that it is in cahoots with Wall Street investment bank Goldman Sachs to prevent the former Malaysian prime minister from obtaining the material.

In a letter seen by Malaysiakini today, the US Department of Justice (DOJ) dismissed as baseless the allegation linked to the US government's stay bid of a US court order for Goldman Sachs and its former staff Tim Leissner to supply the material to Najib.

Najib was earlier granted a subpoena by a court in the Southern District of New York, for the bank and Leissner to hand him the material that he contended is important to his defence against 1MDB-linked criminal charges in Malaysia.

It is understood that Najib is seeking the material pertaining to alleged corrupt arrangements between some 1MDB officials and wanted businessperson Low Taek Jho and Leissner.

Najib's legal team in New York claimed the material showed that the alleged arrangements were individually reached by these 1MDB officials without the involvement of the then Malaysian prime minister.

He is currently on trial before the Kuala Lumpur High Court for four counts of abuse of power and 21 counts of money laundering in relation to RM2.28 billion of funds from troubled Malaysian sovereign wealth fund 1MDB.

However, the US government has filed for a stay of the US court order as it seeks to intervene in Najib's matter there.

Najib's legal team in New York seeks to oppose the stay bid, seeking to rely on the allegation of Goldman Sachs working with the US government.

The allegation is contained in a March 12 letter issued by the legal team of former Goldman Sachs investment banker Roger Ng.

The March 12 letter was addressed to the court of the Eastern District of New

York, where Ng is facing a 1MDB-linked case.

The DOJ had then written a letter dated March 17 to the Eastern District court to rebut the claims.

In the March 17 letter, the DOJ described as “borders on the absurd” the allegation by Ng that the intervention bid showed "Goldman Sachs is a member of the prosecution team".

It contended that the US government has conducted an independent probe into Goldman Sachs that lasted multiple years and, among other things, culminated in a "deferred prosecution agreement" involving the bank.

“The defendant’s (Ng) remaining allegations are also baseless. The (US) government has not intervened in the (Najib) Razak matter ‘solely to ensure that a defendant in a foreign prosecution... is denied that which a judge in the Southern District has already ruled he should receive’.

“As an initial matter, such a statement is misleading; as defence counsel is aware, the government’s motion to intervene and to stay proceedings is pending, so the purported entitlement of Razak to discovery material - and the timing of their disclosure - is still sub judice (matter still under hearing by court).

“More fundamentally, the government has not argued that Razak should be barred from accessing evidence to mount a defence in the Malaysian criminal proceedings against him.

“Indeed, the government has been clear that it is asking only for a stay of the Razak matter, not that the subpoenas (against Goldman Sachs and Leissner) be quashed, and its position is that such a stay will not prejudice Razak,” the DOL contended.

It claimed that the US government sought the intervention and stay because "the same facts and legal theories are at issue in both the Razak matter and the closely related criminal cases before this (Eastern District) Court".

It argued that the US government made the intervener and stay bids as "the public has an interest in preventing the circumvention of restrictions on criminal discovery and prejudice to the prosecution of those criminal cases".

In an addendum at the bottom of one of the pages of the letter, the DOJ contended that Goldman Sachs and Leissner have yet to respond to the Southern District court's subpoena.

It claimed that unless the US government's stay is allowed, then the bank and the

former banker "may seek to quash the subpoenas and/or litigate their scope".

The DOJ also claimed that the contents of Ng's March 12 letter breached a US court protective order barring disclosure of the nature of the material sought by Najib.

The US court has yet to fix a date to hear the US government's stay application.

Previously on Feb 16 before the Kuala Lumpur High Court, Najib's lead defence counsel Muhammad Shafee Abdullah had tried to get a postponement on the former premier's 1MDB corruption trial on reason linked to the legal bid in New York.

However, judge Collin Lawrence Sequerah has denied the postponement bid.

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