

## UNANIMOUS DECISION

# NAJIB'S BID TO ADDUCE NEW EVIDENCE DISMISSED

Federal Court rules that ex-PM's bid is without any merit

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**D**ATUK Seri Najib Razak was dealt another blow in his bid to overturn his conviction in the SRC International Sdn Bhd case after the Federal Court yesterday dismissed his application to adduce new evidence to boost his defence.

In a unanimous decision, a panel of five top judges said the former prime minister's application was without any merit as he had failed to show what new evidence he wanted to adduce.

His arguments, the judges said, were the same as the ones presented at the Court of Appeal last year where the three judges then also dismissed Najib's application.

In reading out the decision yesterday, Chief Justice Tun Tengku Maimun Tuan Mat said there was no reason for the Federal Court to interfere with the Court of Appeal's decision.

The other judges were Court of Appeal president Tan Sri Rohana Yusuf, Chief Judge of Malaya Tan Sri Azahar Mohamed, Chief Judge of Sabah and Sarawak Tan Sri Abang Iskandar Abang Hashim and senior Federal Court judge Datuk Seri Mohd Zawawi Salleh.

The judges also dismissed Najib's arguments that he had been denied the right to be heard at the Court of Appeal and therefore his right to a fair trial had been violated.

In booting out this argument, Tengku Maimun said Najib's lawyers had been given ample time to fight their case at the lower court and there was no question of him being denied anything.

She said Najib's lead counsel, Tan Sri Muhammad Shafee Abdullah, had taken one hour and 22 minutes to submit at the Court of Appeal while lead prosecutor Datuk V. Sithambaram took only an hour to do so.

"He (Najib) suffered no prejudice whatsoever. He was not deprived of the right to be heard,"



Former prime minister Datuk Seri Najib Razak (centre) arriving at the Federal Court in Putrajaya yesterday. PIC BY MOHD FADLI HAMZAH

she said.

In his application to include fresh evidence, Najib had argued that issues raised in the High Court and the Court of Appeal had not been fully determined and he had therefore not received a fair trial.

Among other things, he argued that the defence only recently learnt that the Malaysian Anti-Corruption Commission had confirmed that RM65 million of 1Malaysia Development Bhd-linked funds were recovered from Cutting Edge Industries, a company in Singapore controlled by Datuk Tawfiq Ayman, the husband of former Bank Negara governor Tan Sri Dr Zeti Akhtar Aziz, and his business partner, Samuel Goh.

Najib's lawyers had argued that the link between Zeti's family and fugitive financier Low Taek Jho @ Jho Low was fresh evidence that needed to be presented before the courts.

However, Tengku Maimun said Najib had failed to convince the

court on this argument and there was no reason for the Federal Court to interfere with the Court of Appeal's decision.

She said Zeti had actually been offered to the defence to be called as a witness during the SRC trial, but Najib's team had opted not to do so.

It was reported that the Court of Appeal had, on Dec 7, rejected Najib's bid to adduce fresh evidence before upholding the Kuala Lumpur High Court decision to convict him of misappropriating RM42 million of SRC International funds.

The three-member Court of Appeal bench — comprising justices Datuk Abdul Karim Abdul Jalil, Datuk Has Zanah Mehat and Datuk Vazeer Alam Mydin Meera — ruled that there were no exceptional circumstances that merited Najib's defence to adduce so-called new evidence.

In a unanimous decision, the bench surmised that Najib's bid to adduce the evidence by MACC

Chief Commissioner Tan Sri Azam Baki and former SRC investigating officer Rosli Hussein to be examined was not necessary as Najib had failed to cumulatively satisfy the requirements of the law.

It was ruled that Najib had failed to meet elements required for new evidence to be allowed, namely credibility and relevance.

Najib was convicted by High Court judge Datuk Mohd Nazlan Mohd Ghazali on all seven charges in the SRC case.

He was found to have abused his power by using his positions, as prime minister and finance minister, to approve two loans of RM2 billion each by Retirement Fund Inc (KWAP) in 2011 and 2012.

He was also convicted of three counts each of criminal breach of trust and money laundering of RM42 million of SRC funds, which ended up in his personal accounts between Dec 26, 2014, and Feb 10, 2015.