

# NAJIB FAILS IN BID TO REVIEW SRC CONVICTION

Former PM author of own misfortune in the handling of his appeal, rules apex court in a 4-to-1 majority judgment

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**T**HE Federal Court, in dismissing Datuk Seri Najib Razak's application to review his conviction for misappropriating SRC International funds, ruled that the former prime minister has not been denied the right to a fair trial in previous appeal hearings.

Instead, the five-member bench, in a four-to-one decision, ruled that Najib was actually the author of his own misfortune for the way his hearings had gone.

Federal Court judge Datuk Vernon Ong Lam Kiat, when reading out the panel's decision, noted that it was Najib's own counsel who refused to make oral submissions.

This was despite the counsel being allowed to do so by Chief Justice Tengku Maimun Tuan Mat, who led the previous apex bench that dismissed the appeal.

Ong was referring to lawyer Datuk Hisyam Teh Poh Teik, who did not make oral submissions despite being invited to do so during the SRC appeal hearing.

The panel also ruled that Tengku Maimun had rightly decided not to recuse herself from hearing Najib's appeal.

The other panellists who agreed to dismiss Najib's appeal were Datuk Rhodzariah Bujang, Datuk Nordin Hassan and Court of Appeal judge Datuk Abu Bakar Jais. Panel chairman — Sabah and Sarawak chief judge Datuk Abdul Rahman Sebli — was the dissenting member.

Najib was represented by Tan Sri Muhammad Shafee Abdullah while the prosecution team was led by Datuk V. Sithambaram.

In the summary judgment, the judges ruled that Najib's application for a review of fresh evidence should be rejected as the previous Federal Court decision was made on the correct assessment of the evidence.

They ruled that Najib's arguments were untenable and thus there was no merit for a review.

On the point that Tengku Maimun should have granted an adjournment as Najib's lawyers were unprepared to proceed with the appeal hearing, the judges ruled that the law on adjournment was settled, and that the court had absolute discretion whether to allow or reject such applications.

They ruled that the earlier panel had exercised its discretion judiciously and there was no denial of the applicant's rights.

On the point of the discharge of Najib's counsel from representing him, the judges said this too was rejected as there was no merit for a review of that decision.

On the point to set aside Najib's conviction and sentence, the

judges said the earlier panel had considered 94 grounds of appeal, written submissions and previous decisions of the lower courts that heard Najib's case.

This, they said, led them to conclude that there was no merit for a review of the courts' decision to convict and sentence Najib.

"The applicant contends that his right has been breached.

"However, here, it is clear that the applicant is the author of his own misfortune. We do not see any reason to review any decision of the earlier panel of the Federal Court," the judges said.

With the decision, Najib would now have to continue serving his sentence. The former Pekan member of parliament and Umno president has been in jail for 221 days including today.

Najib, 70, was sentenced by the Kuala Lumpur High Court on July 28, 2020, to 12 years' jail and fined RM210 million for misappropriating RM42 million of SRC International funds.

He was also convicted of abusing his power with regard to the RM4 billion Retirement Fund Inc (KWAP) loan, which the cabinet approved via a government guarantee in two meetings that he chaired in August 2011 and March 2012.

A three-member Court of Appeal had upheld the conviction and sentence on Dec 8, 2021, and this was further confirmed by a five-member bench led by Tengku Maimun on Aug 23.

*Page 1 pic: Datuk Seri Najib Razak arriving at the Palace of Justice in Putrajaya yesterday.*