

Najib to serve out jail term

Apex court dismissed move, exhausting all legal avenues

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PUTRAJAYA: Datuk Seri Najib Razak will stay in jail and only a Royal pardon can now see him leaving prison any time soon.

The former prime minister failed to have his conviction and sentence in the RM42mil SRC International Sdn Bhd case reversed following the Federal Court's dismissal of his application for leave for a review.

He has exhausted all his legal avenues and is now left with no choice but to seek a pardon.

In a 4-1 majority decision, read by Justice Vernon Ong Lam Kiat, the panel found no bias or breach of natural justice had occurred in the hearing of Najib's final appeal before a different panel in August last year.

Chief Judge of Sabah and Sarawak Justice Abdul Rahman Sebli, who chaired the five-judge panel, was the lone dissenting voice.

The panel was of the view that Najib's application "did no more than challenge the merits of the Federal Court's decisions".

Last August, a panel of five judges chaired by Chief Justice Tengku Maimun Tuan Mat presided over Najib's final appeal.

They affirmed and upheld the conviction and sentence of 12 years' jail and RM210mil fine meted out by the High Court.

Najib then filed for leave to review his conviction and sentence, claiming there was a miscarriage of justice.



To no avail: Najib leaving court in a convoy heading back to Kajang Prison

Justice Ong said Najib's response to the dismissal of his applications and appeals before the previous panel had been "wholly disproportionate".

He said Najib, who is serving time in the Kajang Prison, had in his supporting affidavit said he was deprived of his fundamental liberties under the Federal Constitution to a fair appeal.

"In our considered view, the applicant is not in a position to be objective as he cannot accept that this court will decide the applications and the appeals against him unless there was bias, breach of natural justice or abuse of process.

"The fact that his feelings may be genuine cannot be allowed to dictate our conclusion.

"In the final analysis, in regard to all the circumstances in this matter, with respect, we are constrained to say that the applicant (Najib) was the author of his own misfortune," Justice Ong said yesterday.

He said the present panel saw no objection in law to the course to which the earlier panel of judges took.

"Even if you are inclined to take a different view, we do not say we do or do not agree with the decisions - that is not the ground to review the impugned decisions," he said.

On Rule 137 of the Rules of the Federal Court 1995, which Najib invoked in his application for leave to review his case, the panel said the provision gave the apex court inherent jurisdiction to review its

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own decision but only for cases that fall within limited grounds and exceptional circumstances.

"Absence of such limited grounds and very exceptional circumstances, an invocation of this rule by a dissatisfied party may be an abuse of the process of the court.

"We stress that Rule 137 should never be used to abuse the process of the court," Justice Ong said.

Other judges on the Bench are Federal Court judges Justices Rhodzariah Bujang, Nordin Hassan and Court of Appeal judge Justice Abu Bakar Jais.