

Shafee can't be lead prosecutor in Anwar's appeal case due to conflict of interest, Federal Court told

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Umno lawyer Tan Sri Muhammad Shafee Abdullah must be disqualified from leading the prosecution team to set aside the sodomy acquittal of Datuk Seri Anwar Ibrahim, as there was overwhelming evidence of conflict of interest, the Federal Court was told today.

Counsel Tommy Thomas said Shafee should be barred from taking up this case because as a lawyer he would also be in breach of the Legal Profession (Practice and Etiquette) Rules 1978.

Attorney General Tan Sri Abdul Gani Patail appointed Shafee as ad hoc deputy public prosecutor (DPP) last July.

Thomas said Shafee acknowledged he was the lawyer for Prime Minister Datuk Seri Najib Razak and his wife Datin Seri Rosmah Mansor in an application by Anwar to have them as defence witnesses in the sodomy case.

"He was also legal adviser to Tun Dr Mahathir Mohamad in relation to Anwar's cases," Thomas said, adding that Shafee was the legal adviser to Umno and Barisan Nasional, in his submission before a five-man bench led by Tan Sri Zulkefli Ahmad Makinuddin today.

Thomas said the AG's Chamber in its client's charter stated that it would undertake prosecution justly, equitably and transparently.

"But in reality, this is not happening as far as Anwar's case is concerned," he said.

Thomas is still submitting and Shafee will rebut the lawyer's argument later in the day.

A decision is expected today as the Court of Appeal has fixed tomorrow and Thursday to hear the

public prosecutor's appeal against the decision of the High Court which set Anwar free after his defence was called in the sodomy case.

Lawyer Karpal Singh – who handled the case at the High Court and represented Anwar in the first application to disqualify Shafee as the deputy public prosecutor (DPP) – will be the lead counsel tomorrow.

On January 9, 2012, Anwar, 66, was acquitted by the High Court on a charge of sodomising his former aide Mohd Saiful Bukhari Azlan at a condominium unit in Bukit Damansara in 2008.

His second application to disqualify Shafee, based on a statutory declaration (SD) by former Kuala Lumpur Criminal Investigation Department chief Datuk Mat Zain Ibrahim, was dismissed on December 20 by a three-man Court of Appeal.

Anwar filed the application on December 6 after Mat Zain's SD was made public on December 2.

Anwar said Shafee was not a fit and proper person to be a DPP due to the revelation in the SD.

Among others, Mat Zain in his 31-page SD said he had gone with Shafee and former Commercial Crime Investigation Department director Datul Ramli Yusof to Tun Dr Mahathir Mohamad's house earlier this year, where they allegedly discussed Gani's wrongdoing.

On December 20, Datuk Aziah Ali, who led the three-man Court of Appeal, in dismissing Anwar's second application said the SD was irrelevant as it was related to the "black eye" incident which was already concluded.

Aziah argued that the SD was hearsay evidence and that Mat Zain was not available to ascertain the truth, adding that there were latent defects in the SD as Mat Zain, such as the blotting out of Mat Zain's identity card number and address.

Anwar had first challenged the legality of Shafee's appointment under the Criminal Procedure Code. This was dismissed by the Federal Court on November 20. – February 11, 2014.

Source:

<http://www.themalaysianinsider.com/malaysia/article/shafee-cannot-be-lead-prosecutor-due-to-conflict-of-interest-federal-court>