

Anwar Loses Sodomy II Appeal, Fed Court Upholds Five-Year Jail Term Bernama Feb 10, 2015

PUTRAJAYA, Feb 10 (Bernama) -- Datuk Seri Anwar Ibrahim, Tuesday lost his final appeal at the Federal Court against his conviction for sodomising a former aide.

Chief Justice Tun Arifin Zakaria, who led a five-member panel, delivered the judgement and upheld the five-year jail term imposed by the Court of Appeal.

The other judges were Court of Appeal president Tan Sri Md Raus Sharif and Federal Court judges Tan Sri Abdull Hamid Embong, Tan Sri Suriyadi Halim Omar and Datuk Ramly Ali.

With this ruling, Anwar, 67, stands to be disqualified as the member of parliament for Permatang Pauh as per Article 48(1)(e) of the Federal Constitution, which states that an MP would be disqualified if he or she is sentenced to a jail term of more than a year, or fined more than RM2,000.

Anwar was represented by a team of 15 lawyers led by Datuk Seri Gopal Sri Ram, a former Federal Court judge himself.

The other 14 lawyers were Ramkarpal Singh Deo, Gobind Singh Deo, Sangeet Kaur Deo, N. Surendran, R. Sivarasa, J. Leela, Latheefa Koya, Lim Choon Khim, Eric Paulsen, Michelle Yesudas, Shahid Adli Kamaruddin, Zaleha Al-Hayat, Jeremy Vinesh Anthony and Mohamed Aliff Bolkin.

Senior lawyer Tan Sri Muhammad Shafee Abdullah led the prosecution team in the appeal. He was assisted by deputy public prosecutor Datuk Mohamad Hanafiah Zakaria.

On Nov 7, last year, Justice Arifin reserved the decision after hearing submissions from both sides.

The hearing of Anwar's appeal, which was initially set for two days from Oct 28, 2014, dragged on for eight days as the defence and prosecution presented lengthy submissions and cited many legal cases.

Anwar had been charged with sodomising Mohd Saiful Bukhari Azlan at Unit 11-5-1 Kondominium Desa Damansara, Jalan Setiakasih in Bukit Damansara, Kuala Lumpur, between 3.10 pm and 4.30 pm on June 26, 2008.

He was charged under Section 377B of the Penal Code, which states that whoever voluntarily commits carnal intercourse against the order of nature shall be punished with imprisonment for a term which may extend to 20 years and shall also be liable to whipping, upon conviction.

Under the law, however, a person aged above 50 is spared whipping.

On Jan 9, 2012, the High Court acquitted and discharged Anwar of sodomising Mohd Saiful on the grounds that the court could not be 100 per cent certain on the integrity of samples taken for DNA testing from the alleged victim.

The court had ruled that the samples could have been compromised before they reached the chemistry department for analysis.

However, on March 7 last year, the Court of Appeal overturned the High Court judgement and found Anwar guilty of having sodomised Mohd Saiful, and sentenced him to five years' jail.

The Court of Appeal held that the trial judge had erred in his findings about the DNA samples.

This is the second sodomy case against Anwar.

In the first case, he was found guilty of having sodomised his family driver Azizan Abu Bakar at Tivoli Villa, Kuala Lumpur, in 1994, and was sentenced to nine years' jail by the High Court on Aug 8, 2000.

The court ordered him to serve the sentence after the completion of his six-year jail term for corruption, having been found guilty of four charges of corruption on April 4, 1999.

But after spending nearly six years in jail for corruption, Anwar was released on Sept 2, 2004, after the Federal Court led by Justice Tun Abdul Hamid Mohamad, who went on to become the chief justice, overturned his conviction and set aside his jail sentence on the sodomy charge, in a 2 -1 majority decision.

Abdul Hamid, who wrote the majority judgment, said the judges found that Anwar and co-accused Sukma Darmawan Sasmitaat Madja "were involved in homosexual activities" and the judges were more inclined to believe that the alleged sodomy did take place.

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