

Sirul safe in Australia, but Azilah on death row with no sign of reprieve

The Malaysian Insider

August 11, 2015

By V. Anbalagan

It has been seven months since former chief inspector Azilah Hadri, along with his colleague, were sentenced to death for the murder of Mongolian woman Altantuya Shaariibuu.

But while his accomplice, fellow ex-commando Sirul Azhar Umar (pic, left) had escaped the death penalty by moving to Australia prior to his conviction, Azilah has been forgotten and uncertainty surrounds his fate. Sirul is now being held in an Australian immigration detention centre.

It is unclear if Azilah's lawyers have filed for an application to obtain a pardon or for a review of the Federal Court's guilty verdict – the last remaining avenues for him.

His lead counsel Datuk Hazman Ahmad would not comment despite several calls made and a text message sent by The Malaysian Insider to seek clarification.

On January 13, a five-man bench apex court [retained the conviction and death sentence](#) by a High Court against Azilah and ex-corporal Sirul.

Hazman had immediately said then that he would file an application to seek clemency from the Sultan of Selangor as the crime was committed in the state.

Three months later, the lawyer said he would apply for a review of the Federal Court's unanimous guilty verdict handed by chief justice Tun Arifin Zakaria.

These steps are required procedure as stipulated in the Federal Constitution for anyone convicted and sentenced to death.

The chance of being granted a review is slim, however, as the Federal Court rarely allows reviews for criminal cases.

Lawyer Ragunath Kesavan said only in rare cases had the highest court in the land allowed reviews, and that too only for civil cases where a wrong application of the law had been made.

"To my recollection, the apex court had never allowed a review of its own verdict in a criminal case that involved capital punishment," said the former Malaysian Bar president, adding that Azilah's better option would be to commute the death sentence to a jail term.

Lawyer M. Visvanathan said a review or an application for pardon must be done expeditiously.

"There is already a written judgment on the verdict and any review application must be done speedily. One cannot be sitting on it," he told The Malaysian Insider.

Similarly, he said the application for pardon or clemency must be made to the Pardons Board as the life of a person was involved.

"Usually, the Prisons Department will act if the condemned prisoner has no lawyer to do the paper work," he added.

Evidence in court revealed that Altantuya, a Mongolian translator, was murdered before her body was blown up by C4 explosives on October 18, 2006, in the outskirts of Shah Alam, near the capital city Kuala Lumpur.

Former political analyst Abdul Razak Baginda, a confidant of then deputy Prime Minister Datuk Seri Najib Razak, was charged with abetting Azilah and Sirul but was acquitted by the High Court in 2008 without his defence being called. The government did not appeal.

Despite the conviction, the motive for the murder was never revealed.

Former attorney-general Tan Sri Abu Talib Othman in a previous interview said Sirul or Azilah should "tell all" to the Selangor Pardons Board to avoid the gallows.

However, Talib said nothing would change if they decided to talk now since the judicial process was completed.

"Actually, the Pardons Board is the final court of clemency although it cannot substitute the finding of guilty to that of not guilty.

"Under our Federal Constitution, no death can be executed without going to a Pardons Board," he had said.

He said their lawyers could write to the Sultan of Selangor and the board chairman, and extend a copy to the menteri besar, who is a member of the board.

"The board can consider any relevant matter in coming to a just decision as to whether the death sentence should be executed," he added.

Talib, who served as Attorney-General (A-G) between 1980 and 1993, said the board was not bound by the opinion of the present A-G although it must consider his advice.

[Sirul was not present in January](#) when the Federal Court upheld conviction and sentencing for Altantuya's murder. It was later found that he had fled to Australia in October last year.

Sirul was later arrested in Brisbane, and is currently being held at an immigration detention centre in Sydney.

[Malaysia is attempting to request that Sirul be extradited](#) to Malaysia.

However, Australian law dictates that a person facing the death penalty in his or her home country cannot be extradited.

Sirul's lawyer is expected to file a legal challenge on any attempt to extradite the convicted murderer as legal experts share the view that the process will take time. – August 11, 2015.

Copyright © 2015 Edge Insider Sdn Bhd

Source:

<http://www.themalaysianinsider.com/malaysia/article/sirul-safe-in-australia-but-azilah-on-death-row-with-no-sign-of-reprieve>