

# Final SRC appeal: What's next if Hisyam doesn't make submission

By [RAGANANTHINI VETHASALAM](#) - Monday, 22 Aug 2022



PETALING JAYA: All eyes will be on the Federal Court tomorrow as it remains to be seen whether Datuk Seri Najib Razak's (pic) lead counsel Hisyam Teh Poh Teik will stand his ground on not making a submission in the former prime minister's final appeal in the SRC International Sdn Bhd case.

The Star spoke to senior lawyers on what the possible scenarios are if Hisyam does not make a submission as per his stance last week.

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Senior lawyer Mohamed Haniff Khatri Abdulla said the written and oral submissions filed in the Court of Appeal and High Court would be part of the court's records.

“The petition of appeal together with the previous submissions in writing, the oral submissions, any written submissions that have been made by Najib’s previous lawyers in the court plus whatever the lawyers may want to submit orally on Tuesday is more than sufficient, judiciously and legally, for the court to make a decision,” he said.

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Haniff said if Najib’s legal team chose not to make a submission, the court could then put an end to the hearing and proceed to the next stage, which was the decision.

He said the apex court would have to decide on whether the appeal was to be allowed or dismissed.

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He said if the appeal was allowed, Najib would be a “free man” and if the appeal was dismissed, Najib’s conviction would be upheld and he would have to serve his sentence.

“There is also an appeal against the sentence,” he said, adding that in the event the appeal against conviction were to be dismissed, the court would have to consider whether the sentence needed to be changed.

“Even if the prosecution did not file a cross-appeal against the sentence, the court still has the power independent to that, to increase or decrease the sentence,” he said.

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Haniff said Najib could file for review but he would have to begin his sentence first.

The review, he said, could be filed on the same day as the decision.

Haniff noted that Najib could still appoint another lawyer to represent him tomorrow.

“They (new legal team) must be there on Tuesday and tell the court that ‘we have taken over conduct and we are ready to submit’,” he said.

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When asked of the possible scenario if a submission is not made tomorrow, lawyer Datuk Geethan Ram Vincent said the submissions would then be deemed as completed and the apex court would adjourn for deliberation.

“They can deliver decision the same day or even within the week,” he said.

He said the possibility of the decision being delivered on the same day could not be discounted.

In the event the apex court affirms the High Court’s conviction and sentence, Najib will have to begin serving his sentence.

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“It is the end of the road in terms of appeals are concerned,” he said, adding that a review could be filed though the threshold might be extremely high and that would be a hurdle the legal team would need to pass first.

Geethan also noted that no bail could be granted pending a review.

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Senior criminal lawyer Datuk Dr Baljit Singh Sidhu said if an appeal was dismissed by the Federal Court, then the appeal process was completed.

“Review application pursuant to Rule 137 of the Rules of the Federal Court 1995 can be filed by anyone after the appeal process is over and there is no time limit prescribed. Needless to say (there is) the stringent criteria to fulfil for a review application,” he said.

“No bail is given for an application for a review or while waiting for review. No such provision exists in the criminal process.”

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Chief Justice Tengku Maimun Tuan Mat had asked Hisyam on Friday whether he would be making his submissions.

She said if Hisyam was not ready to put in its submission in writing, the defence could always make oral submissions.

However, Hisyam said he would not be making any submission.

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Earlier, the five-judge panel also denied Hisyam’s application to postpone the appeal to this Thursday.

He had told the court that he had to attend to another case.

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The application was denied outright by the panel.

Hisyam remains as Najib’s lead counsel on record even though the former prime minister discharged Messrs Zaid Ibrahim Suflan TH Liew & Partners from representing him at the end of last week.