

Judge rejects plea to move Besigye to private hospital

Lawyers of the four-time presidential candidate have rejected a proposal to hold court proceedings via zoom due to his health challenges. They insist that he needs to receive treatment at a facility of his choice.

BY JULIET KIGONGO

Despite concerns regarding Dr Kizza Besigye's health, the trial judge has ruled that there is no evidence indicating that his medical needs cannot be addressed at Luzira Prison. Consequently, the judge rejected the defence's request to transfer former Opposition leader to a private medical facility.

Justice Emmanuel Baguma of the Criminal Division of the High Court made the ruling yesterday after defence lawyers objected to a proposal that proceedings be conducted via Zoom due to Dr Besigye's health challenges.

Instead, the judge granted a three-week adjournment, directing that Dr Besigye be produced physically in court when the matter resumes.

"I have not seen a suggestion at this stage that his health concerns cannot be handled in Luzira," Justice Baguma said.

The judge said he had received a letter from the Deputy Registrar conveying a request from Luzira Upper Prison authorities for the hearing to be conducted online because they had been unable to produce one of the accused persons due to health concerns.

Defence lawyers, led by Kampala Lord Mayor Erias Lukwago, strongly opposed the proposal, arguing that the explanation was insufficient and procedurally flawed.

"With due respect, it is not sufficient to explain the circumstances warranting a Zoom hearing. It is not the duty of the Registrar to produce prisoners in court," Mr Lukwago said.



Key prayer.

With due respect, it is not sufficient to explain the circumstances warranting a Zoom hearing... Instead of proceedings on Zoom, we pray that Dr Besigye be transferred to a health facility of his choice to get the treatment he deserves." **Erias Lukwago, defence lawyer**

He added that virtual proceedings could not be justified when only one of the three accused persons was reportedly ill.

"We cannot proceed on Zoom because not all three accused are sick. The other two should have been produced in court," he submitted.

The defence insisted that Dr Besigye was seriously unwell and should be transferred to a health facility of his choice.

"Instead of proceedings on Zoom, we pray that Dr Besigye be transferred to a health facility of his choice to get the treatment he deserves," Mr Lukwago told the court.

Defence lawyer Fredrick Mpanga questioned the Registrar's letter, saying it did not disclose the nature of Dr Besigye's illness.

"We do not know whether he can see, hear, or is of sound mental faculty for his lawyers to assess whether he can stand trial," Mr Mpanga said.

He added that it is the accused person, not prison authorities, who may dispense with physical appearance.

Mr Brian Turiinawe, another defence lawyer, told the court that he had visit-

ed Luzira Prison and found Dr Besigye unable to leave his cell even to attend a legal consultation.

"He could not move from his cell to the conference hall where virtual court sessions are normally conducted," Mr Turiinawe said.

However, Chief State Attorney Richard Birivumbuka said the prosecution sympathised with Dr Besigye but maintained that a Zoom appearance was lawful.

"It is not our wish to try a sick person. The request was meant to help the court appreciate his health condition," Mr Birivumbuka said.

In a rejoinder, Mr Lukwago questioned who was expected to certify Mr Besigye's illness.

"Even under incarceration, Dr Besigye is entitled to the services of his personal physician," he said.

In his ruling, Justice Baguma said it was not disputed that one accused person had health concerns and that trial could not proceed in the absence of the accused.

"Both parties agree that the trial cannot proceed in the absence of the accused," he ruled.

Mr Erias Lukwago, the Kampala Lord Mayor and one of the lawyers of veteran politician Kizza Besigye and his co-accused Obeid Lutale, makes a submission at the Criminal Division of the High Court in Kampala yesterday. The duo is accused alongside Capt Denis Oola. PHOTO/ABUBAKER LUBOWA

PREVIOUS INCIDENT

The BCC reports that this is not the first time the veteran opposition leader has been taken ill at Luzira Prison in Kampala, where he has been held. Last February, Dr Besigye was also reported critically ill after he went on hunger strike demanding justice. Dr Besigye, who last contested the presidency in 2016, has previously accused the authorities of political persecution. He was last year charged with treason, among other cases. There have been increasing calls by his family, Opposition and human rights groups for him to be released on medical grounds. President Museveni has blamed Dr Besigye and his legal team for the delays in the trial, which he said had resulted in his continued detention.

He adjourned the case to February 24, granting time for Dr Besigye to be produced physically in court.

Concerns about Dr Besigye's health were echoed by his wife, Ms Winnie Byanyima, who on Tuesday addressed a press conference at her home in Kasangati, Wakiso District.

Ms Byanyima said her husband had been ill since last week but was denied timely medical attention.

"When I attempted to see him on Monday, I was turned away, although I was later allowed to deliver food through his sister," she said.

Ms Byanyima added that it was not until late Monday night that Dr Besigye was taken to a private clinic after his personal doctor, Dr Nandi Kanyerezi, spent the day pleading with prison authorities.

"I found him very ill; he had acute stomach pain, a high temperature and was severely dehydrated," she said.

Ms Byanyima said her husband refused treatment from prison medical staff and insisted on seeing his personal doctor.

"When I arrived, he was shaking and unable to hold himself up. He was put on a drip, given antibiotics and rehydration, and tests were taken," she said.

Ms Byanyima said doctors recommended a follow-up review but prison officials later informed them that further access to medical care would require approval "from above".

Dr Besigye, his aide Obeid Lutale, and co-accused Capt Dennis Oola are facing treason charges. At their previous appearance, all three declined to plead, prompting court to enter not-guilty pleas on their behalf.