Besigye: I will boycott court over delayed evidence



Veteran politician Kizza Besigye (centre) with co-accused Obeid Lutale gesture to their supporters and relatives while in the dock at the High Court yesterday. PHOTO/ABUBAKER LUBOWA

BY JULIET KIGONGO

KAMPALA. Remanded Opposition politician Kizza Besigye yesterday threatened to boycott proceedings before Emmanuel Baguma, accusing the court of failing to address concerns raised by his defence lawyers regarding the prosecution's late disclosure of evidence in his treason trial.

Dr Besigye, who has spent more than a year on remand at Luzira Prison, lost his cool during a court session and told the presiding judge that he would rather stay away from the proceedings than participate in what he described as an unfair process.

"I am extremely concerned, Judge, about continuing to dismiss our concerns of lack of disclosure. Clearly, you have not listened very carefully, as you claim to say. What has been raised touches the application," an irritated Dr Besigye told the court.

He added: "If this happens, we shall just stay at home and judge us as you wish. I don't know how this can be a fair process. You are hearing an application that I have not seen."

In response, Justice Baguma said: "I have not dismissed any concerns. I said I will come to it later."

The disagreement arose as lawyers argued over whether the prosecution had complied with an earlier court order directing it to fully disclose all evidence and witness statements before the trial could start.

Dr Besigye is jointly charged with treason alongside his political associate, Obeid Lutale, and Capt Denis Oola.

His defence team includes Kenyan lawyer Martha Karua, Outgoing Lord Mayor Erias Lukwago, Ernest Kalibbala, and Frederick Mpanga.

Ms Karua told the court that the prosecution had failed to comply with the earlier directive requiring full disclosure of evidence. "The prosecution has not yet made full disclosures despite an earlier order."

Mr Lukwago also faulted the State for serving additional documents after committing to complete disclosure by March 3.

"There is non-compliance with a court order and the commitment made to make full disclosures by March 3. Three days later, they purported to serve on us Volume Two of the intended evidence," Mr Lukwago said.

He further revealed that more statements were served on the defence late in the evening.

"Yesterday at about 6:30pm, they served us additional statements of six witnesses. The documents served have missing documents, such as the statement for witness A. There are no names or particulars of witnesses. This is not full disclosure, my Lord," he added.

According to the defence, the prosecution is required to provide the names and particulars of all witnesses.

Another defence lawyer, Eron K[illegible] complained that some law firms representing the accused had not been served with the prosecution's application.

In response, Assistant Director of Public Prosecutions Thomas Jatiko said the State had applied to the court to protect the identities of six witnesses over security concerns.

"The prosecution made an application before the court to conceal or protect the identities of six witnesses. The prosecution disclosed their statements, and these witnesses are crucial in this case," Jatiko told the court.

The Director of Public Prosecutions' application seeks permission for the witnesses to testify using pseudonyms A, B, C, D, E, and F, arguing that revealing their identities at this stage could endanger them and their families.

Lawyer Kalibbala countered that the application to conceal witnesses was filed after the court had already ordered full disclosure of the prosecution's evidence. Mr Mpanga also told the court that his firm had only seen the application moments before the hearing.

After hearing submissions from both sides, Justice Baguma ruled that the application had not been properly served on all parties.

"Since there was no proper service and the defence lawyers say they have no instructions, and in the interest of justice, the prosecution is ordered to serve the accused and all lawyers who have appeared in court today," he ruled.

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Court day. The judge directed the defence to file its response by March 26, with any rejoinder due by March 30. The matter will return to court on March 31.