

Written by freezak

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The Counsel to Sheikh Zakzaky and Human Right Activists Femi Falana, SAN, has criticized Kaduna state Government on the fresh conditions it issued regarding the Court's permission granted to Sheikh Zakzaky and his wife to seek medical care in India.

Nasir Elrufai asked the court to make Sheikh Zakzaky and his wife to each produce two prominent people as sureties including a high class traditional ruler before allowed to go abroad for medical care.

The statement by the Governor of Kaduna state says &quot; “While the Kaduna State government respects the court’s ruling on medical leave, it disagrees with the premises on which it is based.

“Therefore, an appeal will be lodged on the matter, but a stay of execution will not be sought as the state government believes that a person may choose to travel abroad for any medical condition at his own cost.”

However, responding to this the counsel to Sheikh Zakzaky Femi Falana issued a statement on Wednesday the 8th of August which says:

“I thought that the Kaduna State government had planned to appeal against the order of the Honourable Darius Khobo granting leave to the El-Zakzakys to travel to India for urgent medical treatment under the supervision of the government.

“I hope that the plan to pursue an appeal in the case has been shelved as the Court of Appeal has ruled that you cannot stay the execution of orders of this nature. That remains the position of the law as espoused in the case of Mowarin v Nigerian Army, which was decided under a military dictatorship in the country.

“The so-called agreement is totally alien to the penal code and the administration of criminal justice law of Kaduna State. Hence, the agreement is not brought under any substantive or adjectival law.&quot;

“My colleagues in the Ministry of Justice are not unaware of the position of the law that an agreement cannot vary or modify the order of a competent court. It is unfortunate that some highly placed public officers are so hell bent on abrogating the fundamental rights which have been fought for and won by Nigerians, even under the British colonial regime.

“For instance, the Prison Ordinance was amended in 1917 to allow the family members or friends of prison inmates to remove them from prison and take them out for medical treatment, if

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the prison facilities could not cater for any terminal illness. That provision has been incorporated in Regulation 12 made pursuant to the Prisons Act.

“In this instant case, the court did not release the El-Zakzakys to their family members but that they should be treated in a foreign hospital under the supervision of the government.

“Since the Department of Service Services (DSS), which has the custody of the El-Zakzakys, has announced on behalf of the Federal Government that the court order would be obeyed, the so-called terms of “agreements” of the Kaduna State government should be ignored because it is the height of provocative contempt.

“It takes two to tango. A party in a case cannot dream of some weird ideas, parade them as an agreement and impose same on a court and the other parties.”