

RATIO DECIDENDI IN DETERMINING TOOLS OF EVIDENCE INSTRUCTIONS FOR SETTLEMENT OF CRIMINAL CASES IN THE MURDER TRIAL

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Abstract

Evidence is needed to show the truth of the crime that occurred. The importance of evidence as evidence in legal cases greatly influences the outcome of the decision determined by the judge. The completeness and validity of evidence is the most important factor in determining a case decision. So based on the problems above, researchers will conduct an analysis of the application of evidence and obstacles to the application of evidence in Decision Number: 1342 K/Pid/2022. This study uses a normative legal research type with the Statue Approach and Case Approach approaches. Sources of legal material come from the Civil Code (KUHAP) Articles 183 to 189 and Articles 55 and 56 of the Criminal Code. The process of collecting data through a literature study will be analyzed using a qualitative descriptive analysis. The results of this study are: 1) The application of evidence in the court decision Number: 1342 K/Pid/2022 concerning the Criminal Act of Murder is in accordance with the existing requirements and has the force of law in proving the murder case that occurred, and 2) The Judge does not encountered obstacles in the use of evidence to drop Court Decision Number: 1342 K/Pid/2022 concerning the Crime of Murder where evidence was available from the Defendant's Statement, Witness Statement and Physical Evidence that corroborated the occurrence of a violation of the law.

Keywords: Evidence, Murder, Ratio Decidendi

1. INTRODUCTION

Indonesia is a state based on law which is clearly proven from the content of Article 1 Paragraph 3 of the 1945 Constitution that “Indonesia is a state based on law”. In this case, the role of law is to create an orderly atmosphere in social life, making law a means to regulate the behavior of everyone in society, so as to create peace and order in people's lives (Riskiyono, 2015).

Self-declaration as a rule of law has an impact on the Indonesian constitutional system which is marked by the limitation of power as one of the characteristics of a rule of law as outlined in the 1945 Constitution, so that arbitrariness does not occur in the state (Kurniaji, 2017). The existence of law in Indonesia aims to create a society that is prosperous, just, prosperous, which is evenly distributed both materially and spiritually as set forth in the preamble of the 1945 Constitution (Isnaini, 2021). The consequence of the state for the establishment of a rule of law state in Indonesia is to guarantee that every citizen gets protection and at the same time his/her standing rights in law and government so that a balance can be created in a just, prosperous and prosperous society in all aspects of life.

To guarantee that there will be fair law enforcement, valid evidence is needed and shows the reality of the cases that occurred. Evidence plays an important role in court hearings and is the central point of examining court cases. Evidence is everything that has

to do with an act, where with the evidence, it can be used as evidence to generate a judge's belief in the truth of a crime that has been committed by the defendant (Alfitra, 2018).

In deciding whether someone is guilty or not in a case, the judge must prove his guilt with at least two types of evidence as stated in the Criminal Procedure Code Article 183 "a judge may not impose a sentence on a person unless with at least two valid evidences he obtains conviction that a crime actually occurred and it was the defendant who was guilty of committing it". If the evidence does not reach at least two valid pieces of evidence in the Criminal Procedure Code, then the violation automatically sets aside the Beyond a reasonable doubt standard (benchmarks for applying standards proven legally and convincingly) and the sentence imposed can be considered arbitrary (Imron and Muhamad 2019).

In order to realize justice for existing court decisions, judges must be careful in using available evidence. Judges use the Ratio Decidendi theory in considering all aspects of the court. The Ratio Decidendi theory is based on a fundamental philosophical foundation, which considers all aspects related to the subject matter in dispute, then looks for laws and regulations that are relevant to the subject matter in dispute as the legal basis for making a decision, and the judge's considerations must be based on strong motivation. clear to uphold the law and provide justice for the litigants (Rifai, 2010).

In decision Number: 1342 K/Pid/2022 it was decided regarding the sanctions given to the perpetrators of the murder. In this decision it was decided that the perpetrators of the murder were proven legally and guilty of committing the crime of murder in accordance with Article 338 juncto Article 55 paragraph (1) 1st of the Criminal Code which reads "Those who commit, order to do and those who take part in committing the act intentionally take the life of a person others, threatened with murder." The evidence obtained to prove this murder case was 1 pair of jeans shorts, 1 green T-shirt, 1 flash drive containing CCTV footage and 1 green-handled *badik* knife. It is also proven from the testimony of witnesses in the case. Then the results of the *Visum Et Repertum* also proved that there were 5 stab wounds to the chest, lower neck, back of the left hand, stomach and legs as the cause of the victim's death. So, from the evidence that has been collected, the judge gives a prison sentence of 10 years minus the period of arrest and detention that the perpetrator has served.

The importance of evidence as evidence in legal cases greatly influences the outcome of the decision determined by the judge. The completeness and validity of evidence is the most important factor in determining a case decision. So based on the problems above, researchers will analyze the application of evidence in Decision Number: 1342 K/Pid/2022. Researchers will conduct research with the title Ratio Decide in Determining Tools 8 Evidence of Instructions for Settlement of Criminal Cases in Murder Trials (Case Study of Decision Number: 1342 K/Pid/2022).

The purposes of this research are: 1) Knowing the application of the Ratio Decide theory of evidence used by judges in passing judgment on the trial of the crime of murder in Decision Number: 1342 K/Pid/2022, and 2) Knowing the constraints of applying the judge's evidence in making decisions trial of the crime of murder in Decision Number: 1342 K/Pid/20. This research can be a means for researchers to implement the theory obtained from lectures in analyzing the application of the Ratio Decidendi Theory to obtain evidence of judge's instructions in the decision to confiscate the crime of murder. This research can be a reference for future researchers who will conduct research on the

application of the Ratio Decidendi Theory to direct the judge's evidence in the decision to uncover the crime of murder.

2. LITERATURE REVIEW

2.1. Proof System in Criminal Cases

Proof is the stage of settling a criminal case after an investigation which is the stage of the action of "proving" an "event" that is considered or suspected of being a criminal act (Arwinsta, 2019). In article 183 of the Criminal Procedure Code, the evidentiary system states that "A judge may not impose a sentence on a person unless, with at least two valid pieces of evidence, he obtains confidence that a crime has actually occurred and that the defendant is guilty of committing it". Then Article 183 of the Criminal Procedure Code will determine the fate of a defendant in the trial process. The determination of right and wrong is determined based on several conditions, namely: 1) The guilt is proven by at least two valid pieces of evidence, and 2) After the guilt is fulfilled with at least two valid pieces of evidence, the judge obtains confidence that a crime has actually occurred and the defendant is guilty of committing it.

2.2. Evidence

Evidence is everything that has to do with an act, in which the evidence can be used as evidence to create a judge's belief in the truth of a crime that has been committed by the defendant. Provisions regarding legal evidence to be used in court are determined in accordance with Law no. 1 of 1981 concerning Criminal Procedural Law Article 184 paragraph 1. This Law states that valid evidence is in the form of Witness Statements, Expert Statements, Letters, Instructions and Statements of the Defendant.

2.3. Murder Crime

Murder is an activity carried out by someone and several people which results in someone and several people dying (Ali, 2007). The criminal act of murder, in the Criminal Code (KUHP) is included in the crime of life. Crimes against lives (*misdriften tegen het leven*) are attacks on other people's lives (Chazawi, 2007).

3. RESEARCH METHODS

This research adopts a normative legal research approach, which encompasses an exploration of positive law inventory, legal principles, doctrines, legal discovery in concrete cases, legal systematics, synchronization levels, comparative law, and legal history (Muhammad, 2004).

Two distinct research approaches are employed. Firstly, the statutory problem approach is utilized, wherein statutory regulations serve as the foundational basis and focal point of the research (Hasbullah, 2017). Secondly, the case-based problem approach aims to investigate the practical application of norms through the examination of cases that manifest within society (Hasbullah, 2017).

Primary legal sources, including the 1945 Constitution of the Republic of Indonesia, the Civil Code (KUHAP) Articles 183 to 189, and Articles 55 and 56 of the Criminal Code, are employed. Complementing these are secondary legal sources, such as journals,

books, and articles that pertain to the role of evidence in the adjudication of criminal cases, specifically those related to murder, within the judicial system.

The collection of legal materials follows a structured procedure through literature studies, encompassing theoretical studies and supplementary references that delve into the evolving values, culture, and norms prevalent within the social contexts under scrutiny (Sugiyono, 2017).

Finally, data analysis is carried out using descriptive qualitative analysis, which facilitates the exploration of the functions of evidence in the resolution of criminal murder cases within the judicial sphere.

4. RESULTS AND DISCUSSION

4.1. The application of the Decidendi ratio theory to determining the evidence used by judges in passing judgment on the crime of murder in Decision Number: 1342 K/Pid/2022

In determining the decision in the trial of the crime of murder, the judge will use various legal evidence tools that are able to prove that the crime was committed. The consideration or determination of the judge's decision can be designated as the ratio decision. This ratio decision is the reason used by the judge as a legal consideration which forms the basis before deciding a case.

The existence of a ratio decidendi from the use of evidence must follow the arrangement of evidence determined by law. Where in article 184 paragraph (1) of the Criminal Procedure Code states the composition of evidence, namely: Witness statements, expert statements, letters, instructions and statements of the accused. A judge must pay attention to the composition of the evidence in determining a trial decision.

In court decision Number: 1342 K/Pid/2022 concerning the Crime of Murder, the judge used several pieces of evidence to reconstruct the murder incident in accordance with Article 184 paragraph (1) of the Criminal Procedure Code, namely with Witness Statements, Instructions and Statements from the Defendant. The evidence from the Witness' statement is contained in the Witness's statement on behalf of Ambo Trang as the owner of the workshop where Defendant I's motorcycle was repaired and the owner of the dagger as the murder weapon used by Defendants I and II. Regarding the clue evidence, it can be proven from the existence of CCTV footage from Witness Afriko Hariyanto Bin Anhar, 1 (one) pair of jeans shorts and 1 (one) green T-shirt, 1 (one) Wooden Handled Badik Knife Sharp Weapon and the results of the Et Repertum Visum RSUD Dr. A. Dadi Tjokrodipo Lampung Province Number II.05/005/VER/RSDADT/VII/2021 dated 29 June 2021. Meanwhile the evidence for the Defendant's statement was obtained from the interrogation results and trial questions submitted to the Defendant.

From the existence of clue evidence used by the judge, it shows that a crime has occurred and knows who the perpetrators are in accordance with Article 188 paragraph (1) of the Criminal Procedure Code. This evidence will provide legal facts that are legally relevant at trial. The following are the legal facts found in this case:

- a. On Tuesday 29 June 2021 at around 15.30 WIB on Jalan Teluk Teratai Kelurahan Kota Karang Teluk Betung Timur, Bandar Lampung, when Defendant I returned from Witness Ambo Trang's house on a motorbike, then took a dagger belonging to Witness Ambo Trang to be repaired at the witness' workshop Cotang, on the way the

Defendant was reprimanded by the Victim Rinaldi Saputra by saying "monkey" and hitting Defendant I on the right temple 2 (two) times using his hand.

- b. That at that time Defendant I immediately stabbed the victim in the stomach of the victim, so that the victim suffered a wound to his stomach and was bleeding then the victim staggered and immediately ran to the home of Witness Cotang towards Defendant II, but Defendant II also immediately stabbed the knife into the victim's stomach and back
- c. That at the same time Defendant I came again to stab the victim 5 (five) times into the victim's body in the chest, under the neck, back of the left hand, stomach and legs, causing the victim to die according to the Visum Et Repertum RSUD Dr. A. Dadi Tjokrodipo Lampung Province Number Il.05/005/VER/RSDADT/VII/2021 dated 29 June 2021;
- d. That Defendant II's material actions in such a way have fulfilled all the elements of the crime of Article 338 juncto Article 55 paragraph (1) 1st of the Criminal Code in the first alternative indictment

The legal facts and legal evidence revealed in this trial further prove the crimes committed by Defendant I on behalf of MARWAN alias BABEL bin M. SATIM and Defendant II on behalf of AHMAD alias SUBE bin ARIF (deceased). Where Defendant I and Defendant II have been proven legally and convincingly guilty of committing the crime of "participating in the murder". Based on this evidence, the judge sentenced Defendants I and II to imprisonment for 10 (ten) years respectively.

Based on the evidence used by the Judge in determining the court decision for the Crime of Murder, this was in accordance with the provisions of the applicable law. In the use of evidence "Witness Statements" have met the requirements as in Article 1 point 27 of the Criminal Procedure Code, stating that:

"Witness testimony is one of the tools of evidence in a criminal case in the form of testimony from a witness regarding a criminal event that he himself heard, saw for himself and experienced himself by stating the reasons for his knowledge"

In addition to that in Article 1 point 26 of the Criminal Procedure Code which describes witnesses as:

"Witness is a person who can provide information in the interest of investigation, prosecution and trial regarding a criminal case that he himself heard, saw and experienced himself."

From the testimony of the witness used in the trial in the court decision for the Crime of Murder Number 1342 K/Pid/2022, it complied with Article 1 points 26 and 27 of the Criminal Procedure Code. This was proven by the testimony of the witness on behalf of Ambo Trang who actually saw and experienced the legal facts that were proven from the trial. Apart from that, the witness' testimony is also in accordance with Article 168 of the Criminal Procedure Code, Article 170 of the Criminal Procedure Code and Article 171 of the Criminal Procedure Code which states that the witness is not a relative or relative of the defendant.

In the use of the evidence "Defendant's Statement" in the trial decision for the crime of murder, it can be analyzed that the information obtained from the defendant has met the requirements of Article 189 paragraph (1) of the Criminal Procedure Code, assisted

by other supporting evidence. The following reads from Article 189 Paragraph (1) of the Criminal Procedure Code, namely:

“The defendant's statement is what the defendant stated in court about the actions he committed or that he himself knew or experienced”

The defendant's statement is in principle what was stated or given by the defendant in the court of first instance. Even so, this provision is not absolute, because the defendant's confession outside the trial can be used as a basis for evidence in a trial. Regarding the strength of the evidence of the defendant's confession, the defendant's confession cannot be used to prove the guilt of another person unless accompanied by other evidence. This is because there is a possibility for the defendant to give testimony without or without taking an oath or promise. The evidentiary strength of leading evidence lies in its nature and strength against other evidence. The power of a judge to approve a guideline is not bound by the agreed truth contained in that guideline. Therefore, the judge is free to assess and use it as an effort to prove.

Likewise, clue evidence cannot stand alone to prove the defendant's guilt. Remain bound by the principle of the minimum limit of proof. The clues can later be said to have sufficient evidentiary value, must be supported by at least one other piece of evidence. In the context of the crime of murder, directive evidence as legal evidence is regulated in Article 188 of the Criminal Procedure Code. In article 188 paragraph (1), it is stated:

“Clues are actions, events or circumstances, which because of their correspondence, both between one another and with the crime itself, indicate that a crime has occurred and who is the perpetrator.”

According to Article 184(1) of the Criminal Procedure Code (KUHP), valid pieces of evidence are: witness statements, expert statements, letters, instructions and statements of the accused. In the criminal procedural law evidentiary system which adheres to a negative evidentiary system, only legally valid evidence can be used as evidence. This means that outside these provisions cannot be used as legal evidence. The strength of the evidence determines the legal decision made by the judge. As is well known, witnesses and other evidence deemed to support the smooth running of the trial process are always questioned in court before the judge makes a decision, especially in criminal cases. Where in Article 184 of the Criminal Procedure Code it has been stated that several pieces of evidence are recognized as valid in the eyes of the law, namely: Witness statements, expert statements, letters, instructions and statements of the accused. Apart from the evidence previously mentioned, the judge may not look for other evidence besides the evidence.

Apart from the existence of this evidence, the judge needs to consider the background, consequences of the actions of the defendant and the condition of the defendant himself. The background here is interpreted as a condition that causes a strong desire and encouragement for the defendant to commit a crime. The background of this crime can be proven from several supporting evidence found. Usually obtained from the results of the Defendant's statement during the interrogation and trial process. Meanwhile, the consequences of the actions here are interpreted as the effects of the criminal behavior committed which causes harm to the victim or other parties. In addition, the Defendant's Self Condition which is the physical and psychological condition of the defendant before committing the crime, including the social status attached to the defendant. If the

perpetrator of a crime has an abnormal physical or psychological condition, it will be considered by the judge in making a decision.

In court decision Number: 1342 K/Pid/2022 it can be seen that the background of the perpetrator to commit the murder of the victim was due to the feeling of being offended by the victim's bullying against Defendant I. Where the victim reprimanded Defendant I as "Monkey" accompanied by beating the temple Defendant I's right twice by using his hands. For the actions of Defendant II, the background was the feeling of not being accepted by the behavior of the victim towards Defendant I. Then for the consequences of the Defendant's actions, it can be seen from the results of the *Visum et Repertum* RSUD Dr. A. Dadi Tjokrodipo Lampung Province Number 11.05/005/VER/RSDADT/VII/2021 dated 29 June 2021 where the victim died with evidence of stab wounds to the victim's chest, lower neck, back of left hand, stomach and legs. Regarding the condition of the defendant, it can be ascertained that Defendants I and II are normal people and have no physical or psychological disabilities.

Therefore, based on the availability of such evidence, it can be proven that there have been actions, events or circumstances, which because of their conformity, both between one another and with the crime itself, indicate that a crime has occurred and who the perpetrator is. This evidence can clarify the judge's understanding of the crime case and strengthen the judge in making a sentencing decision against the perpetrator of the crime of murder by adjusting the order of the position of the evidence. From this, it can be concluded that the application of evidence in court decision Number: 1342 K/Pid/2022 concerning the Criminal Act of Murder complies with existing requirements and has the force of law in proving the murder case that occurred.

4.2. Obstacles to the application of the evidence of the judge's instructions in passing a decision on the trial of the crime of murder in Decision Number: 1342 K/Pid/2022

In the law enforcement process, it must be equipped with adequate legal evidence and have the power to prove the crime that has occurred. The role of the judge is very large in determining the validity of the evidence to determine the court decision that will be determined. The existence of such a vital role requires the judge to carefully consider the evidence used in the trial.

The evidentiary system in the Criminal Procedure Code adheres to a negative system (*negatief wet-telijk bewijsleer*) which means the judge seeks material truth. Based on this evidentiary system, evidence before the court so that a sentence can be imposed by a judge must fulfill two absolute requirements, namely: sufficient evidence and the judge's conviction. In determining the court decision for the crime of murder as in Decision Number: 1342 K/Pid/2022, there are several obstacles that prevent judges from using evidence in making a decision for the crime of murder, including:

1. Law Enforcement (Judge)

The first obstacle comes from the law enforcers themselves. The attitude of a judge or law enforcer in making a decision can make law enforcement apply at any time and situation regardless of the evidence and other available evidence. That is, at one time the judge can make a decision by rationalizing other legal grounds that are burdensome to the defendant, for example because the defendant is an immature member of society and his understanding of the law is wrong, the judge can strengthen the judge's argument on the basis of other considerations that are

complicated according to law. -law. On the other hand, in dealing with other cases, such as state administrators, judges have made efforts to reduce sentences in decisions through various legal rationalizations.

Law enforcement will always involve humans in it, thus it will also involve human behavior. The law will not be able to stand by itself, which means it will not be able to realize promises and wishes. Law enforcement can be interpreted as the implementation of law by law enforcement officials and by everyone who has an interest in accordance with their respective authorities according to applicable legal rules (Wheny, 2017). Enforcement of criminal law is a unified process starting with investigation, arrest, detention, trial of the accused and ends with correctional of the convict (Soekanto, 2002)

In the law enforcement process, it must be equipped with adequate legal evidence and have the power to prove the crime that has occurred. The role of the judge is very large in determining the validity of the evidence to determine the court decision that will be determined. The existence of such a vital role requires the judge to carefully consider the evidence used in the trial.

In determining the legal sanction in decision Number: 1342 K/Pid/2022 it can be concluded that the Ratio Decidendi for the use of evidence for the crime of murder can be declared in accordance with existing regulations. This is evident from the presence of more than one piece of evidence in accordance with Article 188(2) of the Criminal Procedure Code. So it can be concluded that there are no obstacles from the side of the judge to determine the trial evidence.

2. The Victim's Party

Usually, the victim always gives information that is in accordance with the facts of the incident, but several times the victim also gives fabricated testimony to incriminate the defendant on one side. The victim's side can also make up a testimony in court because of the intervention of the perpetrator. . For example, from the lure of paying large sums of money to the families of victims who are poor people, eventually law enforcement efforts were sabotaged by the victim's false testimony. or due to death threats, in the end the witness from the victim's side gave false testimony against law enforcers and distorted the evidence that had been held and known to the victim's witness.

In decision number: 1342 K/Pid/2022, the judge cannot request a chronological explanation from the victim because the victim has died. The judge obtained testimony from the chronology of events based on witness statements related to the Defendant before committing the murder. The testimony of this witness was strengthened by evidence of CCTV footage owned by one of the witnesses. So it can be concluded that the testimony of the victim is an obstacle in the application of evidence in the murder case.

3. Witnesses not present at trial

The value of responsibility is one of the values of witness implementation and witness obligations and obligations. A witness will testify in court to provide information regarding the events of the crime that occurred. The responsibility conveyed by the witness is not based on the intervention of other parties, but based on the awareness of free will to correctly convey certain things in accordance with true human values. Witnesses get first-hand information about a crime or drama event

through sensory input (such as sight, hearing, smell, touch), and can help determine important considerations of the crime or event. A witness seeing an event is directly called a witness. Witnesses are often required to testify in court procedures. However, in the practice of murder in criminal court trials, witnesses often do not appear in court, so they only read witness testimony.

In decision Number: 1342 K/Pid/2022, the Judge presented witnesses related to the Defendant before committing the crime of murder. Where the witness Ambo Trang stated that Defendant I took his *badik* to be repaired at the witness Cotang's workshop. The existence of testimony from this witness shows the clarity of the ownership of the *badik* as a murder weapon and the use of the *badik* by the perpetrators. So, it can be concluded that there were no obstacles to the application of court evidence in decision Number: 1342 K/Pid/2022 regarding the presence of witnesses.

5. CONCLUSION

In light of the extensive discussions presented, several conclusive findings arise from this research: Firstly, the application of evidence in the court decision, numbered 1342 K/Pid/2022, regarding the Criminal Act of Murder, has demonstrated compliance with existing requisites and legal validity in substantiating cases involving murder. Secondly, the utilization of evidence posed no obstacles for the judge when issuing the aforementioned Court Decision, numbered 1342 K/Pid/2022, pertaining to the Crime of Murder. The evidence at hand, comprising the Defendant's Statement, Witness Statements, and Physical Evidence, collectively reinforced the veracity of the law's breach.

As for recommendations gleaned from these findings, are as follows: Firstly, judges are advised to maintain a critical stance in addressing and adjudicating cases. By doing so, they can effectively scrutinize and render accurate decisions concerning individuals implicated in the crime of murder, all while being armed with the requisite supporting evidence. Secondly, it is strongly recommended that both perpetrators of crimes and victims alike grasp the pivotal role of evidence. This comprehension is pivotal as it not only facilitates the judicial process but also bolsters the wider goals of law enforcement.

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