



Juridical Review of the Offense of Premeditated Murder

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Abstract

This study examines the application of the judges' decision in the case in accordance with material and formal criminal law and the judge's efforts in deciding a case of premeditated murder. This research is empirical research, a legal research method that functions to see the law in a real sense and examines how the law works in society. Types of data include primary data and secondary data, using field data collection techniques and literature. The results of the study indicate that the application of material and formal criminal law to premeditated murder cases, the application of criminal provisions in this case, namely Article 340 of the Criminal Code in conjunction with Article 55 Paragraph (1) to 1 of the Criminal Code is in accordance with the legal facts, both the statements of witnesses, the defendant's statement is considered physically and mentally healthy, there is no mental disorder so that they are considered capable of being responsible for their actions. The judge's consideration in imposing criminal sanctions against the perpetrators in the decision Number: 775/Pid.B/2018/PN Mks was appropriate, namely by the fulfillment of all the elements of the articles in the indictment, as well as the witness statements which compatible with each other and supported by the judge's conviction. The recommendation of this research is that the judge should really consider the facts revealed in the Court and also the judge's conscience, not only considering things that are aggravating but also things that relieve the defendant so that the verdict handed down really gives justice to the defendant .

Keywords: *Offense, Premeditated Murder;*

Abstract

This research aims to find out and analyze the application of the judge's decision in this case in accordance with the material and formal criminal law and the judge's efforts in deciding a criminal case of premeditated murder. This research is empirical legal research, a legal research method that functions to look at law in real terms and examine how law works in the community environment. Types of data include primary data and secondary data, using field and library data collection techniques. The results of the research show that the application of material and formal criminal law to cases of premeditated murder, the application of criminal provisions in this case, namely Article 340 of the Criminal Code in conjunction with Article 55 Paragraph (1) to 1 of the Criminal Code, is in accordance with the legal facts, including the statements of witnesses, the defendant's statement is that he is considered physically and mentally healthy, there is no mental disorder so he is considered capable of taking responsibility for his actions. The judge's consideration in imposing criminal sanctions on the perpetrator in decision Number: 775/Pid.B/2018/PN Mks was appropriate, namely by



fulfilling all the elements of the article in the indictment, as well as witness statements that were in agreement with each other plus the judge's confidence. The recommendation of this research is that the judge should really consider the facts revealed in court and also his conscience.

Keywords:Offense; Planned Murder.

Introduction

The Republic of Indonesia is a constitutional state, the phrase is emphasized in Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia.¹In this regard, one of the objectives of law is to regulate the peaceful association of human life. This is based on the fact that in life, humans always establish relationships with one another based on different characteristics and desires. So the function of law is to regulate and balance these different characteristics and desires so that human relations are always at peace. Criminal law as one of the laws existing in Indonesia, its regulations are expressly stated in the Criminal Code (KUHP) as one of the positive laws. The purpose of criminal law in Indonesia must be in accordance with the philosophy of Pancasila which is able to bring about fair interests for all citizens. Criminal law in Indonesia aims to protect all Indonesian people²

Related to the problem of crime today, various types of crimes have been brought to trial such as theft, murder, fraud, rape, persecution as formulated in the Criminal Code (KUHP).³

SR Sianturi formulates a crime as follows: "A crime is an act in a certain place, time and condition that is prohibited (or required) and is punishable by law which is against the law, and with an error committed by someone (who is responsible) .⁴One of the crimes that often occurs in society is the crime of murder. Murderous behavior, especially murder that cannot be justified by law, is a crime against humanity. Apart

¹Baharudin, B., & Muchlisin, R. (2023). Juridical Review of Perpetrators of the Crime of Premeditated Murder (Case Study Decision Number 2/Pid. B/2021/PN. Gdt Jo 56/Pid/2021/PT). Pagaruyuang Law Journal, H 250

²NRC Magistri, "Juridical Review of Legal Protection for Stabbing Victims in Criminal Justice," Indonesian Journal of Legal Development, vol. 2, no. 1, pp. 82-101, Jan. 2020.

³Syarifuddin, A. (2019). Juridical Review of the Crime of Premeditated Murder. Dynamics: Scientific Journal of Law, 25, 1-5.

⁴SRSianturi, Principles of Criminal Law (Renggang Education Yogyakarta and Pukap Indonesia 2012). [22].



from talking about fate, murder is sadistic, cruel and inhumane behavior because it takes the life of another person by force and destroys the existence of the victim's life. Taking another person's life represents an extreme form of violence. Murder is a pervasive feature (easily spread) in society and can affect any individual or member of a social group, so this feature causes stress in many areas of public life.⁵Therefore, proper handling of perpetrators will create a sense of security and good learning for the community.

In the crime of murder, the target of the perpetrator is someone's soul that cannot be replaced with anything and this deprivation is very contrary to the 1945 Constitution of the Republic of Indonesia which reads: "everyone has the right to live and has the right to defend his life and existence."

If we look into the Criminal Code, hereinafter abbreviated as the Criminal Code, it can be immediately seen that the legislators intended to regulate criminal provisions regarding crimes aimed at the life of that person in Book II of Chapter XIX of the Criminal Code. which consists of thirteen articles, namely from article 338 to article 350).⁶

Murder is the intentional loss of another person's life, a perpetrator must do something or a series of actions that result in leaving other people with a note that the object of the perpetrator must be aimed at the consequences in the form of the death of the other person.⁷

According to Sudikno Mertokusumo's opinion, what is meant by a Judge's decision is a statement that the Judge as a state official who is authorized to do so, utters in court and aims to end or resolve a case or problem between parties. Not only what is said is called a decision, but also a statement that is stated in written form and then uttered by the Judge in court. A draft decision (written) has no force as a decision until it is pronounced at trial by the judge⁸, as has been stipulated in the procedural law, that

⁵Krahe. B, Aggressive behavior: Social psychology handbook (PT. Pustaka Siswa 2005). [65].

⁶Lamintang and Theo Lamintang, Crimes Against Life, Body and Health (Sinar Graphics 2012). [1].

⁷ Lamintang PAF and Theo Lamintang, Special offenses for crimes against life, body & health (Sinar Graphic 2010).

⁸Sudikno Mertokusumo, Indonesian Civil Procedure Code (Liberty 2006).



a Court Decision is only valid and has legal force if it is pronounced in a hearing open to the public.⁹ Regarding the judge's decision, there are 3 (three) terms that we need to understand, namely: Unanimous means a court decision that is decided based on a unanimous vote of the judges who heard the case, Concurring opinion which means if a judge's opinion follows/agrees with the judge's opinion the majority is regarding the ruling, but he only states that he is different in his legal considerations (legal reasoning), then Dissenting Opinion which means if a judge has a different opinion from the majority of judges, both regarding legal considerations and the ruling. The judge's opinion is contained in the decision in full and placed before the verdict. Judges in making decisions must be obliged to explore, follow, and understand legal values and a sense of justice that lives in society¹⁰, so it is possible that the decision taken will result in one of the 3 (three) things mentioned above.

In Islamic law, murder is an act that takes life or kills, the act of murder, if it is intentional and of a torturous nature (without justifiable reason) is a very serious crime and is one of the seven major sins whose consequences are that the perpetrator will be threatened with punishment in this world and in the hereafter, namely qisas and hell. Because murder is a form of abuse and violation of Allah SWT's creation on earth which threatens public security and people's lives¹¹

Allah SWT in His word strongly condemns people who kill believers. Allah SWT threatens the killers of believers with hell. This is in accordance with the confirmation of the letter an-Nisa' verse 93:

وَمَنْ يَقْتُلْ مُؤْمِنًا مُتَعَمِّدًا فِجْرًا أُوهُ جَهَنَّمَ خَالِدًا لَهُ عَذَابًا عَظِيمًا

Meaning: And whoever kills a believer on purpose, his reward will be hell, he will abide therein forever. Allah was angry with him, and cursed him and prepared a great punishment for him." QS An-Nisa

⁹ RI Law Number 31 of 1997 concerning Military Justice (Article 192).

¹⁰ Republic of Indonesia Law Number 48 of 2009 concerning Judicial Power (Article 5, paragraph 1).

¹¹ Friwanti SD. Juridical review of the comparison of the offense of murder in the Criminal Code and Islamic criminal law. *Constitutio: Research Journal of State Law and Politics*. 2022 Jul 9;1(1). pg 3



The formulation of the problem in this writing is, Is the application of the judge's decision in this case in accordance with material and formal criminal law (Decision Number 775/Pid.B/2018/PN Mks) and How are the judge's efforts in deciding a case of premeditated murder (Decision Number 775/Pid.B/2018/PN Mks). The purpose of this study is to find out the judge's decision in this case is in accordance with the material and formal criminal law in (Decision Number 775/Pid.B/2018/PN Mks) and To find out the judge's efforts in deciding a case of premeditated murder (Decision Number 775 /Pid.B/2018/PN Mks).

Research methods

The method used in writing this thesis is empirical research, a legal research method that functions to see law in a real sense and examine how law works in society.

Results and Discussion

A. Application of material and formal criminal law in making decisions (Decision Number 775/Pid.B/2018/PN Mks).

Before the author explains the application of material and formal criminal law in the case of Decision Number 775/Pid.B/2018/PN Mks. According to the authors of the indictment drawn up by the public prosecutor, it has fulfilled the formal and material requirements for the indictment as referred to in Article 143 paragraph 2 of the Criminal Code, namely it must contain the date and be signed by the public prosecutor and the complete identity of the accused, besides that it must also contain rules carefully, clearly and complete the criminal act charged by stating the time and place of the crime. The preparation of the public prosecutor's indictment must be careful or thorough, especially with regard to the application of the applicable laws and regulations,

B. Judge's efforts in deciding a case of premeditated murder (Decision Number 775/Pid.B/2018/PN Mks).

The judge's decision is the crown and peak of the origin of a case being examined and tried by the judge. In the decision there are formal requirements that must be met, one of which is consideration. Whereas the judge's consideration or Ratio Decidendi means the arguments or reasons used by the judge as legal



considerations which form the basis before deciding a case.¹²If a judge makes a decision, he will always try so that his decision is as acceptable as possible to the public. The judge will feel relieved when his decision is accepted and provides satisfaction to all parties in a case, with reasons or considerations that are in accordance with the truth values of the case. justice. For this reason, judges in making decisions are guided by Juridical and Non-Juridical considerations.

Based on the author's analysis, a judicial process ends with a final decision in which criminal sanctions are imposed, in the decision the judge states his opinion about what has been considered and what constitutes his decision. In an effort to make a decision and impose criminal sanctions, the judge must have juridical considerations consisting of the public prosecutor's indictment, the defendant's statement, witness statements, evidence and articles of criminal law acts and non-juridical considerations consisting of the background of the defendant's actions, plus the judge must be sure whether the defendant committed a criminal act or not as contained in the elements of the criminal act with which he is accused.

The facts revealed in the trial are the main material to be taken into consideration in a decision. So that thoroughness, foresight and intelligence in presenting/determining the facts of a case are important and determining factors in the outcome of the decision. A judge in deciding a case must consider juridical truth (law) with truth and justice. A judge must make fair and wise decisions by considering the legal implications and their impact on society

Conclusion

Based on the results of the research conducted, it can be concluded that. The application of material and formal criminal law to cases of premeditated murder, the application of criminal provisions in this case, namely Article 340 of the Criminal Code Jo Article 55 Paragraph (1) to 1 of the Criminal Code is in accordance with the legal facts, both the statements of the witnesses, the statements of the accused are considered

¹²Desky, MK (2022). Juridical Analysis of the Crime of Premeditated Murder in Decision Number 16/PID.B/2018/PN KTN. *Journal of Legal Essence*, 4(2), p. 176.



physically and mentally healthy , there is no mental disorder so that they are considered capable of being responsible for their actions and the judge's considerations in imposing criminal sanctions on the perpetrator in decision Number: 775/Pid.B/2018/PN Mks are appropriate, namely by fulfilling all the elements of the article in the indictment, as well as witness statements that conflict with each other. appropriate plus the conviction of the judge. The suggestion is that the judge should really consider the facts revealed in court and also his conscience.



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