

Considerations of Judges in Making Decisions on a Case

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ABSTRACT

This study aims to understand and find out how the application of material criminal law is decided. The research method uses a case approach and analyzes the data descriptively, which is then given conclusions and suggestions related to the title. regarding the judge's decision that is in accordance with applicable legal regulations, namely the existence of valid evidence. The existence of consideration by the Panel of Judges in the trial when making a decision has given a sense of justice to all parties, and the judge must have confidence in the existence of legal facts that have been revealed and produce a decision that has permanent legal force and does not conflict with Pancasila as the source of all law.

Keywords: *Court, Making Decisions, Judge*

INTRODUCTION

When a judge makes a decision in a case, there are several considerations they must take into account (McCauley et al., 2019; Medvedeva et al., 2020). These considerations can vary depending on the type of case and the legal system in which the case is heard, but there are some general factors judges consider in all types of cases. One of the most important considerations for a judge is the law (Born, 2021). In order to make a fair and just decision, a judge must carefully consider the applicable laws and legal principles that apply to the case. This includes statutes, which are laws that have been written and passed by the legislature, and case law, which are laws that have been enacted through previous court decisions. A judge must also consider relevant legal precedents, which are previous court decisions that are deemed binding on the current case. Apart from the law, the judge must also consider the facts of the case. This includes evidence that has been presented by both parties and any testimony given by witnesses. A judge must weigh the credibility and reliability of the evidence to determine the truth of a case (Vrij & Turgeon, 2018).

Another important consideration for a judge is the rights and interests of the parties involved. A judge must ensure that the parties are treated fairly and that their rights are protected during the legal process. This may include considering the impact of the decision on the parties' rights, such as the right to a fair trial or the right to free speech. Judges can also consider the broader implications of their decisions (Harris & Sen, 2019). For example, a judge may consider how a decision will impact society as a whole, or whether it will set a precedent for future cases. Ultimately, the judge's decision must be based on careful consideration of all of these factors, as well as other relevant considerations specific to the case. By considering all these facts, a judge can make a fair and just decision based on the law and the case, and protect the rights and interests of all parties involved (Završnik, 2020).

METHODS

This research is descriptive in nature, in collecting data, classifying, and analyzing cases to describe how conditions or problems occur. To gain important legal concepts while looking at the offenses or crimes committed. The Case Approach Technique that will be used by the author in this study, is a form of approach that is carried out by reviewing cases related to the subject matter at hand, and has become a decision that has permanent legal force. The determining ratio or rationale, namely the court's reasons for making a decision, is the main focus of this case strategy. The author's approach to normative research is to determine how the application of a norm or rule of law will apply to the situation to be studied, to gain an understanding of the implications if the norm or rule of law is violated in practice. Primary data, namely data derived from legal documents that are related or binding in the form of basic norms or regulations, laws, and court decisions relating to cases to be examined by the author. Secondary data is information collected

from the literature included in the relevant books or magazines, as well as the judge's assessment of the item to be investigated.

RESULTS

Judge's Considerations in Imposing a Criminal Case Decision No. 286/Pid.B/2021/PN.Wtp Judge's Considerations: In essence, the judge's considerations are based on all the facts and circumstances that were revealed as well as all the evidence that has been obtained since the examination during the trial process. Regarding the case raised by the author in writing the thesis, the panel of judges handling the case has considerations in rendering the decision including: Considering, that based on the evidence and evidence submitted, the following legal facts are obtained; Whereas around March 2018, the defendant Tn. AS. submitted an application for the issuance of a certificate for land located in Pallawarukka Village, Keematan Ulaweng, Bone Regency, then the defendant met with Village Head Andi B, S.E Bin Andi Rumpang, and conveyed this intention, then witness Andi B. conveyed this to the Secretary of Pallawarukka Village, namely witness Andi Sy. A.Ma Bin Andi Rumpang to assist the Defendant in processing the application for the issuance of the certificate in question; That then the witness Andi Sy,A.Ma asked the defendant to prepare documents or proof of ownership of the land for which a certificate was wanted, then the witness Andi Sy,A.Ma began to help arrange the issuance of the defendant's certificate by taking the form/form of requirements for obtaining a certificate from BPN include the statement form and application form; That after taking the form then the witness Andi Sy,A.Ma told the defendant to fill out the application form and sign it, then witness Andi Sy,,A.Ma handed it back to the Bone Regency BPN Office, not long after that the officer came down from the BPN Office to carry out measurements;

Whereas when the measurement was carried out by the Bone Regency BPN Office, the witnesses Andi S, Ramadh, S.TR, and the measurement officer named Mr G, the defendant Mr AS, and the Secretary of the Village of Pallawarukka, namely Andi Sy, A. Ma; Whereas when the measurement was carried out, the parties whose land borders the land for which the defendant Ambo Sakka applied for a certificate, including in this case H.M. was not present, the witness Andi SR, S.TR filled out the measuring drawing Number: 346 of 2018, by writing the column of the measuring drawing letter starting from the Number, the location of the land being measured, the application statement, the measuring statement, and the land condition column as well as the column the agreement on the boundaries of land parcels, namely the names of interested neighbors, was filled in and crossed out by the witness Andi SR, S.TR as evidenced by measuring drawings, while the signature column for the approval of the north, east, south and west boundaries was still empty, then witness Andi SR, S. TR submitted the form/blank of the Kur image to the Village Secretary witness Andi Sy, A.Ma and the defendant Tn AS to ask for approval from the owner of the bordering land to sign it;

Whereas the witness Andi Sy,A.Ma then brought the measuring drawing form which had not yet been signed by the owner of the boundary to the defendant Mr. AS, at his home, where when Andi Sy,A.Ma handed it over to the defendant, the measuring drawing was written in the signature approval column the north, east, south and west boundaries were still empty and had not been signed, and two days later the witness Andi Sy, took them back to Mr. the south and west are inscribed in the name of H.M. signed; The witnesses did not know who signed the boundaries of the land, and the defendant denied that he had never signed it; That H.M. never signed in the column for approval of land boundaries on the south and west.

Whereas as a result of the issuance of the Certificate of Property Rights Number 114 in the name of the defendant Tn. AS accompanied by a measuring drawing letter Number 346 of 2018, this resulted in overlapping land boundaries between the land for which the certificate was issued on behalf of the defendant Tn AS, on part of the land of H.M. which has also been issued Certificate of Ownership Number 16 in the name of HM which was issued in 1997, which is being used as collateral for a loan at BRI. Considering that the public prosecutor has indicted the

defendant with a subsidiary indictment, which means that the panel of judges can choose which indictment can be proven in court if the indictment is most in line with the defendant's actions. So that the panel of judges, taking into account the legal facts, chose a subsidiary indictment which violated Article 263 paragraph (2) of the Criminal Code, the elements of which are as follows: Whoever, deliberately using a forged or falsified letter as if the letter were genuine and not forged, Which can cause harm to other people; The end of a trial process with a final decision that has been decided by the judge himself where there is a criminal sanction, related to the decision is inseparable from the opinion and balance of the panel of judges handling the case which will become the verdict for the criminal case that occurred.

The consideration of the Panel of Judges in passing a decision should be based on a sense of justice for someone who feels aggrieved by someone who has committed a crime. Juridically, how long the sentence imposed by the defendant will not be a problem if it does not exceed the minimum and maximum limits of the criminal sanctions imposed on the relevant article. So that for a judge in considering his decision to give a witness a criminal sentence is decided objectively, so that it is acceptable to provide justice for the party concerned. In giving a decision, the judge has a basis that is used as a benchmark in imposing a decision on the defendant for the actions that have been committed.

Based on the facts in the trial as stated in Article 183 of the Criminal Code regarding evidence. Regarding this case, there is valid evidence that can be used as a consideration for the judge, namely the existence of witness statements, the existence of documentary evidence, there are instructions and statements from the defendant himself. From this evidence there is a connection with the other, by him the defendant was found guilty in the eyes of the law of having committed the crime of forging letters. The author believes that if all the evidence and evidence are in agreement with one another, then the defendant in this case has been legally and convincingly proven to have made a mistake in the form of the crime of forging letters as was charged against the defendant himself.

In relation to case Number 286/Pid.B/2021/PN.Wtp, the Panel of Judges who tried the case had previously examined and considered the primary charge as written in the Public Prosecutor's indictment namely Article 263 paragraph (1) of the Criminal Code. After the consideration of the Panel of Judges and based on the facts revealed during the trial process that the Public Prosecutor's indictment which was prepared in a primary manner did not fulfill all the elements contained in Article 263 paragraph (1), the Panel of Judges considered the Public Prosecutor's indictment in subsidiary form in Article 263 paragraph (2), in the indictment that the elements in Article 263 paragraph (2) have been fulfilled and are related to legal facts that have been revealed during the trial process, supported by the completeness of evidence and evidence that has been concrete. Therefore, the indictment of the Public Prosecutor was not implemented in a primary manner and instead applied the indictment of the Public Prosecutor in a subsidiary manner.

DISCUSSION

During the examination in the trial process, if an act is not found that can erase the actions of the defendant, either in the form of a justification or an excuse for the defendant, then the Panel of Judges must convict him. But when viewed from the sentence imposed on the defendant there is a difference of opinion between the Panel of Judges and the Public Prosecutor (Putra & Ahyani, 2022). The criminal sentence given by the Panel of Judges in this case was based on all the evidence obtained during the trial process (Shannon et al., 2020). The sentence given by the judge to the defendant had previously taken into account the circumstances that could be aggravating to the defendant's sentence as well as circumstances that could alleviate the defendant, so that the purpose of sentencing was not as a means of retaliation, but was more prospective in order to improve the behavior of the offender, and on the one hand it could provide a social deterrent effect (Johnson, 2020). Therefore, the Panel of Judges does not agree with the criminal charge of the public prosecutor which in its charge provides an aggravating circumstance, in which the Public

Prosecutor imposes a sentence of 2 (two) years on the defendant. The decision taken by the judge is a decision taken wisely, and does not side with anyone, and in imposing a criminal decision the panel of judges is not only based on juridical considerations, but considers non-juridical reasons, such as the underlying psychological, economic, criminological and sociological factors. so that the offender takes the action.

In relation to case No.286/Pid.B/2021/PN.Wtp, the author considers that the decision used by the panel of judges is in accordance with applicable legal regulations, the defendant in carrying out his actions was in good physical and mental health and the defendant was legally competent to be accountable for his actions . The panel of judges handling the case did not find any excuses or justifications that could be used as a reason for eliminating the offense in the defendant's actions. In this case the panel of judges saw the aggravating situation, namely that the defendant did not admit his actions and seemed to let go of hands with the issuance of a certificate in the name of the defendant on the land for which the defendant requested a certificate. And seeing the mitigating circumstances of the defendant that during the trial he was always polite, and the defendant had never been punished. Regarding the prison sentence imposed on the defendant for 8 (eight) months, it is appropriate, taking into account all the factors contained in Article 263 paragraph (2). Therefore, during the trial process, case number 286/Pid.B/PN.Wtp complies with statutory provisions.

CONCLUSION

The judge's considerations before making a decision in case no. 286/Pid.B/2021/PN.Wtp according to the author himself is in accordance with the applicable legal regulations. Because based on the evidence that has been revealed which is based on the facts in the trial, the judge considers that the defendant can be held accountable for his actions with the consideration that the defendant is aware of the consequences and has not discouraged him. At the time of carrying out his actions the defendant was in good health and capable, so that he could be held accountable for his actions, and there was no reason for criminal discharge.

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