



Legal Remedies to Appeal Against Free Verdict in the Crime of Murder

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Abstract

Introduction: This article analyzes legal protection for victims of wrongful arrest based on acquittal decisions in criminal murder cases. The case highlights the importance of judicial integrity and accuracy in evaluating evidence to ensure justice and safeguard defendants' human rights in the criminal justice system.

Purposes of the Research: This article aims to examine the judges' legal reasoning in issuing an acquittal and the legal protection available for victims of wrongful arrest.

Methods of the Research: This research uses normative juridical methods with a statutory and case study approach, analyzing court decisions and legal literature related to the protection of wrongfully arrested individuals.

Findings of the Research: The findings of this study are that the judge handed down an acquittal verdict because there were no two valid evidence found to prove the defendant's guilt in the murder case. The absence of witnesses, weak evidence, and alibi information became the basis for acquittal. Protection for victims of wrongful arrest has not been running optimally and still faces procedural obstacles and a lack of public understanding of their rights. The free verdict emphasizes the importance of fair law enforcement and the need for rehabilitation and compensation for victims of wrongful arrest.

Keywords: Independent Verdict; Wrongly Arrested; Legal Protection.

Submitted: 2025-08-06

Revised: 2026-07-28

Accepted: 2026-07-31

Published: 2026-07-31

How To Cite: Krisantia Welma Limehuey, Muammar, and Reimon Supusepa. "Legal Remedies to Appeal Against Free Verdict in the Crime of Murder." TATOHI: Jurnal Ilmu Hukum 6 no. 5 (2026): 207-218. <https://doi.org/10.47268/tatohi.v6i5.3328>

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INTRODUCTION

Often arrests of a person are carried out without sufficient preliminary evidence as stipulated in the Criminal Procedure Code. Investigators sometimes act without a clear basis, so that their decisions seem perfunctory or do not consider the right legal aspects. From a Human Rights point of view, this kind of action is clearly a violation of individual rights. This can be categorized as a form of deprivation of a person's freedom, namely an arrest that occurs without a valid reason and the judge is the last hope for the victim of wrongful arrest to get justice for the unfair treatment he experienced.¹

Judges certainly bear a great responsibility in upholding justice and truth, especially when carrying out their obligations to ensure that fair laws are enforced. Therefore, in the implementation of law enforcement by judges or other law enforcers, high ability and professionalism are needed so that the law enforcement process can take place effectively, efficiently, and produce justice that should be.² Regulation of Law Number 48 of 2009

¹ Hutapea, Messy Rachel Mariana, 'Penerapan Hukuman Tindakan Kebiri Kimia Dalam Perspektif Hak Asasi Manusia', *Jurnal Hukum Magnum Opus*, 3.1 (2020), hal. 26–34, doi:10.30996/jhmo.v3i1.2931

² Duddy Noormansyah, "Holding Game, Merger Dan Penegakan Hukum Persaingan Usaha", *Jurnal Ilmu Hukum Litigasi*, 7, no. 1, (2006), p. 10.

concerning the Law on Judicial Power. It is explained that the name has to do with justice in the judiciary, and according to the regulations that have been mentioned, it must be a guide for judges in determining the verdict. "The court assists justice seekers and tries to overcome all obstacles and obstacles in order to achieve justice that is simple, fast and low-cost," as stated in the Judicial Power Law

On the other hand, when handling and deciding a case he is facing, a judge is required to have high moral integrity. This is important so that in carrying out the function of law enforcement and justice, the decisions taken do not harm the party seeking justice, "*justtiabellen*". ensure that every decision taken is based on truth and justice, and takes into account the rights of individuals involved in the legal process.³ Judicial power, judges and constitutional judges are required to have integrity, good personality, honesty, justice, professionalism, and experience in the legal field. One of them is also the protection of victims' rights as a moral and juridical responsibility for judges in every stage of the trial This provision emphasizes the importance of the personal quality of a judge in carrying out his duties, so that the decisions taken can reflect justice, and are in harmony with applicable legal principles.

The protection of the rights of wrongful arrest victims still does not receive sufficient attention. So that the State seeks to ensure that everyone receives fair treatment in the eyes of the law, in accordance with the principle of *equality before the law*. This principle applies both to the suspect and to the victim of a criminal act. In addition, the human values contained in Pancasila are the main basis for the Indonesian legal system.⁴

Victims of wrongful arrest suffer significant losses that must be dealt with immediately, especially immaterial losses felt by them. One of the biggest impacts is the damage to their reputation due to the bad views aimed at by the social environment. Although material compensation from the state may be granted, it is not necessarily sufficient to restore their tarnished honor. In addition to the loss of the right to independence, their rights as individuals in society are also often neglected. Therefore, in addition to claims for compensation from the state, rehabilitation or recovery for wrongfully arrested victims is very important.⁵

The provisions regarding damages arising from detention, termination, arrest, or other legal action taken without a valid legal basis, or due to errors in the identification of individuals or the application of the law, cover various forms of damages. This loss includes not only physical or material loss, but also non-material losses such as loss of dignity, reputation, and basic rights of a person. Individuals who have been wrongfully arrested or mistreated by the law are entitled to compensation or rehabilitation in accordance with the losses they have suffered.⁶ Rehabilitation can be granted to individuals who are declared free or independent of all legal claims, and the decision has final legal force. This restoration aims to restore the rights of individuals who are victims of wrongful arrest or other legal wrongs, so that they can continue to live without stigma or ongoing legal harm.⁷

³ Mulyadi, L. *Hukum Acara Pidana (Suatu Tinjauan Khusus Terhadap Surat Dakwaan, Eksepsi dan Putusan Peradilan)*, (Bandun: Citra Aditya Bakti, 2002), p. 25

⁴ Leden Marpaung, *Kejahatan Terhadap Kesusilaan dan Masalah Prevensinya*, (Jakarta: Sinar Grafika, 1996), p. 81.

⁵ Aribowo, Sugeng. 'Rekonstruksi Kebijakan Gantikerugian Terhadap Korban Kesalahan Penerapan Hukum Yang Berbasis Nilai Keadilan' (Universitas Islam Sultan Agung (Indonesia) ProQuest Dissertations & Theses, 2021). p. 24

⁶ 'Tuntutan Ganti Kerugian Dalam Perkara Praperadilan - Beranda Hukum', *Berandahukum.Com*

⁷ 'Hak Untuk Memperoleh Ganti Rugi Dan Rehabilitasi Ganti Rugi - MS Calang' <<https://ms-calang.go.id/index.php/32-uncategorised/178-hak-untuk-memperoleh-ganti-rugi-dan-rehabilitasi-ganti-rugi>>.

The weak professionalism of investigators, as well as the lack of public understanding and wrongful arrest victims about their rights, are aspects that affect the provision of legal protection to wrongful arrest victims. Many victims feel that they are satisfied with a free decision without getting adequate restoration of rights or rehabilitation. In addition, the ongoing laws and regulations still do not fully implement the principles of fast, simple, and efficient justice. Arrangements that do not include these principles hinder the implementation of effective legal protections for victims of wrongful arrest. These factors demonstrate the importance of updates and improvements in the legal system and legal procedures that are more friendly to the rights of victims.⁸ South Jakarta District Court Decision Number: 1273/Pid.B/2013/PN. JktSel., the defendant AS and NP, who worked as buskers, were charged with the crime of murder together. Their actions were charged with Article 338 of the Criminal Code jo. Article 55 paragraph 1 to 1 of the Criminal Code. The victim in this case is the DM. For their actions, the two defendants were sentenced to 13 years each, with their sentences reduced as long as they had served time in custody, and ordered to remain in detention.

Based on the indictment, their actions were triggered by dislike for the victim who was considered not to show respect as a new busker in the Cipulir area. In retaliation, they planned to punish the victim by torturing him under the Cipulir bridge. During the torture process, the victim was stabbed by Benges and Andro, while the other perpetrators hit the victim. As a result of the stabbing, the victim died.⁹ The public prosecutor and legal counsel in the trial presented witnesses from each party. However, none of the witnesses directly saw the defendant commit a criminal act as charged by the public prosecutor. Legal counsel in his defense, the defendant stated that the defendants did not commit the acts as charged and considered that the investigation process violated the law. As a result, the minutes of the examination are considered legally flawed, so the indictment and demand letter are declared null and void and cannot be used as a basis for imprisoning the defendants. Legal counsel filed an exception to the indictment on October 9, 2013, but the Panel of Judges rejected the exception.

The public prosecutor then filed an appeal against the appeal decision. In response to the request, the Supreme Court issued Decision Number: 1055 K/PID/2014. The Supreme Court Justices in their deliberations stated that the *Judex Facti* decision from the Jakarta High Court was in accordance with the law and was correct and not contrary to the law. Therefore, the Supreme Court ruled that the defendants should be acquitted of all charges.

At the District Court and High Court levels in judicial practice, either the judge can give a verdict declaring the defendant guilty or acquitting him. If the judge finds the defendant guilty, the defendant will be sentenced in accordance with the applicable provisions, with the possibility of obtaining leniency based on the consideration of the panel of judges. However, the judge can also issue a verdict free from all lawsuits if the alleged act does not include a criminal act. In addition, the judge may declare the defendant acquitted, which means the defendant is not proven guilty and acquitted of the entire lawsuit, or in other words, the judge rejects the charges filed by the public prosecutor.¹⁰

⁸ Saparudin Efendi, Rodliyah, Rina Khairani Pancaningrum, "Perlindungan Hukum Terhadap Korban Salah Tangkap (*Error in Persona*) 9, no. 3 (2021), p. 591

⁹ Putri Bella Andjani, *Perlindungan Hukum Terhadap Hak-hak Korban Salah Tangkap Perspektif Hukum Positif dan Hukum Islam* (Jakarta: Fakultas Syariah dan Hukum Universitas Islam Negeri Syarif Hidayatullah, 2022) p. 11-12

¹⁰ Dellyana, *Konsep Penegakan Hukum*, (Yogyakarta: Liberty, 2018), p. 15

The High Court judge in this case, handed down a free verdict against the defendant. The definition and provisions of the acquittal are regulated in Article 191 paragraph (1) of the Criminal Procedure Code, which states that if the court is of the opinion that the results of the examination at the trial do not prove the guilt of the defendant for the act charged legally and convincingly, then the defendant must be acquitted. According to the judge's assessment, the evidence submitted was insufficient to meet the standard of proof in accordance with the provisions of the criminal procedure law. The lack of evidence in this case, which can show that the defendants committed a criminal act as charged by the public prosecutor, is the main reason for the panel of judges of the Jakarta High Court to acquit them of all charges. High Court judges who handle appeal cases do not always issue the same verdicts as District Court judges. A decision at the appellate level in many cases, can change, correct, or even overturn a previous judgment set by the District Court. The same applies to the Supreme Court at the cassation level.

METHODS OF THE RESEARCH

This research uses normative legal research methods, this research includes an in-depth study of laws and regulations, legal theories, and various other legal sources related to the problems that are the focus of the study.¹¹ This study uses *a statute approach* and *a case approach*. The *statute approach* is applied to analyze relevant laws and regulations, especially the Criminal Procedure Code and laws related to judicial power and human rights protection. The *case approach* is used to examine in depth the Decision of the DKI Jakarta High Court Number 50/PID/2014/PT. DKI. Primary legal materials are in the form of court decisions, secondary legal materials in the form of scientific literature (journals, books, articles), and tertiary legal materials are used as data sources. Data analysis is carried out qualitatively by interpreting laws and regulations, legal theories, and findings from case studies to answer the formulation of research problems.

RESULTS AND DISCUSSION

A. Legal Considerations of Judges in Imposing Independent Verdicts

A judge in imposing a sentence must not ignore the laws, norms, and regulations that apply in society. This is in line with the provisions in Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power which states that judges and constitutional judges are obliged to explore, follow, and understand the legal values and sense of justice that live in society. Judges' independence is an important aspect to ensure that the decisions taken remain objective.¹²

Determining the truth to be decided, the Panel of Judges must be based on evidence that has been limited by law, as stipulated in Article 184 of the Criminal Procedure Code regulating valid evidence in criminal justice. According to this article, valid evidence is witness statements, expert statements, letters, instructions, and statements of the defendant. In accordance with Article 185 paragraph (1) of the Criminal Procedure Code, it states that "Witness testimony as evidence is what the witness stated at the court hearing." Court decisions in practice, not everything that is handed down in a trial to resolve a case is considered objective and able to provide a sense of justice for all parties involved. Therefore,

¹¹ Mukti Fajar and Yulianto Achmad, *Dualisme Penelitian Hukum Normatif dan Empiris*, (Yogyakarta: Pustaka Pelajar, 2017), p. 36

¹² Dian Mayasari, Jeanne Darc Noviyanti Manik, and Toni, "Dasar Pertimbangan Hakim Dalam Penjatuhan Putusan Bebas Terhadap Terdakwa Dalam Perkara Tindak Pidana Pembunuhan", *Jurnal Inovasi dan Humaniora* 2, no. 2 (2024), p. 225

both the defendant and the public prosecutor have the right to file legal remedies if the verdict given is felt to have not met the sense of justice. Legal remedies are the right of the defendant or the public prosecutor to reject the court's decision by filing an opposition, appeal, or cassation, as well as the right of the convict to file a review in accordance with the provisions and procedures stipulated in Article 1 point 12 of the Criminal Procedure Code.

Appeal legal remedies are regulated in Article 67 of the Criminal Code, while cassation is regulated in Article 244 of the Criminal Procedure Code. The defendant or the public prosecutor may file an appeal or cassation against the decision of the District Court, unless the decision is an independent decision, independent of all lawsuits, related to errors in the application of the law, or a decision in a speedy proceeding. The Law provides an opportunity to file a legal remedy as a form of correction or improvement to the decision of the South Jakarta District Court. The appeal examination was carried out by the Jakarta High Court with the aim of reinstating the decision in accordance with the applicable legal provisions and providing a sense of justice for parties who feel that they have not received justice from the South Jakarta District Court's decision. If after the appeal decision the parties still feel that justice has not been met, they can file an appeal to the Supreme Court.

As stated in the South Jakarta District Court Decision Number: 1273/Pid.B/2013/PN. JktSel., the defendant AS and NP, who work as buskers, were charged with committing the crime of murder together. The act is regulated and threatened with criminal offences in Article 338 of the Criminal Code Jo. Article 55 paragraph 1 to 1 of the Criminal Code. For their actions, both were sentenced to 13 years in prison each, with a reduction in the prison term that had been served, as well as an order to remain in custody.

The public prosecutor and legal counsel in the trial presented witnesses from each party. However, there were no witnesses who directly saw the defendant commit a criminal act as charged by the public prosecutor. The defendants' legal counsel in his defense, emphasized that their client did not commit the acts charged and stated that the investigation process was against the law. As a result, the minutes of the examination are considered legally flawed, so the indictments, demands, and minutes of the examination are null and void and cannot be used as a basis for punishing the defendants. Legal counsel then filed an exception to the indictment on October 9, 2013, but the Panel of Judges rejected the exception.

The basis for the judge's consideration in imposing a free verdict on the murder case that is the object of study in this writing is as follows: a) Based on the Criminal and Criminal Theory: Based on the chronology of the above case, although in the end the defendants were acquitted by the High Court at the appeal level, at the District Court level they were detained and sentenced to sanctions or penalties. If viewed from the formal elements in the criminal act, the following analysis can be carried out: 1) Human acts In this case, the defendants AS and NP were charged or accused of being the perpetrators of the demolition of the DM victim to cause death; 2) Threatened with criminal charges The acts accused of the defendants were subject to criminal threats based on the primary indictment of Article 338 Jo. Article 55 paragraph (1) 1 of the Criminal Code with a maximum sentence of 15 years prison. Meanwhile, in the subsidiary indictment of Article 170 paragraph (2) 3 of the Criminal Code, the criminal threat imposed is a maximum of 12 years in prison if the violence committed results in death; 3) Unlawful The acts charged against the defendants in this case are considered to violate the provisions listed in Article 338 of the Criminal Code;

4) Committed by mistake The defendants are not proven guilty of the criminal act charged, as supported by the evidence submitted by their legal counsel. In addition, no witnesses brought forward by the public prosecutor saw, heard, or experienced the incident firsthand; 5) Accountability – The defendants are in good health and have full awareness, so that they can be legally held accountable for the acts accused against them. b) Based on the Theory of Evidence: Evidence that is valid and acceptable in the judicial system in Indonesia is regulated in Article 184 of the Criminal Procedure Code. The evidence includes witness statements, expert statements, letters, instructions, and the defendant's statement. In the evidentiary process in court, at least two of the five pieces of evidence regulated in Article 184 of the Criminal Procedure Code are required to prove that the defendant has committed a criminal act.¹³

The panel of judges of the first instance in its decision, stated that the actions of the defendants met the elements in Article 338 Jo. Article 55 Paragraph (1) 1 of the Criminal Code, so that it was considered legally and convincingly proven that they were guilty of committing the crime of murder together. However, the author has a different view from the court regarding the application of the evidentiary rules in the Criminal Procedure Code. The analysis of the non-submission of evidence in the decision of the panel of judges based on the rules contained in the Criminal Procedure Code is as follows: 1) Consideration of the Facts: Considering, that in line with the consideration of the primary indictment above that there was not a single witness who saw the acts of the defendant who committed murder or violence against the victim Dicky Maulana and there was no other evidence that proved the guilt of the defendants while the defendants strongly denied, so that the panel of judges argued and concluded that the defendants were not proven to have committed the act criminal charges as regulated and criminally threatened in Article 170 paragraph 2 to 3 of the Criminal Code in indicting subsidiaries. 2) Legal Considerations: Declaring that Defendant I Andro Supriyanto alias Andro and Defendant II Nurdin Prianto alias Benges mentioned above are not legally and convincingly proven guilty of committing criminal acts as in the Primary Indictment or Subsidiary of the Indictment The Public Prosecutor, Acquitting Defendant I and Defendant II therefore from all the charges, Restoring the rights of Defendant I and Defendant II in their ability, position of the Supreme Court of the Republic of Indonesia and their dignity and dignity, Ordering that Defendant I and Defendant II be released from custody. 3) Witness Statements: In the first-degree trial examination, the public prosecutor presented 11 witnesses, consisting of 4 members of the police, the victim's biological father, 4 key witnesses, and 2 oral witnesses. However, none of the witnesses presented by the public prosecutor directly saw, heard, or experienced the murder, including the police members who interrogated the defendant in the Minutes of Examination. Although the defendant admitted his actions, he also stated that he did not see or directly experience criminal acts against the victim. So that all witnesses submitted by the public prosecutor are "*testimonium de auditu*" witnesses (witnesses who only hear from others).¹⁴

The witnesses in this case, who gave an alibi, were Rere Septiani and Fransiska. In their testimony in court, they stated that at the time of the incident, the defendants were not at the scene of the case, but were with them in Parung. Although these two witnesses did not

¹³ Yahya Harahap, *Hukum Perseroan Terbatas*, (Jakarta: Sinar Grafika, 2021), p. 07

¹⁴ Hari Sasangka dan Lily Rosita, *Hukum Pembuktian Dalam Perkara Pidana: Untuk Mahasiswa dan Praktisi*, (Bandung: Mandar Maju, 2018), p. 32

see, hear, or directly experience the crime against the victim, they could prove that the defendants were not at the scene of the incident. Thus, their testimony shows that the defendant was not the perpetrator of the murder. As a result, one of the elements of the criminal act, namely deliberately taking the life of another person, was not met, so that the defendants could not be found guilty.

The witnesses submitted by the Public Prosecutor to state that the defendants committed the crime were Rasma, Dominggus Ie Manu, Jaidi Pendi, and Dwi Kusmanto. These four witnesses were members of the police, but none of them directly examined the defendant during the examination process in the Examination Report, the witnesses obtained information about the defendant's involvement in the crime only based on information from their colleagues in the police. Meanwhile, the defendant admitted that during the examination in the Examination Report, witness Jaidi based his conclusions on mere suspicion or suspicion. In accordance with the provisions of Article 185 paragraph (5) of the Criminal Procedure Code, opinions or fabrications that are only the result of mere thoughts cannot be considered as witness statements. Therefore, the opinions and conclusions given by the witnesses must be set aside by the panel of judges in assessing the guilt of the defendant. Thus, it cannot be used as valid evidence in the trial.

The lawyer in the trial presented a *de charge* witness, namely Iyan Pribadi, who stated that the crime of murder against the victim was not committed by the defendants, but by other people. Based on this, the author argues that the panel of judges cannot use the witness statements in the Examination Report as a basis for concluding that the defendant really committed the criminal act charged against him. 1) Defendant's Statement: The panel of judges considered that, as explained in the primary indictment, there was not a single witness who witnessed the defendants directly committing murder or acts of violence against the victim, Dicky Maulana. In addition, there is no other evidence that can prove the involvement of the defendants in the incident. Considering that the defendants also firmly denied the allegations, the panel of judges argued and concluded that they were not proven to have committed a criminal act as regulated and criminally threatened in Article 170 paragraph 2 to 3 of the Criminal Code charged in the subsidiary indictment. Article 189 paragraph (4) of the Criminal Procedure Code states that the defendant's own testimony cannot be used as the only basis to prove that the defendant has committed the act charged against him. In order for the defendant's statement submitted by the public prosecutor to be considered valid evidence at trial, the public prosecutor must present additional evidence supporting the statement. 2) Clues: In the examination at the appellate level, the panel of judges after reviewing all the evidence submitted during the trial did not find convincing clues that the defendants had committed the crime of murder against the victim. Clues obtained from the testimony of witnesses and defendants at the trial show that the defendants did not commit murder and were not at the scene at the time of the incident, so the element of *tempus delicti* was not met. The testimony of the witnesses in this case cannot be used as evidence, the Public Prosecutor can only submit one piece of evidence at the trial, namely the results of the *Visum Et Repertum* on behalf of DM's body. The cause of death of the victim is listed in document numbered HK.05.01/11.1/919/2013 published on July 5, 2013. The lack of evidence presented in the trial and the failure to convince the panel of appellate and cassation judges of the guilt of the defendants in committing the murder were the main considerations for the panel of appellate judges to impose a free verdict. This decision is in line with the provisions stipulated in Article 183 of the Criminal Procedure

Code. 3) Based on the Judge's Consideration: In the decision that is the object of the research, the panel of judges considers the case with a *ratio decidendi* approach, which means that the judge thoroughly examines all aspects related to the case. In assessing evidence, the judge is guided by the provisions of the law that require a minimum of two valid pieces of evidence to convince that the defendant has committed a criminal act. In addition, the panel of judges also applies a scientific approach and balance theory in its consideration.¹⁵ This can be seen from the fact that the panel of judges not only relies on its own thoughts in making decisions, but also considers expert opinions and pays attention to the interests of the defendant. The application of the theory of balance in judicial considerations is reflected in the process of reviewing decisions at the appellate level. At this stage, the appeals court decided to acquit the defendant because he was not proven to have committed the criminal act charged.

The decision studied in this study, the Panel of Judges considered juridical legal aspects to determine the facts in the case. In addition, consideration also includes non-juridical aspects, such as the defendant's attitude during the trial, as well as his age and responsibilities factors.¹⁶ Based on juridical considerations related to the element of intentionality in taking the life of another person, the author argues that the Panel of Judges ignored all the testimony of witnesses and defendants submitted in the trial. This should be an important factor in the juridical considerations in the decision. The Panel of Judges of the first instance only based its decision on the instructions obtained from the witness statements in the Minutes of Examination, even though according to Article 185 paragraph (1) of the Criminal Procedure Code, the information in the Minutes of Examination can no longer be used as evidence in the trial.

The carelessness and lack of objectivity of the panel of judges of the first instance in assessing the juridical aspects of its decision caused them not to realize that the second element of Article 338 Jo. Article 55 Paragraph (1) 1 of the Criminal Code, namely the element of deliberately taking the life of a person, was actually not fulfilled. The non-fulfillment of these elements was only realized by the panel of judges at the appeal level when examining the case. The panel of appeals judges in the process, argued that no witnesses directly saw or knew that the defendant committed the murder. In addition, no evidence was found submitted by the defendant, his lawyer, or his lawyer, which was also not revealed through the testimony of the alibi witnesses.

B. Legal Protection for Victims of Wrongful Arrest on the Basis of Free Verdict

Based on the analysis of the High Court Judge's decision regarding various factors considered in issuing a free verdict against the defendant.

a) Juridical Considerations

Juridical considerations are considerations that are based on the factors disclosed in the trial and must be included in the decision in accordance with the provisions of the Law. Before making a decision, the judge will examine the legal facts revealed during the trial.¹⁷ Judges in Indonesia are defined in Law Number 48 of 2009 concerning Judicial Power. Based

¹⁵ *Ibid*, p. 45

¹⁶ Adhi Wibowo and Rachmat Akbar, "Judge's Consideration of the Defendant's Testimony in Imposing a Criminal Verdict", *Unes Law Review* 6, no. 3 (2022). p.18

¹⁷ Yani Andriyani, "Implementasi Kode Etik Hakim dalam Memeriksa, Mengadili dan Memutus Perkara, Logika", *Jurnal Penelitian Universitas Kuningan* 10, no. 1 (2019), p. 43.

on Article 1 paragraph (5) of the law, judges include judges in the Supreme Court as well as judges in various judicial bodies under it, including general courts, religious courts, military courts, state administrative courts, and special courts within the judicial environment. In the judicial system, judges are one of the main elements besides prosecutors, police, and legal advisors.

b) Sociological Considerations

Sociological values focus on the benefits to society. When a judge is about to make a decision, he must hold on to strong convictions, not solely rely on available evidence. The judge, in sociological considerations, determines the sentence by taking into account the social background of the defendant and ensuring that the decision has a positive impact on society.¹⁸ The judge based his decision on Article 338 of the Criminal Code Jo 55 Paragraph (1) 1 of the Criminal Code as a juridical basis, by stating that the defendant's actions were legally and convincingly proven the existence of the criminal act. The defendants were found guilty of the act of joint murder and sentenced to 7 (seven) years in prison. The judge in determining the sentence, considers the sociological factors of the defendant so that he does not impose the maximum sentence. The punishment aims to make the defendant realize his mistake, not repeat his actions, and be able to behave better in society, upon the verdict, the defendant's legal counsel filed an appeal. According to the author's analysis, the District Court Judge of the first instance considers the facts of the trial based on testimony from the police, which has the potential to cause a conflict of interest. This can cause concern in the community about the justice obtained.

According to Article 189 paragraph (4) of the Criminal Procedure Code, the defendant's testimony alone cannot be used as the only evidence to prove that he committed the act charged. In order for the defendant's statement submitted by the public prosecutor to be admissible as valid evidence at trial, the public prosecutor must include additional evidence supporting the statement. Article 184 of the Criminal Procedure Code regulates valid evidence in a trial in Indonesia, which includes witness statements, expert statements, letters, instructions, and statements of the defendant. In the evidentiary process in court, a minimum of two of the five pieces of evidence listed in the article are required to prove that the defendant has committed a criminal act. If the amount of evidence obtained is less than two, then the panel of judges cannot impose an incriminating sentence on the defendant. In principle, the judge considers various aspects in deciding on the acquittal in the case of the crime of murder, to ensure justice and broad benefits to the community, the judge must strengthen the appeal decision and reject the application submitted by the prosecutor.¹⁹

c) Philosophical Considerations

The judge in making a decision, considers philosophical factors based on truth and justice. The application of this factor requires not only knowledge, but also extensive experience, although in practice, it can risk ignoring the values that develop in society, in exercising their power and authority, judges prioritize truth and justice by being guided by laws, laws, and principles of justice in society,²⁰ There is a difference in decision-making between the District Court and the review process at the appeal level of the Jakarta High

¹⁸ Dicky Febrian Ceswara and Puji Wiyatno, "Implementasi Nilai Hak Asasi Manusia dalam Sila Pancasila", *Lex Scientia Law Review* 2, no. 2 (2018): 227-241.

¹⁹ Achmad Zaenal Fanani, *Berfilsafat dalam Putusan Hakim (Teori dan Praktik)*, (Bandung: Mandar Maju. 2014), p. 33

²⁰ Januri and Nelti Lita, "Hakekat Keadilan dalam Perspektif Filsafat Hukum" *Audi Et AP: Jurnal Penelitian Hukum* 2, 02 (2023): 128-134.

Court. This difference shows that each judge has different beliefs in guaranteeing justice. Based on the judge's decision, the defendants must be acquitted of all charges filed by the Public Prosecutor and their rights, including their ability, position, dignity, and dignity, with the costs of the case charged to the state. This provision is in line with Article 97 paragraph (1) of the Criminal Procedure Code, which states that a person is entitled to rehabilitation if the court decides to release him or her from all lawsuits, and the decision has permanent legal force.

C. Legal Protection for Victims of Wrongful Arrest on the Basis of Free Verdict

Legal protection for victims of wrongful arrest who are released through pretrial verdicts is a tangible manifestation of respect for human rights and the implementation of the principle of the rule of law. If a person is arrested in accordance with procedures and then declared innocent through pretrial, then the individual has the right to demand accountability from law enforcement officials, either through criminal, civil, or ethical mechanisms.

1) Protection Based on Article 80 of the Criminal Procedure Code

Article 80 of the Criminal Procedure Code reads "If the pretrial judge declares that the arrest or detention is unlawful, then the investigator or public prosecutor at the request of the suspect is obliged to issue it immediately" That is, a pretrial decision that states that the arrest is invalid requires the investigator to immediately release the suspect. This verdict is a form of legal recognition that the victim has suffered losses due to the actions of the authorities that are not in accordance with the procedure. This also provides a basis for legitimacy for victims to continue legal steps to claim compensation and obtain rehabilitation.

2) Protection Based on Article 1365 of the Civil Code (Unlawful Act)

This article reads "Every act that violates the law and causes harm to another person obliges the person who, by mistake, publishes the loss, to compensate for the loss." This means that wrongful arrests that have been declared invalid through a pretrial decision can be classified as Unlawful Acts. The victim, in this case, has the right to file a civil lawsuit against state institutions such as the National Police, as well as against the officials personally involved in the action. Claims for damages can include material damages, such as legal costs and job losses, as well as immaterial losses, such as psychological trauma and defamation.

3) Police Code of Ethics of the Republic of Indonesia (Police Regulation Number 7 of 2022 concerning the Professional Code of Ethics and the Police Code of Ethics Commission)

The Code of Ethics of the National Police of the Republic of Indonesia requires each of its personnel to uphold the line of command, obey the authority structure, and act in accordance with applicable regulations and procedures. In addition, members of the National Police of the Republic of Indonesia are required to use their authority responsibly, based on legal norms, and pay attention to religious, ethical, moral, and humanitarian values. If violated. The wrongful arrest incident experienced by Andro Supriyanto and Nurdin Prianto is a form of gross violation of the Professional Code of Ethics of the National Police of the Republic of Indonesia. The two, who worked as buskers, were accused of being involved in the murder case of Dicky Maulana in 2013. During the investigation, they were subjected to torture, including beatings and electrocution, to force their guilt.

Victims of wrongful arrest have the right to report the incident to the Professional and Security Division or the Code of Ethics Commission of the Indonesian Police. If it is proven that there has been a violation of the code of ethics, the member of the Indonesian National Police concerned can be subject to ethical sanctions, ranging from written reprimands, postponement of promotion, mutation of position, to Dismissal Without Honor if the violation is considered severe.

The Police Professional Code of Ethics contained in the Regulation of the Chief of Police of the Republic of Indonesia Number 14 of 2011 emphasizes that every member of the Indonesian National Police is obliged to respect human rights and uphold the values of justice and truth. The practice of torture and detention without a legal basis experienced by Andro and Nurdin is clearly contrary to these principles. In addition, the Regulation of the Chief of the National Police of the Republic of Indonesia Number 8 of 2009 concerning the Implementation of Human Rights Principles and Standards in the Implementation of Police Duties also emphasizes the obligation of the National Police for the National Police of the Republic of Indonesia to protect and respect human rights in every act of their duties.

CONCLUSION

From the perspective of the Judge's Theory of Consideration, the decision at the appeal level emphasizes the balance between legal facts and the principle of justice. The Panel of Judges concluded that there was no strong evidence leading to the defendant's involvement, thus acquitting him of any lawsuit. In addition, the main factors that influence judges in imposing an acquittal are juridical considerations which include compliance with the rule of law, lack of valid evidence, and the principle of prudence in assessing the facts revealed at trial. The acquittal in this case confirms that in the criminal justice system, the absence of sufficient evidence is the main factor in determining the verdict against the defendant.

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Conflict of Interest Statement: The author(s) declares that research was conducted in the absence of any commercial or financial relationship that could be construed as a potential conflict of interest,

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TATOHI: Jurnal Ilmu Hukum is an open acces and peer-reviewed journal published by Faculty of Law, Universitas Pattimura, Ambon, Indonesia.

