

Legal certainty in a decision to release all legal claims in a court decision

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Abstract

This journal aims to determine the existence of decisions free from all legal demands and the judge's considerations in decisions free from all legal demands due to civil actions. This journal uses a type of juridical-normative research, namely legal research that conceptualizes principles, rules, norms and doctrine. This approach is also known by the general public as a normative legal approach or research. In judicial practice we find that there are decisions free from all legal charges which basically explain that the defendant's actions have been legally and convincingly proven but are not criminal acts but are civil acts, verbally or in language the sentence is contradictory, one side states that the criminal charges are proven but on the other hand, stating that it is not a criminal act, but a civil act, there is a conflicting legal logic in a decision like this, when the judge concludes and confirms the indictment of the public prosecutor's criminal article, then the consequence is that all the elements of the criminal article charged have been fulfilled and the decision is proven to be an act the crime charged by the public prosecutor so that a criminal decision should be issued, but if it is then deemed that the criminal act is not a criminal act but a civil act, then therein lies a collision of legal logic. It is known that there are two categories of judge's consideration in deciding a case, namely the judge's consideration which is juridical in nature and the judge's consideration which is non-juridical in nature.

Keywords: Verdict, Judgement, legal certainty

Introduction

In a judicial body, judges have the most important role because they are the ones who have the right to decide cases. Judges in carrying out their duties, especially in deciding a case, must always adhere to the principles of an independent and impartial judiciary as stated in Article 1 of Law Number 4 of 2004: "Judicial power is the power of an independent state to administer justice to enforce the law. and justice based on Pancasila, for the sake of the implementation of the Law of the Republic of Indonesia.

When deciding a case, a judge must always adhere to the applicable law, even though the judge has an independent position and power apart from government interference, and must be considered appropriately according to the facts in the trial so that it will create a sense of justice and legal certainty. Legal certainty is the certainty that the law will be enforced in society itself.

The laws envisioned by society are laws that are always present in society's ideals (Sulardi, Yohana Puspitasari Wardoyo: 2015) ^[14]. This legal ideal is realized in society's desires for a form, structure and legal order that can create stability in society. Law is not just statutory regulations, but rather principles, norms and rules that are aspired to by society, codified in legislation, and implemented fully by both law enforcement officials and society. This is the true essence of law, which goes beyond meaning that has previously been built (Nur Agus Susanto: 2014) ^[13]. The law must be certain, especially the law.

The decision of a judge or more juridically, what we often call a court decision, is essentially law, so that when there is a court decision, a new legal situation emerges which is also attached to the purpose for which the law was made or formed, namely justice, certainty and benefit. In the realm of criminal law, a court decision according to Article 1 Number 11 of the Criminal Procedure Code is a judge's

statement made in open court, which can be in the form of punishment or freedom from all legal charges in cases and according to procedures regulated by law.

Article 191 paragraph (2) of the Criminal Procedure Code stipulates that if the court is of the opinion that the act charged against the defendant is proven, but the act does not constitute a criminal act, then the defendant is acquitted of all legal charges. In this decision, what the public prosecutor charged against the defendant has been proven legally and convincingly according to the law, but is not a criminal act. Strictly speaking, the act charged has been proven but the act according to the judge's assessment does not fall within the scope of a criminal act, this is because there are excuses and justification reasons or because the act is not a criminal act, but is an act which falls into the category of civil, customary law or commercial law.

There is no regulation regarding free judgment because it is a civil action, so it is necessary to study the concept of free judgment in the Criminal Procedure Code and in the Criminal Code. A judge's decision is a verdict that determines a person's fate. It is hoped that the judge's decision must contain the best possible juridical and philosophical basis. Therefore, there is a need for guidelines or measures in determining the imposition of a release decision.

Based on the description above, it is thought that a study can be carried out in a research study with the hope that the judge's consideration in deciding will be free from all legal demands on the grounds that it is not a criminal act as far as possible with the aim of providing justice, benefit and legal certainty, especially for legal professionals who are involved in the field. practitioners such as judges, prosecutors, and lawyers/Attorney.

Research Method

This journal uses a type of juridical-normative research, namely legal research that conceptualizes principles, rules, norms, and doctrine. This approach is also known by the public as a normative legal approach or research. In juridical-normative research, namely research that deductively starts from an analysis of articles in statutory regulations and the opinions of legal experts that regulate the problem to be studied. Juridical legal research means research that refers to existing literature studies or secondary data used. Meanwhile, normative means legal research which aims to obtain normative knowledge about the relationship between one regulation and another and its application and practice. (Abdul Kadir Muhammad: 2004).

Discussion

1. The existence of the decision is free from all legal demands

In the Big Indonesian Dictionary existence means existence. This word refers to the basic word exist which means existing and developing (KBBI: 2024). If it is associated with a free decision, it means that the existence of a free decision means the existence of a free decision in terms of criminal law, especially evidentiary procedures.

The provisions for acquittal are regulated in Article 191 paragraph (2) of the Criminal Procedure Code (hereinafter referred to as the Criminal Procedure Code) which states: "When the act charged against the defendant is proven, but the act does not constitute a criminal act, then in this case the court may give a verdict." In the past, the decision to be released from all legal claims was called *onslag van recht vervolging*, which had the same meaning as Article 191 paragraph (2) of the Criminal Procedure Code, namely the decision to release all legal claims based on the following criteria.

"What was alleged against the defendant was proven legally and convincingly; However, even if it is proven, the judge is of the opinion that the actions charged against the defendant do not constitute a criminal act. Based on this, it is known that the basis for the acquittal decision lies in the fact that what was charged and what has been proven is not a criminal act, but falls within the scope of civil law or customary law. More clearly, Article 191 paragraph (1) and paragraph (2) of the Criminal Procedure Code formulates acquittal and acquittal decisions:

1. If the court is of the opinion that from the results of the examination at trial, the defendant's guilt for the act charged against him has not been legally and convincingly proven, then the defendant is acquitted.
2. If the court is of the opinion that the act charged against the defendant is proven, but the act does not constitute a criminal act, then the defendant is acquitted of all legal charges.

Based on the formulation of the article above, in an acquittal (*virijspreek*) the criminal act charged by the prosecutor/public prosecutor in his indictment is not legally and convincingly proven according to the law. In other words, the minimum requirement of proof (i.e. at least two valid pieces of evidence) and the judge's belief (Article 183 of the Criminal Procedure Code) is not fulfilled. Meanwhile, in an acquittal decision (*onslag van recht vervolging*), all legal claims for actions committed by the defendant in the prosecutor's/public prosecutor's indictment have been

legally and convincingly proven according to the law, however the defendant cannot be sentenced to a crime, because the action is not an act Criminal law, for example, is in the field of civil law, customary law or commercial law.

The imposition of an acquittal verdict and an acquittal verdict by a judge on the perpetrator of a criminal act (where the elements of the article charged are proven), can be differentiated by looking at the presence or absence of reasons for expunging the crime (*Strafuitsluitingsgronden*), whether in the law, for example reasons justification (example Article 50 of the Criminal Code) or excuse.

The decision of a judge or more juridically, what we often call a court decision, is essentially law, so that when there is a court decision, a new legal situation emerges which is also attached to the purpose for which the law was made or formed, namely justice, certainty and benefit. In the realm of criminal law, a court decision according to Article 1 Number 11 of the Criminal Procedure Code is a judge's statement made in open court, which can be in the form of punishment or freedom from all legal charges in cases and according to procedures regulated by law. Substantially there are three types of judge's decisions in criminal cases

1. Acquittal

An acquittal is regulated in Article 191 paragraph (1) of the Criminal Code, which states that an acquittal is a decision handed down by a judge to a defendant if the results of an examination at a court hearing of the defendant's guilt are not legally and convincingly proven. The acquittal occurred because the defendant was declared not legally and convincingly proven guilty of committing a crime as charged by the Public Prosecutor in the indictment. The charges are not proven if they do not fulfill what is required in Article 183 of the Criminal Procedure Code (KUHP).

2. Decision To Release All Legal Claims

The legal basis for the decision to be released from all charges is contained in Article 191 paragraph (2) of the Criminal Procedure Code, in the decision to release, the criminal act charged by the Public Prosecutor is proven legally and convincingly according to the law, but the defendant cannot be convicted because the act committed by the defendant was not "criminal act" but falls into the realm of civil law, commercial law, or customary law.

3. Verdict Judgement

The criminal decision is determined in Article 193 paragraph (1) of the Criminal Procedure Code, a criminal decision is a decision issued based on an examination at a court trial. The panel of judges believed if the defendant had been legally and convincingly proven guilty of committing the crime with which he was charged, the court imposed a sentence. Conviction means that the defendant is sentenced to a criminal sentence in accordance with the threat specified in the Article of the criminal offense for which the defendant is charged, the sentence imposed on the defendant is based on the court's assessment. The forms of criminal decisions that can be handed down by judges are regulated in the Criminal Procedure Code, including:

- a. The main punishment, which consists of the death penalty, imprisonment, imprisonment, and fines.
- b. Additional punishment, which consists of revocation of certain rights, confiscation of certain goods, announcement of the judge's decision.

Court decisions made by judges are carried out through a trial mechanism with the stages of examining, adjudicating, and deciding cases submitted by the public prosecutor. In the view of some lay people, the activities of examining, adjudicating, and deciding cases are often considered routine activities and are easy for judges to carry out because there is criminal procedural law, but in practice, the activities of examining, adjudicating and deciding cases are not actions that are easy for judges to carry out, because there are many factors that need to be considered (Akhmad Shodikin: 2017) ^[2].

These factors are, for example, related to the substance of the case and the evidence revealed at the trial, the material and formal legal basis used, the contents of the indictment and criminal demand letter, the arguments of prosecutors and advocates, the condition of the victim and the community, including the possibility of pressure from certain parties, as well as an abstract sense of the spirit of justice, several of these factors have made judges have to be really observant in deciding cases, however, judges' decisions often become controversial and are widely opposed by various parties, such as the type of decision that is free from all legal demands (onslag van rechtsvervolging). In this decision to be free from all legal demands, there are at least benchmarks for the judge in handing down the decision, namely (Andre G. Mawey: 2016) ^[1]:

- a. One of the criminal law terms charged does not match the criminal act. For example, someone commits an act that is charged with a crime of fraud or embezzlement but it is discovered that the act does not fall within the scope of criminal law but falls within the scope of civil law;
- b. There are special circumstances that cause the defendant not to be prosecuted. For example, because of Articles 44, 48, 49, 50, 51 of the Criminal Code.

Based on this, it is known to be the basis for an acquittal decision which is often used as a reference by judges in deciding cases free of all charges, so that the judge's conclusion emerges that what the public prosecutor has charged has been proven but is not a criminal act, but falls within the scope of civil law or customary law.

In judicial practice we find that there are decisions free from all legal charges which basically explain that the defendant's actions have been legally and convincingly proven but are not criminal acts but are civil acts, verbally or in language the sentence is contradictory, one side states that the criminal charges are proven but on the other hand, stating that it is not a criminal act, but a civil act, there is a conflicting legal logic in a decision like this, when the judge concludes and confirms the indictment of the public prosecutor's criminal article, then the consequence is that all the elements of the criminal article charged have been fulfilled and the decision is proven to be an act the crime charged by the public prosecutor so that a criminal decision should be issued, but if it is then deemed that the criminal act is not a criminal act but a civil act, then therein lies a collision of legal logic.

It would be better, if the judge is of the opinion that there is an element of civil action in the examination of a criminal case at trial, it is enough to state in the judge's consideration that the elements of the criminal article charged are not fulfilled and therefore the defendant is acquitted by law, this

is better, provides more legal certainty and eliminates confusion in our understanding of the decision to be free from all demands. In the event that the decision is independent of the law, there are forgiving and justifying reasons as stipulated in Articles 44, 48, 49, 50, 51 of the Criminal Code, then it can be excused because there are reasons that are justified by law, but if the reason is not a criminal act but a civil act, then this is where the problem of errors in legal logic that is built on the decision arises.

2. Judge's Considerations in Decisions to Release All Legal Claims Due to Civil Actions

The problem started with several court decisions which stated a release from all legal demands because it was not a criminal act but a civil act, such as the Sukamakmue District Court Decision Number: 88 / Pid.B/ 2020/ PN. Skm, dated March 26 2021, in the name of Defendant BR, the decision basically contains:

1. Declare that the defendant has been proven to have committed the act as charged by the public prosecutor but that the act is not a criminal act.
2. Release the defendant from the public prosecutor's demands;
3. Restoring the defendant's rights to his abilities, position, honor and dignity.

This decision to be free from all legal demands actually overrides the Sukamakmue District Court Decision Number: 01/Pdt.G/2020/Pn.Skm, dated 5 May 2020 which has the same case object as the criminal decision, so that the judge still considers there to be a civil action even though it is clear -There has been a civil decision regarding the object of the criminal case in question.

Furthermore, there is also decision number: 98/Pid.B/2020/PN JKT.SEL Defendant Rudy Sutopo who was charged with Article 378 of the Criminal Code, namely committing a criminal act of fraud, but the judge stated in his consideration that the elements of the public prosecutor's indictment had been fulfilled, but the judge was of the opinion that believes that the actions carried out by the defendant are not criminal acts, because there is an agreement which is the object of this case, so the judge is of the opinion that the defendant's actions are civil acts and the ruling in the decision is in essence, namely:

1. Declare that the defendant Rudy Sutopo, as mentioned above, has been proven to have committed the act charged but is not a criminal act.
2. Release the Defendant from all legal demands; Restoring the Defendant's rights in terms of his abilities, position, honor, and dignity.

This decision also contains a ruling stating that the alleged act has been proven but is not a criminal act, and in the judge's consideration the judge also contains the judge's conclusion that the defendant's actions constitute a civil act. That there are also other court decisions which contain the same ruling as the two decisions above, namely decision Number: 722/Pid.B/2020/PN.Jkt.Sel in the name of the defendant Rubianto Idup which basically contains:

1. Declare that the defendant RI has been legally and convincingly proven guilty of committing the crime of "those who commit and participate in committing acts of fraud" as regulated and punishable by crime in the

first alternative indictment of Article 378 of the Criminal Code jo. Article 55 paragraph (1) 1st of the Criminal Code.

2. Declaring that the alleged act is proven but the defendant's act is not a criminal act but a civil act.

That based on the explanation, the decision is free from all legal demands as contained in the Sukamakmue District Court Decision Number: 88/Pid.B/2020/PN.Skm, South Jakarta District Court Decision Number: 98/Pid.B/2020/PN JKT.SEL and South Jakarta District Court Decision Number: 722/Pid.B/2020/PN.Jkt.Sel, can be used as a study for further research while still respecting the judge's considerations in several of these court decisions. This study will later look at the reasons Normative juridical concerns the existence of a decision free from all legal demands as a legal product of the court, how the judge considers the decision free from all legal demands and what impact the decision free from all legal demands has in providing legal certainty for all parties concerned.

There is no regulation regarding free judgment because it is a civil action, so it is necessary to study the concept of free judgment in the Criminal Procedure Code and in the Criminal Code. The judge's decision is a verdict that determines a person's fate. This results in a judge having to consider the factors that exist within the Defendant, namely whether the Defendant actually committed the act that has been accused of him, whether the defendant knew that his act was unlawful so he did it with feelings of fear and guilt, whether the defendant at the time of committing the act is deemed capable of being responsible or not. So judges must make fair and wise decisions by considering the legal implications and impacts that will occur.

A judge must have considerations when making a decision. As for the judge's considerations, apart from being based on the articles applied by the defendant, they are actually also based on the judge's own beliefs and conscience. So, one judge and another judge have different considerations when handing down a decision. It is known that there are two categories of judge's consideration in deciding a case, namely the judge's consideration which is juridical in nature and the judge's consideration which is non-juridical in nature. These considerations can be explained as follows:

- a. Juridical considerations are the judge's considerations based on factors that have been revealed in the trial and that have been determined by law as matters that must be included in the decision. These juridical considerations include

1. Prosecutor's Investigation

The Public Prosecutor's indictment is usually made in the form of a letter or deed containing a formulation of the criminal act he is charged with which will be concluded and drawn from the results of the investigative examination and is the basis for the judge when examining him at trial.

2. Criminal Prosecutions

The criminal complaint usually states the types and severity of the actions required by the Public Prosecutor to hand down a court decision against the defendant. The preparation of the indictment by the Public Prosecutor has been adjusted to the Public Prosecutor's indictment by looking at the evidence in a trial, which has also been adjusted to the form of indictment used by the Public Prosecutor before finally arriving at the demands in the

requisitoir. Usually the Public Prosecutor will explain one by one. one about the elements of the criminal act that he is accusing the defendant of, by giving reasons for his assumption.

3. Witness Statement

A witness statement is one of the pieces of evidence in a criminal case which is a statement from a witness regarding a criminal incident that he himself heard, saw for himself and experienced by stating the reasons for his knowledge. Witness testimony is a means of evidence as regulated in Article 184 paragraph 1) KUHP letter a. A witness statement is a statement about a criminal incident that he himself, saw himself and experienced himself, must be presented in court by taking an oath. Witness statements submitted before the complaint hearing which are merely the result of thoughts or inventions obtained from other people's testimony cannot be considered as valid evidence. This kind of testimony in criminal procedural law is referred to as *testimonium de auditu*. This testimony may occur at trial.

4. Defendant's statement

Article 184 paragraph (1) of the Criminal Procedure Code letter e states that the defendant's statement is classified as evidence. The Defendant's statement is what the Defendant stated at trial about the actions he committed or that he himself knew about or that he personally experienced, this is regulated in Article 189 of the Criminal Procedure Code. The defendant's own statement may include information in the form of a denial and information in the form of a confession or all that is being accused of him.

5. Evidence

Evidence is goods used by the defendant to commit a crime or goods as a result of a crime. Items used as evidence presented in a court trial aim to strengthen witness statements, expert statements, and Defendant statements to emphasize the Defendant's guilt. The presence of evidence shown at the trial will increase the judge's confidence in assessing whether the actions alleged against the defendant are true or not and of course the judge will be more confident if the evidence is known and acknowledged by the defendant and the witnesses.

6. Articles in the Criminal Code (KUHP)

The formulation of Article 197 letter e of the Criminal Procedure Code states that one thing that must be included in the sentence decision is the statutory regulations that form the basis of the sentence. The articles charged by the Public Prosecutor are the basis for the judge's consideration in handing down a decision.

- b. Non-juridical considerations consist of the background of the defendant's actions, the defendant's economic condition, 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 charged (Syarifah Dewi Idawati S: 2014)

After the examination process at the trial has been completed, the judge should make a decision regarding the case at hand. Legal decisions or court decisions are an important and necessary aspect in resolving criminal cases.

The meaning of a decision is regulated in Article 1 number 11 of the Criminal Procedure Code which reads:

"A court decision is a judge's statement made in an open court session which can be in the form of a sentence or acquittal or release from all legal charges in the matter and in accordance with the methods regulated in this Law."

Regarding what decision the court will hand down, it depends on the results of the judges' deliberation based on the research they obtained from the indictment which has been linked to everything that has been proven in the court examination.

A defendant can be sentenced to criminal sanctions if he has been legally and convincingly proven to have committed the act he is charged with. Evidence is carried out to find out whether the defendant is guilty or vice versa, then evidence is carried out at trial and then the judge can examine and decide the case. The evidentiary system in criminal cases refers to the Criminal Procedure Code. This evidentiary system adheres to a negative evidentiary system where the defendant's guilt or innocence is determined by the judge's belief based on methods and evidence that are valid according to the law (M. Yahya Harahap: 2012)

Based on Article 183 jo. Article 184 of the Criminal Procedure Code, proof must be supported by a minimum of two valid pieces of evidence and the judge's belief. The legal evidence has been regulated in a limited manner in Article 184 paragraph (1) of the Criminal Procedure Code, including witness statements, expert statements, letters, instructions and defendant statements. As for the evidence of the charges used as the basis for prosecution by the Public Prosecutor, it is alternative.

An alternative indictment is an indictment document that contains more than one crime allegedly committed by the defendant. The prosecutor detailed several possible criminal acts that were relevant to the existing evidence. The charges in relation to the acquittal decision handed down by the judge in the Sukamakmue District Court Decision Number: 88/Pid.B/2020/PN.Skm, are below.

That the Defendant BR, on Monday 4 November 2019 at approximately 15.57 WIB, or around 2019 or still in 2019, was located on land or building use rights land belonging to PT. Meulaboh Generation Power which is located in Geulanggang Merak Hamlet, Gampong Suak Puntong, Kuala Pesisir District, Nagan Raya Regency, or at least somewhere within the jurisdiction of the Suka Makmue District Court which has the authority to adjudicate, has with the intention of unlawfully benefiting oneself or another person. law, selling, exchanging or encumbering with credit verband a right to Indonesian land, a building, structure, planting or seedling on land with Indonesian rights, even though it is known that the person who has or also has the right to it is another person, which is the act the defendant committed in the following ways:

- a. That it started on Friday, November 4 2019, at that time the workers of PT. Meulaboh Power Generation (PT. MPG) along with Witness AI as Public Relations at PT. MPG is currently clearing land located in Suak Puntong Village, Kuala Pesisir District, Kab. Nagan Raya, then at around 15.57 WIB the defendant and his wife, Brother IH, Brother AD.BYP, came to the land location to block the work of PT. MPG using Excavator/Beko heavy equipment, then the defendant together with several other people stopped PT's work. MPG, and the defendant claimed that the land where work was being

carried out by PT, MPG belonged to the defendant, even though the land where work was being carried out by PT. The MPG belongs to PT. MPG is in accordance with the basis of rights in the form of Building Use Rights Certificate (HGB) Number: 00002 in the name of the holder of PT. Meulaboh Power Generation, which was issued on November 26 2018;

- b. That the Defendant carried out land grabbing or controlled or cultivated it with the intention of benefiting himself in the form of planting on HGB land belonging to PT. MPG by planting approximately 100 (one hundred) palm oil trees which are estimated to be around 1 (one) year old with a planted land area of 9581 M2 (Semblan thousand five hundred and eighty one square meters), p. This is based on a measurement letter from the Nagan Raya National Land Agency;
- c. That prior to land grabbing or controlling or cultivating it with the intention of benefiting oneself in the form of planting on HGB land owned by PT. MPG, the land originally contained rubber stem plants and random hardwood plants, but when the activity was to be carried out by PT. The MPG of the land was already overgrown with oil palm trees, which was the act carried out by the Defendant;
- d. Based on experts from the National Land Agency, Kab. Nagan Raya, the land planted with oil palm plants by the Defendant is land with Building Use Rights owned by PT MPG with certificate number: 00002 in the name of PT. Meulaboh Power Generation which is located in Suak Puntong Village, Kuala Pesisir District, Nagan Raya Regency;
- e. Whereas according to the expert, after measuring the location by taking the coordinates of the HGB 00002 certificate, and the expert also measuring the defendant's land using the Garment Etrek 30 tool belonging to the Nagan Raya Land Agency, the result was that the defendant planted palm oil palms on an area of 9581 M2 (nine hundred and fifty eight thousand square meters) which is included in the HGB land owned by PT. MPG;
- f. That the Defendant's act of encroaching/cultivating/planting oil palm trees on HGB land belonging to PT MPG, was carried out by the Defendant without the knowledge or permission of the rightful party, namely PT. MPG, resulting in PT MPG feeling disadvantaged both morally and materially;

The Defendant's actions are as regulated and punishable by crime in Article 385 1 of the Criminal Code (first), in conjunction with Article 167 paragraph (1) of the Criminal Code (second), in conjunction with Article 406 of the Criminal Code (third).

Based on the results of the existing legal facts, including those originating from the Defendant's statement, witness statements and evidence in this case, it can be seen that what was revealed in the trial of this case, according to the consideration of the Panel of Judges, was of the opinion that the Defendant's action in violating the agreement was an act of injury. promise (Default).

This action is not a legal action in criminal law and is included in a legal action against civil law. In this case, the Suka District Court judge decided by handing down a verdict free from all legal demands, what was alleged against the Defendant was sufficiently legally proven both

in terms of evidence according to law and in terms of the minimum limit of evidence regulated in Article 183 of the Criminal Procedure Code, but the This is not a criminal offence. Strictly speaking, the actions alleged against the Defendant have been proven, but do not fall within the scope of criminal law. The decision to be free from all legal charges as regulated in Article 191 paragraph (2) of the Criminal Procedure Code revealed in the trial that the Defendant had actually committed a criminal act, but according to the law in question he could not be convicted.

The judge, in making a decision to be free from all legal charges, refers to Article 191 paragraph (2) of the Criminal Procedure Code which states "If the court is of the opinion that the act charged against the Defendant is proven but does not constitute a criminal act, then it must be released from all legal charges." Another judge's consideration is if there are special circumstances that cause the defendant not to be punished, namely the existence of justificatory reasons and forgiving reasons. For example, because of Articles 44, 48, 49, 50, 51, respectively, of the Criminal Code.

If the Defendant is accused of an action, if it turns out that the Defendant is proven but no element of guilt is found in the Defendant or there is a justification or excuse, then the Defendant can be given a verdict free from all legal charges (Aloysius Wisnubroto: 2009).

As a result of the judge's decision, the judge's decision to release the defendant from legal charges was based on the evidence used by the basic judge to decide this case which gave the judge confidence that the actions committed by the defendant were not a crime as charged. in the indictment of the Public Prosecutor.

The judge believes that the elements contained in Article 378 and Article 372 of the Criminal Code which are the basis for the public prosecutor's demands are not fully fulfilled. Based on the description above and examining the facts revealed, the author is of the opinion that a case like this requires the judge to be careful in giving a decision because if there is no thoroughness it will exceed a judge's authority by mixing up the realms of civil law with criminal law.

Conclusion

1. In judicial practice, we find that there is a decision to release all legal charges which basically states that the defendant's actions have been legally and convincingly proven but are not a criminal act but are a civil act, verbally or in language the sentence is contradictory, one side states that the charges are proven criminal but on the other hand states that it is not a criminal act, but a civil act, there is a conflicting legal logic in a decision like this, when the judge concludes and confirms the indictment of the public prosecutor's criminal article, then the consequence is that all the elements of the criminal article charged have been fulfilled and the decision is It is proven that the criminal act charged by the public prosecutor means that a criminal decision should be issued, but if it is then deemed that the criminal act is not a criminal act but a civil act, then therein lies a collision of legal logic.
2. It is known that there are two categories of judge's consideration in deciding a case, namely the judge's

consideration which is juridical in nature and the judge's consideration which is non-juridical in nature. Juridical considerations are the judge's considerations based on factors that have been revealed in the trial and that have been determined by law as matters that must be included in the decision. Judicial considerations include the public prosecutor's indictment, criminal charges, witness statements, defendant statements, evidence, articles in the Criminal Code. Non-juridical considerations consisting of the background of the defendant's actions, the defendant's economic condition, 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 charged (Roni Utama Putra: 2013).

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