



ANALYSIS OF CRIMINAL SANCTIONS IMPOSED ON PERPETRATORS OF MURDER

Artha Vina Anissa Amalia¹, Tri Andrisman², Deni Achmad³, Maroni⁴, Mamanda Syahputra⁵

Affiliation of all the authors^{1,2}

arthavina23@gmail.com¹ triandrisman@gmail.com² deni.achmad1981@gmail.com³
maroni.1960@fh.unila.ac.id⁴ mamanda@fh.unila.ac.id⁵

Abstract

Purpose: This study aims to pinpoint and scrutinize how the components of unlawful killing, as defined by Article 338 of the Penal Code, were put into practice in Ruling Number 19/Pid. B/2024/PN. Gdt, along with pinpointing and scrutinizing the rationale employed by the Judicial Panel when determining the penalty for the individual who committed homicide in Ruling Number 19/Pid. B/2024/PN. Gdt. The research methodology implemented is normative juridical research, utilizing a case study approach focused on verdicts handed down by courts. Information was gathered from sanctioned documentation pertaining to the Gedong Tataan Class II A District Court ruling, in conjunction with pertinent legislative frameworks and the Criminal Procedure Code. Qualitative methods were employed for data processing and analysis. The research findings indicate that implementing the principles of the offense of homicide, as stipulated in Article 338 of the Penal Code, within Ruling Number 19/Pid. B/2024/PN. Gdt has successfully addressed each of the elements detailed in Article 338 of the Penal Code, where the Judicial Panel has meticulously delineated and clarified each of the three principles found in Article 338 of the Penal Code. The Judicial Panel's line of reasoning for establishing the sentencing of the person responsible for the crime of homicide in the present situation was predicated upon detrimental factors, extenuating circumstances, the accusatory document, and the factual legalities that materialized throughout the judicial proceedings, thereby empowering the Judicial Panel to collectively resolve to condemn the accused to a custodial term of 13 (thirteen) years.

Keywords: *Criminal Offense, Murder, Considerations of the Panel of Judge*

1. Introduction

Law plays a fundamental role in regulating and maintaining order in social, national, and state affairs. As a guideline for behavior, the law serves to create certainty, order, and justice for all citizens.. The Republic of Indonesia has explicitly established itself as a state based on the rule of law, as stipulated in Article 1, paragraph (3) of the 1945 Constitution of the Republic of Indonesia, thereby placing the law as the main instrument for realizing national goals. Along with the increasingly dynamic social development of society, various contemporary issues often arise and demand the presence of leaders who are responsive to these changes. Crime and law violations are social phenomena that are difficult to avoid and continue to develop in line with the dynamics of society. Therefore, law enforcement is an important mission for the state to maintain security and order and protect the community from various threats that can harm the public interest.

In its function of regulating social life, law is a rule that exists within society and has both regulatory and coercive properties. Law exists in society to ensure that everyone obeys the applicable rules and regulations and to impose strict sanctions on anyone who violates them. The main purpose of the law is to maintain balance in the relationships between members of society. One branch of law that plays a direct role in controlling societal behavior is criminal law. Criminal law regulates which acts are prohibited and the penalties for violators. (Wahyunita & Safitri, 2021), so that it functions as a tool to control behavior that is detrimental to the public interest. As stated by Marpaung (2009), criminal law is closely related to the state's efforts to create and maintain law and order to protect public safety.



(Hartono, 2013) However, social reality shows that various events that disrupt order will continue to arise and cannot be completely eliminated.

Crime is a behavior that violates the values and norms established by written laws. Crimes that occur in society take various forms. In Indonesia, regulations concerning crimes are listed in Book II of the Criminal Code (KUHP), one of which is the criminal act of murder. Crimes against life are specifically regulated in Chapter XIX of the KUHP, which covers Articles 338–350 (Khotimah et al., 2023). Murder, as a form of crime against life, is a major concern because it violates fundamental human rights. Violent crimes are clear examples of criminal acts that continue to occur in society. As long as humans live side by side, crime cannot be completely stopped; all that can be done is control and suppress its spread. Mistakes or acts that violate the law, whether intentional or not, can harm others and are referred to as criminal acts. In the context of legal protection, Article 28A of the 1945 Constitution affirms every person's right to life. Therefore, criminal acts that take lives are an important issue in criminal law. The Criminal Code clearly regulates provisions regarding crimes against life in Book II, Chapter XIX, which contains Articles 338 to 350 (Lamintang, 2012). Despite comprehensive regulations, murder remains one of the most common crimes in the world. The factors that trigger murder are diverse, ranging from domestic violence, conflicts between friends or lovers, robbery, and abuse that ends in death.

Most murder cases stem from conflicts that develop emotionally, particularly in interpersonal relationships. Conflicts that are initially minor can escalate into violent acts that result in the loss of life. In murder cases, criminal law provisions regulate material offenses, namely, offenses whose elements are based on the resulting consequences, namely, the loss of another person's life (Yuridis et al., 2023). Thus, the elements of the offense are considered fulfilled if the prohibited consequences occur. Murder is a crime that contradicts the essence of humanity because every individual has the right to live and defend their life. In the Criminal Code, the difference between abuse and murder lies in the purpose or intention of the perpetrator (*opzet*). Abuse is defined as (Lamintang, 2012) the intention to cause pain, injury, or harm to health, whereas murder, as regulated in Article 338 of the Criminal Code, requires the intention to take a life. It emphasizes that murder requires the intention to cause death as part of the perpetrator's intent. The threat of life imprisonment or even the death penalty shows that intentional murder is a very serious crime and is strictly regulated by the applicable laws (Afifah et al., 2024).

In the modern era, the forms of criminal homicide have become increasingly diverse, ranging from mutilation and murder accompanied by robbery or rape to murder committed in the heat of the moment. The factors that trigger such emotional acts can be related to educational level, moral conditions, jealousy, and the weakening of religious and ethical values in social life. In addition, uneven social development can lead to social inequality, jealousy, and aggression, which trigger crimes such as theft, robbery, abuse, and even murder (Iskandar et al., 2022). Murder is a crime that often occurs in social settings. Murder is an inhumane crime because it results in the forcible loss of human life, whether it is committed intentionally or through negligence (Nugraha, 2012). Therefore, the regulation and enforcement of laws against criminal homicide are very important, given the complexity of the causes and their impact on public safety. Studies on the elements of homicide and their application in judicial practice are crucial for ensuring fair, consistent, and effective law enforcement. One example is the murder case that occurred in Gedong Tataan in Case Number 19/Pid. B/2024/PN.Gdt. In this ruling, the defendant, Firmansyah, committed murder out of emotion and jealousy when he saw his wife talking to the victim, Aan Suhendar. This incident shows that murder can be triggered by spontaneous emotional reactions. Based on this background, the author is interested in further examining this issue and presenting it in a thesis entitled "The Imposition of Sanctions on Perpetrators of Murder (A Case Study at the Gedong Tataan District Court in Case No. 19/Pid.B/2024/PN.Gdt)".

2. Literature Review and Hypothesis Development

2.1 Criminal Offense

The phrase criminal offense originates from "strafbaar feit," a concept recognized in Dutch criminal law. Despite its presence in the Dutch Criminal Code and, consequently, in the Criminal Code of the Dutch East Indies, there is no formal definition clarifying what "strafbaar feit" actually signifies.



Consequently, legal professionals have endeavored to delineate the meaning and scope of this term. However, a unified understanding of this subject remains elusive. “Strafbaar feit” is composed of three distinct components: “straf,” “baar,” and “ “Straf” denotes criminal or legal aspects. “Baar” signifies possibility or permissibility in Islam. Concurrently, “feit” encompasses actions, occurrences, violations and deeds (Safitri, 2025). Pompe characterized a strafbaar feit as “an action deemed punishable under legal provisions. “ Simons described strafbaar feit as “an illegal act intentionally carried out by an accountable individual, and for which a punishment is declared. “ Wirjono Prodjodikoro articulated that a criminal act is “an action that may subject the perpetrator to criminal sanctions. “ (Prodjodikoro, 1986).

2.2. Murder

Murder refers to an action carried out by one or more individuals that leads to the death of another individual or multiple individuals (Ali, 2007). In legal terms, murder falls under the category of offenses against life, as outlined in the Criminal Code. Offenses against life (*misdrifven tegen het leven*) involve harmful actions directed towards another person’s existence. The term murder is derived from the verb *kill*, which signifies the act of causing a death. According to Article 338 of the Criminal Code, murder occurs when an individual deliberately causes the death of another person. The act of killing involves someone who intends to end another person’s life using a means, whether an object or a situation deemed appropriate for such an act. Killing refers to the act of causing death. A murderer is identified as an individual or entity that carries out a killing, and murder describes the overall act of taking a life, specifically the action or execution of killing. An action can be labeled as murder if it is executed by anyone who purposefully takes another’s life (Hartono, 2013). Ramianto, as cited by Anwar in his text *Special Criminal Law (KUHP, Book II)*, defines murder (*doodslage*) as the act of ending a person’s life. Furthermore, according to Wojoqwasito, referenced by Rahmat Hakim in his book *Hukum Pidana Islam (Islamic Criminal Law)*, murder is described as the removal of a person’s life from the world. Additionally, Rahman, citing Abdul Qodir Aulia, explains that it refers to actions in which one person takes away the life or spirit of another human being. Thus, murder can be viewed as the removal or termination of a person’s life by another individual, which leads to the failure of all bodily functions due to the absence of the spirit, which is essential for bodily movement (Hakim, 2010).

2.3 Judge's Considerations

Judges’ court rulings should rely on interconnected theories and research findings to ensure comprehensive and equitable results in both theoretical and practical aspects. One strategy to attain legal certainty within the judicial system, where judges serve as law enforcement agents, is through their rulings, which can serve as a standard for achieving this. Judges have the discretion to make decisions in every criminal court case, in line with the provisions of Law Number 48 of 2009 regarding Judicial Power, which establishes in Article 1 that: “Judicial power is the independent authority of the state to deliver justice in order to uphold law and justice in accordance with Pancasila, aimed at enforcing the Rule of Law in the Republic of Indonesia. ”

Judicial Considerations can be viewed from two perspectives (Nurhafifah and Rahmiati, 2015). Legal considerations involve judges’ reflections based on factual evidence presented during the trial and laws that must be incorporated into the verdict. Non-legal considerations consist of reflections made by judges based on factors not governed by law but that pertain to the offender or are connected to social matters and societal structure. The considerations of a judge represent a collection of thoughts based on the legal facts dictated by the law that ought to be included in the ruling or considerations influenced by the circumstances surrounding the offender. Officials within the judiciary, authorized by law to rule on cases, are referred to as judges (Article 1, point 8 of the Criminal Procedure Code).

2.4 Imposition of Witness

The imposition of sanctions is a tool of power to reinforce the enforcement of a norm and to prevent and eradicate actions that interfere with the enforcement of a norm. The imposition of criminal sanctions is essentially an action taken by the state through a judge to inflict suffering or punishment on a person who has been legally and convincingly proven to have committed a criminal act. (Themar et al., 2021).



The imposition of sanctions is the final stage of the criminal justice process after the examination of evidence and proof of the elements of an offense. In the context of criminal law, the imposition of sanctions is not merely a formality but a means of deterring perpetrators, preventing the public from committing similar acts, restoring law and order, and protecting the public from the potential dangers posed by criminal acts.

Moeljatno stated that criminal punishment is an official punishment imposed by the state on a person who commits a criminal act. Thus, sanctions can only be imposed if the act fulfills the elements of a criminal offense, as discussed below. (Moeljatno, 2015). Roeslan Saleh views criminal punishment as the state's reaction to the occurrence of a crime in the form of suffering imposed on the perpetrator. Sudarto adds that criminal punishment is suffering imposed by the state on perpetrators of criminal acts to maintain law and order and protect the interests of society. Meanwhile, Barda Nawawi Arief views the imposition of sanctions as a means of protecting society that must reflect a balance between justice, benefit, and protection of human rights so that punishment should not only be punitive in nature but also consider human values (Muladi & Arief, 2010).

3. Methodology

This study employs a normative legal method coupled with a case study of court rulings. The normative legal method entails conducting legal research that relies on the examination of secondary data and reference sources (Soekanto and Mahmudji, 2003). This was accomplished by analyzing the applicable laws and relevant literature connected to the topic of investigation. The legal references utilized in this document were sourced from the literature, including laws, books, official documents, published articles, and previous research findings (Ali, 2016). This study incorporated both primary and secondary data sources. The analysis will be articulated in understandable, detailed, and systematically organized sentences, followed by interpretations that lead to conclusions. The data collected, encompassing both primary and secondary sources, will undergo qualitative analysis to address the identified issues and propose solutions. Moreover, the results of the data evaluation will present clear and precise responses to the questions posed.

4. Results and Discussion

4.1 Application of Elements of Criminal Homicide Based on Article 338 of the Criminal Code in Case 19/Pid.B/2024/PN.Gdt

The application of the elements of Article 338 of the Criminal Code in case No. 19/Pid.B/2024/PN.Gdt, the panel of judges first considered that the indictment of the Public Prosecutor, as the primary charge, violated the provisions of Article 338 of the Criminal Code (KUHP). This article contains the elements of “anyone,” “intentionally,” and “taking the life of another person.” Determining who can truly be considered the perpetrator (dader) in a criminal act of murder is not simple. Before determining someone as the perpetrator, it must first be ascertained which actions or behaviors actually caused the consequence prohibited by law, namely, the loss of another person's life. In other words, the perpetrator can only be determined if it is clear which act causally led to the death. Determining the perpetrator of murder does not only look at who was present at the scene, but also at who's actions actually caused the prohibited consequence, namely the loss of someone's life.

The formulation of the criminal act of murder as regulated in Article 338 of the Criminal Code, which the legislators refer to as doodslag, has the following elements (Lamintang, 2012)

- a. Subjective Elements
Opzetelijk or intentional, namely the perpetrator's intention and awareness to commit an act that causes prohibited consequences.
- b. Objective Elements:
 1. Beroven or elimination, which indicates the existence of an action that causes certain consequences, is used.
 2. Het leven or life, which is the object targeted by the act of killing.
 3. Een ander or another person, which is the victim whose life has been taken.



In this case, the subjective element of intent is evident from the manner in which the defendants committed the act. Firmansyah bin Sastra came to the shop where his wife worked and saw the victim near his wife, which aroused his emotions and jealousy. In this emotional state, the defendant took out a knife that he had been carrying at his waist. The defendants then attacked the victim and stabbed him repeatedly with a knife. When the victim tried to escape from the shop covered in blood, the defendants chased him and stabbed him repeatedly until the victim fell down in front of the shop. Even after the victim was no longer able to fight back, the defendants continued their actions and stabbed the victim again as he lay on the ground.

The defendant's intent is even clearer when considering the fact that the victim's injuries were to vital organs such as the heart, lungs, and internal chest cavity. The autopsy report stated that there were approximately twenty-three stab and cut wounds on the victim's body, including wounds that penetrated vital organs and caused massive bleeding. Repeatedly stabbing the victim in areas of the body that are generally known to be lethal indicates that the defendants not only knew but also intended to kill the victim. If there had been no intent, the defendants would have logically stopped after seeing the victim covered in blood or provided assistance. However, in reality, the defendants pursued the victim, inflicted more stab wounds, and ensured that the victim could not survive. Thus, the element of "intentionality" has been fulfilled.

Meanwhile, the objective elements of Article 338 of the Criminal Code were clearly fulfilled. Stabbing the victim with a knife is an active act that directly causes the loss of another person's life. The result was the death of the victim, Aan Suhendar, as evidenced by the autopsy report, which stated that the cause of death was severe bleeding due to stab wounds from a sharp object. In this case, the victim was "another person" as referred to in the article, and there was no legal relationship that removed his status as the subject of this element. The element of "anyone" has also been fulfilled because the defendant Firmansyah bin Sastra is a legally competent person who can be held criminally responsible. There are no circumstances that render him incapable of being held responsible, such as a mental disorder or inability to understand his actions. The defendant was present at the trial, provided testimony, and all the facts indicated that he acted in a conscious state.

Every criminal offense contained in the Criminal Code can generally be broken down into two types of elements: subjective and objective. Subjective elements are related to the mental state or attitude of the perpetrator. This is in line with the fundamental principle of criminal law, which states that "there is no criminal law without fault" (*actus non facit reum nisi mens sit rea*), which means that an act cannot be punished without the presence of a wrongful mental attitude. Such a fault can take the form of intent (intention/*opzet/dolus*) or negligence (negligence/*schuld*). Meanwhile, the objective element originates from outside the perpetrator. This element covers various aspects, including human actions, which can be active or passive (omission); the consequences of those actions (result); certain circumstances both at the time the action was committed and afterwards; as well as the punishable and unlawful nature of an action (Marpaung, 2009). Thus, the fulfillment of both subjective and objective elements as a whole becomes the basis for determining whether a criminal act has been committed.

Regarding the offense of murder, Article 338 of the Criminal Code states that "Anyone who intentionally takes the life of another person shall be punished for murder with a maximum imprisonment of 15 years." (Auli, 2023). From this definition, it is clear that the components of the crime of murder include: (1) the identity of the perpetrator; (2) the element of intention; (3) the act of causing loss; and (4) the act of taking another's life. These four components can be categorized into subjective and objective facets. The aspects of "any person" and "intentionally" represent subjective elements, while "depriving" and "the life of another person" denote objective elements. (Hiariej, 2016). The implementation of the components of criminal homicide under Article 338 of the Criminal Code in case no. 19/Pid. B/2024/PN. Gdt demonstrates that all the components defined in Article 338 have been satisfied and effectively established by the Public Prosecutor and the Panel of Judges. The explanations for these components are as follows:



1. Whoever

Whoever refers to any person who is a subject of law and can be held criminally responsible for their actions. In the Criminal Code, the subject of law is limited to persons who are perpetrators of criminal acts. The first element, namely whoever, refers to any person as a subject of law without distinction of gender, status or position. Anyone who commits a criminal act must be held accountable for their actions. In this case, the facts of the trial through witness testimony, the defendants testimony, and evidence show that this element has been fulfilled. The panel of judges considered that the defendant, Firmansyah bin Sastra, with the identity as revealed at the trial, was a legal subject capable of being held responsible. He has been proven to be physically and mentally healthy and, therefore, capable of being held accountable for his actions. Therefore, the element of “anyone” has been proven to be satisfied.

2. Intentionally

Although the law does not provide a definition of “intentionally,” according to the *Memorie van Toelichting (MvT)*, the element of intent (*opzet*) is interpreted as “*willen en weten*,” meaning that the perpetrator must have intended (*willen*) the act and been aware of (*weten*) the consequences of the act. The element of intent means that an act is committed because of the perpetrator's will and purpose. This intent includes the perpetrator's awareness of their actions, whether in the form of intent, certainty, or the possibility that their actions will have consequences. Thus, this element refers to the perpetrator's intention, will, and purpose to commit an act that is prohibited by law.

In this case, the series of actions taken by the defendants indicates an inner attitude that reflects intent. The Defendants walked to the back of the shop where Witness Eti Febriana was working and saw the witness talking closely with the victim, Aan Suhendar. This triggered the defendants' emotions. He then approached the victim and asked, “Are you this person?” Overcome with emotion, the defendants immediately stabbed the victim with a knife with a blade approximately 15 cm long and 3 cm wide, with a wooden handle and a green carpet sheath. The defendant stabbed the victim repeatedly with his right hand. This series of actions demonstrates the defendant's intent or desire to cause fatal consequences. Therefore, the element of intent was fulfilled.

3. Taking Another Person's Life

Taking another person's life refers to an act that causes the loss of life as a direct result of the perpetrator's actions. This element indicates that the perpetrator intended or at least knew that their actions could cause the loss of another person's life. Another person refers to someone other than the perpetrator of the violence. The act of taking a life does not have to result in immediate death as long as there is a causal relationship between the perpetrator's actions and the victim's death.

When considered in conjunction with the facts of the trial, this element is fulfilled. The stabbing of the victim's vital organs by the defendants, Firmansyah bin Sastra, caused the death of the victim, Aan Suhendar. This is in accordance with the Autopsy Report Number R/VER/50/KES.22./XII/2023/RSB dated December 27, 2023, prepared by Dr. Andryani, Sp.F.M.MH.Kes., is a forensic doctor at Bhayangkara Bandar Lampung Hospital Level III. The autopsy report stated that the exact cause of death was bleeding in the chest cavity due to a stab wound that penetrated the chest cavity and struck the heart, with the wound channel measuring approximately 13 cm in length. In addition, other stab wounds were found on the right and left sides of the chest, penetrating the lungs and liver, which contributed to the death. Thus, there is a clear causal relationship between the defendants' actions and the death of the victim, proving that the element of taking another person's life has been fulfilled.

Based on the entire description, the Panel of Judges concluded that the three elements of Article 338 of the Criminal Code had been legally and convincingly proven. All of the Defendants actions were directly related to the death of the victim, and there were no justifiable or exculpatory reasons that could absolve them of criminal responsibility. Therefore, the judge sentenced the defendant, Firmansyah bin Sastra, to thirteen years' imprisonment for murder. Thus, the application of the elements of Article 338



of the Criminal Code in case No. 19/Pid.B/2024/PN.Gdt was in accordance with the formulation of the offense contained in article 338 of the Criminal Code. The Panel of Judges' considerations in describing these elements were also deemed clear, structured, and in line with the applicable criminal law doctrines and provisions.

4.2 Considerations of the Panel of Judges in Imposing Sentences on Perpetrators of Murder in Case No. 19/Pid.B/2024/PN.Gdt Case Details

This case began on Sunday, January 21, 2024, at approximately 4:30 p.m. Western Indonesian Time, when the defendants, Firmansyah bin Sastra, came to the food stall where his wife worked in the Gedong Tataan jurisdiction. Upon arriving at the shop, the defendants saw the victim, Aan Suhendar, standing near his wife and talking to her. This incident immediately triggered the defendants' emotions and jealousy. In a state of emotion, the defendant then took out a knife that he had brought with him and tucked into his waistband. Without giving the victim a chance to escape, the defendants immediately stabbed him repeatedly. The victim, who was panicked and trying to save himself, then ran out of the shop covered in blood. However, the defendants did not stop their actions. The defendants chased the victim to the front of the shop and stabbed him repeatedly. When the victim finally fell, covered in blood, in front of the shop, the defendants continued their attack until the victim was no longer able to fight back. The defendants stopped only after ensuring that the victim could no longer move.

The victim was then taken to a medical facility by the residents, but his life could not be saved. Based on the autopsy report, 23 stab wounds and cuts were found, including wounds that penetrated the heart, lungs, and liver, causing massive bleeding and becoming the main cause of the victim's death. After the incident, the defendants fled to their biological mother's house but were later secured by the police. During the trial, the Defendants admitted to all of his actions and stated that his actions were triggered by jealousy when he saw the victim and his wife talking to each other. All of these facts were corroborated by the testimony of witnesses who directly saw the stabbing, evidence in the form of a knife, blood-stained clothing, a plastic chair, and the autopsy report. No justifiable or exculpatory reasons were found that could absolve the defendants of their criminal responsibility. The defendants were also declared to be of sound mind and capable of being held responsible. Based on these facts, the panel of judges found the defendants guilty of murder as stipulated in Article 338 of the Criminal Code and sentenced them to 13 years in prison.

Grammatical interpretation and expert opinion suggest that "aggravating and mitigating circumstances" are characteristics, matters, circumstances, or situations related to a criminal offense but outside the elements of the offense, which describe the seriousness of the offense or the level of danger posed by the perpetrator, thereby influencing the severity of the punishment. The characteristics of aggravating and mitigating circumstances include the following:

These circumstances may be the cause, trigger, situation at the time the crime was committed, or the impact afterwards. The formulation is not included in the elements of the crime but is still related to the criminal act, as explained by experts. A distinction must be made between "accompanying circumstances formulated in the offense" (e.g., committed in public, involving a specific relationship) and aggravating/mitigating circumstances subject to judicial discretion. In general, aggravating circumstances include:

1. Legal Aggravating Circumstances, namely, aggravating circumstances determined by law.
2. Judicial Aggravating Circumstances, namely aggravating circumstances whose assessment is at the discretion of the judge. Legal circumstances determine the limits of punishment, whereas judicial circumstances determine the severity of punishment within those limits.

In the case of Firmansyah bin Sastra, the Panel of Judges considered the following aggravating and mitigating circumstances.

1. Aggravating Circumstances



Based on the Panel of Judges' considerations in the verdict, the aggravating circumstances are as follows:

- a. The Defendants actions caused unrest in the community.
- b. The Defendants actions harmed the victim's family, namely, the extended family of the witness Kasiyatin.

In addition to these two points, the judge also considered the level of violence of the act, in which the victim suffered multiple stab wounds to the chest that pierced the heart, lungs, and liver, causing fatal bleeding. This fact reinforces the dangerous nature of the defendant's actions.

2. Mitigating circumstances

In this case, the mitigating circumstances are as follows:

- a. The defendant regrets his actions and promises not to repeat them.
- b. The defendants had no prior convictions.
- c. The defendants is the breadwinner of his family

Based on Article 182, paragraph (4) of the Criminal Procedure Code, the judges' deliberations were based on the indictment and the facts of the trial. The panel of judges first considered the following: The testimony of witnesses who directly observed the incident and explained That the Defendants stabbed the victim repeatedly out of jealousy when he found the victim talking to his wife; the autopsy results stating that the victim died from stab wounds that penetrated the heart, lungs, and liver; the absence of any justifiable or exculpatory reasons that could eliminate criminal liability; and that the defendants were of sound mind and capable of being held responsible.

The Public Prosecutor chose the First Alternative Indictment, namely Article 338 of the Criminal Code concerning murder. The elements are:

1. Anyone whose identity has been proven to be that of the defendant and acknowledged in court.
2. Deliberately taking the life of another person, as evidenced by the defendant's intent (deliberateness) to stab the victim repeatedly after an argument caused by jealousy.

The prosecutor stated that the element of "intent" was fulfilled because the defendants knew the consequences of stabbing the victim's vital organs.

The Panel of Judges also considered the aspects of general and specific prevention.

To prevent the community from committing similar acts, deter the defendant from repeating his actions, and allow the defendant to undergo rehabilitation so that he can once again be useful to society. These considerations are included in the verdict when the judge explains the urgency of imposing a prison sentence for a certain period.

In doctrine, family or emotional relationships are not always grounds for aggravating punishment. However, in the case of Firmansyah bin Sastra, the Panel of Judges considered that the emotional background arising from the Defendants jealousy was actually part of the aggravating circumstances because this motive drove the Defendants to stab the victim repeatedly, causing the victim's death. The assessment of aggravating circumstances is the authority of the judge, and in this case, the Panel of Judges examined the factual conditions at the trial to determine that the defendants' actions were carried out in an uncontrolled emotional state, but were still carried out consciously and continued even after the victim fell.

Based on Article 182, paragraph (4) of Law Number 8 of 1981 concerning Criminal Procedure Law, the deliberations of the Panel of Judges are based on the indictment and legal facts proven in court. Therefore, the Panel of Judges first considers whether the series of acts committed by the Defendants, as revealed through witness testimony, medical examination and report, and the Defendants own confession, fulfill the elements of Article 338 of the Criminal Code as charged by the Public Prosecutor. Furthermore, the provisions of Article 182 (6) of the Criminal Procedure Code emphasize that decisions are made based on a unanimous agreement; if this cannot be achieved, the decision is made by a majority



vote, and if a majority vote cannot be achieved, the opinion of the judge that is most favorable to the defendants is used.

The Panel of Judges in this case conducted deliberations as stipulated in Article 182 paragraphs (3) and (6) of the Criminal Procedure Code before finally sentencing Firmansyah bin Sastra to 13 years imprisonment. During the deliberations, the Panel of Judges not only assessed the fulfillment of the elements of the crime of murder but also examined the facts of the case as revealed in the trial, including the Defendants actions of stabbing the victim repeatedly, chasing the victim when he tried to escape, and the Defendants attitude of returning to the victim while eating cucumber after stabbing him. This entire series of actions demonstrates a high level of violence and a strong desire to take the victim's life, which was an important consideration in imposing a heavier sentence than the prosecutor's demand.

The Panel of Judges deliberated in accordance with Article 182 of the Criminal Procedure Code and agreed that the Defendants must be found guilty and sentenced after assessing all evidence, witness statements, material evidence, and the absence of grounds for exemption from punishment.

The Panel of Judges of the Gedong Tataan District Court ruled as follows

1. Declares the Defendants Firmansyah bin Sastra legally and convincingly guilty of committing the crime of "Murder" as stated in the first alternative indictment (Article 338 of the Penal Code).
2. Sentencing the Defendants to 13 (thirteen) years of imprisonment.
3. Determining that the period of detention already served shall be fully deducted from the sentence.
4. Ordering the Defendants to remain in custody.
Determining evidence:
 - 1) The Honda Beat BE 4510 RS motorcycle and Rp5,000 cash were returned to the defendants.
 - 2) A knife, a plastic chair stained with blood, clothing, a belt, cigarettes, lighters, and scraps of paper were confiscated and destroyed.
5. A case fee of IDR 5,000 was charged.

5. Conclusion

5.1. Conclusion

The purpose of this study is to analyze the application of the elements of Article 338 of the Criminal Code and to examine the judge's considerations in imposing punishment on the perpetrator of murder in case No. 19/Pid.B/2024/PN.Gdt. Based on the results of the analysis, it can be concluded that the objectives of the study have been achieved, as the study successfully showed that all elements of the offense under Article 338 of the Criminal Code were clearly proven through the facts of the trial, witness statements, and forensic evidence that reinforced the existence of intentional acts that resulted in the victim's death. This study also shows that the judge's considerations in imposing the sentence were in accordance with the normative limits stipulated in the Criminal Code, in line with the principles of criminal punishment, and reflected the appropriate use of judicial discretion in assessing the aggravating and mitigating circumstances of the defendants. Furthermore, the basis for the punishment imposed by the judge in this case is legally justifiable, while also reflecting moral and social considerations relevant to the objectives of punishment and the protection of society

5.2. Limitation

This study had several limitations that must be acknowledged. First, this study focuses only on one Decision No namely Decision No. 19/Pid.B/2024/PN.Gdt. Therefore, the results of the analysis cannot describe the general pattern of judges' considerations in murder cases in other district courts. Furthermore, this study is based entirely on court decisions and written sources without conducting direct interviews with judges, prosecutors, or related parties; therefore, there is a possibility that some aspects of the judges' internal considerations are not revealed in depth. This study also did not conduct



a comparative discussion between Article 338 of the Criminal Code and other relevant provisions, such as Article 340 of the Criminal Code concerning premeditated murder or Article 351 paragraph (3) of the Criminal Code concerning maltreatment resulting in death. In addition, the criminological and psychological aspects of the perpetrators were not analyzed comprehensively due to limited access to the defendants' personal data, so that the study of the perpetrators' backgrounds and motives could not be explored in greater depth.

5.3. Suggestion

Some suggestions for future research include expanding the study by conducting comparative research on other murder case verdicts, so that the consistency and differences in the application of Article 338 of the Criminal Code and the judges' considerations can be seen. Further research is also recommended to conduct direct interviews with judges, prosecutors, or legal advisors to obtain a more in-depth picture of the process of assessing the elements of the offense and the dynamics of the judges' deliberations. In addition, research can be developed towards criminological analysis by examining the motives, background of the perpetrators, and social conditions that influence the occurrence of criminal acts. Subsequent research should examine the effectiveness of punishment in murder cases, particularly in relation to the rehabilitation of prisoners and the prevention of similar crimes in society. It is also important to explore the relationship between the level of violence of the act and the severity of the punishment imposed to evaluate the consistency of the application of the principle of justice in court decisions.

Acknowledgment

The author would like to thank all the parties who provided support in conducting this research. Special thanks to the supervising lecturer who provided guidance, input, and motivation during the research process. We also thank the Gedong Tataan District Court for providing access to the data and decision documents required for this research. In addition, the author would like to thank his family and colleagues for their moral support and non-financial assistance, which enabled this research to be successfully completed. The support and cooperation of various parties were instrumental in ensuring the smooth running and success of this study.

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