

CONFLICT IN PROSECUTING CRIMINAL ACTIONS AGAINST SOMEONE WITH DIGITAL PROOF EVIDENCE

Muhamad Jamalih

Universitas 17 Agustus 1945 Jakarta, Indonesia

Email: muhammad.jamalih@gmail.com

ABSTRACT

The Criminal Law Book (abbreviated as the Criminal Code) contains instructions and descriptions regarding offenses, criminal acts, criminal incidents, namely regulations regarding the conditions or elements of whether or not a person can be sentenced to a crime (punishment) and rules regarding punishment, namely regulating who and how the sentence is imposed. Valid evidence in criminal case trials according to Article 184 of the Criminal Procedure Code are: Witness Statements, Expert Statements, Letters, Instructions and Defendant Statements. So the judge can use his freedom of independence to assess the strength of the evidence with a guide in certain circumstances. The formulation of the problem is in accordance with the introductory explanation above, namely: What is the legal position of the dispute over digital guidance devices referred to as CCTV in criminal trials? Why can the clue evidence referred to by CCTV influence the judge's confidence in deciding the criminal case? This study is about Normative Juridical Analysis of the existence of related digital aid complications which are used as a means of evidence in police investigations up to the court stage.

KEYWORDS

Criminal Conflict, Crime, Digital Evidence



This work is licensed under a Creative Commons Attribution-ShareAlike 4.0 International

INTRODUCTION

Criminal law regulates crimes or criminal acts in two groups, namely acts that are classified as crimes (*misdrijven*) as regulated in book II, Chapters I to XXXI Articles 104 to Article 488. Acts that are classified as violations (*overtredingen*) Chapter I up to Chapter IX article 489 up to Article 569 Book III. The creators of the Criminal Code consider the difference between crimes and violations to be only gradual, where in general crimes are threatened with heavier penalties while violations are threatened with lighter penalties (Baehaqi, 2022).

How to cite:

Muhamad Jamalih. (2025). Conflict In Prosecuting Criminal Actions Against Someone With Digital Proof Evidence. Journal Eduvest. 5(1): 567-573

E-ISSN:

2775-3727

In cases of murder, abuse or other crimes aimed at human life or body, it is caused by uncontrolled emotions, due to competition in life, bullying, violent deprivation, an unhealthy or fair competition climate as the cause of the crime. Crime has become a universal phenomenon, meaning that there is no society without crime. In this case, the function of law is to create an orderly and orderly atmosphere in society so that the law functions as a means of controlling the behavior of every individual in society, can create peace and order in society (Gunawan, 2020).

The Criminal Law Book (abbreviated as the Criminal Code) contains instructions and descriptions regarding offenses, criminal acts, criminal acts, criminal incidents, namely regulations regarding the conditions or elements of whether or not a person can be sentenced to a crime (punishment) and rules regarding punishment, namely regulating who and how the punishment is imposed (Purnama & Sulaiman, 2023). Evidence plays an important role in the trial examination process in court, and is a central point in the examination of cases currently being examined in court. Through an evidentiary examination, the fate of the defendant is determined, because with this evidence it can be known whether the defendant really committed the criminal act of which he is accused or not. With this evidence, it is possible to determine the punishment that will be imposed on the defendant who has been proven guilty. Because if the results of the evidence from the evidence determined by law are not sufficient to prove the guilt of the accused, then the defendant is acquitted of all demands for punishment and conversely, if the defendant's guilt can be proven, then the defendant is declared guilty and he will be punished. impose a criminal penalty. Valid evidence in criminal case trials according to Article 184 of the Criminal Procedure Code are: Witness Statements, Expert Statements, Letters, Instructions and Defendant Statements (Rompis dkk., 2020). So the judge can use his freedom of independence to assess the strength of the evidence with a guide in certain circumstances.

In using evidence, the judge must act wisely and judiciously, after going through a careful and thorough examination based on his conscience. The indicative evidence referred to here is CCTV according to Law Number. 11 of 2008 as now amended into Law Number. 19 of 2016 concerning Electronic Information and Transactions (UU ITE) and Constitutional Court Decision Number 20/PUU-XIV/2016. as that CCTV is included in the definition of electronic information and electronic documents as intended in the provisions of Article 1 number 1 and number 4 of the ITE Law which are valid evidence in accordance with the applicable procedural law, which if in criminal procedural law can be used as evidence in investigation, prosecution and trial processes in accordance with the provisions in Article 5 paragraphs (1) and (2) and Article 44 of the ITE Law. and the Criminal Procedure Code as valid evidence, is used in the crime of murder to

strengthen the judge's belief from the evidence of witness statements, letters and the defendant's statement because in the crime of murder generally witness statements do not support the conviction of a person (Pieter & Silambi, 2019). so that judges can or are able and have the courage to be able to apply justice in accordance with the judge's beliefs, in connection with the above, judges as humans in making decisions in court are also faced with risks (Nelson dkk., 2022). Errors in decision making will have a big impact on humans, therefore the law cannot be seen only from one provision written in articles and legislation. The application of a legal regulation is greatly influenced by variables from the parties related to the law itself.

The formulation of the problem is in accordance with the introductory explanation above, namely: "What is the legal position of the dispute over digital guidance devices referred to as CCTV in criminal trials?"

Why can the clue evidence referred to by CCTV influence the judge's confidence in deciding the criminal case?

RESEARCH METHOD

This study is about Normative Juridical Analysis of the existence of conflicts related to digital aids which are used as a means of evidence in police investigations up to the court stage. This is a type of normative juridical research, namely a legal research method carried out by examining how judges can take evidence so that they are confident in deciding a criminal case by opening a CCTV camera at the crime scene (TKP) or in a public place where there is CCTV so that it can be presented in court. Library materials or secondary materials. Secondary Legal Materials, namely materials that are closely related to primary legal materials and can help with the analysis process, namely: related scientific books; related documents; related seminar papers; journals and related literature. Writing is used by reviewing literature, legislation, law books, decisions, and other supporting literature related to the writing material.

RESULT AND DISCUSSION

Proof is a decisive stage in the case process, because from the results of the evidence it can be seen whether an accusation or claim is true or not by referring to the evidence. Evidence is anything that is related to an act, where with these pieces of evidence, it can be used as evidentiary material to give rise to the judge's confidence in the truth of the existence of a criminal act that has been committed by the defendant. In the evidentiary system adopted in the Criminal Procedure Code, Article 183 of the Criminal Procedure Code explains that "a judge may not impose a crime on a person unless, with at least two valid pieces of evidence, he is convinced that a criminal act has actually occurred and that the defendant is guilty of committing it." This issue of evidence plays quite an important role in dealing

with the crime of murder. This needs to be noted because electronic evidence has become a new intermediary medium for the commission of a crime.

When there is a discrepancy in the evidence, there is a possibility that someone is accused of committing a criminal act by using digital tools such as viewing evidence seen on CCTV cameras. Of course, the existing evidence is not strong enough or cannot be used to prosecute him effectively. For example, there is a dispute regarding the authenticity or correctness of the evidence submitted to the court by the prosecution (Tim Hukumonline, 2022). However, there are doubts about the validity of the tools, in this case there are several cases, there are conflicts regarding the validity of digital tools such as CCTV which are used as evidence in the prosecution process, they can claim that the evidence is invalid or has been disguised, this can be a source of conflict in legal proceedings before the court. When there is unfair access to technology in several cases such as the case of the persecution of Brigadier Joshua and the murder of Vina Cirebon. From the results of the Wasriksus or Special Inspectorate examination regarding this matter, 10 witnesses were questioned. "From the 10 witnesses examined and several pieces of evidence, Irsus determined that Inspector General Pol FS was suspected of committing violations related to the issue of unprofessionalism in crime scene processing, for example taking CCTV and so on," said Head of the National Police Public Relations Division, Inspector General Dedi Prasetyo, Saturday 6 August 2022 (Byprojustice, 2021).

In the case of the shooting of Brigadier J, there was a lot of discussion about the loss of evidence. Even though this evidence is very important and can reveal what happened. The following is evidence whose existence has been questioned. Disputes arise when the defendant does not have equal access to the technology or resources used in the prosecution process. This may affect the defendant's ability to properly defend himself or cast doubt on the fairness of the legal process before the court.

With the accuracy of CCTV, it can be a type of indicative evidence that is very often used in resolving criminal cases. And also CCTV evidence can influence the judge's confidence in deciding the criminal case because there are many reasons for taking it as an analysis of evidence in court.

CCTV can record accuracy and has the ability to accurately record what happens at the location, both the place and time of the criminal incident, when someone commits a crime. With CCTV, the judge can see directly the incident carried out by the perpetrator or defendant so that the judge avoids errors in observation or testimony that might occur. As for the linkage of this evidence, CCTV evidence can prove that there is a connection between the defendant and the incident that occurred as stated in the Criminal Code (KUHP) Article 184 paragraph

(1) of the Criminal Procedure Code which regulates valid evidence in the criminal procedural law, which reads: as follows: Valid evidence is (Dewi & Sukardi, 2023):

- a) witness statements;
- b) expert information;
- c) letter;
- d) instruction;
- e) defendant's statement.

Among all of this, the evidence in the Criminal Code explains that the strength of evidence can prove that the court's decision is correct, so that the suspect is declared guilty. In resolving a criminal case, a person is considered guilty if there has been a decision with permanent legal force (*inkracht*). The strength of the evidence is what supports the judge's decision in court in deciding the case. A judge may not impose a crime on a person unless, with at least two valid pieces of evidence, he is convinced that a criminal act has actually occurred and that it is the defendant. This provision is to guarantee the upholding of truth, justice and legal certainty for a person. As for P 188 KUHAP paragraph (1) provides the following definition of instructions (Kumalasari, 2020). Clues are actions, events or circumstances which, because of their correspondence, either with one another or with the criminal act itself, indicate that a criminal act has occurred and who the perpetrator is. This can stimulate the judge's belief that the defendant is involved in the criminal case.

CCTV's objectivity cannot be influenced by emotional factors, whether pressure or other testimony. However, CCTV recordings do not have the intention to lie or change the facts, therefore, judges tend to believe CCTV evidence which is objective in nature and matches the CCTV track record to provide an accurate account of the events that occurred. This track record can help the judge build a logical narrative and explain the actual flow of events chronologically. The support of other evidence can support CCTV footage which corroborates it together with other evidence which can strengthen the judge's belief that the defendant is guilty or not guilty in making a decision that is as fair as possible (Farid, 2020).

Meanwhile, CCTV evidence can influence the judge's confidence in making a decision. It is important to remember that in assessing presumptive evidence, the judge can also consider other factors such as the credibility of the witness and in revealing his true statement, both alibis and the validity of other evidence contained in This case, as stated by Gustav Radbruch, puts forward 4 (four) basic things related to the meaning of legal certainty, namely: First, that law is positive, meaning that positive law is legislation. Second, that law is based on facts, meaning it is based on reality. Third, that facts must be formulated in a clear way so as to avoid errors in meaning, as well as being easy to implement. Fourth, positive law must

not be easily changed (Tan, 2022). The word certainty has a meaning that is close to the principle of truth. This means that the word certainty in legal certainty is something that can be strictly syllogized in a formal legal way. With legal certainty, it will guarantee that someone can carry out behavior in accordance with the provisions of the applicable law and vice versa. Without legal certainty, an individual cannot have standard provisions for carrying out a behavior.

CONCLUSION

It is important to note that such complications must be resolved through the legal process of proving at least proof of the accuracy of both forms of color emission. so that the legal process is fair and transparent. For the authorities to carry out a more thorough and detailed investigation so that the presentation of the evidence does not become relevant material, the evidence must also be relevant and obtained legally. If there is a dispute over digital tools, the police must be able to resolve the problem by referring to the correct and applicable laws and regulations.

REFERENCES

- Baehaqi, E. S. (2022). Keturutsertaan Dalam Tindak Pidana. *An-Nahdliyyah Jurnal Studi Keislaman*, 1(1).
- Byprojustice. (2021). *Kumpulan Teori Hukum Menurut Para Ahli*. Byprojustice.
- Dewi, N. M. T., & Sukardi, N. M. R. (2023). Kekuatan Hukum Tanda Tangan Digital Dalam Pembuktian Sengketa Perdata Menurut Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik. *Jurnal Ilmiah Raad Kertha*, 6(2). <https://doi.org/10.47532/Jirk.V6i2.927>
- Farid, M. (2020). Penyebarluasan Informasi Mengenai Bentuk Dan Macam Tindakan Cyberbullying Berdasarkan Undang-Undang Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik Dan Upaya Pencegahannya Melalui Keb. *Jurnal Sumbangsih*, 1(1). <https://doi.org/10.23960/Jsh.V1i1.11>
- Gunawan, H. (2020). Tinjauan Yuridis Terhadap Ujaran Kebencian (Hate Speech) Di Media Sosial Dikaitkan Dengan Kebebasan Berpendapat Dan Undang-Undang Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik. *Res Nullius Law Journal*, 2(1). <https://doi.org/10.34010/Rnlj.V2i1.2923>
- Kumalasari, T. (2020). Konsep “Antargolongan” Dalam Pasal 28 Ayat (2) Undang-Undang Nomor 19 Tahun 2016 Tentang Perubahan Atas Undang-Undang Nomor 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik (UU ITE). *Media Iuris*, 3(2). <https://doi.org/10.20473/Mi.V3i2.20892>
- Nelson, R., Tampanguma, M. Y., & Rewah, R. M. (2022). Analisis Yuridis Mengenai Pembuktian Informasi Elektronik (Digital Evidence) Sebagai Alat Bukti Yang Sah Dalam Hukum Acara Pidana. *Lex Privatum*, 10(5).

- Pieter, S., & Silambi, E. D. (2019). Pembuktian Dalam Tindak Pidana Pembunuhan Berencana Ditinjau Dari Kitab Undang-Undang Hukum Pidana. *Jurnal Restorative Justice*, 3(1). <https://doi.org/10.35724/Jrj.V3i1.1940>
- Purnama, T., & Sulaiman. (2023). Penetapan Status Tersangka Oleh Hakim Melalui Proses Persidangan Dalam Perspektif Pembaruan Hukum Acara Pidana. *Cendekia : Jurnal Hukum, Sosial Dan Humaniora*, 1(2).
- Rompis, N., Rumimpunu, D., & Sepang, M. (2020). Batalnya Surat Dakwaan Menurut Hukum Acara Pidana. *E Journal Fakultas Hukum Unsrat (LEX ET SOCIETATIS)*, IX(4).
- Tan, K. (2022). Analisa Pasal Karet Undang-Undang Informasi Dan Transaksi Elektronik Terhadap Asas Kejelasan Rumusan. *Jurnal Hukum Samudra Keadilan*, 17(1). <https://doi.org/10.33059/Jhsk.V17i1.3376>
- Tim Hukumonline. (2022). Teori-Teori Perlindungan Hukum Menurut Para Ahli. *Hukumonline.Com*.