

Juridical Review of Delik Culpa on Traffic Accident Cases

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Abstract

This study aims to determine the application of material criminal law to the crime of traffic negligence that results in the loss of life of another person in decision Number 142/Pid.Sus/2020./PN Jap and to find out the legal considerations by the panel of judges in imposing a penalty in the form of a penalty for the crime of traffic negligence that causes casualties Number 142/Pid.Sus/2020./PN Jap. This research was carried out by collecting data through literature research. In the study, it was found that, in decision number 142/Pid.Sus/2020./PN Jap, the indictment prepared by the Public Prosecutor had met the formal and material requirements. In his demand, the Public Prosecutor demanded that the defendant be guilty of committing the crime of traffic negligence Article 310 paragraphs (4), (3), and (2) No. 22 of 2009 concerning Road Traffic and Transportation by the first indictment, based on the legal facts, both witness statements and the defendant's statements as well as the elements contained in the indictment are considered to have been proven by the Public Prosecutor so that the acts and the elements of the article match each other. The Judge's consideration in Applying criminal provisions against the perpetrators, in this case, is appropriate where the judge has considered both juridical considerations, trial facts, witness statements, existing evidence, judge's beliefs, and support matters. Based on the facts at the trial, the Panel of Judges considered that the defendant could be held responsible for the acts committed with the consideration that the defendant had been legally proven which resulted in the death of another person so the defendant was sentenced to a commensurate sentence.

Keywords: Delik Culpa, Traffic Accidents, Juridical Review

Introduction

The people of Indonesia are always bound by the Law, by the Law of the Unitary State of the Republic of Indonesia 1945 (from now on abbreviated as the 1945 Constitution of the Republic of Indonesia) after the amendment, namely Article 1 Paragraph (3); "Indonesia is a country based on the law (*rechtsstaat*)". The indication that Indonesia adheres to the conception of the welfare state lies in the government's obligation to realize the goals of the state, as contained in the fourth paragraph of the Preamble to the 1945 Constitution of the Republic of Indonesia, namely: "Protecting the entire Indonesian nation and all of Indonesia's bloodshed, promoting public welfare, educating the nation's life and implementing world order".

Development in Indonesia is carried out in all fields in supporting the modernization process to create welfare and peace for the people of Indonesia (Ismail,

2018);(Ginting, 2019);(Soekanto, 1976). Current development, of course, has advantages and disadvantages that we most often encounter such as the high level of congestion during peak hours (Yassin, Ismail, & TIjow, 2020);(Hartono, 1988). Congestion is one of the negative impacts of increasingly advanced development, especially in the field of motor vehicle production where the number of vehicles is very high and crowds the highway, causing the use of the highway to be uncomfortable (Watson, Sukotjo, Rah, & Maruti, 2019);(Indriani, 2016).

The inconvenience of highway users has a huge impact, namely the higher psychological burden so that it can cause prolonged stress and ultimately cause negligence or forgetfulness in carrying out their obligations as highway users which of course can harm themselves and others (Ilham, 2019);(Munthe, Rahmi, & Astiahamir, 2022);(Mohd Khair & Md Dahlan, 2019). This can cause traffic accidents (Pemerintah Indonesia, 2009).

In the event of a traffic accident (lakalantas), it must be separated between violation and crime because to prosecute before the law, the incident that occurs must be a crime, while in a traffic accident, the crime that occurs is an accidental crime or due to an act of negligence or forgetfulness (Simangunsong & Simagunsong, 2022). Many things that can open up great opportunities in endangering the safety of drivers and other road users, such as being careless, drowsy, unskilled, tired, not keeping a distance, and too high a speed are examples of driver mistakes. But broadly speaking, the cause of high traffic accidents is due to negligence or forgetfulness that harms other parties.

The main factors of driver error are lack of caution and negligence in driving their vehicles. In the sense of criminal law, the characteristics or elements of error can be mentioned in a broad sense, namely: a) The maker can be held accountable. b) There is a psychological link between the maker and the deed, namely the existence of intention or error in a narrow sense (culpa). c) There is no basis for the elimination of a criminal offense that can be accounted for as an act to the creator.

According to Law No. 22 of 2009 concerning Traffic and Road Force, it is explained that the types of traffic accident victims are classified into three, namely: 1) Deceased Victims, namely victims who die within a maximum of 30 days after the accident. 2) Victims of serious injuries, that is victims with injuries and suffering from permanent disabilities or having to be hospitalized for more than 30 days after the accident. 3) Minor Injury Victims, namely victims with injuries who do not need hospitalization.

Regarding the title chosen by the author, the example of a case that the author will study further is Decision Number 142/Pid.Sus/2020/PN Jap, where the defendant Robi Palulun who drove a yellow truck with Police number PA 8887 AH along with witness Dores Dasnarebo who sat next to the driver, and witness Wilson Imbiri and the victim Apolos Baderai who sat in the back of the truck from the direction of Bariwaro Village to Kampung Sisipi.

At that time the weather was sunny and the defendant Robi Palulun was driving a truck at a speed of \pm 70-80 km/h with 4 (four) gears where the road condition was straight

but not paved, suddenly the truck went out of the road to the right so that the defendant Robi Palulun slammed the steering wheel too much to the left to restore the initial position of the car, but because the truck was driving at high speed, the defendant Robi Palulun lost his balance so that the car and the two left tires of the truck were lifted and finally overturned, resulting in the passengers, witness Dores Dasnarebo, suffering injuries to the right knee, witness Apolos Bederai suffered injuries to the head and knees lying in a supine position on the ground and was unconscious while witness Wilson Imbiri suffered injuries to the knees also lying in a supine position on the ground and was unconscious.

In the end, Robi Palulun was charged with article 310 paragraphs (4), (3), and (2) No. 22 of 2009 concerning traffic and road transportation and was punished based on Decision No.142/Pid.Sus/2020/PN. Jap essentially stated that Robi Palulun, Legally and convincingly proven guilty of committing the crime of driving a motor vehicle where negligence results in a traffic accident with a deceased victim, serious victim, and minor injury as well as damage to the vehicle or property. Based on this description, the author is interested in researching and examining the negligent actions of Robi Pabulum so that a traffic accident occurs that causes the death of another person.

Based on the above background, the formulation of this study is: 1) How to apply the law of the element of culpa to the crime of traffic negligence that results in the loss of life of others and results in serious injury in laws and regulations? 2) What are the legal considerations of the panel of judges in punishing in the form of a penalty for the crime of traffic negligence that results in the loss of life of another person and serious injury in decision Number 142/Pid?Sus/2020/PN Jap?

The purpose of this study is to find out the application of the law of the culpa element to the crime of traffic negligence that results in the loss of life of another person and results in serious injury in laws and regulations. To find out how the judge's decision on the crime of negligence in traffic causing death and serious injury is decision number 142/Pid.Sus/2020/PN Jap. From the results of this research, it is expected to be able to provide the following benefits: 1) It is expected to be able to contribute to the development of law in Indonesia, especially regarding negligence in traffic. 2) The results of this research can be a reference material for students of the Faculty of Law in general and especially for the author himself in increasing his knowledge of legal science.

Research Methods

The legal research method applied to law writers is normative legal research. This method uses a case approach aimed at finding legal grounds, understandings, and rules related to the survey of traffic accident crimes, as well as a process of finding a legal rule, principle of legal principles, and legal doctrines to answer the legal issues faced.

The type of data used in this study is Secondary Data, which is data obtained through literature studies on various kinds of reading materials in the form of literature books, laws and regulations, legal articles, scientific essays, and other readings related to the problems discussed in the writing of this study. This study uses data sources from

Library Research, where the data sources obtained are the results of a review of several literature and other reading sources that can support the writing of this thesis.

In this study, the data collection technique carried out is the Literature Research Method. This method is an effort to obtain secondary data through reading materials in the form of scientific writings, laws and regulations, and theories of experts through various media. The data analysis used in this study is normative juridical data analysis, which is an assessment of the consideration of legal considerations from judges who adjudicate and give verdicts about the laws that apply in society today, researching literature materials, and primary data, so that the author can draw conclusions and answer the problems researched in this research proposal. This data analysis was also carried out on primary legal materials to find the legal basis, legal understanding, and principles of traffic accident crimes.

Results and Discussion

Application of the Culpa Element Law to the Crime of Traffic Negligence That Resulted in the Loss of Another Person's Life and Resulted in Serious Injury in Laws and Regulations

A judicial process ends with a verdict that contains the imposition of criminal sanctions (punishment) by the judge after considering the evidence and making the verdict. In imposing a criminal sentence, the judge must base on two valid pieces of evidence as a consideration to obtain confidence that the alleged criminal act occurred and that the defendant was the one who committed it as regulated in Article 183 of the Criminal Code.

There are 3 conditions for criminal liability and offense according to criminal law, namely: 1) The perpetrator can take responsibility for his actions. 2) The existence of unlawful acts, either intentional or negligent. 3) The perpetrator has no reason that can eliminate the perpetrator's criminal liability. To determine the existence of responsibility, a perpetrator in committing a criminal act must-have elements of unlawful acts. Regarding the unlawful nature when it is related to the psychological state (soul) of the maker of the criminal act he commits can be in the form of intentionality (*opzet*) or negligence (*culpa*).

Forgetfulness as well as intentionality is a form of error. Forgetfulness is a form that is less of a degree than intentionality. But it can also be said that forgetfulness is the opposite of intentionality, because if in intentionality, something arises from the will of the perpetrator, then in forgetfulness, the intention is desired, even though the perpetrator can estimate in advance. This is also where one of the difficulties lies in distinguishing between conditional intentionality (consciousness-perhaps, *dolus eventualis*) and severe forgetfulness (*culpa cascade*).

In Pipin Sharifin's theory, there are 3 (three) types of intentionality, namely: 1) objective Intentionality, with objective intentionality, The perpetrator can be held accountable and easily understood by the public. If this kind of intentionality is in a criminal act, the perpetrator deserves to be subject to criminal punishment. Because with

this intentional purpose, means that the perpetrator wants to achieve a result that is the main reason for the threat of this punishment. 2) Intentionality by the awareness of certainty, this intention exists when the perpetrator, with his actions, does not aim to achieve the result that is the basis of the delicacies, but he knows very well that the effect will follow the deed. 3) Intentionality is a possibility of conversion, this intentionality is blatantly not accompanied by a shadow of a certainty that the result will occur but only imagines a mere possibility of that consequence. Furthermore, forgetfulness, because it is a form of mistake that results in being held accountable for the actions of a person who has committed it.

Furthermore, forgetfulness, because it is a form of mistake that results in being held accountable for the actions of a person who has committed it. At its core, culpa includes less careful thinking, lack of knowledge, or less directed action. According to Jan Remmelink, culpa here clearly refers to a person's psychic abilities and therefore it can be said that culpa means not or least predicting in real terms the possibility of the fatal consequences of the person's actions, even though it is easy to do and therefore should be done.

According to the Netherlands writers, what is meant by culpa in the article of the Criminal Code is a rather heavy mistake. The term they use is grove schuld (big mistake). Although the size of this grove schuld is not as firm as intentional, but with the istilah grove schuld, there is already a concern that it does not enter culpa if a perpetrator does not need to be very careful to be free from punishment. The opinion of Moeljatno (2018:2017) that forgetfulness (Culpa) contains two conditions, namely: 1) Not making conjectures as required by law; and 2) Not exercising caution as required by law. According to the LLAJ Law, a traffic accident is "an unexpected and intentional incident on the road involving a vehicle with or without another road user resulting in victims and/or property damage.

Regarding traffic accidents caused by negligence that caused the victim's death, judging from positive law, Indonesia has various legal substances that regulate the settlement of these legal cases, both from the Criminal Code and the Road Traffic and Transportation Law. In the law, it is not determined what the meaning of forgetfulness is, but from the science of criminal law, it is known that the properties are characteristic of culpa.

According to Lamintang (1997), it is stated that: 1) Deliberately doing an action that turns out to be wrong, because he uses his memory or brain incorrectly, he should use his memory as well as possible, but he does not use it. In other words, an active (passive) action with less vigilance is required; 2) The perpetrator can predict what could happen but feels he can prevent it. If the consequences are inevitable, he would rather not take actions that would entail those consequences. But the act was not undone, for which action he was then condemned because it was unlawful.

However, the aforementioned provisions do not apply if; a) the existence of force majeure circumstances that are unavoidable or beyond the Driver's ability; b) caused by

the victim's own or third party's behavior; c) caused by the movement of people and/or animals even though precautions have been taken.

The party that caused the traffic accident is obliged to compensate for damages whose amount is determined based on the court decision. This obligation to compensate for damages can be carried out out of court if there is a peace agreement between the parties involved (see Article 236 of the LLAJ Law). So, it can be concluded that the form of liability for traffic accidents that only result in material losses without casualties is in the form of compensation.

An act is declared a criminal offense if it meets the following elements: a) Subject; b) Errors. c) It is unlawful (from an act); d) An act that is prohibited or required by law/legislation and the violator is criminally threatened; e) Time, place, and circumstances.

Legal considerations by the Panel of Judges related to the Culpa element in imposing a penalty in the form of a criminal offense of traffic negligence that resulted in the loss of life of another person and serious injury in Decision Number 142/Pid.Sus/2020/PN Jap

In Criminal law, the term unlawful nature has four meanings. The four meanings are: first, unlawfulness is interpreted as a general condition for the criminalization of an act as defined by a criminal act, namely human behavior that is included in the delicacy formulation, unlawful, and reprehensible. Second, the word unlawful is included in the formulation of the delicacies. Thus, unlawfulness is a written condition for the conviction of an act. Third, the nature of formal unlawfulness means that all elements of the delicacy formulation have been fulfilled. Fourth, the nature of material law contains two views. First, from the point of view of his actions, it means violating or endangering the interests of the law that the lawmakers want to protect in the formulation of the delicacies. Second, from the source of the law, the unlawful nature contains a contradiction with the principles of propriety, justice, and law that live in society.

The application of criminal law is a parameter of the value of justice that can be tested by the judge's decision on the case that caused the death of the victim (Simangunsong & Simangunsong, 2022). The judge's decision or court decision is an important aspect and is needed to resolve a criminal case. Thus, it can be concluded that the judge's decision is useful for the defendant to obtain legal certainty about his status and at the same time can prepare for the next step. In the modern criminal justice system such as the Criminal Procedure Code (KUHAP) as a formal legal rule, vigilantes are not allowed (Kadri Husin & Budi Rizki Husin, 2022);(Joko & SH, 2020).

In the example of the case taken by the author in the Jayapura area or more precisely on Jalan Marikai in front of Marikai State High School, Marikai village, Waropen Atas District, Mamberamo Raya Regency. The author found a case based on the decision of the Jayapura District Court Number 142/Pid.Sus/2020/PN Jap where the Jayapura District Court which adjudicated a criminal case with an ordinary examination procedure in the first level issued a verdict.

Case Position

The defendant Robi Palulun at the Jayapura District Court, which has the authority to examine and adjudicate this case, drove a motor vehicle which due to his negligence resulted in a traffic accident with the victim died, seriously injured, and slightly injured, which was committed by the defendant as follows:

Initially, at that time the defendant Robi Palulun who was driving a yellow truck with Police number PA 8887 AH along with witness Dores Dasnarebo who sat next to the driver and witness Wilson Imbiri, and the victim Apolos Baderai who sat in the trunk of the truck from the direction of Bariwaro Village to Sisipi Village.

At that time the weather was sunny and the defendant Robi Palulun was driving a truck at a speed of \pm 70-80 km/h with 4 (four) gears which was a straight but unpaved road condition suddenly the truck came out of the road to the right so that the defendant Robi Palulun slammed the steering wheel too much to the left to restore the initial position of the car but because the truck was driving at high speed so that the defendant Robi Palun lost balance so that the car crossed and the two left tires of the truck were lifted and finally overturned, resulting in the passengers, namely witness Dores Dasnarebo, suffering injuries to the right knee, witness Apolos Bederai suffered injuries to the head and knees lying in a supine position on the ground and was unconscious while witness Wilson Imbiri suffered injuries to the knees and was also lying in a supine position on the ground and was unconscious.

Public Prosecutor's Indictment

First

That the defendant Robi Palulun on Thursday, January 23, 2020 at around 11.30 a.m. local time or at least at some time in 2020, located on Jalan Marikai in front of Marikai State High School, Marikai Village, Waropen District, Upper Mamberamo Raya or at least somewhere that is still included in the Jayapura District Court Jurisdiction, had been driving a motor vehicle which due to negligence resulted in a traffic accident with the victim died. The defendant's actions were carried out in the following ways:

Initially, the defendant Robi Palulun who drove a yellow truck with Police number PA 8887 AH along with witness Dores Dasnarebo who sat next to the driver and witness Wilson Imbiri, and the victim Apolos Baderai who sat in the trunk of the truck from the direction of Bariwaro Village to Sisipi Village.

At that time the weather was sunny and the defendant Robi Palulun was driving a truck at a speed of \pm 70-80 km/h with 4 (four) gears which was a straight but unpaved road condition suddenly the truck went out of the road to the right so that the defendant Robi Palulun slammed the steering wheel too much to the left to restore the initial position of the car but because the truck was driving at high speed so that the defendant Robi Palulun lost his balance so that the car and the two left tires of the truck were lifted and finally overturned, resulting in the passengers, witness Dores Dasnarebo, suffering injuries to the right knee, witness Apolos Bederai suffered injuries to the head and knees lying in a supine position on the ground and was unconscious while witness Wilson Imbiri

suffered injuries to the knees and was also lying in a supine position on the ground and was unconscious.

Based on the results of Visum Et Repertum Number: 445.9/VER/008/RS/2020 dated January 31, 2020, signed by Dr. Eka Damayanti SpAn, a doctor at Serui Hospital against Apolos Bederai with a male gender, aged 16 years where the victim was escorted from the ER to the ICU room in a state of decreased consciousness at 13.00 WIT and 20.00 WIT the patient's general condition deteriorated with blood pressure continuing to drop so that he was given drugs to support his life but it didn't work, At 20.40 WIT, the patient suffered cardiac arrest, rescue was carried out, but unsuccessfully, the patient was declared dead with the conclusion that he had died due to severe head trauma. The defendant's actions are as prescribed and criminally threatened in Article 310 Paragraph (4) of Law No. 22 of 2009 concerning Traffic and Road Force.

Second

That the defendant Robi Palulun at the time and place described in the first indictment, had driven a motor vehicle which due to negligence resulted in a traffic accident with serious injuries. The defendant's actions were carried out in the following ways:

Initially, the defendant Robi Palulun who drove a yellow truck with Police number PA 8887 AH along with witness Dores Dasnarebo who sat next to the driver and witness Wilson Imbiri, and the victim Apolos Baderai who sat in the back of the truck from the direction of Bariwaro Village to Sisipi Village. At that time the weather was sunny and the defendant Robi Palulun was driving a truck at a speed of $\pm 70-80$ km/h with 4 (four) gears which was a straight but unpaved road condition suddenly the truck went out of the road to the right so that the defendant Robi Palulun slammed the steering wheel too much to the left to restore the initial position of the car but because the truck was driving at high speed so that the defendant Robi Palulun lost his balance so that the car crossed and the two tires on the left side of the truck were lifted and finally overturned, resulting in the passengers, namely witness Dores Dasnarebo suffering injuries on the right knee, witness Apolos Bederai suffering injuries on the head and knees lying in a supine position on the ground and unconscious while witness Wilson Imbiri suffered injuries on the knee also lying in a supine position on the ground and unconscious.

Based on the results of Visum et Repertum Number; 04/PKM-PRT/BRP-DWA/SK/I/2020 dated January 30, 2020, signed by Dr. Vensi Rumbiak, a doctor at the Barapasi Care Center for Wilson Imbiri, male, 16 years old, where the victim was picked up by ambulance on Thursday, January 23, 2020, at 11.20 a.m. local time in an unconscious state and the head was covered in blood and the victim Apolos Bedariai was found on the right side of the head from front to back, soft palpation, irregular shape, bruise border line not so firm, on the right forehead 3 cm from above the right eye Tear wound 10 cm long 5 cm wide, on the right part of the head the torn wound 4 cm long 2 cm wide, on the right eye was found irregular bruises with bruise boundaries not so firm, on the chin the laceration wound Length 4 cm wide 2 cm, the base of the right ear was an irregular tear, on the upper lip of the wound Tear wound Length 5 cm wide 2 cm, on the

right chest abrasions and bruises, the wound boundary line was irregular Length 15 cm width 8 cm wide and on the right leg 10 cm below the knee Hand wound Torn 5 cm long 2 cm wide. Medical measures have been carried out in the form of wound treatment with stitches so that the bleeding stops the conclusion that on the examination of the victim, a 16-year-old male victim was found to have a severe wound to the head and in the end the patient was unconscious.

Then the victim of Apolos Bederiai was brought to Serui Regency with the results of Visum Et Repertum Number: 445.9/VER/008/RS/2020 dated January 31, 2020, signed by Dr. Matheis J. Tanati, a doctor at Serui Hospital for Apolos Bederiai with a male gender, aged 16 years where the victim was escorted to the ER in a state of decreased consciousness with a swollen laceration wound on the right side of the head, There was a laceration wound on the forehead and swelling and bruises on both eyelids with the conclusion that a male victim had been examined and from the results of the examination it was found to be swollen Lacerations on the right side of the head Lacerations on the forehead Swelling and bruises in both eyes due to blunt trauma. The defendant's actions are as regulated and criminally threatened in Article 310 Paragraph (3) of Law No. 22 of 2009 concerning Road Traffic and Transportation.

Third

That the defendant Robi Palulun at the time and place described in the first indictment, had driven a motor vehicle which due to his negligence resulted in a traffic accident with minor injuries and damage to the vehicle and/or goods. The defendant's actions were carried out in the following ways:

Initially, the defendant Robi Palulun who drove a yellow truck with Police number PA 8887 AH along with witness Dores Dasnarebo who sat next to the driver and witness Wilson Imbiri, and the victim Apolos Baderai who sat in the back of the truck from the direction of Bariwaro Village to Sisipi Village. At that time the weather was sunny and the defendant Robi Palulun was driving a truck at a speed of \pm 70-80 km/h with 4 (four) gears where the road condition was straight but not paved, suddenly the truck came out of the road to the right so that the defendant Robi Palulun slammed the steering wheel too much to the left to restore the initial position of the car, but because the truck was traveling at high speed, the defendant Robi Palulun lost balance so that the car crossed and the two left tires of the truck were lifted and finally overturned, resulting in the passengers, namely witness Dores Dasnarebo suffering injuries on the right knee, witness Apolos Bederai suffering injuries on the head and knees lying in a supine position on the ground and unconscious while witness Wilson Imbiri suffered injuries on the knee also lying in a supine position on the ground and unconscious.

That is based on the results of Visum Et Repertum Number: 05/PKMPRT/BRP-DWA/SK/I/2020 dated January 30, 2020, signed by Dr. Vensi Rumbiak, a doctor at the Barapasi Care Center for WIISON IMBIRI male, aged 16 years where the victim was picked up by ambulance on Thursday, January 23, 2020, at 11.20 a.m. local time in a conscious state in a weak physical condition and abrasions were found on the right hand with the conclusion that a male aged 16 years old years were found to have minor injuries.

The defendant's actions are as regulated and criminally threatened in Article 310 Paragraph (2) of Law No. 22 of 2009 concerning Road Traffic and Transportation.

Considering to prove his charges, the Public Prosecutor has submitted several facts revealed in successive trials in the form of witness statements (witnesses cannot be present because there is a road due to the Covid-19 pandemic, so witnesses who have previously been given under oath at the investigator level), letters, statements of the defendant, and evidence to strengthen their charges, as follows:

Public Prosecutor's Demands

Based on the testimony of witnesses, and the defendant and paying attention to the evidence submitted at the trial, the Public Prosecutor gave the following criminal charges: 1) Declaring that the defendant ROBI PALULUN was legally and convincingly proven guilty of committing the crime of "driving a motor vehicle which, due to his negligence, resulted in a traffic accident with the victim injured, seriously injured, and died"; 2) Imposing a criminal sentence on the defendant ROBI PALULUN and therefore with a prison sentence of 1 (one) year and 6 (six) months; 3) Declaring that the defendant remains in custody; 3) Declaring that evidence in the form of: 1 (one) unit of yellow PA 8887 AH truck and 1 (one) BII driver's license in the name of ROBI PALULUN returned to the rightful party; 4) Stipulating that the defendant pay the case fee of Rp.5000,-(five thousand rupiah).

Judge's Balance

Judges are required to understand the demands of the public prosecutor submitted in the trial to uphold justice by the provisions of the law. The judge's decision is the judge's responsibility in carrying out his duty to receive, examine, and send the case imposed on him, where the responsibility is not only aimed at his law, himself, or the wider community but must be accountable to God Almighty.

In Article 14 paragraph (1) of Law Number 48 of 2009 concerning the Judicial Power of the Republic of Indonesia, which states: "All court decisions must not only contain the reasons and grounds for the decision but also must also contain certain articles of the relevant regulations or unwritten sources of law that are implemented"

In case No. 142/Pid.Sus/2020./PN Jap, in this case, was submitted to the trial based on the indictment submitted by the Public Prosecutor as previously described where the defendant violated the provisions of Article 310 Paragraph (4) of Law of the Republic of Indonesia No. 22 of 2009 concerning Road Traffic and Transportation, jo article 310 Paragraph (3) of Law of the Republic of Indonesia No. 22 of 2009 concerning Road Traffic and Transportation, jo article 310 Paragraph (2) of Law of the Republic of Indonesia No. 22 of 2009 concerning Road Traffic and Transportation. The actions taken by the defendant by the judge must be proven by examining the elements of the Article and then adjusted to the facts revealed at the trial and the evidence by analyzing it.

Considering, the descriptions that have been put forward in the legal analysis, it can be concluded that the defendant's actions can be legally and convincingly proven to be the formulation of the criminal act charged in the first indictment, namely Article 310 paragraph (4)(3)(2) of Law of the Republic of Indonesia No. 22 of 2009. Considering that

at the trial the Public Prosecutor had confronted 3 (three) witnesses, each of which was 1. Dores Dasnarebo, 2. Jeje Buburayai, 3. Yason Bederai who was incriminating to the Defendant. Considering, that the testimony of the witnesses and the Defendant's testimony show each other's suitability the Panel of Judges believes that the Defendant has been legally proven. Considering, that because he is proven guilty, the Defendant will be sentenced to a crime that is considered commensurate with his actions; Considering that in the trial, the Panel of Judges did not find anything that could abolish criminal liability, either as a justification and or a reason for forgiveness, the Defendant must be held accountable for his actions;

Considering that because the defendant can take responsibility, he must be found guilty and sentenced to a criminal sentence; Considering that in this case the Defendant has been subjected to lawful arrest and detention, the period of arrest and detention must be deducted entirely from the sentence imposed; Considering, that since the Defendant is detained and the detention of the Defendant is based on sufficient reasons, it is necessary to stipulate that the Defendant remains in custody; Before imposing a criminal sentence, the following aggravating and mitigating matters are considered: 1) Aggravating circumstances, the defendant's actions are troubling to the community. 2) Mitigating circumstances, the defendant is still young so he is expected to improve his behavior in the future.

Judge's Decision

Taking into account Article 310 Paragraph (2), (3), (4) of Law of the Republic of Indonesia No. 22 of 2009 concerning Road Traffic and Transportation and Law No. 8 of 1981 concerning the Criminal Procedure Law and other relevant laws and regulations, the decision in case No. 142/Pid.Sus/2020./PN Jap is as follows:

Adjudicate

Declaring that the defendant, Robi Palulun, was legally and convincingly proven guilty of committing the crime of driving a motor vehicle that due to his negligence resulted in a traffic accident. With the deceased, serious victims and minor injuries as well as damage to vehicles or goods; Sentence the Defendant therefore with a prison sentence of 10 years; Stipulating that the period of detention served by the defendant is deducted entirely from the sentence imposed: Stipulating that the defendant remains in custody; Declaring that evidence in the form of 1 (one) unit of yellow PA 8887 AH truck and 1 (one) BII driver's license in the name of Robi Palulun is returned to the rightful party. Charging the defendant to pay the case fee of Rp.5000.00 (five thousand rupiah).

Researcher Analysis

Forgetfulness that causes the death of another person, which in Indonesia's positive law is a criminal act in the sense of a crime, is different, only in the element of unintentional intention which affects the criminal sanctions applied (Sukananda, 2021). The basis for forgetfulness is that the defendant is not aware of the fact that he does not pay attention to the object protected by law, then the legal basis for giving punishment for the culpa offense, means the livelihood of the community, which expects every member of the community to be aware of the deed, trying in such a way as to pay attention

to the legal interests of fellow members of the community, so that they do not do it again if they do not do it again, otherwise they must be responsible for criminally.

Law No. 22 of 2009 concerning Road Traffic and Transportation also regulates several criminal liabilities for drivers and motorists in traffic accidents that result in the death of a person. The responsibility is regulated in Article 310 of Law No. 22 of 2009 concerning Road Traffic and Transportation. Regarding the judge's decision or court decision, it is an important aspect and is needed to resolve criminal cases. Thus, it can be concluded that the judge's decision is useful for the defendant to obtain legal certainty about his status and at the same time can prepare for the next step.

Based on the position of the case, the public prosecutor's indictment is by the provisions, both formal crimes and material crimes, and the conditions under which a defendant can be convicted, this is based on the trial examination, where the evidence submitted by the public prosecutor, including the testimony of witnesses who are compatible with each other plus the testimony of the defendant who honestly admits the act committed by him.

Based on the Jayapura District Court Decision Number 142/Pid.Sus/2020./PN Jap which is normatively correct, is appropriate because the defendant's actions can be legally and convincingly proven to meet the formulation of the crime of traffic negligence. The verdict of imposing a criminal sentence on the Defendant, therefore with a prison sentence of 10 months; Stipulate that the period of detention served by the defendant is entirely deducted from the sentence imposed; Stipulates that the Defendant remains in custody; Declaring that evidence in the form of: 1 (one) unit of yellow truck PA 8887 AH and 1 (one) BII driver's license in the name of Robi Palulun returned to the rightful; Charging the defendant to pay the case fee of Rp.5000.00 (five thousand rupiah).

The basis for the judge's consideration in imposing a verdict based on juridical facts revealed in front of the trial and by the law that has been stipulated as the intended matter includes the Public Prosecutor's indictment, the defendant's statement, witness statements, evidence and the elements of the indictment plus the judge must believe whether the defendant committed a criminal act or not as contained in the elements of the criminal act that charged against him.

The Panel of Judges to impose a verdict in the case the defendant was charged with the crime of traffic negligence in Article 310 Paragraph (2), (3), (4) of Law of the Republic of Indonesia No. 22 of 2009 concerning Road Traffic and Transportation. The Panel of Judges also considered whether there were reasons that could be excuses or justifications. However, in this case, no basis was found to abolish the criminal sentence against the defendant. Therefore, the defendant is stated to be able to take responsibility for his actions.

In this case, the verdict handed down by the Panel of Judges was lower than the Public Prosecutor's demands, this was due to the existence of aggravating and mitigating matters for the defendant that were considered by the Panel of Judges in making a verdict. The incriminating and mitigating matters for the defendant in this case are: The incriminating matters of the defendant are the defendant's actions that disturb the

community. The mitigating factors for the Defendant are that the Defendant is still young so it is expected to improve his behavior in the future. In addition, Robi Palulun's detention period was reduced by the detention period while the investigation was ongoing. Based on the above matters and accompanied by the facts revealed at the trial, as well as the criminal charges of the public prosecutor and the criminal threats from the delink concerned, the Panel of Judges conducted deliberation and argued that the sentence decided was appropriate and by the sense of justice.

Conclusion

Based on the results of the research, regarding the Juridical Review of Delik Culpa in Traffic Accident Cases (Study of Decision No. 142/Pid.Sus/2020/PN. Jap), it can be concluded that the application of criminal law to acts of negligence that result in fatal traffic accidents is currently based on Article 310 paragraph (4) of Law Number 22 of 2009 concerning Road Traffic and Transportation. The verdict against Robi Palulun in the case shows that he has been legally and convincingly proven to have committed negligence in driving, which resulted in the victim being seriously injured and even dying. The determination of a criminal sentence of 10 months in prison by the judge is also accompanied by an exemption from the detention period and the obligation to pay case fees.

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