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Judge's Consideration in Sentencing Justice Collaborator for the Crime of Premeditated Murder

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ABSTRACT. One of the obstacles faced by law enforcement officials in uncovering criminal acts is the limitation of evidence related to the criminal acts that occurred, where one of the evidence that can be used by law enforcement officials is the testimony of the Justice Collaborator to uncover other perpetrators and criminal acts that occurred as stipulated in Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, amended by Law Number 31 of 2014. However, in practice, the criminal acts disclosed by the Justice Collaborator are general criminal acts and not specific criminal acts as regulated in the law so that they can provide legal uncertainty and justice. This research is normative legal research, with a legislative approach and a case approach. The results of the research are, First, the regulation of Justice Collaborator is specifically regulated in Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, amended by Law Number 31 of 2014, but the regulation can only be applied to certain criminal acts regulated in the law. Second, the judge's consideration in imposing a verdict against the Justice Collaborator for the crime of murder in the case of the South Jakarta District Court Decision Number 798/Pid.B/2022/PN.Jkt Sel dated February 15, 2023, namely the criminal act revealed by the defendant Mr. Richard Eliezer Pudihang Lumiu can be categorized as a certain criminal act, the defendant is not the main perpetrator, the defendant plays a role in uncovering the criminal act, A request from a friend of the court to uphold justice, and the existence of repentance from the defendant.

KEYWORDS: Consideration, Judge, Sentencing, Juctice Collaborator, Criminal Act, Premeditated Murder.

I. INTRODUCTION

The State of Indonesia is a legal state that has the sovereignty to determine legal provisions that are enforced in the jurisdiction of the State of Indonesia, where one of the applicable areas of law is criminal law to regulate the life of the community, nation and state. According to Moeljatno, criminal law is part of the overall law that applies in a country that establishes the basics or rules to determine which acts are not allowed or prohibited, accompanied by threats or sanctions in the form of certain criminal penalties for those who violate the prohibition. [1]

As a public law that applies in a country, criminal law contains provisions that regulate the relationship between citizens in daily life with an emphasis on the public interest. Criminal law has a special feature compared to other fields of law, where in criminal law there are criminal sanctions that can be imposed on anyone who commits a violation or does not comply with the provisions of criminal law. In other words, that the criminal sanctions contained in the criminal law aim to protect legal interests from prohibited acts or so-called criminal acts. [2]

In general, the provisions on criminal law in Indonesia are regulated in Law Number 1 of 1946 concerning Criminal Law Regulations or known as the Criminal Code (KUHP) as a material criminal law that contains provisions that regulate prohibited acts or criminal acts accompanied by criminal threats. One of the forms of acts that are prohibited to be done in the Criminal Code is the act of taking the life of another person which is an act that deprives a person of the right to life as stipulated in Chapter XIX of the Criminal Code concerning crimes against life, namely Article 338 to d. Article 350 of the Criminal Code.

The crime of murder can be categorized as a serious crime because the impact caused by the crime of murder is the loss of life of a person who is a victim of the crime. The main form of the crime of murder is regulated in Article 338 of the Criminal Code, which threatens a maximum prison sentence of fifteen years for anyone who takes the life of another person. Then, for the crime of murder with planning is regulated in Article 340 of the Criminal Code which threatens the death penalty or life imprisonment or imprisonment for a maximum of twenty years for anyone who takes the life of another person with a plan in advance.

[1] Rahman Amin, *Pengantar Hukum Indonesia*, Sleman: Deepublish, 2019, Hlm 125.

[2] Teguh Prasetyo, *Hukum Pidana,* Jakarta: RajaGrafindo Persada, 2011, Hlm 2.

The provisions in the Criminal Code aim to protect the public from the crime of murder, where to enforce the provisions of material criminal law as stipulated in the Criminal Code, it is necessary to have provisions on criminal procedure law or formal criminal law that regulate how the state through law enforcement officials enforce criminal law. According to Sudarto, criminal procedural law is a rule that provides instructions on what should be done by law enforcement officials and other parties or other people involved in it, if there is a suspicion that criminal law is violated. [3]

Through the criminal procedure law, it aims to find the material truth, namely the truth that is actually related to the criminal act that occurred so that the perpetrator can be legally processed through a fair judicial process, where the provisions of the criminal procedural law, among others, regulate how to prove the criminal case. According to R. Soebekti, proof is an activity to convince the judge of the truth of the postulates presented in a case in a court session both in criminal and civil cases, where in criminal cases the intended purpose is to obtain material truth. [4]

To find and find the material truth, the provisions on the criminal procedure law in Indonesia as stipulated in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP) contain provisions that regulate the evidence that can be used in proving criminal cases which are the basis for law enforcement officials in proving a person suspected of committing a criminal act. Evidence that can be used in proving general criminal cases in a limited manner has been regulated in Article 184 of the Criminal Code, namely witness statements, expert statements, letters, instructions, and defendant statements.

Efforts to prove criminal cases, law enforcement officials are sometimes constrained by the limitations of existing evidence so that the impact on the handling of cases becomes incomplete due to the lack of evidence that can be used to uncover a criminal act that occurred. This is a challenge faced by law enforcement officials starting from the stage of investigation, prosecution, and examination at the court hearing, considering that to render a criminal verdict against the defendant at trial, it must be supported by at least two pieces of evidence and the judge's conviction as stipulated in Article 183 of the Criminal Code.

The evidentiary system in the Indonesian criminal justice system as stipulated in Article 183 of the Criminal Procedure Code is a negative system of proof according to the law, where the requirement to impose a criminal verdict against the defendant at trial, where in addition to having to meet the evidence as specified in Article 184 of the Criminal Procedure Code, there must also be the judge's conviction obtained from the evidence at the time of proof at trial, And if one of the elements is not met, namely at least two pieces of evidence and the judge's conviction, then the judge in the trial cannot impose a criminal verdict against the defendant. [5]

In the practice of law enforcement in Indonesia, when handling criminal cases in the form of participation, in this case the suspect or defendant is more than one person, but the evidence is limited, then law enforcement officials make one of the suspects or defendants in the case to provide substantial information against the suspect or other defendants in the process of investigation, prosecution and examination in court. Where the suspect or defendant who gives information as a witness is known as a crown witness with the aim of revealing a criminal act that occurred more optimally.

According to Indriyanto Seno Adji, the existence of perpetrators who are insiders (inner circle criminals) who are directly involved in criminal acts committed jointly with other perpetrators is one of the effective steps to penetrate and uncover criminal acts that occur that are closed or organized. The insider can provide important evidence about who was involved in the crime, what the role of each perpetrator was, how the crime occurred, and where other evidence can be found by law enforcement so that the handling of the crime can run optimally. [6]

Normatively, the Criminal Procedure Code does not strictly regulate crown witnesses in proving criminal cases, where Article 1 number 26 of the Criminal Procedure Code, only provides a definition of a witness, namely a person who can provide information for the purposes of investigation, prosecution and trial of a criminal case. The provision about crown witnesses who are suspects or defendants who provide information in revealing criminal acts that occur in other terms in the common law legal system is known as Justice Collaborator which focuses on perpetrators who provide information in uncovering criminal acts.

The United Nations Office on Drugs and Crime (UNODC) explained that the term Justice Collaborator in criminal justice practice is related to perpetrators who provide information as well as witnesses to a criminal case, especially against people who have participated in organized crime, have important knowledge of organizational structures, methods of operation, activities and relationships with other groups both locally and internationally. These individuals in the legal system in countries around the world are known by various terms, namely crown witnesses, collaborator witnesses, legal collaborators, state witnesses, supergrasses, and pentitis. [7]

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[3] Riadi Asra Rahmad, *Hukum Acara Pidana*, Depok: Rajawali Pers, 2019, Hlm 5.

[4] Rahman Amin, *Hukum Pembuktian Dalam Perkara Pidana dan Perdata*, Yogyakarta: Deepublish, 2020, Hlm 14.

[5] Tolib Effendi, *Dasar-Dasar Hukum Acara Pidana; Perkembangan dan Pembaharuannya di Indonesia,* Malang: Setara Press, 2014, Hlm 172.

[6] Rahman Amin, *Dasar Pertimbangan Hakim Dalam Menetapkan Terdakwa Tindak Pidana Narkotika Sebagai Justice Collaborator (Studi Putusan Mahkamah Agung RI Nomor: 920K/Pid.Sus/2013),* Jurnal Bina Mulia Hukum, Volume 1, Nomor 2, Maret 2017, Hlm 167.

[7] Rahman Amin, *Perlindungan Hukum Justice Collaborator Dalam Sistem Peradilan Pidana di Indonesia; Studi Perkara Tindak Pidana Narkotika,* Sleman: Deepublish, 2020, Hlm 66-67.

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In the criminal law system in Indonesia, the term Justice Collaborator was initially not regulated in Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, then in its development Justice Collaborator began to be regulated since the revision of Law Number 13 of 2006 concerning the Protection of Witnesses and Victims through Law Number 31 of 2014, where the term Justice Collaborator is referred to as the perpetrator witness, as in Article 1 number 2, that the perpetrator's witness is a suspect, defendant, or convict who cooperates with law enforcement to uncover a criminal act in the same case.

For example, the case of premeditated murder that occurred in Indonesia involving Justice Collaborators in uncovering the crime of premeditated murder is a case involving Mr. Richard Eliezer Pudihang Lumiu who was tried at the South Jakarta District Court, and has received a South Jakarta District Court Decision Number 798/Pid.B/2022/PN.Jkt Sel dated February 15, 2023, where in the case Mr. Richard Eliezer Pudihang Lumiu as the perpetrator who participated in the crime of premeditated murder so that the victim Mr. Nofriansyah Yosua Hutabarat died.

Referring to the guidelines for determining the perpetrators of criminal acts as Justice Collaborators, the Supreme Court of the Republic of Indonesia has issued a Circular Letter of the Supreme Court of the Republic of Indonesia Number 4 of 2011 concerning the Treatment of Criminal Whistleblowers (Whitleblower) and Witnesses of Collaborators (Justice Collaborators) in Cases of Certain Crimes, that the criminal acts disclosed by the Justice Collaborator are certain serious criminal acts such as corruption, Terrorism crimes, narcotics crimes, money laundering crimes, human trafficking crimes, and other organized crimes.

This means that the perpetrator of a criminal act can be designated as a Justice Collaborator if the perpetrator meets the specified requirements as stated in the Circular Letter of the Supreme Court of the Republic of Indonesia Number 4 of 2011, among others, that the criminal acts revealed by the Justice Collaborator are certain serious criminal acts or other organized criminal acts, where the existence of the Justice Collaborator can be Assist law enforcement officials significantly in uncovering criminal acts and the involvement of other main perpetrators in these crimes.

Based on the descriptions mentioned above, it is important to examine how the provisions governing Justice Collaborators are in accordance with the provisions of laws and regulations in Indonesia, and what the judge considers in imposing a verdict against Justice Collaborator for the crime of premeditated murder in the South Jakarta District Court Decision Number 798/Pid.B/2022/PN.Jkt Sel dated February 15, 2023 involving Mr. Richard Eliezer Pudihang Lumiu, so that the results of this article discussion can contribute to the regulation of Justice Collaborators in the criminal law system in Indonesia.

II. RESEARCH METHODS

This research is normative legal research, namely research by analyzing written laws and regulations through literature studies.[8] This research uses a legislative approach by examining laws and regulations related to the problems submitted, and a case approach by examining cases related to the problems. [9]

The legal materials in this study are secondary data, namely primary legal materials that are binding, such as laws and regulations, secondary legal materials that explain primary legal materials such as reference books and scientific articles, and tertiary legal materials that explain primary legal materials and secondary legal materials such as dictionaries or encyclopedias. [10]

The technique of collecting legal materials in this study is through a literature study of legal materials in the form of laws and regulations, court decisions and other legal materials.[11] The analysis technique in this study is qualitative analysis by analyzing the legal materials obtained from the research results systematically and consistently to get clarity from the proposed misunderstandings. [12]

III. RESULTS AND DISCUSSION

Theoretical Review of Justice Collaborators and the Crime of Premeditated Murder

According to Frank E. Hagan, the term Justice Collaborator is reviewed from history very closely with the criminal organization or mafia as the oldest and largest criminal organization originating from Palermo, Sicilia, Italy which is often referred to as the Sicilian Mafia or Cosa Nostra, which was engaged in narcotics trafficking and later developed in various parts of the world, such as the Mafiya in Russia and the Cartel in Colombia. [13]

[8] Bambang Waluyo, *Penelitian Hukum Dalam Praktik*, Jakarta: Sinar Grafika, 2008, Hlm 13.

[9] Peter Mahmud Marzuki, *Penelitian Hukum*, Jakarta: Kencana, 2013, Hlm 134.

[10] Muhaimin, *Metode Penelitian Hukum*, Mataram : Mataram University Press, 2020, Hlm 62.

[11] Elisabeth Nurhaini Butarbutar, *Metode Penelitian Hukum; Langkah-Langkah Untuk Menemukan Kebenaran Dalam Ilmu Hukum*, Bandung: Refika Aditama, 2018, Hlm 142.

[12] Burhan Ashshofa, *Metode Penelitian Hukum*, Jakarta: PT. Rineka Cipta, 2004, Hlm. 20.

[13] Hariman Satria, *Menakar Perlindungan Justice Collaborator; Quo Vadis Justice Collaborator*, Jurnal Konstitusi, Volume 13, Nomor 2, Juni 2016, Hlm 444.

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Justice Collaborator was first introduced by the United States around the 1970s which was intended to deal with the masses who had long applied the oath of silence (omerta) as well as the oldest law in the world Mafioso Sicilia, then followed by other countries with different names such as Pentiti in Italy meaning repentant person or collaborator della guistizia. [14]

The term Justice Collaborator is not explicitly regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code, where the definition of a witness is regulated in Article 1 number 26 of the Criminal Code, that a witness is a person who can provide information for the purposes of investigation, prosecution and justice about a criminal case that he himself hears, sees for himself and experiences himself.

Then, the definition of witnesses in Article 1 number 26 of the Criminal Code was expanded through the Decision of the Constitutional Court of the Republic of Indonesia Number 65/PUU-VIII/2010 dated August 8, 2011, that witnesses include people who can provide information in the context of investigation, prosecution, and trial of a criminal act that they do not always hear themselves, see for themselves, and experience them themselves.

In the development of judicial practice in Indonesia, it is then known as Justice Collaborator, where to provide guidelines to judges in court, the Supreme Court of the Republic of Indonesia issued a Circular Letter of the Supreme Court of the Republic of Indonesia Number 4 of 2011 concerning the Treatment of Criminal Whistleblowers (Whitleblower) and Witnesses of Collaborators (Justice Collaborator) in Cases of Certain Crimes.

The term Justice Collaborator according to Number 9 of the Circular Letter of the Supreme Court of the Republic of Indonesia Number 4 of 2011 provides an explanation that the Justice Collaborator is one of the perpetrators of certain criminal acts, who admits to the crime he committed, is not the main perpetrator in the crime, and provides information as a witness in the judicial process.

The term Justice Collaborator is referred to as a cooperating perpetrator witness as stipulated in Article 1 number 3 of the Joint Regulation of the Minister of Law and Human Rights, the Attorney General, the National Police Chief, the KPK, the Chairman of LPSK on the Protection of Whistleblowers, Whistleblower Witnesses and Cooperating Perpetrator Witnesses, dated December 14, 2011, providing the following definitions

> A cooperating witness is a witness who is also a perpetrator of a criminal act who is willing to assist law enforcement officials to uncover a criminal act or the occurrence of a criminal act to return assets or the proceeds of a criminal act to the state by providing information to law enforcement officials and giving testimony in the judicial process.

In its development, the term Justice Collaborator is referred to as the term perpetrator witness as stipulated in Article 1 Number 2 of Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, amended by Law Number 31 of 2014, that the perpetrator witness is a suspect, defendant, or convicted person who collaborates with law enforcement to uncover a criminal act in the same case.

Then, regarding the term criminal act, according to Moeljatno, the term criminal act which comes from the term strafbaar in Dutch criminal law which is translated into a criminal act, is an act that is prohibited by a rule of law accompanied by a certain criminal sanction for anyone who violates the prohibition, or an act that is prohibited by a rule of law and threatened with criminal sanctions. [15]

The crime of murder is one of the types of criminal acts regulated in the Criminal Code, namely Chapter XIX crimes against life, where the main form of the crime of murder that results in the loss of a person's life is regulated in Article 338 of the Criminal Code, that whoever deliberately takes the life of another person, is threatened with murder with a maximum prison sentence of fifteen years.

Furthermore, the Criminal Code regulates the crime of premeditated murder as stipulated in Article 340 of the Criminal Code, that anyone who deliberately and with the intention in advance takes the life of another person, is threatened with premeditated murder, with the death penalty or life imprisonment or for a certain period of time, a maximum of twenty years.

Provisions on Justice Collaborator According to Positive Law in Indonesia

Provisions on Justice Collaborator in cases of corruption crimes as stipulated in Law Number 7 of 2006 concerning the Ratification of the United Nations Convention Against Corruption 2003 (United Nations Convention Against Corruption, 2003), Article 37 Cooperation with Law Enforcement Officials:

1. Each State Party shall take appropriate steps to encourage persons who participate in or have participated in the commission of a criminal offence defined in accordance with this Convention to provide useful information to the competent authorities for the purposes of investigation and evidence and to provide factual and specific assistance to the competent authorities that may contribute to the deprivation of the proceeds of the crime from the perpetrator and to recover the proceeds of the crime the crime;

[14] Lilik Mulyadi, *Perlindungan Hukum Whistleblower dan Justice CollaboratorDalam Upaya Penanggulangan Organized Crime di Indonesia,* Padjajaran Jurnal Ilmu Hukum, Volume 1, Nomor 3, Tahun 2014, Hlm 581.

[15] Moeljatno, *Asas-Asas Hukum Pidana,* Jakarta: Rineka Cipta, 2008, Hlm 60.

2. Each State Party shall consider providing the possibility, in appropriate cases, to commute the sentence of a defendant who renders substantial cooperation in the investigation or prosecution of a criminal offence defined in accordance with this Convention;
3. Each State Party shall consider providing the possibility, in accordance with the basic principles of its domestic law, to grant immunity from prosecution to a person who renders substantial cooperation in the investigation or prosecution of a criminal offence defined in accordance with this Convention.

Then, the provisions regarding Justice Collaborators in organized crime cases are regulated in Law Number 5 of 2009 concerning the ratification of the United Nations Convention Against Transnational Organized Crime, Article 26 states that:

(1) Each State Party shall take appropriate measures to encourage persons who participate in or who have participated in organized crime groups:
   (a) Provide useful information to the competent authorities for the purpose of investigation and proof of such matters as
      (i) The identity, nature, composition, structure, location or activities of organized criminal groups;
      (ii) Linkages, including international links to other organized crime groups;
      (iii) Criminal acts that have been and may be committed by groups of organized criminal perpetrators;
   (b) Provide factual, concrete assistance to the authorities that can help to deter organized criminal groups from their resources or from the proceeds of criminal acts.

(2) Each State Party shall consider opening up the possibility, in appropriate circumstances, of the reduction of sentences of accused persons who render meaningful cooperation in the investigation or prosecution of criminal acts covered by this Convention;

(3) Each State Party shall consider opening up the possibility, in accordance with the basic principles of its national law, of granting immunity from prosecution to a person who renders meaningful cooperation in the investigation or prosecution of a criminal offence covered by this Convention.

To provide guidelines in handling cases involving Justice Collaborators in court in certain criminal cases, the Supreme Court of the Republic of Indonesia issued Circular Letter of the Supreme Court of the Republic of Indonesia Number 4 of 2011 concerning the Treatment of Criminal Whistleblowers (Whitleblower) and Witnesses of Collaborators in Cases of Certain Crimes, where Point 9 that the guidelines for determining a person as a Justice Collaborator are:

a. The person concerned is one of the perpetrators of certain criminal acts as referred to in this SEMA, admits the crime he committed, is not the main perpetrator in the crime, and provides information as a witness in the judicial process;

b. The Public Prosecutor in his prosecution stated that the person concerned had provided very significant information and evidence so that the Investigator and/or the public prosecutor could effectively uncover the criminal act in question, expose other perpetrators who had a greater role and/or return the assets/proceeds of a criminal act.

Then, the provisions on Justice Collaborator are regulated in the Joint Regulation of the Minister of Law and Human Rights, the Attorney General, the National Police Chief, the KPK, the Chairman of LPSK on Protection for Whistleblowers, Whistleblowing Witnesses and Cooperating Perpetrator Witnesses, dated December 14, 2011, where Article 4 states that the requirements for obtaining protection as a Cooperating Perpetrator Witness are as follows:

a. The criminal act to be disclosed is a serious and/or organized crime;
b. Provide significant, relevant and reliable information to uncover a serious and/or organized crime;
c. Not the main perpetrator in the crime that he will reveal;
d. Willingness to return a certain amount of assets obtained from the criminal act in question, which is stated in a written statement; and
e. There is a real threat or concern about threats, pressure, both physical and psychological against the cooperating perpetrator's witnesses or their families if the criminal act is revealed according to the actual circumstances.

In its development, in 2014, the Government of Indonesia has ratified Law Number 31 of 2014 concerning Amendments to Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, where Article 10 states that:

(1) Witnesses, victims, witnesses of the perpetrator, and/or complainants cannot be prosecuted legally, both criminal or civil, for testimony and/or reports that they will, are or have given unless the testimony or report is given not in good faith;

(2) In the event that there is a lawsuit against the witness, victim, perpetrator witness, and/or the Complainant for testimony and/or report that will, is being, or has been given, the lawsuit must be postponed until the case he reported or he gave testimony has been decided by the court and has obtained permanent legal force.

From the descriptions mentioned above, the regulation of Justice Collaborator is a legal development that occurs in Indonesia in dealing with law enforcement practices in certain criminal cases such as corruption, non-criminal acts and other serious crimes with the aim of providing adequate legal means to law enforcement in uncovering criminal acts.

Judge's Consideration in Sentencing Justice Collaborator for the Crime of Premeditated Murder

Judge's Considerations in Sentencing Justice Collaborator for the Crime of Premeditated Murder

To examine the judge's consideration in imposing a verdict against the Justice Collaborator for the crime of premeditated murder, the author takes one of the cases of premeditated murder committed by Mr. Richard Eliezer Pudihang Lumiu who has obtained a South Jakarta District Court Decision Number 798/Pid.B/2022/PN.Jkt Sel dated February 15, 2023, where Mr. Richard Eliezer Pudihang Lumiu was tried at the South Jakarta District Court with a primary charge violating Article 340 of the Criminal Code Juncto Article 55 paragraph (1) 1st of the Criminal Code, Subsidair Article 338 of the Criminal Code Juncto Article 55 paragraph (1) 1 of the Criminal Code.

The case of premeditated murder committed by the defendant Mr. Richard Eliezer Pudihang Lumiu occurred on July 8, 2022, at Mr. Fredy Sambo's official house located at the Duren Tiga Police Complex Number 46 South Jakarta, where the defendant Mr. Richard Eliezer Pudihang Lumiu was ordered by Mr. Fredy Sambo to shoot the victim Mr. Nofriansyah Yosua Hutabarat when he was summoned to enter the official house. The reason Mr. Fredy Sambo ordered the defendant, Mr. Richard Eliezer Pudihang Lumiu, to shoot was because he did not accept the events that occurred at his house in Magelang, Central Java.

For his actions, Mr. Richard Eliezer Pudihang Lumiu underwent legal proceedings, where based on the facts revealed at the trial, the act of the defendant Mr. Richard Eliezer Pudihang Lumiu who shot the victim Mr. Nofriansyah Yosua Hutabarat had met the elements of the primary charge of violating Article 340 of the Criminal Code in conjunction with Article 55 paragraph (1) 1 of the Criminal Code, with the following elements, whose goods, the element with intention, the element with planning in advance, the element of taking the life of another, and the element that does, orders to do or participates in doing. [16]

The considerations of the Panel of Judges of the South Jakarta District Court in imposing a verdict against the Defendant Mr. Richard Eliezer Pudihang Lumiu are as follows:

1. Criminal acts disclosed by the defendant

   The panel of judges considered the application from the defendant's legal counsel Mr. Richard Eliezer Pudihang Lumiu to be appointed as a Justice Collaborator in accordance with the recommendation from LPSK dated January 11, 2023, where the panel of judges referred to the conditions listed in Number 9 letter a of SEMA Number 4 of 2011, including that a Justice Collaborator is one of certain criminal acts, such as corruption, terrorism, narcotics, money laundering, human trafficking, and other organized crimes.

   Then the panel of judges interpreted Article 28 paragraph (2) letter a of Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, amended by Law Number 31 of 2014, that LPSK's protection of perpetrator witnesses is given on the condition that the criminal act to be disclosed is a criminal act in a certain case in accordance with the decision of the LPSK as referred to in Article 5 paragraph (2). that one of certain criminal acts is another criminal act that results in the position of witnesses and victims being faced with situations that are very dangerous to their lives.

   Furthermore, the judge interpreted that Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, amended by Law Number 31 of 2014, had mandated the authority of LPSK to determine certain criminal acts, including criminal acts that resulted in the position of the witness being in a situation that was very dangerous to his life, where LPSK had given a recommendation on January 11, 2023 to the defendant Mr. Richard Eliezer Pudihang Lumiu, So that the criminal acts he faces can be categorized as certain criminal acts.

2. Not as the main actor

   The panel of judges considered the requirements for a criminal perpetrator to be designated as a Justice Collaborator as stipulated in Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, amended by Law Number 31 of 2014, where one of the conditions is not as the main perpetrator, where the provisions in the Criminal Code do not recognize the term main perpetrator in the criminal act of participation, and only know the term perpetrator, so that who is intended as the main perpetrator is handed over in judicial practice.

   Then the panel of judges considered the facts revealed in the trial, that the defendant Mr. Richard Eliezer Pudihang Lumiu was a person who participated in committing a criminal act with other perpetrators with their respective roles to eliminate the victim's life, where the role of the defendant Mr. Richard Eliezer Pudihang Lumiu was as the person who shot the victim, while the defendant Mr. Fredy Sambo was the originator of the idea (actor intelectual), designer and at the same time shot the victim, so that the main perpetrator was the defendant Mr. Fredy Sambo.

3. The role of the defendant in uncovering the crime

   The panel of judges considered that in the case of the crime of murder that resulted in the loss of the life of the victim Mr. Nofriansyah Yosua Hutabarat, there was a situation where a lot of evidence related to the case was not

[16] Diolah dari Putusan Pengadilan Negeri Jakarta Selatan Nomor 798/Pid.B/2022/PN. Jkt. Sel tanggal 15 Februari 2023, Hlm 384-396.

found, damaged, eliminated, replaced, plus involving many members of the National Police who obscured, engineered and misled so that the process of hearing the Police Professional Code of Ethics had been carried out and sanctioned within the police. and undergo criminal proceedings in court.

Then the panel of judges considered the facts revealed in the trial which showed that the defendant Mr. Richard Eliezer Pudihang Lumiu had brought to light the case of the murder that resulted in the loss of the life of the victim Mr. Nofriansyah Yosua Hutabarat, where the defendant Mr. Richard Eliezer Pudihang Lumiu gave honest, consistent, logical, and consistent testimony with other evidence so that it was very helpful in revealing This case, even though his testimony was very dangerous to his soul.

4. Letter of application from the friend of the court (Amicus Curiae)

   The panel of judges considered a letter from friends of the court (Amicus Curiae) from various parties, including the Institute For Criminal Justice Reform, the Alumni Association of the Faculty of Law, Trisaksi University, Farida Law Office, the Iluni FHAJ Advocacy Team, and the Alliance of Indonesian Academies, basically stating that honesty and courage are the key to justice for all, therefore begging that the honesty of the defendant Mr. Richard Eliezer Pudihang Lumiu get an award as appropriate from the judiciary.

   Then the panel of judges considered Article 5 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, that the panel of judges would not close its eyes and feel pressured in relation to the letter from the court's friend (Amicus Curiae) in the case of the defendant Mr. Richard Eliezer Pudihang Lumiu, but on the contrary, the panel of judges viewed it as a form of love for the nation and state, Especially in law enforcement that presents the expectations of the wider community to convey justice to be upheld.

5. The existence of repentance from the defendant

   The panel of judges considered the facts revealed in the trial, where the defendant Mr. Richard Eliezer Pudihang Lumiu had known that the act he had done was very evil, then the defendant Mr. Richard Eliezer Pudihang Lumiu realized, regretted and apologized to the family of the victim Mr. Nofriansyah Yosua Hutabarat, then the defendant Mr. Richard Eliezer Pudihang Lumiu turned 180 degrees and actually leaned forward, Correcting mistakes even though they have to go through a steep and risky path to uncover the truth.

6. Burdensome and mitigating matters

   The panel of judges considered incriminating matters, namely the intimate relationship with the victim was not appreciated by the defendant, so that the victim finally died. Meanwhile, the mitigating factors are that the defendant is a Justice collaborator, the defendant behaves politely at trial, the defendant has never been convicted, the young defendant is expected to be able to correct his actions in the future, the defendant regrets his actions and promises not to repeat them, and the victim's family Nofriansyah Yosua Hutabarat has forgiven the defendant's actions. (South Jakarta District Court, 2023).

Then, the defendant Mr. Richard Eliezer Pudihang Lumiu received a South Jakarta District Court Decision Number 798/Pid.B/2022/PN. Jkt. Sel dated February 15, 2023, as follows:

1. Declare that the defendant Mr. Richard Eliezer Pudihang Lumiu is legally and convincingly proven guilty of committing a criminal act, participating in premeditated murder;
2. Sentence the defendant Mr. Richard Eliezer Pudihang Lumiu to imprisonment for 1 (one) year and 6 (six) months;
3. Stipulate that the arrest and length of detention period that the defendant has served are deducted entirely from the sentence imposed;
4. Stipulate that the defendant remains in custody;
5. Designating the defendant as a Collaborating Perpetrator Witness (Justice Collaborator).

From the description of the considerations and decisions of the panel of judges mentioned above, according to the author, the determination of the defendant Mr. Richard Eliezer Pudihang Lumiu as a Justice collaborator has met the specified conditions, considering from the information he provided, so that the case of the crime of premeditated murder that resulted in the loss of the victim's life Mr. Nofriansyah Yosua Hutabarat was revealed, where the imposition of sanctions was in the form of 1 (one) year and 6 (six) months to defendant Mr. Richard Eliezer Pudihang Lumiu is an award for the information that has been given in uncovering the crime.

IV. CONCLUSION

Based on the description of the previous discussion, it can be concluded that, First, the provisions on Justice Collaborators according to positive law in Indonesia are regulated in several laws, namely in cases of corruption crimes regulated in Law Number 7 of 2006 concerning the Ratification of the United Nations Convention Against Corruption 2003, in cases of organized crime are regulated in Law Number 5 of 2009 concerning the ratification of the United Nations Convention Against Transnational Organized Crime, and in certain criminal acts regulated in Law Number 13 of 2006 concerning the Protection of Witnesses and Victims, was amended by Law Number 31 of 2014, where the provisions in the law basically that Justice Collaborators are perpetrators of criminal

acts who cooperate with law enforcement officials by providing information or other evidence so that law enforcement officials can reveal other perpetrators and criminal acts that occur with maximum. Second, the judge's consideration in passing a verdict against the Justice Collaborator for the crime of premeditated murder in the case of the South Jakarta District Court Decision Number 798/Pid.B/2022/PN.Jkt Sel dated February 15, 2023, even though the actions of the defendant Mr. Richard Eliezer Pudihang Lumiu were proven to have participated in the shooting of the victim Mr. Nofriansyah Yosua Hutabarat as a subsidiary indictment, namely Article 340 of the Criminal Code Juncto Article 55 paragraph (1) 1 of the Criminal Code, in the form of an act, but the panel of judges considered that the defendant Mr. Richard Eliezer Pudihang Lumiu could be designated as a Justice Collaborator who uncovered the crime of murder that resulted in the loss of the life of the victim Mr. Nofriansyah Yosua Hutabarat, because the crime was included in the category of certain criminal acts, the defendant was not the main perpetrator, the role of the defendant in uncovering the criminal act, the existence of a letter of request from a friend of the court, and the attitude of repentance of the defendant. Suggestions that can be given, First, I hope that the legislature and the Indonesian government can make provisions on Justice Collaborators in other general criminal cases, with the main condition being significant cooperation in uncovering other main perpetrators so that the handling of cases becomes optimal. Second, the law enforcement who handles Justice Collaborator cases from the stage of investigation, prosecution and examination in court, can provide special handling to Justice Collaborators who have contributed substantially to uncovering criminal acts.

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