

Review of Obstruction of Justice Perpetrators in Premeditated Murder Cases

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KEYWORDS

Criminal Liability,
Perpetrators of
obstruction of justice,
Substantive Justice

ABSTRACT

Criminal responsibility is a reprehensible act by society that must be accounted to its maker for the actions committed. The problem in this study is how criminal accountability for perpetrators of obstruction of justice in premeditated murder cases and whether the sentences given to perpetrators have fulfilled the sense of substantive justice for the community (Review of Verdict Number: 806 / Pid, Sus / 2022 / PN Jkt Sel). The research method uses a normative juridical approach, the data used are secondary. The study conducted is a literature study. The resource person in this study is a Criminal Lecturer at the Faculty of Law, University of Lampung. This study aims to see in depth how criminal responsibility for perpetrators of criminal acts of persecution and whether the verdict given has fulfilled the sense of justice for the community, therefore the approach taken in this study is normative. Based on the results of research and discussion, it can be concluded that after listening to witness statements and legal facts at the trial and based on the judge's consideration, the defendant was sentenced to imprisonment for 10 (ten) months and a fine of Rp. 10,000,000 (ten million rupiah), because the elements have been legally and convincingly proven. In addition, Judgment No.: 806/Pid. Sus/2022/PN Jkt Sel has fulfilled the substantive sense of justice as the panel of judges has carefully considered and decided to issue this ruling.

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1. Introduction

Evil has been known since the existence of human civilization. The higher the civilization, the more rules and more violations. It is often said that crime is *a shadow of civilization* (Emilia Susanti, 2018). Society has experienced developments that can give rise to crimes that must be faced by the government and society. Evil is behavior that deviates from the provisions of criminal law. Crime does not matter whether the level of morality and decency of an act is not a crime unless it is prohibited by

criminal law (Lamintang, 2017). Crime from a legal point of view is any human behavior that violates the rules of criminal law. An act is considered not a crime if it is not prohibited in the criminal law. According to Cicero, a Roman jurist once said "Where there is a society there is law, *ubi societas ibi ius*." That is, it can be stated that where there is law there is or was once a society (Irmansyah, 2013). Norms as a system will be able to play a good role in society if the implementation instrument is equipped with authority in the field of law enforcement (Friedman, 1975). In the field of law enforcement, the police is one of the government institutions that has an important role in the rule of law. In a legal state, legal life is largely determined by structural factors or legal institutions in addition to other factors, such as legal substance factors and legal culture factors (Sadjijono, 2008). From the meaning of the word above, it is clear that the police are law enforcers, protectors, as protectors and guides of the community, especially in the context of compliance and obedience to applicable laws such as criminal law.

Criminal law is a legal rule that binds an act that meets certain conditions, a consequence in the form of a crime, which includes two main legal rules governing actions that meet certain conditions. It means that to be said to be a criminal offense, certain acts must meet the elements of criminal liability. Then this crime is necessary in criminal law. The goal is to be a means of general and special prevention for community members so as not to violate criminal law.

Criminal liability is one part of criminal law in addition to criminal, criminal, and criminal acts. Criminal responsibility is important in criminal punishment because there is no criminal meaning to be threatened against someone who commits a crime if the person who committed it is not held criminally responsible. Criminal liability is based on the principle of guilt, meaning that there is no crime without guilt, so there needs to be rules and processes to find the truth of events that occur in a criminal act (Lewokeda, 2018).

Rules are necessary to guard and prevent humans from chaos and to provide a sense of security. Therefore, it is necessary to resolve a problem regulated in Indonesian law including the investigation process to find the truth about the problem that occurs. Investigation is a process or activity carried out by law enforcement the police to find and collect evidence in the first stage to be convicted. Investigation actions are regulated in Article 1 Paragraph 1 of the Code of Criminal Procedure (KUHP) *jo* Article 6 Paragraph 1 and Article 1 Paragraph 2.

The investigation is a series of investigator actions to find and find an event that is suspected to be a criminal act to determine whether or not an investigation can be carried out. Normatively, the act of obstructing the judicial process and complicating investigations and investigations has been regulated in many regulations both in the Criminal Code and special criminal laws, and the crime is said to be an act of *obstruction of justice* (Mardhatilla, 2023). *Obstruction of Justice* is an act that obstructs the judicial process which is an act of someone who obstructs the legal process and disrupts the proper function of a judicial process. Obstruction of legal proceedings is a criminal act because it will hinder law enforcement and damage the image of law enforcement agencies.

The regulation of *obstruction of justice* in the Criminal Code of the many articles that can be analogous to an act of *obstruction of justice*, there is only one article that clearly states the element of purpose to obstruct or complicate the examination and investigation as well as to the prosecution as contained in Article 221 Paragraph (1) 1st and 2nd (Shinta Agustina dan Saldri Isra, 2015). It is affirmed in Article 221 Paragraph (1) 1 of the Criminal Code that;

"Everyone who commits an act of obstruction of the legal process

convicted and threatened with imprisonment for a maximum of nine months or a maximum fine of four thousand five hundred rupiah".

The implementation of the provisions of Article 221 of the Criminal Code is considered unattainable in various forms of acts so it is determined as a crime of obstruction of justice the crime of this article is very light, one of the obstacles that often arises is the level of resistance from law enforcement officials and stakeholders who provide actions that can slow down and will certainly hinder all judicial processes against applicable legal provisions.

Along with the development of the times, crimes that occur are increasingly rampant among the community, including murder, persecution, and obscenity, of course, this cannot be denied its existence as it is rumored that there are law enforcers who commit premeditated murder.

The criminal act of murder is one form of crime that appears in a person's soul where the act is contrary to the norms and laws that exist in society including religious norms, customary legal norms, and norms of criminal provisions and human rights to life (Simbolon, Simarmata, & Rahmayanti, 2019). As R. Soesilo argues in his book says that "premeditated murder is a murder that is carried out premeditatedly in the sense that between the emergence of the intention to kill and its execution, there is still time for the perpetrator to think about it calmly".

The difference between murder and premeditated murder is that the execution of the murder referred to in Article 338 is carried out immediately at the time of intention, while premeditated murder is suspended after the intention arises to arrange a plan for how the murder will be carried out (Roeslan Saleh, 1981). The appropriate punishment for perpetrators of premeditated murder is the death penalty, the toughest sanction applicable in a regulation. The provisions of laws and regulations contained in the Criminal Code (KUHP) regulate one of the crimes of murder contained in Articles 338 to Article 350.

As was found in the case of *Obstruction Of Justice* against premeditated murder as in the case of the position used by the researcher in this study through case decision number Number 806/Pid.Sus/2022/PN.Jkt Sel that the defendant Arif Rachman Arifin, S.IK., M.H together with witness Ferdy Sambo, witness Hendra Kurniawan, witness Chuck Putranto, witness Baiquni Wibowo, witness Agus and witness Irfan Widyanto, located at the Security Post of the Duren Tiga Police Housing Complex, South Jakarta, those who participated in committing acts intentionally and without rights or against the law by taking actions that resulted in disruption of the electronic system and resulted in the electronic system not working properly.

The defendant Arif Rachman was contacted by Hendra Kurniawan asking the defendant to meet the South Jakarta Police investigators with the intention that the South Jakarta Police investigators create a special folder storing the files of Princess Chandrawati's alleged abuse which was a fabricated thing. Then, the defendant conveyed instructions from witnesses Hendra Kurniawan and Ferdy Sambo so that they would not be spread anywhere.

After witness Baiquni Wibowo returned to the Duren Tiga complex with his CCTV copy, the defendant said "Weren't we told to see and copy it?" when watching the CCTV footage with the defendant, witnesses Baiquni, Ridwan, and Chuck turned out Brigadier Yoshua was still alive. In shock condition, the defendant contacted witness Hendra Kurniawan and told him the truth and then reported it back to Ferdy Sambo, but he still wanted to feel right, and finally, Ferdy Sambo asked the defendant to delete and destroy the file. Then the defendant deliberately broke the laptop and into several pieces resulting in the electronic system not working.

Defendant Arif Rachman committed the act because of the influence and pressure derived from Ferdy Sambo's emotions. Thus, Ferdy Sambo's words caused the defendant to have free will to refute and go against his orders, which according to criminal expert Prof. DR. Nur Basuki the condition of the defendant was categorized as *a Psychic Overmacht* (SUHADA, 2018). The definition of *overmatch* by the framer of the law has been regulated in Article 48 of the Criminal Code (KUHP) and cannot be punished by whoever has done something under the influence of a compelling circumstance (Tahir, 2018).

Based on the decision of the judge of the South Jakarta District Court with case number 806/Pid.sus/2022/PN. Jkt Sel judge ruled that the defendant was sentenced to Article 48 to Article 32 of Law of the Republic of Indonesia number 19 of 2016 Amendments to Law number 11 of 2006 concerning Information and Electronic Transactions *jo* Article 55 Paragraph (1) 1 of the Criminal Code and sentenced to imprisonment for 10 (ten) months and a fine of Rp10,000,000.00 (Ten Million Rupiah) which was proven to legally meet the elements of "Those who do, who ordered to do or who participated in the act and intentionally and unlawfully in any way damaged any electronic information belonging to another person or the public."

Based on the chronology of the case above and the facts of the trial, it must be proven that there is an element of guilt, therefore it is necessary to elaborate on the matters that are considered by the panel of judges using the theory of criminal responsibility to clearly describe and prove the perpetrators of *obstruction of justice* as stipulated in article 221 of the Criminal Code. Therefore, there is a need for a theory of criminal liability to describe what makes the judge's consideration in deciding this case.

In this latest analysis, the main focus is to examine in depth how criminal accountability for perpetrators of criminal acts obstruction of justice, as well as whether the verdict given to perpetrators has fulfilled a substantive sense of justice for society. This analysis takes a normative approach by considering the results of previous research and discussions as well as Court rulings in cases spelled out in previous studies.

This research makes a new contribution to the understanding of criminal liability of obstruction of justice perpetrators in premeditated murder cases. The results of this analysis can be used as a basis for developing more effective legal policies in handling similar cases in the future. In addition, this study can also be a reference for further research involving other aspects related to justice in the criminal justice system.

Based on the background that the author has described. So, the author is interested in conducting research entitled "Analysis of Criminal Responsibility for Perpetrators of *Obstruction Of Justice* in Premeditated Murder Cases (Study of Decision Number 806/Pid.Sus/2022/PN. JKT CELL.) The purpose of this study is to determine the criminal responsibility for perpetrators of *obstruction of justice* in cases of murder and to find out the sense of substantive justice in perpetrators of *obstruction of justice* in Decision number 806/Pid.Sus/2022/PN JKT SEL. The results of this research are expected to be able to increase knowledge, as well as enrich studies in criminal responsibility for perpetrators who obstruct the judicial process (*Obstruction Of Justice*) in cases of murder

2. Materials and Methods

The problem approach used by the author in this study is the normative juridical approach method. The normative juridical approach is intended to gain an understanding of the clear subject

matter of the symptoms and objects being studied which are theoretical in nature based on literature and literature related to the problems to be discussed in criminal cases of damaging electronic systems or making electronic systems malfunction in Decision Number 806/Pid.Sus/2022/PN. JKT. Cell. Sources The legal materials used by the author in this study are as follows: Secondary data consists of 3 (three) legal materials, namely primary legal materials, namely binding legal materials, secondary legal materials are legal materials that explain primary legal materials which include literature, papers, and others that have relevance to the problem to be studied such as the South Jakarta District Court Decision Number: 806/Pid.Sus/2022/PN. JKT. Cell.

3. Result and Discussion

A. Criminal Responsibility of Obstruction of Justice Perpetrators in Premeditated Murder Cases in Decision Number 806/Pid.Sus/2022/PN. jkt cell

Criminal responsibility is a mechanism to determine whether the defendant is responsible for a criminal act that occurred or not. In an unlawful offense the law is not sufficient to punish in addition to unlawful acts there must be a maker who is responsible for his actions and must be proven guilty of the criminal act committed. Criminal liability is a criminal sanction to the perpetrator or maker (Chairul Huda, 2011).

According to Roeslan Saleh, being accountable to someone in criminal law not only means that it is lawful to impose a crime against another person but also it is fully reliable that it is in his place to hold him accountable for the criminal acts he committed. Criminal liability is a form that is criminally accountable to someone who commits a criminal act or criminal act, for criminal liability must be clearer in advance who will be accounted for. Related to the case in Decision Number 806/Pid.Sus/2022/PN Jkt Sel that the defendant Arif Rachman Arifin, S.IK., M.H together with witness Ferdy Sambo, witness Hendra Kurniawan, witness Chuck Putranto, witness Baiquni Wibowo, witness Agus and witness Irfan Widyanto, located at the Security Post of the Duren Tiga Police housing complex in South Jakarta they participated in acts intentionally and without rights or against the law by committing actions that resulted in disruption of the system electronics and cause the electronic system to not work properly. This means that the defendant Arif Rachman has committed acts of *obstruction of justice* and investigation.

Based on the Decision of case No. 806/Pid. Sus/2022/PN Jkt Sel Before the defendant Arif Rachman committed an act of *obstruction of justice*, the defendant was contacted by Hendra Kurniawan, asking the defendant to meet the South Jakarta Police investigator with the intention that the South Jakarta Police investigator made a special folder storing the file of Princess Chandrawati's alleged abuse, which was a fabricated thing. After witness Baiquni Wibowo returned to the complex with his CCTV copy the defendant said "Weren't we told to see and copy it?" when watching the CCTV footage with the defendant, witnesses Baiquni, Ridwan, and Chuck turned out Brigadier Yoshua was still alive. In shock condition, the defendant contacted witness Hendra Kurniawan and told him the truth and then reported it back to Ferdy Sambo, but he still wanted to feel right, and finally, Ferdy Sambo asked the defendant to delete and destroy the file. Then the defendant deliberately broke the laptop and became several pieces resulting in the electronic system not working. Defendant Arif Rachman committed the act because of the influence and pressure derived from Ferdy Sambo's emotions. Thus, Ferdy Sambo's words caused the defendant to have free will to refute and go against his orders.

Prosecutor Arif Rachman was charged by the prosecutor general with the first and second indictments. Here's a table of indictments given by the prosecutor general to defendant Arif Rachman:

Table 1. The Public Prosecutor's indictment against the defendant Arif Rachman in decision number 806/PID. Sus/2022/ PN Jkt Cell

First Claim:		Second Indictment:
Primair:	Violating Article 49 to Article 33 of the ITE Law <i>jo</i> Article 55 Paragraph (1) 1st of the Criminal Code	Violating Article 233 <i>jo</i> Article 55 Paragraph (1) 1 of the Criminal Code
Subsidiary:	Melinggar Pital 48 <i>Jo</i> Pital 32 verse (1) Yu and <i>Jo</i> Pital 55 verse (1) K-1 Kohp	Violating Article 221 Verse (1) 2nd <i>Chapter</i> 55 Verse (1) 1st LETTER

Source: Data obtained by the author based on Decision Number 806/Pid. Sus/2022/PN Jkt Sel

The judge decided the case with the first charge of subsidair which proved that the defendant in judgment number 806/Pid. Sus/2022/PN. Jkt Sel was proven to have committed unlawful acts that violated Article 48 *jo* Article 32 of Law of the Republic of Indonesia number 19 of 2016 Amendments to Law number 11 of 2006 concerning Electronic Information and Transactions *jo* Article 55 Paragraph (1) 1 of the Criminal Code with imprisonment for 10 (ten) months and a fine of Rp10,000,000 (ten million rupiah).

According to Erna Dewi, criminal awards against defendants who commit acts of *obstruction of justice* in this case should not be given imprisonment because the defendant committed the act on the orders of his superior position and the defendant felt pressure obtained from Ferdy Sambo's orders. Related to proving that the defendant is wrong or not, if studied with the theory of criminal responsibility, the defendant Arif Rachman who committed the act should be included in the justification because of an order from an authorized official, pressure and previously the defendant did not know the facts of the contents of CCTV.

The author analyzes that the criminal provision of perpetrators who commit acts (*Obstruction Of Justice*) in terms of making the electronic system not work has not been by applicable rules because based on the case of the above position the defendant is ordered by his superior who has the position of authority not to divulge and the defendant feels afraid and based on the theory of criminal responsibility the defendant feels a error in the facts that have been seen because in the original CCTV footage depicted that the victim was alive. Therefore, in the opinion of Chairul Huda, to be convicted of someone, a theory of criminal responsibility is needed to describe what makes the judge's consideration in deciding this case.

1. Elements of Criminal Accountability

Discussing criminal responsibility for perpetrators of criminal acts, *obstruction of justice*, or *obstruction of justice*, will not be separated from a suspect and defendant who must be held accountable for their actions. In this case, according to Martiman Prodjhamidjo, criminal responsibility has conditions for a person to be held criminally responsible, namely:

1. There is an unlawful act in the form of a mistake
2. The ability to take responsibility for the fault make
3. The absence of excuses that erase mistakes and forgiving reasons

The criminal responsibility system is a form of action for criminal offenders for mistakes they have committed. So that criminal liability occurs as a result of a mistake which is a criminal act committed by a person or several people and the act has a governing rule (Hamzah Hatrik, 1996).

A person who commits a criminal act will only be punished if he is legally and convincingly proven to have committed a mistake for his act. For this reason, holding the defendant accountable for his actions must meet the elements of criminal liability (Hakim, 2020).

Based on decision No. 806/Pid.Sus/2022/PN. Jkt Cell AKBP. Arif Rachman Arifin S.I.K., M.H. is the perpetrator who obstructed the judicial process when he damaged the CCTV DVR footage of Brigadier Joshua's murder by deliberately breaking the storage of the recording file on the laptop he was carrying. Arif Rachman can be held accountable for his actions if he meets the requirements of criminal liability. Thus to determine whether a person can be convicted, a person must meet the conditions of criminal liability namely:

a. There is an element of unlawful acts in the form of errors;

The element of action is the main element in criminal liability because a person cannot be convicted if he does not commit an act prohibited by law by the principle of legality. The act is manifested because of an error in acting from oneself which can then arise from intentionality or negligence.

Guilt is an element of criminal events or criminal acts between which both have a relationship with each other. Guilt is considered if, there is an inner relationship between the maker and his actions intentionally or due to negligence has committed acts that cause circumstances or consequences prohibited by criminal law and are carried out responsibly (Amir Ilyas, 2012).

The second requirement for criminal responsibility is that there is an inner relationship between the perpetrator and the criminal act which is a form of guilt, namely in the form of intentionality (*dolus*) or negligence (*culpa*). In carrying out his actions to cause disruption of the electronic system or cause the electronic system to not work, there is a purpose or purpose to follow the scenario made by his superior, namely Ferdy Sambo, to delete and destroy all CCTV recording files around Ferdy Sambo's official house.

The element of intentionality consists of two, namely the element of wanting and knowing, in this case, Arif Rachman knows that this ferdy sambo command contains elements of lies to mature and strengthen the scenario, and Arif Rachman wants consciously to do laptop maintenance intentionally after receiving from Baiquni. Based on the facts revealed in the trial, the defendant Arif Rachman broke the laptop with both hands into several pieces and then put it in a *paperbag* and placed it in the front seat of the defendant's car.

Defendant Arif Rachman committed his act because it was heard that his superior's order was not to divulge or disclose the facts that occurred when he had seen the recording with his colleague as well so the defendant did this to make the electronic system not work properly.

Arif Rachman committed the act of obstructing the judicial process because he felt there was pressure felt from Ferdy Sambo's words and emotions that forced him to cover up his lies by deleting all CCTV footage, and arranging checks at investigators so that the scenario created could work. The person ordered by Ferdy Sambo carried out a criminal act that made all electronic systems not work and the accused deliberately broke the laptop containing CCTV recording files.

According to Erna Dewi, unlawful acts in the form of mistakes can be proven by intentional mistakes or derived from negligence on the part of the perpetrator. An intentional occurrence may

occur due to a misunderstanding or error. A person can do it intentionally because of a mistake caused by an error made unintentionally that points to one of the elements of a criminal act, the existence of legal or fact errors *and errors in persona*, namely errors about the person who wants to be the goal of a criminal act.

The author analyzes that the defendant Arif Rachman in committing his act, namely by breaking a laptop whose contents were copied by CCTV files, had fulfilled the elements of unlawful acts in the form of intentional purposes and had errors in the facts before. If the defendant Arif Rachman has known and has a will for the consequences that will or may occur, then in this case what the defendant did was proven to have committed an unlawful act that violated Article 48 to Article 32 of the ITE Law *jo* Article 55 Paragraph (1) 1 of the Criminal Code "regarding the criminal act of making the electronic system not work and damaging an electronic information belonging to other people or the public" and has violated the provisions on Perkap No. 14 of 2011 by ordering South Jakarta Police investigators to equate BAP with BAP on witness Bharada E, follow the autopsy process and delete CCTV footage.

b. There is the ability to be responsible for the maker;

A person can be said to be able to be responsible if the person does not meet the conditions of being unable to be responsible contained in Article 44 of the Criminal Code. A person can take responsibility if he realizes or knows that the actions he has committed are against the law, but the person still commits prohibited acts.

A person is said to be able to take responsibility when viewed from (Tongat, 2013):

- 1) The normal or healthy state of the soul and the inner state of a person, not in a state of mental defect in his growth so that his intellect becomes less perfect to distinguish between good and bad. In this case, the defendant Arif Rachman is not defective in himself and the defendant's condition is physically and spiritually healthy so that because he can distinguish between good and bad, the perpetrator can be responsible for the actions he committed.
- 2) The ability of his soul to be able to realize the nature of his actions, can determine his will for those actions. In destroying 20 CCTV footage of the murder, Brigadier Joshua has determined his own will with his consciousness, namely by breaking a laptop containing CCTV recording files.

The author analyzes that in this case, the defendant Arif Rachman has fulfilled the element of the ability to be responsible. Defendants can be held accountable because when questioned in court the defendant answers all questions asked by judges, prosecutors, and legal counsel by what is questioned like a normal person, as well as physically.

c. the absence of a reason that erases the error or a forgiving reason;

Not everyone who commits a criminal offense can be punished, this is related to forgiving reasons and justifying reasons. The excuse of forgiveness or the reason for removal of guilt concerns the person of the maker in the sense that this person cannot be reproached (according to law) and the act committed by the accused remains unlawful and remains a criminal offense but he is not convicted because there is no wrongdoing (Sitorus, 2020).

The reasons for forgiveness contained in the Criminal Code are Article 44 of the Criminal Code, Article 49 Paragraph (2) of the Criminal Code, and Article 51 Paragraph (2) of the Criminal Code. A justifying reason is a reason that can eliminate the unlawful nature of the deed. So that what is done by the maker then becomes an action that can be said to be appropriate and right. The justification

reasons are contained in Article 49 Paragraph (1) of the Criminal Code, Article 50, and Article 51 Paragraph (1) of the Criminal Code (Putra, 2022).

According to Erna Dewi, the reason that negates the criminal or forgiving is something that causes the applicable provisions in the criminal law not to be applied to a person accused of a criminal offense for reasons of criminal removal and forgiveness is a reason that has committed a criminal act can not be punished as evidenced by supporting articles for criminal removal reasons and forgiving reasons.

The author analyzes that the defendant can be said to have not fulfilled the excuse of forgiveness because in his person the defendant has no defects in growth or is disturbed by other diseases. And what the defendant Arif Rachman did is not included in the justification that erases the unlawful nature of a criminal act. So the actions of the defendant Arif Rachman could not fulfill the justification or forgiving reasons.

2. Criminal Provisions Against Criminal Acts Obstructing the Judicial Process by committing unlawful acts by damaging electronic information belonging to other people or the public

Criminal law arrangements based on cases to be investigated, namely regarding the act of *obstruction of justice*, are regulated in the Criminal Code, especially in Article 221 of the Criminal Code and Article 48 to Article 32 of the Law of the Republic of Indonesia number 19 of 2016 Amendments to Law number 11 of 2006 concerning Electronic Information and Transactions *jo* Article 55 Paragraph (1) 1 of the Criminal Code.

Before further explaining the analysis of the formulation of elements in the case of perpetrators of *obstruction of justice* in the case of premeditated murder in Decision Number 806 / Pid. Sus/2022/PN Jkt Sel, then the author will compile the elements proven in the case of Decision Number 806/Pid. Sus/2022/PN Jkt Sel, the following is a table of proving elements from the results of the formulation of element analysis in Article 48 *jo* 32 of the ITE Law *jo* Article 55 Paragraph (1) 1 of the Criminal Code, namely:

Table 2. Analysis of the Formulation of Elements in Article 48 to Article 32 of the ITE Law *jo* Article 55 Paragraph (1) 1 of the Criminal Code in Decision Number 806/Pid. Sus/2022/PN Jkt Sel.

Formulation of Article Elements	Analysis of the Formulation of Article Elements Based on the Facts Revealed at the Trial	
	Fulfilled	Unfulfilled
Elements of Everyone	✓	-
Elements of those who commit, who command to do, or who participate in acts	✓	-
Elements intentionally and without rights or against the law in any way alter, add, subtract, transmit, damage, eliminate, move, hide electronic information and/or electronic document belonging to another person or public property	✓	-

Source: Data processed by the author based on facts revealed at the trial in the judgment.

Based on Judgment No. 806/Pid. Sus/2022/PN Jkt Sel The panel of judges considered and argued that it could not accept the defendant's statement of defense, in essence, the defendant was carrying out the order of office from Ferdy Sambo with the following considerations;

1. Ferdy Sambo's (FS) order is not a position order because the order was not followed up with official procedures in force at the National Police Institution;
2. The FS order can be seen to be negative in nature with the restoration of the words "erase and break" whereas at that time the defendant admits to being in a state of doubt and uncertainty about the events that are taking place and are facing the defendant namely the exchange of fire;
3. So that in this uncertain situation and with the negative orders, as a law enforcement officer the accused should have the firmness and initiative to refuse to carry out the FS order and the accused should also examine all the series of events that were behind and occurred because of the shootout between Brigadier Joshua and Bharada Richard Eilezer.

Based on Judgment No. 806/Pid. Sus/2022/PN Jkt The panel of judges obtained convictions from a series of considerations of legal facts in the trial, namely;

1. The footage or display of the CCTV DVR recording on Wednesday, July 13, 2022, at 02.00 was watched together by the defendant, witness Baiquni Wibowo, and witness Chuck Putranto through a *Microsoft Surface-branded laptop* owned by witness Baiquni Wibowo a copy of a video file originating from a Glens branded CCTV DVR which was originally inside the security guard post of the Duren Tiga Police complex in South Jakarta;
2. The defendant had a very long time to think about and consider refusing or not carrying out the FS order but the defendant preferred to follow and carry out Ferdy Sambo's order
3. The defendant had deliberately realized that the act of breaking the laptop belonging to witness Baiquni Wibowo would result in electronic information in this case the CCTV DVR video recording at the security guard post of the duren tiga complex in South Jakarta being damaged inaccessible or used, especially in connection with the shooting of Brigadier Joshua;
4. Electronic information in the form of video recordings showing Brigadier Joshua was still alive when FS came to the official house that FS in the Duren Tiga Police complex in South Jakarta was public because it came from CCTV DVRs which belonged to residents of the Duren Tiga Police complex, South Jakarta.

Derived from all the elements of the criminal act contained in the first indictment of water subsidies have been fulfilled, the panel of judges is therefore of the opinion that the defendant must be declared legally and conclusively guilty of committing the crime of "intentionally and unlawfully in any way damaging an electronic information belonging to the public done jointly".

Elements of criminal responsibility for perpetrators of *obstruction of justice* in cases of premeditated murder (Decision No. 806. Pid. Sus/2022/PN. Jkt Sel) has been fulfilled and proven to have committed wrongdoing and willful lawfully and convincingly "Intentionally and unlawfully in any way damaging an electronic information belonging to the public done jointly" and the accused can be held criminally liable as the defendant's actions are stipulated in Article 48 to Article 32 of Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2006 concerning Electronic Information and Transactions *jo* Article 55 Paragraph (1) 1 of the Criminal Code.

B. Substantive Justice in the Criminal Act of *Obstruction Of Justice* in the Case of Premeditated Murder in Judgment Number 806/Pid. Sus/2022/PN. jkt cell

Judges as the main actors in the court will exercise their judicial power to enforce the law as mandated by the constitution, namely in Article 24 paragraph (1) of the 1945 Constitution which states that "judicial power is an independent power to administer justice to uphold law and justice".

Adjudicating a case, the judge first adheres to the views of legal responsiveness and progressiveness and will dare to make antitheses to the enforceability and sound of the rules in the law. A judge is a state judicial official who is authorized by law to try a case before him and has a clear aim to create a sense of substantive justice (Santoso, 2012).

Substantive justice can be interpreted as justice rendered by the substantive rules of law of the plaintiff or applicant. This means that what is formally procedurally correct can be blamed materially as well as in substance for violating justice. Conversely, what is formally wrong can be justified if it is materially and substantially fair (judges can tolerate procedural offenses as long as they do not violate the substance of justice but substantive justice does not mean judges should always ignore the content of the law. But substantive justice means that judges can ignore laws that do not provide a sense of justice but must be guided by formal procedural laws that are already valid, and provide a sense of justice while ensuring legal certainty.

According to the theory of substantive justice, justice is the integrity of the value of a policy or decision that has been, is, and always been implemented to be achieved promptly and all problems faced can be resolved, therefore the concept of justice is values that have been harmonized (Nuryadi & Sh, 2016).

Satjipto said that justice is not only in articles and laws but should be sought more in aspects of people's lives. As for the Constitutional Court (MK), substantive justice should not be interpreted in black and white as the obligation to make a verdict that always comes out of law. Substantive justice must be interpreted by understanding and feeling the sense of justice in society, but at the same time can apply the provisions of the law as long as the provisions in the law are considered fair.

According to Erna Dewi, substantive justice is justice related to the judge's decision in examining, deciding, and trying a case based on considerations of rationality, honesty, objectivity, impartiality, without discrimination, and based on the judge's conscience beliefs. There is no standard rule to assess whether a judge's decision contains substantive justice or not (Nuryadi & Sh, 2016). According to the author's analysis, substantive justice is when what is required by the law is then synchronized with the juridical facts in the trial and can be implemented in the decision of case No. 806/Pid. Sus/2022/PN Jkt Sel.

Justice is one of the goals of any legal system it is the most important goal. There are still other legal objectives that have always been the foundation of law, namely legal certainty, expediency, and order. Besides the purpose of law justice can also be seen from a value (*value*). For a good human life, there are four foundations, namely;

1. Justice;
2. Truth;
3. Law; and
4. Moral (Fuady & Kritis, 2003).

Regarding justice with rights and obligations, the rights that a person has, including human rights must be needed fairly. The rights and associated obligations are vested in a person entitled to

receive them. Therefore, the law based on trustworthiness must be applied fairly without being followed by hatred and negative traits. The author adds that justice has a relative concept, everyone is not equal, and fair according to one is not necessarily fair according to the other.

Justice has an unformed and invisible nature, but its implementation can be seen in the view of seeking justice. Law and justice are very closely related, law must be harmonized with justice to be truly meaningful as a law because the purpose of law is to achieve a sense of justice, then law without justice will be useless so the law can be said to be no longer valuable to the views of society.

The purpose of a process before the court is to obtain a judge's decision. The judge's decision commonly referred to as a court decision is something that is highly desired or awaited by the parties concerned to resolve disputes between them as well as possible. Because of the judge's decision, the disputing parties hope for legal certainty and justice in the cases they face.

According to the Judicial Power Law, the judge's consideration is the judge's thoughts or opinions in handing down a decision by looking at things that can relieve or incriminate the perpetrator. Each judge must submit a written consideration or opinion on the decision.

The freedom of judges contextually has 3 (three) essences in exercising judicial power, namely:

- 1) Judges are subject only to law and justice;
- 2) No one, including the government, can influence or direct the judgment to be handed down by a judge;
- 3) There are no consequences to the person of the judge in carrying out his judicial duties and functions.

Looking at the 3 (three) essences of the judiciary above, the author analyzes that no one can influence the decision given by the judge, both the government and legal entities. The judge has the freedom to decide the case being handled, because the judge's decision is binding for the parties concerned, especially the defendant who must accept and undergo the prison sentence and fine that has been decided by the judge.

According to Erna Dewi, the quality of justice is not much related to the quality of law and other sciences, but what is highly expected by the community is the attitude of how to uphold justice itself. The verdict handed down by the judge against the perpetrators *of obstruction of justice* has fulfilled the aspect of substantive justice because the decision is juridically appropriate by the judge's consideration.

The defendant Arif Rachman was legally and conclusively proven guilty and committed a criminal offense on the charges of the public prosecutor, namely Article 48 to Article 32 of the Law of the Republic of Indonesia Number 19 of 2016 concerning Amendments to Law Number 11 of 2006 concerning Electronic Information and Transactions *jo* Article 55 Paragraph (1) 1 of the Criminal Code is appropriate by the facts revealed at the trial So that it can be approved and justified as well as criminal convictions, reductions in detention periods and the status of evidence that is appropriate and correct.

Realizing substantive justice, the ability to interpret legal provisions is required. Interpretation is intended so that judges even though they have full authority in interpreting the provisions in deciding cases misguided decisions do not occur because it is necessary to understand the corridors in legal interpretation so that law enforcement will truly realize substantive justice. The author analyzes that based on the decision of this case, the judge's legal considerations in this decision follow juridical and non-juridical aspects (Manullang & Nababan, 2018).

Table 4. Results of Analysis of Judges' Considerations in Juridical and Non-Aspects Juridical in Judgment No. 806/Pid. Sus/2022/PN Jkt Cell

Aspek Yuridis	The judge's assessment aspect is juridically based on the fulfillment of the formulation of Article 48 to Article 32 of the ITE Law <i>jo</i> Article 51 Paragraph 1 to 1 of the Criminal Code the defendant has been legally and convincingly proven based on the law defendant Arif Rachman guilty of committing a criminal act "Those who do, who order to do or who participate in doing the act and intentionally and unlawfully in any way damage an electronic information belonging to another person or public".
Aspek Bread Jury	The aspect of the judge's assessment is non-juridical in that the defendant is a police officer who is part of the law enforcement apparatus to provide imitation of good attitudes to be imitated by the community. The accused was also proven to have legally violated Perkap Number 14 of 2011 by ordering South Jakarta Police investigators to equate BAP with BAP on witness Bharada E, follow the autopsy process, and delete CCTV footage used as evidence for the case.

Source: Data processed by the author based on the results of the analysis of the judge's decision on Judgment No. 806/Pid. Sus/2022/PN Jkt Sel.

According to Erna Dewi, a judge's decision given by the defendant Arif Rachman in the crime of *obstruction of justice* in the premeditated murder case certainly fulfilled the sense of substantive justice, because the panel of judges had considered several things and facts at the trial by applicable and interrelated rules. The amount of crime imposed and determined by the panel of judges and public prosecutors has considered all aspects of justice, expediency, and legal certainty which are sufficiently fair and humane with the actions committed by the defendant

The author analyzes that the verdict already meets the substantive sense of justice. However, the aspects of expediency, certainty, and justice have not been fulfilled because the convict is a police officer and has the rank of AKBP so he has a long experience in the world of investigation and investigation. However, if it is related to the status of the convict, it will create implications for the experiences of the defendant where the defendant should be given a more severe deterrent effect, namely a longer prison sentence because of the behavior carried out deliberately by the defendant which makes the judicial world and the image of the police institution become polluted among the public. The defendant Arif Rachman, who is a police officer whose duty is to maintain the image of law enforcement, should be given a harsher prison sentence for damaging the image of law enforcement agencies (Fitri, Febrina, & Rumlus, 2023).

4. Conclusion

Based on the results of the research and discussion described above, the following conclusions can be made: Criminal responsibility for perpetrators *of obstruction of justice* in cases of premeditated murder (Study Verdict Number: 806 / Pid. Sus/2022/PN Jkt Sel) has fulfilled the values of criminal responsibility based on the elements of unlawful acts, namely intentionality so that criminal acts occur, the ability of the accused to be responsible, the absence of excuse and justification for the accused in committing *obstruction of acts justice* in the case of premeditated murder. The panel of judges sentenced the defendant to imprisonment for 10 (ten) months and a fine of Rp10,000,000 (ten million rupiah). Case Decision Number: 806/Pid. Sus/2022/PN Jkt Sel has fulfilled the sense of substantive justice because the panel of judges has considered and measured carefully and carefully in considering this decision. According to some experts, the judge is a representative of God's hand, so every decision handed down by the judge to the defendant is the result of deliberations that are determined as well and fairly as possible and first look at the circumstances that can incriminate the defendant and then see the mitigating circumstances for the defendant and adjusted to the facts in the trial.

The suggestions that can be given relating to criminal liability for perpetrators *of obstruction of justice* crimes are as follows: As stated in Article 48 to Article 32 of the ITE Law *jo* Article 55 Paragraph (1) 1 it is better to create systematic accountability for perpetrators *of obstruction of justice* In the case of premeditated murder, the judge in handing down a verdict should be based on the fulfillment of the element of guilt, the ability to take responsibility and the absence of excuse and justification for an act that has been committed by the defendant, so that it cannot fulfill aspects of substantive justice only but also fulfill legal objectives such as legal certainty, expediency and justice. Parties such as judges, prosecutors, police, and advocates in law enforcement of *obstruction of justice* should consider the evidence and positions obtained so that in this decision indicators of legal certainty, expediency, and justice are realized, especially against *obstruction of justice* in cases of premeditated murder.

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