

# EXISTENCE OF EXPERTS IN AN EXCITING DECISION ON CORRUPTION CRIMINAL CASE IN CLASS 1A STATE COURT PADANG : Judgment Study Number : 03/Pid.sus-TPK/2017/PN.Pdg Year 2017

<sup>1</sup>Ari Ofianti, <sup>2</sup>Prof. Dr. Elwi Danil, <sup>3</sup>Dr. Najmi  
<sup>1</sup>Master Of Law Student, <sup>2,3</sup> Master Of Law Lecture  
Faculty Of Law, Andalas University, Padang, West Sumatera, Indonesia  
Email – <sup>1</sup>ofiantiari@gmail.com

**Abstract:** Expert testimony is one of the evidences that can convince the judge in his decision and as a basis in determining whether a person can be convicted or not. The provisions and requirements of expert testimony as evidence in the judge's decision in the case of corruption which the authors examined at the Class 1A Padang District Court could not be accepted by the judge because the expert is not an expert in their field and is still actively engaged in building construction, so that criminal acts cannot be prosecuted. proven and the judge renders an acquittal, in which the public feels that the decision does not fulfill a sense of justice. Meanwhile, in the Criminal Procedure Code, there are no special provisions for becoming an expert. Based

**Keywords:** Expert Statements, Judge's Decision Considerations, and Corruption Crimes.

## 1. INTRODUCTION:

Judges as the main actors in the judicial process are always required to hone sensitivity of conscience, moral intelligence and proportionality in law enforcement and justice in the form of their decisions. The judge's decision must be accountable to God Almighty and the community, especially those seeking justice.[1] The evidence presented by the public prosecutor, in the form of expert testimony (building construction expert) is not a person who meets the requirements to become an expert. Meanwhile, in Article 1 number 28 of the Criminal Procedure Code explaining the legality of a person being an expert at trial, there are no definite provisions and guidelines for judges in giving an opinion about whether or not someone can become an expert at trial. The judge's consideration in refusing expert testimony from the public prosecutor was on the basis of hearing expert testimony from the defendant, namely that the expert was not a person engaged in building construction activities and the information given by the expert was inconsistent, namely there was a difference in the calculation of steel between the indictment and the statement before the judge. However, in criminal procedural law, the expert at the trial must have the ability or scientific qualifications in both theoretical and practical abilities that can be scientifically justified.

## 2. THEORITICAL FRAMEWORK:

- Legal Certainty Theory of Justice  
According to Plato justice is beyond the capabilities of ordinary people, where the source of justice is a change in society.[2]
- Authority Theory  
In public law , authority is related to power.[3]
- Legal Certainty Theory  
According to Sudikno Mertokusumo, legal certainty is a guarantee that the law is carried out, that those entitled by law can obtain their rights and that decisions can be implemented.[4]

## 3. LITERATURE REVIEW:

Evidence is very important in the examination in court. If the results of the evidence with the evidence determined by law are not sufficient to prove the guilt charged to the defendant, the defendant is released from punishment.

In Article 184 of Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHP) it states "Legal evidence is witness testimony, expert testimony, letters, instructions, and statements of the defendant".

According to Syeh Hussein Alatas [1] corruption is the subordination of public interest to private interests which includes violations of norms, duties and public welfare, which are carried out with secrecy, betrayal, fraud and ignorance with the consequences suffered by the people.

#### 4. METHOD:

The method used in this study is a normative juridical approach, which is an approach that focuses on studying and researching legal material with reference to legal norms contained in legislation, court decisions and legal norms that exist in society.[1 ]

#### 5. DISCUSSION:

The acquittal handed down by the court for corruption in the decision Number: 03/Pid.sus-TPK/2017/PN.Pdg of 2017 is that the judge does not have confidence in the evidence presented by the public prosecutor. The acquittal is based on the evidentiary system in force in Indonesia, which is evidence according to the law in a negative way (*Negatief Wettelijk Stelsel*) which is formulated in Article 183 of the Criminal Procedure Code, namely "a judge may not impose a sentence on a person if with at least two valid evidences. he gains the conviction that a criminal act has actually occurred and that the defendant is guilty of committing it". The judge's belief in the evidence of expert testimony cannot be simply measured without any knowledge and can be scientifically proven and facts in the field. The acquittal that was handed down by the judge was also contained in Article 191 paragraph (1) of the Criminal Procedure Code which reads "if the court is of the opinion that from the results of the examination at trial, the guilt of the defendant for the actions he is accused of is not legally and convincingly proven, then the defendant is acquitted. So it can be concluded that the guilt for the alleged act was not proven legally and convincingly because it was not proven that there was an element of unlawful acts committed by the defendant, even though the facts on the ground were not so.

#### 6. ANALYSIS:

##### A. Existence of Experts in Providing Information on Corruption Crime Cases Decision Number: 03/Pid.Sus-Tpk/2017/Pn.Pdg Year 2017

Viewed from the theory of justice, the existence of expert testimony in this corruption trial is to make light of a corruption crime being faced. Its presence in the judge's decision in court must truly meet the requirements determined by law, as well as the information provided by the expert. The experts presented are people who really have the authority to become experts in order to create legal certainty for the defendant.

##### B. Panel of Judges on Evidence of Expert Statements in Decision Number: 03/Pid.Sus-Tpk/2017/Pn.Pdgtahun2017

Regarding the judge's consideration in the decision that did not accept the expert and his statement after being given a rebuttal by the defendant by also presenting an expert, then at least the judge did not copy the argument of the defendant. The judge in his decision must be able to make his own thoughts with all the arguments of his belief and not copy what the defendant said. In this corruption law, expert testimony is very much needed because considering the many developments carried out by Indonesia, especially infrastructure. Construction experts are certainly needed to audit the use of funds for these works, because often judges do not really understand field work such as the construction of infrastructure projects. So, this construction expert is needed to make light of a criminal act of corruption that is being faced in court, lest there be an error in the authority of the judge as the pinnacle of seeking justice and legal certainty.

#### 7. CONCLUSION:

From the discussion as explained earlier, several conclusions can be drawn, including:

- The existence of expert statements (building construction experts) presented by the public prosecutor cannot be used as legal evidence in determining state losses in the case of drainage and sidewalk construction in Payakumbuh City, experts and their statements are not accepted in the judge's decision.
- In the judge's consideration, the Expert (building construction) presented by the Prosecutor is not an expert in their field and the daily activities of the expert are not in the field of calculation and who go to the field to calculate losses in the construction of the Payakumbuh drainage and sidewalk project, the explanation is considered convoluted, while the fact is not so, in Article 1 number 28 of the Criminal Procedure Code there is no firmness that the expert must be a person who is still actively working/activating according to his expertise so that seen in the theory of justice, the authority and legal certainty of the existence of this expert

should be accepted by the judge because his existence meets the requirements in the Criminal Procedure Code and his statement can be proven scientifically.

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