



Competence of Military Justice in Criminal Disputes of Servicemen

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ABSTRACT

This study comprehensively analyzes the competence of the military judiciary in examining, prosecuting, and deciding criminal cases involving active soldiers of the Indonesian National Army (TNI), using the Appeal decision Number 88-K/PMT.I/BDG/AL/IX / 2025 as the main case study. In the case, the defendant, who is a navy soldier, was charged with committing a military crime in the form of disobedience to official orders, actions that have the potential to disrupt discipline, command hierarchy, and unit operational order. The verdict of the first instance was handed down by the Bandung high military court I, which was then re-examined in the appeal level after legal remedies were filed by the relevant parties. The appellate panel of judges reviewed the case by considering a number of important juridical aspects, including the absolute competence of Military Justice based on the provisions of Law No. 31 of 1997 on Military Justice, the fulfillment of criminal elements as stipulated in the Criminal Code, and the imposition of crimes that reflect the principle of proportionality and Justice. The appeal ruling also confirmed that the jurisdiction of Military Justice is determined not only by the status of the subject of Law (active soldier), but also by the direct interrelation of criminal acts and military service duties. Through normative legal research methods that combine legislative, doctrinal, and analysis approaches to court decisions, this study found that military justice has full and indisputable competence in dealing with these types of cases, especially when the actions of the accused are directly related to the performance of official duties and affect discipline and command structure. The panel of judges at the appeal level consistently confirms the fulfillment of elements of military offenses, both subjective and objective elements, based on the facts of the trial and valid evidence according to the law of military procedure. Thus, this study concludes that the appeal verdict is a real representation of the consistency of the application of the law in military criminal justice. This ruling not only strengthens the absolute authority of the military judiciary in prosecuting soldiers who commit violations within the scope of service, but also makes an important contribution to legal certainty, official order, and the integrity of the military justice system in Indonesia. In addition, the decision emphasized the function of Military Justice as an instrument for fostering discipline, maintaining the professionalism of soldiers, and ensuring the implementation of military life in accordance with the principles of hierarchy and command.

INTRODUCTION

Military justice is one of the sub-systems of special justice in the judicial power structure that has a strategic function in maintaining the enforcement of law and discipline within the Indonesian National Army (TNI). Its juridical existence is stipulated in Law No. 31 of 1997 on Military Justice, which provides the legal basis for this court to examine, prosecute, and decide criminal cases committed by active soldiers, those who are equated as soldiers, as well as other parties subject to the provisions of military law. In contrast to the general judiciary, military justice not only performs law enforcement functions, but also the function of fostering discipline, maintaining the hierarchy of command, and protecting the distinctive, hierarchical, and internally binding order of military life.

In practice, criminal cases involving members of the TNI are often related to typical forms of military violations, such as disobedience to official orders, severe indiscipline, actions that damage the honor of conscription, and actions that have the potential to interfere with the operational effectiveness of the unit. This kind of crime is not only seen as a violation of the law, but also as a threat to the stability of military organizations that rely on discipline and loyalty as the main foundation. Therefore, the military criminal norms in the KUHPM (Military Criminal Code) are not always identical to the general criminal norms in the Criminal Code, as they contain aspects of Service and conscription that are not found in the general criminal law.

This study focuses on the decision Number 88-K / PMT.I/BDG/AL/IX / 2025, an appeal case examined and decided by the High Military Court I Bandung. This decision is interesting to study because it contains several important issues regarding the application of the absolute competence of Military Justice, the application of elements of military crimes, as well as the juridical considerations of judges in imposing crimes against Navy soldiers who are accused in the case. In the decision, the appellate panel of judges reexamined the first-instance decision by taking into account the facts of the trial, juridical considerations, and the appropriateness of the application of material and formal laws as stipulated in the military justice law, the Criminal Code, and the internal rules of the TNI.

In particular, this case illustrates the close relationship between criminal offenses and military service discipline. The defendant was charged with committing acts that were considered contrary to official orders and not in line with the values of the military. This act is not only considered a violation of

legal norms, but also has the potential to weaken the command structure, unit discipline, and the image of professionalism of military institutions. Therefore, this case provides a concrete picture of how Military Justice balances between the interests of law enforcement and the need to maintain internal discipline.

In the academic context, this ruling is important to analyze because it reflects how military judges apply the principles of military criminal law, provide an assessment of the means of proof, and consider the proportionality of the crime in the framework of coaching in the military. In addition, this ruling is an illustration of how the military justice system works in dealing with typical legal dynamics, including how judges assess official orders, the motives of the accused, the consequences to the unit, and the impact on the wider military disciplinary order.

Based on the description, the formulation of the problem in this study is as follows:

1. How the absolute competence of Military Justice is applied in Soldier criminal cases based on Decision number 88-K/PMT.I/BDG/AL/IX / 2025?
2. What are the juridical considerations of the panel of judges at the appellate level in upholding or amending a first instance verdict?
3. How are the elements of the military criminal act applied in the case, including the analysis of facts, evidence, and the judge's judgment?

Thus, this study not only analyzes the verdict descriptively, but also conducts an in-depth exploration of the relevance of the application of legal norms to military discipline, command structure, and the effectiveness of the military justice system in Indonesia. This study is expected to provide academic contribution to the development of military criminal law literature and enrich the understanding of how military justice plays a strategic role in maintaining the honor, order, and professionalism of TNI soldiers.

METHOD

This study uses the normative legal research method, which is research that focuses on the study of positive legal norms, legal principles, doctrines, and court decisions as the main legal material. This method was chosen because the research is oriented to the analysis of the application of the provisions of the military criminal law, the competence of Military Justice, as well as the consideration of judges in deciding cases involving TNI soldiers. To obtain the results of a comprehensive and structured analysis, this study uses three types of approaches, namely

statute approach, conceptual approach, and case approach.

RESULTS AND DISCUSSION

A. The position of the soldier and the competence of Military Justice

In this case, the identity of the defendant as an active soldier of the Navy is the main factor that determines the jurisdiction of the judiciary. In the verdict file, the panel of judges expressly determined that the defendant was a member of the Navy who was still in active service at the time of committing the alleged act. This Status automatically puts the case under the absolute competence of Military Justice, as provided by Article 9 of Law No. 31 of 1997 on Military Justice. The provision states that the military judiciary is authorized to examine and prosecute every active soldier of the TNI, without distinction of rank, position, or unity.

A. Linkage of acts with official

The appellate judge affirmed that the acts committed by the defendant occurred in the series of performance of official duties. That is, the contextual element in the form of the relationship of the act with the military duty is fully fulfilled. This aspect is important because in some cases, a soldier can commit criminal acts that are not related to official duties, which can ultimately potentially shift to the realm of General Justice. However, in this case, no grounds were found for transferring jurisdiction.

B. Judge's Assertion Of Jurisdiction

In the appeal decision, it was explained that the General Court does not have the authority to prosecute criminal acts committed by soldiers in the context of official service. This is in accordance with the doctrine of military specialty, which places military crimes as a realm that requires special handling by judges who understand military law, command structure, and military values. Therefore, the absolute competence of Military Justice has been fulfilled based on three factors:

1. The accused is an active soldier who is legally subject to military criminal law;
2. The act is carried out in the context of the official, that is, in the framework of the implementation of orders and operational tasks;
3. The criminal acts committed are regulated in the Criminal Code and violate the provisions of military discipline and military values.

Thus, juridically and doctrinally, this case falls within the exclusive jurisdiction of the military judiciary.

B. Analysis Of The Elements Of Military Criminal Acts

The panel of judges of the first level and the appeal level systematically parse the fulfillment of the elements of the criminal offense charged to the defendant. The relevant criminal offense in this case is related to disobedience to the orders of superiors (insubordination), which is one of the main offenses in the Criminal Code. Article 103 of the Criminal Code provides that a soldier who intentionally disobeys a lawful official order may be sentenced to criminal punishment.

A. Valid Command Elements

The judge stated that the order given to the defendant was a legitimate order issued by an authorized superior as per the command structure. The order is given in the framework of the performance of official duties, so there is no reason for the defendant not to comply with it.

B. Elements Of The Defendant's Knowledge

The facts of the trial prove that the defendant knew the content and nature of the order. There is no evidence to suggest that the defendant did not understand the order, or that the order was unclear or unenforceable.

C. Intentional Element

Willfulness is indicated by the attitude of the accused who consciously and without justifying reasons chose not to carry out the order. This element of intentionality becomes very important, because the violation of the orders of superiors can only be punished if it is carried out with intentions and mental attitudes that do not respect the command structure.

D. Acts that interfere with military discipline

The tribunal considered that the defendant's actions had an impact on unitary discipline, interfered with the effectiveness of the performance of duties, and were contrary to the value of the professionalism of the soldiers. Therefore, the objective and subjective elements of the military criminal act in this case are declared "fulfilled in their entirety".

C. Consideration of judges of First Instance and appeal

Consideration Of Judges Of The First Instance

The first circuit judge emphasized that:

1. The defendant was legally and convincingly proven to have committed a military crime as the prosecutor's indictment.
2. The actions of the accused had a negative impact on discipline, since the soldier was obliged to show obedience and loyalty to superiors.

3. The imposition of a crime must take into account the aspects of military training, that is, balance between punishment and the need to educate soldiers to obey the rules.

In the amar verdict, the judge imposed the main crime and additional crimes that were considered proportional to the degree of guilt of the defendant.

B. Consideration Of The Appellate Judge

At the appeal hearing, the panel of judges evaluates the facts of the trial and the application of the law by the judge of the first instance. The results of the assessment determined that:

1. The consideration of the first-level judges is appropriate and in accordance with the law, so there is no error in the application of the criminal code or the military justice law.
2. The fulfillment of the elements of the criminal act is considered complete, so there is no reason to cancel the verdict.
3. The type and length of the sentence has reflected the principles of justice and proportionality in the context of military training.

Thus, the panel of appellate judges upheld the verdict of the first instance and determined that there was no substantial correction to the amar verdict.

4. The principle of legal certainty and military discipline

This ruling shows that one of the main objectives of military justice is to maintain legal certainty, discipline and stability of the command structure. The panel of judges, both in the first instance and on appeal, affirmed that the existence of military justice is not only intended as a means of punishment, but also as a strategic instrument to maintain order and organizational effectiveness of the TNI.

A. Legal Certainty

By enforcing the first instance verdict, the appellate judge provides legal certainty for the parties, while ensuring that the rules in the Criminal Code are consistently applied.

B. Military Discipline

Discipline is at the heart of military life. Violation of superior orders can have serious consequences for the effectiveness of unit operations and coordination. The judge's ruling shows that actions such as those taken by the defendant cannot be tolerated in order to maintain the integrity of the organization.

C. Protection Of Command Structures

The success of military operations largely depends on the soldier's obedience to the orders of superiors. This ruling affirms that the violation of the command structure is a very serious criminal offense.

CONCLUSION

This case is strictly within the realm of the absolute competence of Military Justice. This is because the defendant is a navy soldier who is still on active service, and the actions carried out are directly related to official duties and orders. Article 9 of Law No. 31 of 1997 provides a normative basis that every criminal act committed by active soldiers in the context of official service must be examined by Military Justice. Thus, the application of jurisdiction by the Bandung high military court I is legally appropriate, both in the perspective of positive norms and the doctrine of special jurisdiction in the judicial system. The panel of judges, both at the first and at the appeal level, managed to prove that the elements of the alleged military crimes—in particular, the elements of disobedience to service orders—had been fulfilled in full. The facts of the trial show that:

- a. The order given to the defendant is of a legal nature, coming from an authorized superior.
- b. The defendant is aware of the content of the order.
- c. The defendant willfully disobeyed an order.

Witness statements, written evidence, and facts that appear in the trial become a strong basis for the judge to declare that military crimes have been proven legally and convincingly.

The panel of appellate judges, after a thorough assessment of the facts and juridical considerations, stated that there was no error in the application of the law by the First-Instance judge. Assessment of the elements of criminal acts, consideration of the provision of criminal, as well as the relevance of the official has been carried out according to the correct procedure. Therefore, the decision of the first instance is considered to have met the principles of justice and proportionality, so that the decision is fully strengthened. The consistency between these two levels of Justice reflects the conformity between legal norms and judicial practice. This case shows that violation of service orders is not only a form of indiscipline, but also a threat to the command structure that is the core of the military organization. The judge's verdict confirmed that discipline and obedience to orders are the main pillars in the life of the military, and any violation is obliged to be provided with strict legal

consequences. In addition, this decision provides legal certainty for TNI institutions in enforcing rules and maintaining the professionalism of soldiers, as well as being a form of legal education for all military members.

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