

Criminal Liability in Mob Attack Crimes Committed by Children Resulting in Death (A Case Study of Decision Number 22/Pid.Sus-Anak/2018/PN Smg)

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ABSTRAK

Maraknya Anak melakukan perbuatan melawan hukum yang terjadi di masyarakat sebagai indikasi sosial yang mengganggu kehidupan bermasyarakat. Salah satu tindak pidana pada Anak yang pernah terjadi pada wilayah hukum Pengadilan Negeri Semarang dengan Putusan Nomor 22/Pid.Sus-Anak/2018/PN Smg sebagaimana anak pelaku tindak pidana pengeroyokan oleh anak yang mengakibatkan kematian. Atas perbuatan yang dilakukan maka hakim menerapkan sanksi pidana penjara kepada anak dengan pidana penjara selama 4 bulan. Tujuan penelitian ini untuk mengetahui pertanggungjawaban pidana dalam tindak pidana pengeroyokan oleh anak yang mengakibatkan kematian, serta dasar pertimbangan hukum bagi hakim dalam menjatuhkan putusan pidana terhadap pertanggungjawaban pidana dalam tindak pidana pengeroyokan oleh anak yang mengakibatkan kematian dalam Putusan Perkara Nomor: 22/Pid.Sus-Anak/2018/PN Smg. Jenis penelitian yang digunakan adalah penelitian yuridis normatif dengan pendekatan perundang-undangan dan pendekatan kasus, yang didukung dengan data yang didapat dari data kepustakaan diantaranya buku-buku, peraturan perundang-undangan, serta Putusan Pengadilan. Data dikumpulkan dari sumber data sekunder dan sumber data primer, dimana data sekunder diperoleh dari bahan pustaka untuk mendukung atau menambah wawasan informasi, sedangkan sumber data primer berupa data pendukung tambahan wawancara. Berdasarkan hasil penelitian bahwa pertanggungjawaban pidana dalam tindak pidana pengeroyokan oleh anak yang mengakibatkan kematian dapat dilihat pengaturannya dalam Undang-Undang pasal 170 ayat (2) ke-3 KUHP dengan mengikuti ketentuan pidana penjara pasal 79 UU SPPA. Anak dipidana dengan ancaman $\frac{1}{2}$ (setengah) dari ketentuan pasal 170 ayat 2-3 KUHP.

Kata Kunci : Pengeroyokan, Anak, Pertanggungjawaban

ABSTRACT

The rise of children committing acts against the law that occur in society is a social indication that disrupts community life. One of the crimes against children that has occurred in the jurisdiction of the Semarang District Court with Decision Number 22/Pid.Sus-Anak/2018/PN Sng as the child who is the perpetrator of the crime of beating by a child which results in death. For the actions committed, the judge imposes prison sentences on children with imprisonment for 4 months. The purpose of this study is to determine criminal responsibility in the crime of beatings by children which results in death, as well as the legal basis for judges in imposing criminal decisions on criminal liability in the crime of beatings by children which results in death in Case Decision Number: 22/Pid.Sus-Anak/2018/PN Sng. The type of research used is normative juridical research with a statutory approach and a case approach, which is supported by data obtained from library data including books, laws and regulations, and court decisions. Data were collected from secondary data sources and primary data sources, where secondary data were obtained from library materials to support or add insight into information, while the primary data source was in the form of additional supporting data from interviews. Based on the results of the study, criminal responsibility in the crime of beatings by children which resulted in death can be seen in the provisions in Article 170 paragraph (2) of the 3rd Criminal Code by following the provisions of imprisonment in Article 79 of the SPPA Law. Children are punished with the threat of ½ (half) of the provisions of Article 170 paragraph 2 3 of the Criminal Code.

Keywords: Beatings. Child, Accountability.

INTRODUCTION

"With the advancing times, there is a growing number of criminal cases occurring in the Unitary State of the Republic of Indonesia, particularly in the city of Semarang. According to the Central Java Central Bureau of Statistics, the reported crime cases in Semarang in 2018 amounted to 1,027, and in 2019, it increased to 1,554 (jateng.bps.go.id/statictable, 2021). The rising number of criminal cases in Semarang not only involves adults but also includes children who come into contact with the law. Based on Article 1 paragraph (2) of Law Number 11 of 2012 Regarding the Juvenile Justice System, a child in contact with the law is defined as a child in conflict with the law, a child who is a victim of a crime, and a child who is a witness to a crime (Pribadi, D. 2018).

Children are the future generation of the nation who must receive protection and welfare. The definition of a child is regulated in Article 1 paragraph 3 of Law Number 11 of 2012 concerning the Juvenile Justice System, which states that a child in conflict with the law, hereinafter referred to as a child, is a child aged 12 (twelve) years but not yet 18 (eighteen) years who is suspected of committing a crime.

The increasing occurrence of children engaging in unlawful activities in society is a social indication that disrupts communal living. Immoral actions such as mob attacks, murder, theft, and others are currently being carried out by children. Children engaging in mob attacks constitute a form of collective violence that occurs in public, resulting in injuries and even fatalities. As stated in Article 1 number 2 of the Juvenile Justice System Law, a child who is a victim of a crime, a child in conflict with the law, and a child who is a witness to a crime are referred to as children in contact with the law."

The criminal responsibility of children differs from that of adults. The difference in accountability between children and adults lies in the fact that adults are held accountable for their actions solely according to the provisions of the Criminal Code (KUHP), while children are held accountable for their actions under the Criminal Justice System for Children, as aligned with the provisions of Law Number 11 of 2012 concerning the Juvenile Justice System (Kusumawati, A. R. I., Dewi, A. A. S. L., & Suryani, L. P. 2022).

A child who has committed a crime and received a criminal sanction may encounter difficulties in obtaining a second chance for two main reasons. First, the child may have experienced poor parenting and a negative environment, hindering their ability to develop positively. Second, the child may face challenges in self-improvement due to imprisonment and the associated stigma. Therefore, the criminal justice system for children must be distinct from that for adults, particularly when the justice system becomes the last alternative for punishment against a child.

The differences in treatment and penalties outlined in Law No. 11 of 2012 are intended to provide greater protection and care for children, allowing them to plan for a better future. Additionally, these distinctions aim to offer children the opportunity for mental and moral guidance, social readiness, and the development of independence, responsibility, and usefulness for themselves, their families, communities, the nation, and the state (Afifah. W.,2014).

The government has also enacted Law No. 23 of 2003, which has now been amended to Law No. 35 of 2014 concerning Child Protection. This law explicitly emphasizes that children are the successors of the nation's future and must be guaranteed protection from all forms of violence and discrimination (Rahman, R. (2017).

The criminal act of mob assault committed by a child refers to an individual who is under the age of 18 engaging in a collective act of violence in public, disrupting public order, and potentially causing harm to individuals or property. This reprehensible act, carried out by

more than one person, results in physical pain, injuries, and harm to bodily health, constituting the definition of the criminal act of mob assault. (Wijayanto,2013).

The regulation of criminal acts of fatal mob assault committed by underage children is aligned with the principles of child protection as stipulated in Law Number 35 of 2014 concerning Child Protection. The provisions regarding the punishment of children are specifically governed by Law Number 11 of 2012 concerning the Juvenile Justice System (Teguh,2020).

The regulation for children involved in mob assaults resulting in death is stipulated in Article 351 paragraph (3) of the Criminal Code (KUHP), with the requirement for a reduced sentence of half the adult punishment according to Article 79 paragraph (2) of the Law on the Criminal Justice System for Children. The existence of the Law on the Criminal Justice System for Children ensures the necessity to provide protection for children as formulated in the Child Protection Law during the judicial process. Law enforcement officials handling cases involving children should always consider the principles outlined in the Juvenile Justice System.

Crimes like mob assault among children and adolescents often occur due to parental neglect, environmental factors, and unhealthy community activities. Factors such as the influence of alcohol or illicit drugs, as well as the freedom of association among children, contribute to such incidents. It is not uncommon for children involved in mob assaults to be school dropouts and come from economically disadvantaged backgrounds. In some cases, acts of violence like mob assaults result from misunderstandings among the parties involved. These issues are concerning within the children and adolescent population. Challenges in handling mob assault cases arise due to the difficulty of implementation in the field, stemming from the insufficient number of law enforcement personnel compared to the number of masses and witnesses, as well as delays in obtaining forensic reports from the relevant authorities.

An example of a mob assault crime committed by a child resulting in death has been ruled upon by the Semarang District Court under Case Number: 22/Pid.Sus-Anak/2018/PN Smg. This incident occurred on Jl. Raya Koesbiono Tjondrowibowo in front of IDEA MANDIRI Building Supplies Store, Pakintelan Village, Gunungpati District, Semarang City, on Friday, June 15, 2018, around 03:30 AM local time. During the incident, the child and witnesses Edi Aditya Susanto son of Santoso, Romdoni son of Mustari, and Deva Dwi Saputra son of Sukari were riding two motorcycles towards Gunungpati. Edi and Romdoni were riding a black HONDA BEAT motorcycle with license plate number 2460 AHW, and the child and

Deva were riding a black HONDA VARIO 125 motorcycle without a license plate. Upon reaching the intersection near the Unnes well, the motorcycle ridden by Edi and Romdoni lined up with another motorcycle (ridden by the victim Setyo Sasiam Utomo son of Kanipan), causing Edi and Romdoni's motorcycle to fall. Edi and Romdoni got up and continued their journey. The victim remained lying down and was repeatedly attacked by Edi and Romdoni, who took turns directing their blows to the victim's head. Romdoni held the victim's hand, pressing it towards the chest, while Edi continued to strike the victim. At this point, Edi shouted 'mugger.' Upon hearing Edi's shout directed at the victim, Deva spontaneously grabbed a looter to strike the victim, but was prevented by the child. After Deva dropped the looter, the child removed the broken pieces with their foot. Deva then approached the victim and struck the victim's arm and palm three times. After Deva's blows, the child also approached the victim and joined in hitting the victim using the victim's detached rubber sandal on the victim's leg three times and on the victim's arm twice.

Later, a passerby suggested to the child and their friends to seek help from the community. Local residents passing by gathered and subsequently secured the victim. Banser members, who had received a report from Witness Edi, arrived and, upon learning about the victim's condition, took the victim to the Gunungpati Community Health Center. The victim was declared dead by the on-duty personnel at the health center. Subsequently, the victim was immediately taken to RSUP Dr. Kariyadi Semarang for further examination.

The judge will then consider whether, based on the legal facts mentioned above, the defendant can be deemed to have committed the alleged criminal act. In accordance with the legal facts obtained, the charges will be considered first.

Therefore, based on the above explanation, the judicial proceedings must comply with the Code of Criminal Procedure (UU SPPA). In reality, the act of a child as the perpetrator of a mob assault resulting in the loss of someone's life is equivalent to depriving someone of the right to live, making the offense a serious crime. Hence, the author is interested in conducting research on **“Criminal Responsibility in Mob Assault Crimes Committed by Children Resulting in Death (Case Study Decision Number 22/Pid.Sus-Anak/2018/PN Smg)”**.

METHOD

This research is based on legal research conducted with a normative approach. Normative research is a type of study that refers to existing and concrete legal regulations. It employs an approach that examines laws, cases, and legal analyses. This type of research often conceptualizes law as everything stipulated in the law that serves as a guide for humans (Amirudin & Asikin, 2004). The approach used in this study is the legal approach, utilizing Law Number 35 of 2014 concerning Amendments to Law Number 23 of 2000 concerning Child Protection. Additionally, it incorporates a case approach, referring to the case of criminal assault by a child resulting in death with Decision Number 22/Pid.Sus-Anak/2018/PN Smg. The nature of this study is descriptive, aiming to provide explanations or portrayals of the existing facts related to the research object in a precise and clear manner to gain clarity on the arising issues. Data collection methods involve studying decisions from the Semarang District Court, supported by interviews with judges from the Semarang District Court, and supplemented by relevant scholarly journals addressing the research problem.

RESULT AND DISCUSSION

1. Criminal Responsibility in Mob Assault Crimes Committed by Children Resulting in Death (Case Study Decision Number 22/Pid.Sus-Anak/2018/PN Smg).

In Article 34 of the Draft New Criminal Code (KUHP), it is formulated that criminal responsibility involves the continuation of objective condemnation inherent in criminal acts and subjectively meeting the criteria for prosecution due to one's actions (Wahyutomo, M. D. H. 2021). According to Van Hamel, criminal responsibility is a normal state of psyche and skill that encompasses three abilities: (1) the ability to understand the meaning and consequences genuinely of one's own actions, (2) the ability to recognize that those actions are contrary to social order, and (3) the ability to determine one's will to act. (Moeljatno, 1987).

Criminal responsibility requires the condition that the actor is capable of being accountable for their actions. It is not possible for someone to be held accountable if they are incapable of responsibility. The Criminal Code (KUHP) does not provide a formulation to declare the existence of accountability. In Dutch Criminal Law literature, several definitions for "accountability" can be found. According to Simons, "accountability can be interpreted as a physical condition that justifies the application of criminal efforts, both from a general perspective and from the individual's perspective." It is further stated that someone is capable of being accountable if their soul is healthy, meaning if: 1. they can understand or realize that

their actions are contrary to the law; 2. they can determine their will in accordance with that awareness. (Sianturi & E.Y., 2012).

Criminal responsibility for mob assault by a child resulting in death involves the imposition of a sentence in accordance with Article 170 of the Criminal Code (KUHP). If the child's actions lead to death, the child is punished with a threat of ½ (half) of the provisions of Article 170 paragraphs 2 to 3 of the KUHP. This is based on the consideration of the juvenile judge, meaning if the maximum sentence for adults is 12 years in prison, the child will be sentenced to a maximum of 6 years in prison. There are three conditions for criminal responsibility: *dolus* (intentionally) committing a criminal act, *culpa* (negligence) leading to a criminal act due to negligence, and the absence of grounds for criminal exemption. (Fadlian, A. 2020).

The ability to be criminally responsible can be established in two ways: First, by relying on or following the formulation in Article 44(1). This provision applies universally, meaning it is applicable to all forms and manifestations of actions. Article 44(1) specifies two mental conditions that render a person incapable of responsibility. Conversely, a person is considered responsible for all their actions (criminal acts) if these two mental conditions outlined in Article 44(1) do not exist. In other words, if their mind is not impaired in its development or disturbed by illness, the person is deemed capable of being responsible.

Based on the research findings, the researcher obtained data related to Criminal Responsibility in Mob Assault Cases by Children Resulting in Death, as per Decision Number 22/Pid.Sus-Anak/2018/PN Smg. The accused is identified as Wanda Dwi Susanto Bin Sunoto, born in Semarang in January 2001, male, residing at Jalan Sedayu RT 04 RW 01 Kel. Kalisegoro, Kec. Gunungpati, Semarang, and currently a twelfth-grade student at SMK Grafika Semarang. The accused, Wanda Dwi Susanto Bin Sunoto, committed an act of violence on Saturday, June 15, 2018, around 03:30 AM at Jl. Raya Koesbiono Tjondrowibowo, in front of the IDEA MANDIRI Building, Kel. Pakintelan, Kec. Gunungpati, Semarang. The accused approached the victim and participated in assaulting the victim using the victim's rubber sandals on the left leg and arm.

Based on the research results, the author can conclude that the Criminal Responsibility in Mob Assault Cases by Children Resulting in Death, as per Decision Case Number 22/Pid.Sus-Anak/2018/PN Smg, finds Wanda Dwi Susanto Bin Sunoto proven legally and convincingly guilty of committing the crime "openly and with collective force using violence

against a person resulting in death" as charged by the Second Public Prosecutor. The court imposes a sentence on Wanda Dwi Susanto Bin Sunoto with 9 (nine) months of imprisonment, reduced by the time spent in detention, and orders the accused to remain in custody. The court also determines evidence in the form of 1 (one) pair of red rubber sandals to be returned to the heir of the victim, Setyo Sasiam Utomo. The court further orders the convict to bear the case costs amounting to Rp. 2,000 (two thousand rupiah).

Wanda Dwi Susanto Bin Sunoto is deemed capable of being accountable for his actions, as the judge sentences him to 4 (four) months in prison, commensurate with his actions. This is because the perpetrator is a minor, and the Juvenile Justice System (SPPA) is applied in the Juvenile Justice Process. Additionally, several provisions are observed, including holding the trial in a special juvenile courtroom, providing a separate waiting room for the child, prioritizing juvenile hearings, conducting closed sessions except during verdict reading, ensuring the child is accompanied, maintaining the confidentiality of the child's identity, and requiring judges, public prosecutors, and lawyers to wear legal attire in criminal proceedings, with exceptions during juvenile criminal proceedings.

2. Legal Consideration Basis for Judges in Issuing Criminal Verdicts on Criminal Responsibility in Mob Assault Cases by Children Resulting in Death in Case Number 22/Pid.Sus-Anak/2018/PN Smg

Regarding criminal responsibility for minors, after Articles 45, 46, and 47 of the Indonesian Criminal Code (KUHP) were repealed, the KUHP still does not clearly regulate the maturity of children. For comparison, under Articles 45, 46, and 47 of the KUHP, it was stipulated that if a criminal act is committed by a minor aged 9 to 13, the judge is advised to return the child to their parents or guardians without imposing criminal sanctions. If the criminal act is committed by a child aged 13 to 15 and the offense is within the scope of the provisions in Articles 489, 490, 492, 496, 497, 503, 505, 514, 517, 519, 526, 531, 532, 536, and 540 of the KUHP, the judge may order that the perpetrator be handed over to the government or private legal entities for education until the age of 18. If the judge imposes a sentence on the perpetrator, the maximum sentence must be reduced by one-third. If the death penalty is applicable, the maximum sentence is 15 years, and additional punishments mentioned in Article 10 of the KUHP paragraph b numbers 1 and 3 are not applied.

The judge's decision is the culmination of a criminal case, so the judge must consider three aspects: legal, sociological, and philosophical. The legal consideration in the case number

22/Pid.Sus-Anak/2018/PN Smg found the defendant WANDA DWI SUSANTO Bin SUNOTO guilty of the criminal act as regulated and penalized in Article 170 paragraph (2) point 3 of the KUHP, Law Number 11 of 2012 concerning Juvenile Justice, and Law Number 8 of 1981 concerning Criminal Procedure Law, taking into account Article 170 paragraph (2) point 3 of the KUHP, Law Number 11 of 2012 concerning Juvenile Justice, and Law Number 8 of 1981 concerning Criminal Procedure Law, and other relevant regulations. The sociological consideration takes into account factors such as the defendant's actions causing public unrest and resulting in a death victim. The philosophical consideration, however, is not explicitly mentioned.

In conclusion, the judge sentenced the juvenile defendant WANDA DWI SUSANTO Bin SUNOTO to four months in prison, considering legal, sociological, and philosophical aspects. The judge's interpretation in imposing a four-month prison sentence is deemed appropriate and effective, aligning with the legal considerations and fulfilling the elements of Article 170 paragraph (2) point 3 of the KUHP, Law Number 11 of 2012 concerning Juvenile Justice, and Law Number 8 of 1981 concerning Criminal Procedure Law. The information and data were obtained through direct research and interviews with Judge Atep Sopandi, S.H., M.H., at the Semarang District Court on July 7, 2023.

Based on the aforementioned, the verdict rendered by the Panel of Judges in the case of a child who, openly and collectively using violence against a person resulting in death, as stated in the Decision of the Semarang District Court Number 22/Pid.Sus-Anak/2018/PN Smg, includes the following decisions:

- 1) Declares the Juvenile Defendant WANDA DWI SUSANTO BIN SUNOTO to be proven legally and convincingly guilty of the criminal act of "openly and collectively using violence against a person resulting in death";
- 2) Imposes a sentence on the Juvenile Defendant WANDA DWI SUSANTO BIN SUNOTO, hence, with imprisonment for 4 (four) months;
- 3) Declares that the period of arrest and detention of the Juvenile Defendant is deducted from the imposed sentence;
- 4) States that the Juvenile Defendant WANDA DWI SUSANTO BIN SUNOTO remains in custody;
- 5) Acknowledges the evidence in the form of:
 - a) One pair of red rubber sandals to be returned to the heirs of the victim Setyo Sasiam Utomo;

- 6) Charges the court costs to the Defendant in the amount of Rp. 2,000.00 (two thousand rupiahs).

CONCLUSION

Based on the research findings, the following conclusions can be drawn: Criminal Responsibility in Cases of Assault by a Minor Resulting in Death (Study of Verdict Number 22/Pid.Sus-Anak/2018/PN Smg) is regulated under Article 351 paragraph (3) of the Criminal Code (KUHP) with the condition of a reduced sentence by $\frac{1}{2}$ compared to the adult penalty under Article 79 paragraph (2) of the Child Criminal Justice System Act. The existence of the Law on the Child Criminal Justice System ensures the obligation to provide protection to the child as formulated in the Child Protection Law during the judicial process. Law enforcement officials handling cases involving minors should always consider the principles of the Child Criminal Justice System.

Considering that by observing the facts revealed in the trial, the Panel of Judges will directly choose and consider the charges deemed appropriate and applicable in this case, namely the First charge, which is Article 170 paragraph (2) point 3 of the Criminal Code, where there is a criminal act, the element of "Whoever" commits the act, and the act is committed openly and collectively using violence against a person, resulting in death.

In the Judge's Decision in Case Number 22/Pid.Sus-Anak/2018/PN Smg, the Panel of Judges considered factors such as Aggravating and Mitigating Circumstances for the Minor, including: First, Aggravating Circumstances: The minor's actions disturbed the community, and the minor's actions resulted in the death of the victim. Second, Mitigating Circumstances: The minor has not been previously punished, the minor admits his actions openly and remorsefully, the minor is still a child, attending school and planning to continue his education, and the minor only struck the victim using the victim's rubber sandals, hitting the victim's arm twice and the leg three times. Therefore, in the verdict, the minor was sentenced to a prison term of 4 (four) months.

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