

Analysis Of The Legal Position Of Cctv As Evidence In Criminal Cases (STUDY OF Decision Number 8/PID.SUS-ANAK/2021/PT-PDG)

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Abstract

This study is intended to find out and understand the legal position of CCTV as evidence in criminal cases (Decision Study). Number 8/Pid.Sus-Anak/2021/PT-Pdg). This study uses a normative legal research method. Normative legal research is examining law from an internal perspective with the object of research being legal norms. Discussion results: CCTV has the same position as other evidence regulated and stipulated in the Criminal Procedure Code. Because its position is the same as other evidence, CCTV is considered to have the same legal force as SUCH evidence. Although not explicitly stated in the Criminal Procedure Code, CCTV can be used as additional or evidence as further evidence in a criminal case. However, there are provisions that require that there must be a relationship between one piece of evidence and another.

Keywords: *Legal Status, CCTV, Evidence, Criminal Case.*

INTRODUCTION

The development of the current era, demands that every action must be accompanied by sophisticated technology(AS et al., 2020). The higher the level of a person's skill in committing a crime, the higher the human knowledge to create sophisticated technology in detecting every criminal in the world. Criminals always innovate in committing their crimes both directly and online. Every crime that used to only require practical and simple proof but not for today. Even the proof of crimes committed by professionals is almost difficult to reveal. So that some evidence is needed as support in revealing the crimes that occur. Evidence in criminal procedure law has been regulated. And its application is based on the Law. The role of evidence is very important in Criminal Law. (Ananda Muhamad Tri Utama, 2022)Where, that matters related to Evidence can be said to be the most important stage in determining the criminal justice process. Evidence will determine whether or not a defendant has committed a criminal act as charged by the public prosecutor. The procedures for the intended proof have been included and regulated in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP).

(Yanuarita & Megawati, 2023)Munir Fuady's opinion regarding the law of evidence is a process, whether in civil proceedings, criminal proceedings, or other proceedings, where by using valid evidence, actions are taken with special procedures, to find out whether a fact or statement, especially a fact or statement that is disputed in court, which is submitted and stated by one of the parties in the court process is true or not as stated. Likewise in the process of evidence, of course there must also be relevant evidence as regulated in Article 184 Paragraph (1) of the Criminal Procedure Code. This evidence is something (an event and so on) that is sufficient to show the truth of something (an event and so on)(Valini, 2019).

Article 183 of the Criminal Procedure Code states that at least 2 (two) valid pieces of evidence are required for a judge to sentence and to obtain certainty whether the crime has actually occurred and the defendant has committed the crime. This means that a judge may only sentence a defendant if he finds 2 (two) valid pieces of evidence that can prove that the defendant has committed a crime. Article 184 Paragraph 1 (one) of the Criminal Procedure Code states that there must be at least 5 (five) pieces of evidence that can be said to be valid. Furthermore, Article 184 Paragraph 2 (two) states that something that is generally known does not need to be proven,

which means that if it is known by many people, it does not need to be proven during the trial. One of the pieces of evidence in the criminal procedure process is the presence of one piece of digital evidence that can be used to assist in the process of proving a crime committed by a perpetrator. This evidence is *Closed Circuit Television* (hereinafter abbreviated as CCTV). (CCTV) can be valid evidence in criminal cases. This is because CCTV footage can be considered electronic information that meets the provisions of the Electronic Information and Transactions Law (UU ITE)(Badri, 2021).

CCTV (*Closed Circuit Television*) is a media that can be used to load recordings of any information that can be seen, read and heard. CCTV is used as evidence that should use a video camera to display and record images at a certain time and place where this device is installed which means using a closed signal. (Ismail & Maysarah, 2024)Criminal procedural law aims that criminal procedural law is to seek and obtain or at least approach material truth, namely the most complete truth of a criminal case by applying the provisions of criminal procedural law honestly and precisely with the aim of finding out who the perpetrator can be accused of committing a violation of the law, and then requesting an examination and decision from the court to find out whether it is proven that a crime has been committed and whether the person accused can be blamed(Dw Agung Md Krisna Pranata et al., 2019).

Proving criminal cases using CCTV as evidence has often been done in trials, including: the case of Jessica Wongso in a murder case, the murder case of Brigadier Joshua, which was masterminded by Ferdi Sambo, theft cases carried out in minimarket areas, and other cases where there is CCTV monitoring the criminal process(BINTARI, 2022).

The Criminal Procedure Code does not clearly regulate CCTV as one of the valid evidences in the process of proving the crime in question. However, in its application, it is often used for the process of proving in court. So that the author needs to raise the title "Analysis Of The Legal Position Of Cctv As Evidence In Criminal Cases (Study Of Decision Number 8 / PID.SUS-ANAK / 2021 / PT-PDG). Based on this background, the author formulates the problem, namely how is the Legal Position of CCTV as Evidence in Criminal Cases (Study of Decisions Number 8/Pid.Sus-Anak/2021/PT-Pdg).

RESEARCH METHODS

This study uses a normative legal research method. Normative legal research is researching law from an internal perspective with the object of research being legal norms. In other words, legal research that places law as a building of a norm system. The norm system in question is regarding the principles, norms, rules of laws and regulations, court decisions, agreements and doctrines (teachings). This study uses a legislative approach and a conceptual approach . The legislative approach is used to get an idea of the legal position of cctv as evidence in criminal cases (study of decision number 8 / PID.SUS-ANAK / 2021 / PT-PDG).

In this case study, the author examines the decision related to the research topic, namely Decision Number 8/Pid.Sus-Anak/2021/PT-PDG. The decision is a decision in a criminal case with the evidence used, namely (CCTV). The research specifications used in this study are analytical descriptive. Analytical descriptive research is a study that describes applicable laws and regulations related to legal theories and legal implementation practices concerning the problems in the study. Descriptive research aims to accurately describe the characteristics of an individual, condition, symptom or certain group, or to determine the spread of a symptom or to determine whether or not there is a relationship between a symptom and other symptoms in society.

RESULT AND DISCUSSION

1. Evidence

Evidence is anything used in the process of proving in court to support or reject charges. Valid evidence can be used to create a judge's belief in the truth of a crime. Evidence is anything that is related to an act, where with the evidence, it can be used as evidence to create a judge's belief in the truth of a crime committed by the defendant.

According to Hari Sasangka and Lily Rosita, what is meant by evidence is everything that is related to an act, where the evidence can be used as evidence to create the judge's belief in the truth of a criminal act that has been committed by the defendant.

Article 184 paragraph (1) of the Criminal Procedure Code has determined in a limited manner the valid evidence according to the Law. Outside of that evidence, it is not permitted to be used to prove the defendant's guilt. (Rika Widianita, 2023)The chairman of the trial, public prosecutor, defendant or legal counsel are bound and limited to only being allowed to use that evidence. Proof with evidence outside of the types of evidence referred to in Article 184 paragraph (1) has no value and does not have binding evidentiary force.

(Adzkari et al., 2024)The evidence as regulated in Article 184 of the Criminal Procedure Code is as follows: a. Witness Statement b. Expert Statement c. Letter d. Instructions e. Defendant's Statement.

In accordance with the provisions in Article 184 paragraph (1), the Law determines five types of valid evidence. Outside of this, it cannot be used as valid evidence. If the provisions of Article 183 are connected to the type of evidence, the defendant can only be sentenced to a criminal sentence if the guilt can be proven with at least two (2) pieces of evidence referred to in Article 184 paragraph (1) of the Criminal Procedure Code.

Furthermore, related to the proof, that Proof is a provision that regulates the evidence that is permitted by law that may be used by the judge to prove the defendant's guilt. The truth or falsity of a problem must first be proven, so important is proof that everyone is not allowed to justify it just like that before going through the proof process(CINTIA AGUSTINA RESVIANDA, 2016).

The role of evidence in proving a criminal case is so important that it is necessary to further discuss evidence. The evidence discussed is not evidence that has been regulated by the Criminal Procedure Code, namely CCTV. Where we know that many criminal cases can be revealed with the role of CCTV, so that its current position is still questionable as if it can be on par with evidence regulated by law.

2. Legal Position of CCTV as Evidence in Criminal Cases of Aggravated Theft Decision Number 8/Pid.Sus-Anak/2021/PT-PDG

This case is related to the theft of a charity box at a mosque. From the case it is known that the incident of the disappearance of the charity box was only discovered by the Witness when he came to the mosque, then immediately reported it to another Witness who is the Administrator of the Al-Mujahidin mosque and then made a police report, the police developed it through CCTV footage in the mosque, so that the perpetrator who committed the crime of theft was known and then arrested. The perpetrator is threatened with criminal penalties in Article 363 paragraph (1) 4 of the Criminal Code.

In his decision, the Judge stated that the Children had been proven legally and convincingly guilty of committing the crime of "Theft under aggravating circumstances," as in the Public Prosecutor's indictment. There is no justification for the crime of theft committed by children, so that their actions have been considered to fulfill the elements to be declared guilty and punished according to applicable laws and regulations.

Case Position

It started on Friday, October 1, 2021 at around 00.30 WIB Child 1 Dhyki Dharmawan, nicknamed Dhyki, came to a credit shop owned by the nickname Dedes and met with Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok, then at that time Child 1 Dhyki Dharmawan, nicknamed Dhyki, told Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok to borrow a motorbike from witness Arisman Johari by saying "Pai solang onda bang Aris Cok, pai raun-raun wak" (go borrow a motorbike from bang Aris Ucok, let's go for a walk) and Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok, answered "Jaduh beko den salang ko" (so later I borrow it) and then Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok, went to borrow a motorbike from witness Arisman Johari, nicknamed Aris, while Child 1 Dhyki Dharmawan, nicknamed Dhyki waiting on the side of the road in front of the credit stall. Then Child 2 Jefriawan Saguilumbek nickname Jepri alias Ucok came to pick up Child 1 Dhyki Dharmawan nickname Dhyki by motorbike then they went straight to Tapian Titi Dusun Talago Desa Talawi and filled up the motorbike there, then they left for Sawahlunto City and while on the way Child 1 Dhyki Dharmawan nickname Dhyki said to Child 2 Jefriawan Saguilumbek nickname Jepri alias Ucok "beraksi wak lai cok" (we're in action again Cok) and Child 2 Jefriawan Saguilumbek nickname Jepri alias Ucok answered "Kamano" (where to) and was answered again by Child 1 Dhyki Dharmawan nickname Dhyki to Sawahlunto. Arriving in Sawahlunto City at around 02.30 WIB, Child 1 Dhyki Dharmawan, nicknamed Dhyki, and Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok, stole money from a charity box at the prayer room in front of the Sawahlunto Police and got Rp. 60,000.00 (sixty thousand rupiah). Then Child 1 Dhyki Dharmawan nicknamed Dhyki and Child 2 Jefriawan Saguilumbek nicknamed Jepri alias Ucok left again towards Talawi and at around 03.57 WIB they arrived in front of the Al-Mujahidin Mosque located in Kolok Mudik Village, Barangin District, Sawahlunto City and then they stopped, then Child 2 Jefriawan Saguilumbek nicknamed Jepri alias Ucok got off the motorbike and jumped over the fence of the mosque and then Child 2 Jefriawan Saguilumbek nicknamed Jepri alias Ucok tried to open the door of the mosque which was locked by jerking it with his hand until it opened, then Child 2 Jefriawan Saguilumbek nicknamed Jepri alias Ucok entered the mosque and took the charity box that was inside the mosque. Next, Child 1 Dhyki Dharmawan, nicknamed Dhyki, also entered the mosque by jumping over the fence and then saw Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok shaking the charity box and then Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok and Child 1 Dhyki Dharmawan, nicknamed Dhyki brought out the charity box by lifting it over the fence. Then Child 1 Dhyki Dharmawan, nicknamed Dhyki and Child Jepri immediately left and took the charity box towards Kolok and then stopped at an empty house, there Child 1 Dhyki Dharmawan, nicknamed Dhyki and Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok forcibly broke open the charity box and took the money in the charity box amounting to Rp1,803,000.00 (one million eight hundred and three thousand rupiah) then divided the money into 2 (two) and used it to buy food, cigarettes and other necessities;

That the incident of the disappearance of the charity box was discovered by Witness Jasman, nicknamed Jas, at around 04.20 WIB when he arrived at the mosque and immediately reported it to Witness Wasdi Bakthiar, nicknamed Wasdi, who is the administrator of the Al-Mujahidin mosque and then made a police report, then based on the investigation and through CCTV recordings at the mosque, the actions of the Children were discovered and then members of the Sawahlunto Police arrested Child 1 Dhyki Dharmawan, nicknamed Dhyki and Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok; The actions of Child 1 Dhyki Dharmawan, nicknamed Dhyki and Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok above as regulated and threatened with criminal penalties in Article 363 paragraph (1) 4 of the Criminal Code;

Requirements:

1. Declare that Child 1 Dhyki Dharmawan, nicknamed Dhyki, and Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok, have been proven legally and convincingly guilty of committing "the crime of theft under aggravating circumstances" in violation of Article 363 paragraph (1) 4 of the Criminal Code as charged by the Public Prosecutor;
2. Therefore, to sentence Child 1 Dhyki Dharmawan, nicknamed Dhyki, and Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok, to 5 (five) months imprisonment each, minus the temporary detention period that has been served;
3. Determine that the evidence is in the form of:
 - 1 (one) black HUGO BOSS brand hat;
 - 1 (one) piece of white brand short-sleeved t-shirt;
 - 1 (one) pair of LVC brand shorts in camouflage color;
 - 1 (one) piece of blue and red sarong;

Seized for destruction;

- 1 (one) unit of Honda BEAT brand motorbike without a police number, blue and black combination color, along with ignition key;
- 1 (one) sheet of STNK (Vehicle Registration Certificate) for a Honda Beat motorbike, blue and black BA 3754 ES in the name of Arisman Johari;

Returned to its rightful owner, namely Witness Arisman Johari;

- 1 (one) donation box from Al-Mujahidin Mosque;
- Cash amounting to Rp. 1,232,000.00 (one million two hundred and thirty two thousand rupiah);

Returned to the rightful party, namely Witness Wasdi Bachtiar;

- 1 (one) black 16 GB V-GEN brand flash disk containing 9 (nine) pieces of evidence in the form of images with the names 1,2,3,4,5,6,7,8 and 9:
 - a. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h09m52s-A02_20211001035500.mp4;
 - b. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h14m45s-A03_20211001035500.mp4;
 - c. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h15m58s-A03_20211001035500.mp4;
 - d. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h16m46s-A03_20211001035500.mp4;
 - e. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h18m50s-A04_20211001035500.mp4;
 - f. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h19m38s-A09_20211001035500.mp4;
 - g. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h22m34s-A09_20211001035500.mp4;
 - h. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h25m35s-A09_20211001035500.mp4;
 - i. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h28m07s-A11_20211001035500.mp4;
 - j. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h33m54s-A13_20211001035500.mp4;

To remain attached to the case file;

4. Determine that the Children each pay court costs of Rp. 2,000.00 (two thousand rupiah);

To judge:

1. Declaring that Child 1 Dhyki Dharmawan, nicknamed Dhyki, and Child 2 Jefriawan Saguilumbek, nicknamed Jepri alias Ucok, above, have been proven legally and

convincingly guilty of committing the crime of "theft under aggravating circumstances" as stated in the single indictment;

2. Sentencing the children to 4 (four) months imprisonment each;
3. Determine that the period of arrest and detention that the Children have undergone is deducted in full from the sentence imposed;
4. Determining that the Children remain detained;
5. Establishing evidence in the form of:
 - 1 (one) black HUGO BOSS brand hat;
 - 1 (one) piece of 3 SECOND brand short-sleeved white T-shirt;
 - 1 (one) pair of LVC brand shorts in camouflage color;
 - 1 (one) piece of blue and red sarong;

Seized for destruction;

- 1 (one) unit of Honda Beat brand motorbike without a police number, blue and black in color, along with the ignition key;
- 1 (one) sheet of STNK (Vehicle Registration Certificate) for a Honda Beat motorbike in blue and black BA 3754 ES in the name of Arisman Johari;

Returned to Witness Arisman Johari, nicknamed Aris;

- 1 (one) donation box from Al-Mujahidin Mosque;
- Cash amounting to Rp. 1,232,000.00 (one million two hundred and thirty two thousand rupiah);

Returned to Witness Wasdi Bakthiar alias Wasdi;

- (one) black 16 GB V-GEN brand flash disk containing 9 (nine) pieces of evidence in the form of images with the names 1,2,3,4,5,6,7,8 and 9:
 - a. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h09m52s-A02_20211001035500.mp4;
 - b. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h14m45s-A03_20211001035500.mp4;
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 - d. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h16m46s-A03_20211001035500.mp4;
 - e. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h18m50s-A04_20211001035500.mp4;
 - f. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h19m38s-A09_20211001035500.mp4;
 - g. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h22m34s-A09_20211001035500.mp4;
 - h. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h25m35s-A09_20211001035500.mp4;
 - i. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h28m07s-A11_20211001035500.mp4;
 - j. Evidence in the form of a video containing CCTV recordings with the name vlc-record-2021-10-01-12h33m54s-A13_20211001035500.mp4;

Determined attached to the case file;

6. Charge the children to pay court costs at both levels of court, with the appeal level set at Rp. 5,000 (five thousand rupiah).

The author concludes that CCTV has the same position as other evidence regulated and stipulated in the Criminal Procedure Code. Thus, CCTV is considered to have the same legal force as other evidence. Although not explicitly stated in the Criminal Procedure Code, CCTV can be used as additional evidence or a clue as further evidence in a criminal case. However, there are provisions that require that there must be a relationship between one piece of evidence and another (Pasal, 2021)

CONCLUSION

CCTV has the same position as other evidence regulated and stipulated in the Criminal Procedure Code. Because its position is the same as other evidence, CCTV is considered to have the same legal force as SUCH evidence. Although not explicitly stated in the Criminal Procedure Code, CCTV can be used as additional evidence or as an indication as further evidence in a criminal case. However, there are provisions that require that there must be a relationship between one piece of evidence and another.

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