

THE STRENGTH OF EVIDENCE OF RECONSTRUCTION (RE-RECONSTRUCTION) CARRIED OUT BY INVESTIGATORS IN CRIMINAL CASES

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ABSTRACT

Reconstruction plays a crucial role in criminal evidence, specifically to clarify and illustrate the occurrence of a crime by reenacting how the suspect committed the crime, thereby further convincing the investigator of the truth of the suspect's or witness's testimony. Reconstruction is used to obtain a picture of the criminal incident committed by the suspect and to reconcile the statements of the suspect and witnesses, thus clarifying the crime. The evidentiary power of the reconstruction (re-enactment) conducted by investigators during the investigation of a crime lies in the reconstruction's results, as evidence from the suspect/defendant outside of court. If it is consistent with other evidence, it will serve as a tool for finding evidence or clues in court.

Keywords: Evidence, Reconstruction, Criminal Case.

KEKUATAN PEMBUKTIAN REKONSTRUKSI (REKA ULANG) YANG DILAKUKAN PENYIDIK DALAM PERKARA PIDANA

ABSTRAK

Rekonstruksi mempunyai kedudukan yang sangat penting dalam pembuktian perkara pidana yaitu untuk membuat terang dan memberikan gambaran tentang terjadinya suatu tindak pidana dengan jalan memperagakan kembali cara tersangka melakukan tindak pidana, sehingga lebih meyakinkan kepada pemeriksa tentang kebenaran keterangan tersangka ataupun saksi. Rekonstruksi digunakan untuk mendapatkan gambaran tentang kejadian tindak pidana yang dilakukan oleh tersangka dan untuk mencocokkan keterangan tersangka dan saksi sehingga tindak pidana tersebut menjadi lebih jelas. Kekuatan pembuktian rekonstruksi (reka ulang) yang dilakukan penyidik dalam proses penyidikan suatu tindak pidana adalah hasil rekonstruksi sebagai keterangan tersangka/terdakwa di luar sidang, apabila telah sesuai dengan salah satu alat bukti lain, akan berkedudukan sebagai alat menemukan bukti di persidangan atau petunjuk.

Kata Kunci : Pembuktian, Rekonstruksi, Perkara Pidana

INTRODUCTION

Indonesia already has a criminal procedure law known as the Criminal Procedure Code (KUHAP). The criminal justice system has been regulated in such a way, especially regarding the process and procedure of examining a suspect starting from the level of investigation from the police, further research at the prosecutor's level to examination in court, especially regarding the evidentiary system (valid evidence) explicitly (clearly) has been regulated in the Criminal Code. Since the investigation level is known, the direction is known, which provisions (articles) of the Criminal Code have been violated, then at the prosecutor's level the investigation minutes are then examined until relevant articles are found to be indicted. The indictment, which was mostly sourced from the minutes of the investigation at the Police, was forwarded to the court to be examined, tried and decided.

Some criminal events are certainly often heard of reconstruction. The implementation of this reconstruction is in the form of repeating what the suspect has done to the victim, especially if the victim dies. As is known in certain criminal cases, the minutes of the investigation are always accompanied by minutes and photos of the reconstruction which chronologically the minutes and photos of the reconstruction are a series that is inseparable from the indictment and even with the examination in the court session, because the minutes and photos of the reconstructionIt has been included as an integral part of the case file and is attached to the indictment. This has the effect that the reconstruction becomes also relevant to be examined in court hearings. The Criminal Procedure Code has been regulated in detail regarding the procedure for examining the suspect, explicitly (clearly) there is no regulation about reconstruction and its legal force later in the trial. However, the institutions that play a role in the investigation of the case (the police) often conduct forms of examinations that are not regulated in the Criminal Code, especially reconstruction issues. The point is that it is an attempt by the police (investigators) to repeat what the suspect has done to the victim.

Reconstruction is carried out not for all criminal acts, but only for certain criminal acts. For example, murder, rape and others carried out with minutes with their photos. The entire minutes of this reconstruction are a unit with the case file. Reconstruction in criminal cases is one of the methods used by investigators in conducting the investigation process, although the nature of this reconstruction is not mandatory to be carried out, but to make it clearer

about the incident that occurred. The purpose of holding this reconstruction is to provide an overview of the occurrence of a criminal act by re-examining the way the suspect committed the crime with the aim of more convincing the examiner about the truth of the suspect's and witness's statements. This reconstruction helps the investigation to obtain evidence in the form of clue evidence before the case is handed over to the prosecutor's office.

Reconstruction is usually carried out at the crime scene (crime scene). Every demonstration carried out by suspects and witnesses needs to have their photos taken and the course of the reconstruction demonstration must be outlined in the Minutes of Reconstruction. The first act and obligation at the crime scene (crime scene) is an important starting point for the process of further investigation of criminal events. The success or failure of the further investigation largely depends on the first action and obligations of the investigators who are doing work at the scene of the case. The scene of this case is a source of materials for further investigation, because the scene of the case will often and often be visited by investigators to conduct investigations to carry out reconstruction and also to obtain as many materials as possible so that the case becomes clear and then can be smoothly tried. Reconstruction has a very important position in proving criminal cases, namely to shed light and provide an overview of the occurrence of a criminal act by demonstrating the way the suspect committed the crime, so as to be more convincing to the examiner about the truth of the suspect's or witness's statement.

RESEARCH METHOD

This research is descriptive in nature, describing applicable laws and regulations in relation to legal theory and the practice of implementing positive law related to the problem. The approach used in this research is an empirical juridical approach, a legal research method that seeks to examine law in a concrete sense, or to examine how law operates in society. This research then employs a qualitative approach. A qualitative approach is typically used to generate descriptive data in the form of written or spoken words from individuals or observed behavior, which is then corroborated with primary and secondary data sources.

RESULTS AND DISCUSSION

To find evidence or as a sub-system of proof in criminal cases. The strength of the *reconstruction evidence* carried out by the investigator in the process of investigating a criminal act is the result of *reconstruction* as the suspect/defendant's testimony outside the trial, if it is in accordance with one of the other evidence, will be positioned as a tool to find evidence at the trial or clues. Reconstruction or reconstruction is a criminal investigation technique by re-demonstrating the scene of the incident by suspects or witnesses to get a clear picture, test the correctness of the information, and complete the Examination Report (BAP). Reconstruction is one of the techniques in the method of examining a criminal case carried out by investigators in the investigation process. The legal basis for reconstruction is contained in the Decree of the National Police Chief No.Pol:Skep 1205/IX/2000 concerning the Revision of the Juklak and Juknis of the Criminal Investigation Process.

Reconstruction is usually used for the purpose of re-examination, completing case files and developing investigators. However, the implementation of reconstruction is not something that must be done for the police, because reconstruction is needed to get an idea of how the events occurred before the case file is submitted to the prosecutor's office. Reconstruction is used to get an idea of how the event occurred, so it is very important in the disclosure of a case of criminal acts that harm the community. In certain cases, if a strong fact has not been found, a reconstruction will be carried out. Reconstruction is carried out if it is considered necessary and aims to clarify the investigation. The implementation of reconstruction can be carried out at the Crime Scene (TKP) which aims to clarify the suspect's statement. However, it can also be done in other places that have been converted into crime scenes. The results of the reconstruction are included in the clue evidence because it is used as evidence born from the content of other evidence and has assessor or dependent nature

Criminal case reconstruction aims to find the material truth, match the information in the BAP with real scenes, and help prosecutors/judges believe the chronology of the crime committed at the original Crime Scene (TKP) or other simulated locations. The suspect was present to demonstrate the scene. If the suspect refuses, investigators can use a substitute actor (usually the police). The results are outlined in the Minutes of Reconstruction as part of proving the clues. It is usually carried out for serious cases such as murder or severe persecution, but it is not mandatory for all criminal acts. Reconstruction is carried out by upholding the principle of

presumption of innocence, where the suspect must not be coerced and accompanied by legal counsel. The reconstruction helps to equalize the perception of investigators, prosecutors, and judges regarding the actual chronology of events.

Reconstruction is not intended as the defendant's testimony, so in fact according to the Criminal Code, *Reconstruction* does not enter as evidence, but if *Reconstruction* This is in accordance with one of the other evidence, then its status is only a tool to find evidence at trial, because the information is made with the minutes as mentioned in Article 189 paragraph (2) that only the suspect/defendant's information made with the minutes can be used as a tool to find evidence at trial, and the information is related to the matter charged against him. If it is in accordance with one or the other evidence, *Reconstruction* In essence, it will change its position into a guide, for which it will be able to meet the minimum requirements of proof in the provision of a criminal case verdict. *Reconstruction* which changed the status from a tool for finding evidence at trial to instructive evidence, can be found from one of the decisions of the Supreme Court of the Republic of Indonesia dated September 20, 1977 No. 177/K/1985, affirming "Confessional information given outside the trial can be used by the judge as a clue to declare the guilt of the defendant".

Clue evidence in a criminal incident can only be used if all other evidence has been examined. If the other evidence is not sufficient to convince the judge of the guilt of the accused, then the clues have a role. Therefore, this evidence of clues cannot be used before other evidence is estimated. In accordance with the meaning of instructions based on Article 188 paragraph (1) of the Criminal Code, that instructions as an act of an incident or circumstance due to the conformity both between one and the other and with the criminal act itself, indicates that a crime has occurred and who the perpetrator is. The essence here is the conformity, both the conformity of the event, circumstances or acts, or the conformity with the criminal act itself. *Reconstruction* As the defendant's testimony that he did outside the trial, which can be used to help find evidence. If there is a similarity with one of the other pieces of evidence, then the position *Reconstruction* will turn into evidence, instructions thus the minimum requirement of two pieces of evidence can be met. However, it is not closed to the defendant that it is possible to withdraw or retract the information he gave during the examination conducted by the investigator, at the time the case has been advanced in the court session. Many cases were

found, where the defendant retracted the information he gave after a court hearing. Because it is rare for a suspect to deny the act charged against him during the investigator's examination, on the contrary, he immediately confessed.

The confession he gave could have been caused by physical pressure carried out by the investigator, so that the suspect confessed only to the investigator's question. Looking at the case files of the investigators and the Public Prosecutor, there is a certainty that the suspect/defendant is the perpetrator. However, the Criminal Code itself emphasizes that the confession of the defendant alone cannot make it a fact that he is the perpetrator. Because there could be another person (third party) as the main perpetrator of the crime, who is hiding behind the confession of a suspect/defendant. The confession of the suspect can bring the person concerned to be punished or convicted, so there will be many defendants who will just confess to it and be convicted, while the perpetrator is actually outside freely. Therefore, the goal of the law to achieve certainty and law enforcement will not be achieved. Sometimes it can be a confession from the suspect/defendant, then the investigator does *a reconstruction*, but the *reconstruction* is not in accordance with the actual fact, for example, one of the evidence is not included in the *reconstruction*, or the suspect in giving his statement is the result of fabrication.

There was an error in the implementation *Reconstruction*, or the suspect's statement outside the trial turns out to be retracted at the hearing, then the judge must be able to assess the revocation objectively, wisely and wisely. Let the judge not close his eyes or ears to the possible reason for the revocation carried out by the defendant, for example, the confession given is the result of unbearable coercion or torture from the investigator. Juridically, the defendant has the right and is justified to retract the testimony or confession he gave during the investigation examination or testimony outside the trial. The revocation of this statement is only allowed during the examination at the court hearing. Although the law does not limit the right to retract testimony outside the hearing, as long as the revocation is carried out with logical reasons and grounds. Because with logic and the quality of logic this is the basis, so that it is able to support the act of revocation, and that reason is acceptable. The jurisprudence of the Supreme Court of the Republic of Indonesia dated 22-2-1960 No. 225 K/Kr/1960 emphasizes that revocation cannot be accepted without a reason.

Reconstruction is an effort made at the stage of the investigator's examination to repeat what was experienced by the suspect, which if the repetition is in accordance with one of the evidence in the court hearing, which will later be transformed as one of the evidence regulated in the Criminal Code, namely instructional evidence. *Reconstruction* is the defendant's testimony given outside the trial which is included with the Examination Report (BAP) is part of the component to determine whether the defendant is guilty or not as the perpetrator of the crime charged against him based on the minimum threshold of proof.

The reconstruction carried out is still in the hands of the investigator at the stage of the investigation, so it is possible to experience shortcomings or errors, even mistakes both on the person and the event, or even the formalities of implementation and the authority of the authorized officials. If something like this happens, the defendant retracts the information given in *the reconstruction* with reasonable reasons and grounds. Implementation *Reconstruction* Criminal cases generally do not always run smoothly as expected by all parties. Investigators in reconstructing the incident of a criminal act turned out to experience obstacles or obstacles both internal and external.

The obstacles experienced by the investigators in *reconstructing* criminal cases, in this case obstacles that come from the suspect, the suspect often refuses to reconstruct the criminal act he committed. The suspect's reluctance to *reconstruct* the crime he had committed was because the suspect considered the information he provided to the investigator to be sufficient without having to reenact the crime scene. The suspect did not want to do *the reconstruction* because the suspect was not the real perpetrator so he refused to recreate the scene of the act he did not do. Moreover, the suspect's refusal to carry out the *reconstruction* was due to his concern for his safety from the anger of the people who witnessed the *reconstruction*. Such things hinder the work of investigators in reconstructing a criminal case so that the examination in the investigation process runs slowly and takes a lot of time.

The next obstacle in the implementation of *the reconstruction of* criminal cases comes from witnesses. Witnesses often do not want to come in the event that the investigator will carry out *a reconstruction*, this is because the witness feels that his statement to the investigator is quite helpful in the investigation process. Witnesses who do not want to be present in reenacting criminal events are considered very inefficient by the investigators, because

investigators must again call witnesses to be present in the *implementation of reconstruction* in order to pay attention to the suspect in re-enacting the scene whether it is in accordance with what he knows or not, whether there is something covered or disguised by the suspect or not. The investigators sometimes use substitute witnesses in case the witness does not want to be present. The obstacles that come from the police actually do not exist because the police carry *out the reconstruction* to get a direct picture of how the criminal act was committed by the suspect so that it becomes clear the direction to ensnare the suspect.

Efforts to overcome obstacles in the *implementation of reconstruction* and to anticipate unwanted things in the *reconstruction* process are to have extra strict guards imposed on the murder suspects. The efforts made by investigators to overcome these obstacles are to increase security at the reconstruction site and ensure the safety of suspects so that *the reconstruction* can run smoothly.

CONCLUSION

Reconstruction (reconstruction) by investigators in criminal cases has evidentiary power as instructive evidence (Article 184 of the Criminal Code) that strengthens the testimony of witnesses and suspects, aiming to describe the actual events to convince the examiners (investigators, public prosecutors, and judges). Although it is not explicitly regulated in the Criminal Code, the reconstruction is based on the Decree of the National Police Chief No.Pol:Skep 1205/IX/2000 to harmonize the BAP with the facts on the ground. The main function of reconstruction is to test the truth of the testimony of suspects or witnesses, clarify the chronology of events, and build a picture of the actual events of the case. The results of the reconstruction (minutes and photographs/recordings) are included in the clue evidence or used to strengthen other evidence. Reconstruction is used as a consideration for judges to obtain material truth and increase confidence in passing judgments. Reconstruction helps to improve accuracy and objectivity in law enforcement, especially in murder cases or complicated cases. In its implementation, reconstruction often involves suspects who re-enact their actions, accompanied by legal counsel, and witnessed by the public prosecutor.

The strength of the *reconstruction evidence* carried out by the investigator in the process of investigating a criminal act is the result of *reconstruction* as the suspect/defendant's testimony

outside the trial, if it is in accordance with one of the other evidence, will be positioned as a tool to find evidence at the trial or clues. Therefore, it can help the judge in determining the defendant's guilt, namely the minimum proof system. If there is an error in carrying out the *reconstruction* revoked by the defendant at trial, or the reconstruction results are not in accordance with one of the evidence, then the *reconstruction* results cannot be used as a means of finding evidence at trial because all information is outside the *reconstruction* trial must be in accordance with one of the other evidence, only then can the results be used as a tool to find evidence, that a criminal event has indeed occurred, and the defendant is the perpetrator.

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