



## LEGAL REVIEW OF THE DEFENDANT WHO WITHDRAWS HIS STATEMENT DURING THE EXAMINATION IN THE COURT (Research Study at Lubuk Pakam District Court)

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### ABSTRACT

The withdrawal of the Examination Report (BAP) by the defendant before the trial will affect the strength of the BAP as evidence, depending on the judge's decision to accept or reject it. legal consequences of the withdrawal of the BAP by the defendant before the trial in the criminal justice system The legal consequences depend on the judge's assessment of the reasons for the revocation. If the revocation is accepted for logical and proven reasons, the investigative report cannot be used, and the defendant's testimony at trial becomes evidence. However, if the revocation is rejected, the investigative report can still be used, while the defendant's testimony at trial becomes worthless as evidence. The implications of the defendant's withdrawal of the BAP before the trial on the final decision The withdrawal of the police report will affect the strength of the police report as evidence, depending on the judge's decision to accept or reject it. If the judge accepts the withdrawal, the police report will be deemed untrue and cannot be used as evidence in court; instead, the defendant's testimony at trial will be considered to have truth value. If the judge rejects the withdrawal, the police report remains valid and can be used as evidence, while the testimony at trial has no value

### 1. Introduction

Proving in the world of justice is something that must be done, because proof is a provision that contains outlines and guidelines on the methods provided by law to prove the guilt of the accused accused. Proving is the most decisive stage in the trial process, considering that at the proving stage it will be determined whether or not a defendant is proven to have committed a criminal act as charged by the public prosecutor.

Evidence in criminal procedure law is crucial in the process of examining criminal cases in court. Evidence is considered crucial in criminal procedure law because what is sought in criminal case examinations is material truth, which is the goal of criminal procedure law itself. To find the truth in a case, evidence is the primary method used by judges to determine whether or not the defendant committed the alleged act or to obtain the basis for issuing a verdict in resolving a case. Therefore, judges must be careful, meticulous, and mature in assessing and considering the issue of evidence.





Proof in criminal procedure law can be defined as an effort to obtain information through evidence and physical evidence in order to obtain a conviction regarding the truth of the criminal act being charged and to determine whether or not the defendant is at fault. One of the valid pieces of evidence according to the Criminal Procedure Code is the defendant's statement, where the defendant will also be questioned by the judge regarding the crime with which he is accused

## 2. Research Method

The approach method in this research uses a normative juridical approach. The normative juridical approach is used to analyze laws and regulations related to the defendant who withdrew his statement during the trial examination.

The collected data will be analyzed carefully using qualitative analysis or described in sentences. Qualitative analysis is an analysis based on the paradigm of the dynamic relationship between theory, concepts and data which is a constant feedback or modification of theory and concepts based on the data collected

## 3. Results And Discussion

### 1. The Legal Position of the Defendant's Statement and the Retraction of the Investigation Report (BAP)

In the Indonesian criminal justice system, the defendant's statement constitutes one of the five valid forms of evidence as stipulated in Article 184 paragraph (1) of the Criminal Procedure Code (KUHAP). Nevertheless, unlike witness testimony or documentary evidence, the defendant's statement does not possess independent evidentiary strength. It must be supported by other legal evidence to establish the defendant's guilt. This is in line with Article 183 of the Criminal Procedure Code, which requires at least two valid pieces of evidence accompanied by the judge's conviction before a criminal sentence can be imposed.

Furthermore, Article 189 paragraph (1) of the Criminal Procedure Code defines the defendant's statement as what is declared by the defendant in court regarding the act he committed or what he personally knew or experienced. This provision clearly emphasizes that the evidentiary value of a defendant's statement lies in what is presented during trial, not during the investigation stage. Consequently, statements recorded in the Investigation Report (Berita Acara Pemeriksaan/BAP) are not classified as formal evidence of the



defendant's statement, but rather serve as auxiliary material to assist in discovering the material truth, as regulated in Article 189 paragraph (2).

Based on this legal framework, the defendant has the right to retract statements previously given during the investigation stage. This retraction reflects the principle of fair trial and the protection of the defendant's rights, especially considering the possibility that statements during investigation may be obtained under coercion, pressure, or without proper legal assistance. Therefore, the retraction of a BAP is not prohibited by law, but it must be carried out during trial and supported by rational and justifiable reasons.

In practice, the retraction of statements often involves claims of physical violence, psychological pressure, intimidation, or the absence of legal counsel during the investigation process. Such claims must be carefully assessed by the judge, as they directly affect the credibility and evidentiary value of the defendant's earlier statement. If proven, the statement in the BAP may lose its value entirely; if not, it may still be considered as supporting information in evaluating other evidence presented during trial.

## **2. Judicial Considerations in Assessing the Retraction of the Defendant's Statement**

The findings indicate that judges exercise careful and selective judgment when dealing with the retraction of a defendant's statement. The acceptance or rejection of such retraction depends on the credibility, logic, and evidentiary support of the reasons presented by the defendant.

One of the primary considerations is the testimony of the investigating officer, often referred to as the verbal witness. This testimony is crucial in determining whether the defendant's statement during the investigation was obtained lawfully. The judge typically summons the investigator to clarify the procedures used during the examination. If it is established that coercion, threats, or violence occurred, the retraction is likely to be accepted, and the statement in the BAP is considered invalid and unusable even as supporting evidence. Conversely, if the investigator's testimony indicates that the examination was conducted properly and without coercion, the judge may reject the retraction.

However, the judge does not rely solely on the investigator's testimony. Another important factor is the consistency of the defendant's defense. If the defendant's explanation in court contradicts other evidence, or even conflicts with the defense presented by legal counsel, the judge may view the retraction as unreasonable and lacking credibility. In such cases, the retraction may weaken the defendant's position rather than strengthen it.

Additionally, judges must adhere to fundamental evidentiary principles, including evaluating whether the testimony is given under oath and whether it





is supported by other evidence. The connection between the investigator's testimony and other evidence—such as witness statements, documents, or indications (petunjuk)—becomes essential in determining the truth of the defendant's claims.

Thus, the retraction of a defendant's statement is not automatically accepted. It must undergo a comprehensive evaluation involving both juridical and factual considerations. Judges are required to assess the entire context of the case in order to avoid reliance on statements that may have been obtained unlawfully or, conversely, to prevent misuse of retraction as a strategy to evade responsibility.

### 3. Legal Consequences of the Retraction on Evidentiary Strength

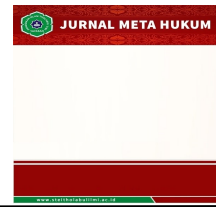
The legal consequences of retracting a defendant's statement depend significantly on whether the retraction is accepted or rejected by the court.

If the retraction is accepted, the statement contained in the BAP is considered unreliable and loses its evidentiary value. As a result, it cannot be used as a basis for assisting in proof during trial. This situation may weaken the prosecution's case, particularly if the original confession was a central element of the indictment. In the absence of sufficient supporting evidence, the prosecution may fail to meet the minimum evidentiary threshold required by Article 183 of the Criminal Procedure Code. Consequently, the judge may be compelled to issue an acquittal (vrijspraak) or a release from all legal charges (ontslag van alle rechtsvervolging).

On the other hand, if the retraction is rejected due to lack of reasonable grounds, the statement in the BAP may still be considered as having probative relevance. Although it cannot function as independent evidence, it may serve as a supporting element that strengthens other evidence presented in court. In some judicial practices, an unreasonable retraction is interpreted as an indication of the truthfulness of the original statement, particularly when it is consistent with other evidence such as witness testimony or physical evidence.

Jurisprudence of the Supreme Court of Indonesia has also affirmed that a defendant's confession outside the court, even if later retracted, may still be used as an indication (petunjuk) of guilt, provided that the retraction lacks valid justification. This highlights the importance of rational reasoning in the retraction process, as an illogical retraction may ultimately disadvantage the defendant.

Nevertheless, it must be emphasized that the defendant's statement—whether in court or in the BAP—cannot stand alone to determine guilt. The judge must still base the decision on a minimum of two valid pieces of evidence and personal



conviction derived from a comprehensive evaluation of all facts presented during trial.

#### 4. Implications of the Retraction on Judicial Decision-Making

The retraction of a defendant's statement has significant implications for judicial decision-making within the criminal justice system. It directly influences the evidentiary dynamics of the case and may affect the judge's reasoning in reaching a final verdict.

When the retraction is accepted, it often undermines the prosecution's narrative and may create reasonable doubt regarding the defendant's guilt. This condition strengthens the protection of the defendant's rights, particularly in preventing wrongful convictions based on coerced confessions. In such circumstances, the judge may find that the available evidence is insufficient to meet the legal standard of proof, leading to an acquittal.

Conversely, when the retraction is rejected, it may reinforce the prosecution's case. The original statement in the BAP, although not a standalone piece of evidence, may complement other evidence and contribute to the judge's conviction. In certain cases, the rejection of a retraction has been considered as an indication of the defendant's inconsistency, which may negatively affect the credibility of the defense.

However, the study also highlights that the retraction of a statement should not be treated as a decisive factor in determining the outcome of a case. Judges are required to consider both juridical aspects—such as evidence and legal provisions—and non-juridical aspects, including sociological and psychological factors. A balanced approach is necessary to ensure that the decision reflects justice, legal certainty, and the protection of human rights.

Ultimately, the retraction of a defendant's statement serves as an important mechanism for testing the legality and credibility of evidence. It reflects the dynamic nature of criminal proceedings, where the search for material truth must be conducted in accordance with due process of law. Therefore, the judge's role is crucial in ensuring that both the defendant's rights and the integrity of the legal process are upheld.

#### 4. Conclusion

The defendant's testimony serves as evidence in the criminal justice process, which is one of the five valid pieces of evidence in criminal justice, as stipulated in Article 184 of the Criminal Procedure Code. It can be used by the judge to establish the defendant's guilt and to issue a sentence. However, the defendant's





testimony cannot stand alone to prove guilt; it must be supported by other valid pieces of evidence and supported by the judge's conviction.

Alegal consequences of the withdrawal of the BAP by the defendant before the trial in the criminal justice system The legal consequences depend on the judge's assessment of the reasons for the revocation. If the revocation is accepted for logical and proven reasons, the investigative report cannot be used, and the defendant's testimony at trial becomes evidence. However, if the revocation is rejected, the investigative report can still be used, while the defendant's testimony at trial becomes worthless as evidence.

The implications of the defendant's withdrawal of the BAP before the trial on the final decisionThe withdrawal of the police report (BAP) will affect the strength of the police report as evidence, depending on the judge's decision to accept or reject it. If the judge accepts the withdrawal, the BAP will be deemed untrue and cannot be used as evidence in court; instead, the defendant's testimony at trial will be considered to have truth value. If the judge rejects the withdrawal, the BAP remains valid and can be used as evidence, while the testimony at trial has no value

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