

Law Enforcement Against Perpetrators of Desertion by TNI Members in the Military Court Area III-12 Surabaya

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ABSTRACT

The aim of the research is to determine the implementation of the law enforcement process against deserters at the III-12 Surabaya military court. research methods. Research methods Legal research using normative legal research methods. The results of the implementation by the judge in determining the provisions for the perpetrator in this case are in accordance with the elements of Article 87 paragraph (1) 2nd jo paragraph (2) where the judge has considered both the facts at the trial, the statements of the witnesses and the available evidence, as well as the judge's confidence in handing down a decision which will later have a deterrent effect on the defendant, gives fear to the convict and the Soldiers.

Keywords: Law, Constitution, Soldiers, TNI, Court

1. INTRODUCTION

Indonesia has a military force which is often called the Indonesian National Army or abbreviated as TNI. The TNI is a general part of the general public which is specially prepared to carry out the task of defending the country in order to support and maintain the unity and sovereignty of the State (Bakrie, 2007). TNI members in carrying out their duties are limited by military regulations so that all actions and actions carried out must be based on applicable law. To be able to carry out their duties and obligations, the TNI is educated and trained to obey orders or decisions in accordance with the provisions of military law (Lubis, 2019).

Based on the information above, it is clear that the position of the TNI is highly relied upon by the Indonesian people in the field of defense and security. However, in reality there are many TNI soldiers from the Army (AD), Navy (AL) and Air Force (AU) who commit criminal acts and leave their official duties for a long time without any justifiable reason. The actions taken did not reflect the discipline of a TNI soldier in carrying out his duties and of course had an impact on public trust in the TNI soldiers themselves (Amu, 2012).

A military man is also required and ready to be placed anywhere throughout Indonesia and must not leave his duties and units. The Unitary Republic of Indonesia is a fixed price is the motto



that military members adhere to firmly. A military person must be willing to leave his family at certain times for the sake of the country (Siswosoediro, 2009).

Thus, all TNI Soldiers must be careful in their actions and actions so as not to commit acts that could violate applicable legal norms. Every member of the TNI must submit to and obey the legal provisions that apply specifically to the military, namely the Military Criminal Code (KUHPM), the Military Discipline Law (KUHDM), and the Military Discipline Regulations (PDM) and other regulations. other regulations. This regulation applies to enlisted officers, non-commissioned officers and officers who commit an action that is detrimental to the unit, the general public and the state. 1 If a TNI soldier violates the soldier's regulations, the soldier is said to have committed a criminal act. One of the crimes committed by TNI members is the crime of desertion (Amu, 2012). In the Criminal Code, the criminal act of desertion is regulated in Article 87 with the following formulation:

"Threatened for desertion, military:

1st Who leaves with the intention of permanently withdrawing from his service obligations, avoiding the danger of war, crossing over to the enemy or entering military service in a State or other power without justification for that.

2nd Who by mistake or intentionally commits an unauthorized absence in a peace period longer than thirty days, in a war period a maximum of four days.

3rd Who deliberately makes an absence without permission and therefore does not participate in carrying out part or all of an ordered trip, as described in Article 85 2nd."

Article 85 2nd states: 2nd With a maximum prison sentence of one year, if the absence is during peacetime, due to being neglected in whole or in part by a trip to a place located outside the island where he is currently located that he knows or One has to suspect that there is an order for that. In relation to the criminal act of desertion as formulated in Article 87 of the KUHPM, Article 88 of the KUHPM states regarding the aggravation of perpetrators of the criminal act of desertion as formulated in Article 87 of the KUHPM, namely if: 1st, If five years have not passed since the crime was committed, since the perpetrator has served all or part of the sentence imposed on him by decision, for committing desertion or intentionally committing absence without permission or since the sentence was completely abolished for him, or if when having committed a crime, the right to carry out the crime has not expired; 2nd, If two or more people, each for himself, in committing one of the crimes mentioned in articles 86 and 87, go together or in furtherance of an evil conspiracy; 3rd, When the perpetrator is a military commander
4th, When he commits the crime, while on duty; 5th, When he goes to or abroad;



6th, if he commits the crime using a ship, aircraft or vehicle belonging to the Armed Forces;
7th, if he commits the crime by bringing along an animal used for the needs of the Armed Forces, weapons or ammunition;"

The process of resolving military crimes, especially desertion, is generally different from general crimes, the difference lies in the subject, namely that military crimes are committed by military personnel, while general crimes are committed by pure civilians. The criminal act of desertion is also known as the crime of absenteeism without permission as stated in Chapter III of the Criminal Code, which at the initial level generally tends to be an act that should not occur in military life.

One of the criminal acts of desertion committed by TNI members is a case that was decided by the Military Court II-12 Surabaya in Decision Number: 16-K/PM.III-12/ AL / II / 2024. The defendant with the initials RA, was legally proven and convincing guilty of committing a criminal offense: "Repeat Desertion." and sentenced to prison for 5 (five) months and 20 (twenty) days.

2. RESEARCH METHODS

Legal research using normative legal research methods in drawing conclusions using deductive thinking methods. Starting with drawing conclusions based on general things to specific things. By comparing primary legal materials and secondary legal materials, problems can be narrowed down from general to specific. Data analysis is carried out by comparing and analyzing primary legal materials to search for normative truth. Assisted with secondary data in the form of legal opinions and information from sources for later analysis and finding differences in legal opinions (Sugiarto, 2021).

3. RESULTS AND DISCUSSION

Law Enforcement Against The Criminal Act Of Desertion

Military criminal law essentially contains regulations to regulate TNI soldiers which have sanctions if these regulations are violated. The rules of military law develop based on the needs of the situation and conditions and are also influenced by experience. One of the criminal acts that is often found in military units is the crime of desertion (Amu, 2012). The crime of desertion is a crime specifically committed by a member of the military. In the Criminal Code, the criminal act of desertion is regulated in Article 87 with the following formulation:

Threatened for desertion, the military:



1st Who goes with the intention of permanently withdrawing from his service obligations, avoiding the danger of war, crossing over to the enemy or entering military service in a State or other power without justification for that.

2nd Who by mistake or intentionally commits an unauthorized absence in times of peace longer than thirty days, in times of war longer than four days.

3rd Who deliberately makes an absence without permission and therefore does not participate in part or all of a trip ordered, as described in Article 85-2.

If we look closely at the substance of the formulation of the article, in accordance with its placement under the heading regarding provisions on how a soldier can withdraw from carrying out his service obligations, it can be understood that the essence of the criminal act of desertion must be interpreted as meaning that the soldier who commits desertion must reflect the attitude that he no longer had any desire to be in military service.

This attitude could be realized in the act of the person concerned leaving the unit within a minimum period of 30 consecutive days or the act of withdrawing permanently. That in everyday life, a military person is required to be prepared in the place where he has to be, without that it is difficult to expect him to become a military person who is capable of carrying out his duties.

In military life, acts of absence from a place to carry out service are determined to be a crime, because observing discipline is a very urgent part of military life. This is different from the life of non-military organizations, that this act is not a crime, but rather a violation of organizational discipline.

If we look closely at the meaning of the formulation of the act of permanently withdrawing from his official obligations, at first glance this act shows that he will not return to his place of duty. Maybe this can be seen from the fact that he has worked for a company, without stating that the job is only temporary.

Based on the description above, it can be understood that the essence of the criminal act of desertion is not just the act of leaving service without permission within a thirty day period. Rather, it must be interpreted that the essence of the act of desertion contains the intention of the perpetrator's attitude and desire to withdraw from his service obligations and therefore it must be interpreted that the soldier contains a will or desire that he no longer has the desire to remain in military service. This must be understood by law enforcers within the TNI, especially military judges, so that when examining and adjudicating desertion cases they can make decisions that are appropriate and fair and beneficial for the interests of developing military units.



It cannot be denied that in reality, it often happens that a soldier's motivation for deserting is due to fear of his seniors due to a mistake, so he chooses to leave service because if he is in the unit he will face harsh action from his seniors. Another thing is that because he has a lot of debt here and there, he prefers to leave the unit rather than solve the problem, and there are also many other motivations

The crime of desertion is an action committed by the defendant, who in this case is a TNI soldier, where the defendant leaves the unit without legal permission from an authorized superior. The crime of desertion is also a pure military crime, where a pure military crime is a crime that is only committed by the military because it is specifically military.

Military criminal law is called special in the sense of distinguishing it from General Criminal Procedure law which applies to everyone. The Military Criminal Law also contains regulations that deviate from the provisions regulated in the Criminal Law and only apply to special groups (Military) or people because the statutory regulations are aimed at them (Sugiarto, 2021).

Furthermore, the criminal act of desertion has the main characteristic, namely absence without permission committed by a military person at a place designated for him, where the military should be in the unit to carry out service obligations. This absence may involve traveling somewhere, hiding oneself, crossing over to the enemy, entering another country's military service, or deliberately leaving oneself behind.

Enforcement of Criminal Law and Judges' Considerations in Handing Down Decisions on the Crime of Desertion in Case Decision Number: 16-K/PM.III-12/AL/II/2024

1. Case Position

Based on Case Decision Number 16-K/PM.III-12/AL/II/2024, RIKO AWALUDIN, the Defendant, has left the Yonkomlek 2 March unit without valid permission from the unit commander or other authorized superior from August 10 2023 until on September 20 2023, which is included in the jurisdiction of the II-12 Military Court, has committed the crime of desertion. Due to his fault or deliberate absence without permission within 42 (forty two) consecutive days.

That the Defendant at the times and places mentioned below, namely from the tenth of August 2000 Twenty-three to the twentieth of September 2000 Twenty-three or at least at a certain time in August 2000 Twenty-three until September 2000 Twenty-three, at least still in 2000 Twenty-three, located at Yonkomlek 2 Mar Surabaya, or at least in a place that falls within the jurisdiction of the Military Court 111-12 Surabaya, which has the authority to examine and adjudicate this case, has committed a criminal act: Military, who through his fault or intentionally



commits an unauthorized absence during a peaceful period longer than thirty days, if at the time of committing the crime not yet five years have passed since the perpetrator has served in whole or in part the sentence imposed on him by decision, for desertion or deliberate absence without permission, or since the sentence has been completely abolished for him, or if at the time of committing the crime the right to carry out the sentence has not expired, in the following manner:

a. Whereas the Defendant entered the Indonesian Navy as a soldier in 2018 through the Secaba PK XXXVIII/T education at Kodiklatal, after graduating he was appointed with the rank of Prada Mar, then was placed at Yonkomlek 2 Mar until the time he committed the act in this case with the rank of Pratu Mar NRP 125404;

b. That the Defendant left service at the Yonkomlek unit on March 2 without valid permission from the unit commander or other authorized superior from August 10 2023 to September 20 2023 respectively;

c. That the reason the Defendant left the unit without valid permission from the unit commander was because he was collecting debts from several of the Defendant's business friends totaling IDR 300,000,000 (three hundred million rupiah) and the Defendant would use this money to pay debts to several people amounting to IDR ,250,000,000,- (two hundred and fifty million rupiah);

d. That when the Defendant left service without valid permission from the unit commander on September 16 2023, the Defendant stole a silver Toyota Hiace car with registration number L 7962 AE belonging to Mr. Anang is parked at CV S-Pro at Jl. Copyright dated III No. 54 Menanggal Kee. Gayungan Surabaya then the Defendant went to the Tuban area to collect the Defendant's money from the Defendant's business friends;

and. Whereas while the Defendant was leaving service without valid permission from the unit commander, the Defendant never informed his whereabouts either by letter or telephone to the Yonkomlek 2 March unit;

f. Whereas when the Defendant left service without valid permission from the unit commander, the Union had attempted to search and arrest the Defendant, but the Defendant was not found;

g. That the Defendant returned to the unit on Wednesday 20 September 2023 at approximately 21.00 WIT after being arrested by Witness 3 (Serda Pom Achmat Adjis Fathoni) together with First Lieutenant (PM) Agus Dwi Purnomo and Serka Pom Jews in the Wotan Sumurgung Kee area. Palang District. Tuban, then the Defendant was taken and detained at Porn Lantamal V;



h. That therefore the Defendant was absent without valid permission from Danyon Komlek 2 Mar or other authorized superior from 10 August 2023 to 20 September 2023 or for 42 (forty two) consecutive days or longer than 30 (thirty) days;

i. Whereas as long as the Defendant left the unit without the permission of an authorized superior, the Unitary State of the Republic of Indonesia was in a state of peace and the Yonkomlek 2 March unit and the Defendant were not being prepared to carry out military operational duties; And

j. Whereas apart from this case, the Defendant had previously committed the crime of desertion and was sentenced by the 111-12 Surabaya Military Court to prison for 4 (four) months with the additional penalty of being dismissed from military service in accordance with the Decision of the 111-12 Surabaya Military Court Number 95-K/PM. III-12/ALNIII/2023 dated October 13 2023 and is already in force fixed law No AMKHT/95-K/PM.III-12/AL/X72023 dated 19 October 2023, apart from that the Defendant also committed the crime of theft, the case of which is currently still under trial at the Surabaya 111-12 Military Court.

In the opinion that the Defendant's actions have fulfilled the elements of a criminal act as regulated and punishable by crime in Article 87 paragraph (1) 2 in conjunction with paragraph (2) of the KUHPM in conjunction with Article 88 paragraph (1) 1 of the KUHPM.

Remember:

- a. Law Number 31 of 1997 concerning Military Justice Article 130
- b. Law Number 48 of 2009 concerning Judicial Power;
- c. TNI Commander Regulation Number Perpang/7/11/2018 dated 22 February 2018 concerning Name, Place position, and Region Law Court Military, High Military Court and Battle Military Court, as well as Military Prosecutor, High Military Prosecutor and Battle Military Prosecutor.
- d. Military Prosecutor's Demands

After the evidentiary agenda, the Military Prosecutor is obliged to prepare his demands by taking into account the facts presented at the trial. Following are the Military Prosecutor's demands which have been read before the Panel of Judges who examined and tried the case with the defendant Riko Awaludin at Military Court III- 12 Surabaya:

and. Judge's Legal Considerations The judge who handed down the decision based on the existing facts, in the trial, the Panel of Judges in case 16-K/PM.III-12/AL/II/2024:

Considering, that the criminal acts charged by the Military Prosecutor contain the following elements:



Abusive elements : Military

Second element: Those who are due to their fault or intentionally absent without permission

Third element: In times of peace

The fourth element : Longer than thirty days

Fifth element: When committing a crime, not more than five years have passed since the perpetrator has served all or part of the sentence imposed on him by decision, for committing desertion or intentionally committing absence without permission, or since the criminal act was completely abolished for him, or when committing the right to carry out the crime has not expired.

Considering that regarding the Indictment, the Panel of Judges will express its opinion as follows:

First element: "Military".

What is meant by military or miles which comes from Greek is someone who is armed and prepared to face combat or war tasks, especially in the context of national defense and security.

Whereas in the Military Criminal Law Article 46 Paragraph (1), it is stated that the Military are those who are bound to serve voluntarily in the armed forces who are obliged to be in service continuously within the period of the service bond. The military can be differentiated into the Voluntary Military and the Compulsory Military. Compulsory military service is a justification for military justice, which means that the provisions of the Military Criminal Law (KUHPM) are subject to/applied to them in addition to the provisions of the General Criminal Law (KUHP) including to the perpetrator/defendant as a member of the military/TNI who is the subject law.

Whereas in Indonesia what is meant by Military is the strength of the armed forces of a State which is regulated based on the statutory regulations Article 1 number 20 of Law Number 34 of 2004 concerning the TNI.

That a military person is marked by their rank, NRP, position and unit. When carrying out their duties or serving, they wear a uniform according to their mantra, complete with rank marks, unit location and other attributes.

Whereas based on the Defendant's statement which was supported by the statements of witnesses under oath and other evidence revealed at trial, the legal facts were obtained as follows:

1. That it is true that he entered the Indonesian Navy in 2018 through the Secata PK XXXVIII/1 education at Kodiklatal, after graduating he was inaugurated with the rank of Prada Mar, then placed in Yonkomlek 2 Mar until the time he committed the act that constitutes this case with the rank of Pratu Mar NRP125404.
2. That it is true that the Defendant appeared in court wearing official clothes and rank insignia and complete with the attributes that apply to him and his unit as a TNI-AL soldier.



3. That it is true that the Defendant's case was transferred to the Military Court 111-12 Surabaya based on the Decree on Handover of the Case from Danmenbanpur 2 March as Case Handover Officer, Number Kep/04/1/2024 dated 29 January 2024. Thus, the Panel of Judges was of the opinion that the first element: "Military" had been fulfilled.

The second element: "Those who, through their fault or intentionally, are absent without permission."

What is meant by the term "due to fault" is basically carelessness, lack of vigilance, carelessness or error that was not intended by the perpetrator. Meanwhile, according to M.v.T (Memorie Van Toileting) what is meant by "intentionally" is that the perpetrator of a criminal act knows, is aware and realizes the occurrence of a criminal act and the consequences that arise or may arise from the act.

What is meant by being absent is that the perpetrator commits an act or act of leaving or distancing himself or not being at the place designated for him to carry out his duties/obligations, what is meant is the Defendant's place of duty in this case. Meanwhile, what is meant without permission means that the perpetrator (Defendant) is not in the unit without permission or without the knowledge of the authorized Commander/Superior, either verbally or in writing, as is usual for soldiers who want to leave the Unit, whether for official or personal reasons, they are required to obtain permission first. according to procedure.

Whereas based on the Defendant's statement which was supported by the statements of witnesses under oath and other evidence revealed at trial, the following legal facts were obtained:

1. That it is true, based on the statements of Major Mar Arif Widodo (Witness-1), Peltu Mar Akront Wiclep Larungkondo (Witness-2) and Serda Pom Achmat Adjis Fathoni (Witness-3) that the Defendant left the Yonkomlek unit on March 2 without valid permission from the unit commander or other superiors who have authority since August 10 2023 by not attending morning roll call at the unit.

2. That it is true that the Defendant left the 2 March Yonkomlek unit without valid permission and authorized superiors on 10 August 2023 by not participating in activities at the 2 Mar Yonkomlek unit.

3. It is true that the reason the Defendant left the unit without valid permission from the unit commander was because the Defendant was focused on collecting money from several business friends totaling Rp. 300,000,000.00 (three hundred million rupiah) so that he could pay off the Defendant's debt to several people in the amount of Rp. 250,000,000,- (two hundred and fifty million rupiah).



4. It is true that in September 2023, the Defendant stole a Silver Toyota Hiace car with registration number L 7962 AE belonging to Mr. Anang parked at CVS-Pro on Jl. Copyright dated III No.54 dated Kee. Gayungan Surabaya.

5. It is true that the Defendant left service without valid permission from the unit commander in September 2023. The Defendant stole a silver Toyota Hiace car with registration number L 7962 AE belonging to Mr. Anang is parked at CV S-Pro at Jl. Creation is gone III No. 54 dated District. Gayungan Surabaya and is in the Tuban area with activities to collect the Defendant's money from the Defendant's business friends.

6. It is true that as long as the Defendant left service without valid permission from the unit commander, the Defendant never announced his whereabouts either by telephone or letter to the unit.

7. It is true that the Defendant was aware of the Yonkomlek 2 March licensing procedures, but the Defendant deliberately did not carry out these licensing procedures.

8. That is true as long as the Defendant left the unit without valid permission and the unit commander never informed him of his whereabouts and the Defendant never contacted the unit either by letter or telephone and the Defendant did not carry any firearms or inventory items belonging to the unit.

9. It is true that he returned to the unit on September 20 2020 by being arrested by joint officers from Pom Lantamal V and Gayungan Surabaya police in the Tuban area, East Java.

With Thus, the Panel of Judges was of the opinion that the third element "Deliberately absent without permission" had been fulfilled.

The third element: "In Time of Peace".

What is meant by "in peacetime" is that during the time the perpetrator committed this criminal act, the Unitary State of the Republic of Indonesia was not at war with another party and the Defendant Unit was not being prepared or carrying out military operations as intended in article 58 KUHPM (Sugiarto, 2021).

Based on the statements of the witnesses under oath, the statements of the Defendant and other evidence at the trial, the following facts were revealed:

1. That it is true that the Defendant has left the Yonkomlek 2 Mar unit without valid permission from the Danyon Komlek 2 Mar or other authorized superiors from 10 August 2023 to 20 September 2023 or for 42 (forty two) consecutive days based on Attendance for Danyon Komlek Soldiers March 2 from August 10 2023 to September 21 2023.



2. It is true that as long as the Defendant left the Unit without the permission of the unit commander or other authorized superior, the Unitary State of the Republic of Indonesia, especially the Malang area and its surroundings, was in a safe and peaceful condition and the Defendant and the Defendant's unit were not being prepared to carry out military operational duties.

Thus, the Panel of Judges is of the opinion that the fourth element, "In times of peace", has been fulfilled.

Fourth element: "Longer than thirty days".

What is meant by "Longer than thirty days" is that the time limit for the Defendant to be absent without permission is more than thirty days continuously.

Based on the statements of the witnesses under oath, the defendant's statement and other evidence at the trial, the following facts were revealed:

1. That it is true that he returned to the unit on September 20 2020 by being arrested by joint officers from Pom Lantamal V and Gayungan Surabaya police in the Tuban area, East Java;

2. That it is true that the Defendant has left the Yonkomlek 2 Mar unit without valid permission from the Danyon Komlek 2 Mar or other authorized superiors from 10 August 2023 to 20 September 2023 or for 42 (forty two) consecutive days based on Yonkomlek's attendance March 2 from August 10 2023 to September 21 2023

Thus, the Panel of Judges was of the opinion that the fourth element "Longer and thirty days" had been fulfilled.

The fifth element: "When the crime has been committed, not more than five years have passed, since the perpetrator has served all or part of the sentence imposed on him by decision, for committing desertion or deliberately committing absence without permission, or since the sentence was completely abolished for him, or if when having committed a crime, the right to carry out the crime has not expired "What is meant by II when committing the crime was that five years had not passed since the perpetrator had served all the sentences imposed on him by the verdict, for committing desertion" is that the Defendant when committing the second military crime of desertion had not passed five years since the sentence for his desertion. The first is carried out in part or in full.

Based on the statements of the witnesses under oath, the defendant's statement and other evidence at the trial, the following facts were revealed:

1. That it is true that the Defendant has committed the crime of desertion from 17 February 2023 to 19 April 2023 or for 62 (sixty two) days and has been sentenced to a basic sentence of 4 (four) months and an additional sentence of being dismissed from Military service based on the

Decision of the Military Court III- 12 Surabaya Military Number III-12 Surabaya Number 95-1/PM.III-12/AL/III/2023 on October 11, 2023 and has completed serving his sentence in Lemasmil III Surabaya.

2. That it is true that the Defendant was absent again without valid permission from the unit commander since August 10 2A23 or the period of time that the Defendant served his sentence for being absent without valid permission was less than 5 (five) years.

Thus, the Panel of Judges was of the opinion that the sixth element "At the time of committing the crime, five years had not passed since the perpetrator had served all the sentences imposed on him by the verdict for committing desertion" had been fulfilled.

Considering that, having fulfilled all the elements of the criminal offense above, the Panel of Judges is of the opinion that the Military Prosecutor's indictment has been legally and convincingly proven.

Considering that, based on the matters described above, which are facts obtained during the trial, the Panel of Judges is of the opinion that there is sufficient valid and convincing evidence that the Defendant is guilty of committing a criminal act (Pratama, 2022): "Deliberately absent without permission from the peace period is longer than thirty days, when committing the crime it has not been five years since the perpetrator has served all the punishment imposed on him by the verdict for committing desertion "as regulated and threatened with punishment in Article 87 paragraph (1) 2nd juncto paragraph (2) in conjunction with Article 88 paragraph (1) of the KUHPM.

f. Announce the verdict

After the Panel of Judges at the Military Court considered the matters mentioned above, the Panel of Judges decided on this case, following is an excerpt from its decision:

Judge:

1. Declare that the Defendant, namely RIKO AWALUDIN, Pratu Mar NRP 125404, has been legally and convincingly proven guilty of committing the crime: "Repeat Desertion."

2. Punish the Defendant therefore by:

Penalty: Imprisonment for 5 (five) months and 20 (twenty) days

Determines that the time the Defendant is in temporary detention shall be deducted entirely from the sentence imposed.

3. Establishing evidence in the form of letters:

a. 3 (three) Excerpts of Decision from Military Court III-12 Surabaya Number 95-K/PM.III-12/AL/VIII/2023 dated 11 October 2023



b. 3 (three) sheets of absence list for Yonkomlek members 2 March for the period 10 August 2023 to 21 September 2023.

Stay attached in the matter file.

4. Charge the Defendant with court costs in the amount of IDR 7,500.00 (seven thousand five hundred rupiah).

5. Order the Defendant to be released from detention.

4. CONCLUSION

The crime of desertion is contained in Articles 87 and 89 of the Military Criminal Code, while the crime of desertion during in absentia examinations is regulated in Article 141 paragraph (10) and Article 143 of Law Number 31 of 1997 concerning Military Justice. The criminal act of desertion itself is a pure criminal act committed by a military soldier where a military person leaves the unit for longer than thirty days in a row without valid permission from an authorized superior. The implementation of the trial by the judge in determining the provisions for the perpetrator in this case is in accordance with the elements of Article 87 paragraph (1) 2nd jo paragraph (2) where the judge has carefully considered the facts in the trial, the statements of the witnesses and the items. the available evidence, as well as the judge's confidence in handing down a decision which would later have a deterrent effect on the defendant, gave fear to the convict and the Soldiers.

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