

# **Criminal Punishment For Perpetrators of Group Fighting Criminal Acts**

**M. Fahmi Ardiansyah<sup>1\*</sup>, M. Hidayat<sup>1</sup>, Bastianto Nugroho<sup>1</sup>**

<sup>1</sup>Faculty of Law, Merdeka University Surabaya, Indonesia

\*Corresponding Author E-mail: [fahmiardiansyah019@gmail.com](mailto:fahmiardiansyah019@gmail.com)

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## **ABSTRACT**

The aim of the research is to determine the implementation of Article 170 paragraph (2) 1 of the Criminal Code concerning criminal acts involving joint forces committing violence against people resulting in injuries at the Surabaya District Court. The research method used is normative research, with a conceptual approach, namely legal research that looks for principles, doctrines and sources of law in a juridical philosophical sense. Result The judge's basis for consideration in handing down a decision against the perpetrator of the criminal act of group fighting based on the study of Decision Number: 411/Pid.B/2022/PN Sby is 5 (five), namely: (a). based on the prosecutor's indictment; (b). based on evidence at trial (both witness evidence, letters and the defendant's statement); (c). based on articles in the Criminal Code and Criminal Procedure Code; (d). based on legal facts revealed at trial; (e). based on the circumstances that led to the crime.

**Keywords:** Law, Group, violence, Crime, Court

## **1. INTRODUCTION**

Indonesia is a legal state, this statement is contained in the Explanation of the 1945 Constitution stating that "The Indonesian state is based on law (*rechtsstaat*) not based on mere power (*machtstaat*)", as a legal state, Indonesia has a series of regulations or laws so that the interests of society can be protected. The 4th paragraph of the Preamble to the 1945 Constitution, which is the constitutional foundation of this country, states that one of the goals of the state is to create general welfare. So all efforts and development carried out by this country must be aimed at this goal so as to create people's welfare (Hamzani, 2014).

Law is actually a reflection of the social life of a society where the law is formed. It can be said that law is a function of the social history of a society, however law is not a static social building, but it can change and this change occurs because its function is to serve society (Abidin, 1986). A law in society does not always act as a barrier to social change. The existence of a public attitude that cares about the law can function as a source of extraordinary strength for the peace of society itself (Manarisip, 2013).

The lack of legal awareness in today's society causes distrust between members of society themselves as well as distrust with law enforcement officials and the government. Moreover, with



the current difficult economic conditions in our country, this has resulted in the emergence of crime in society which is motivated by the increasing living needs of every member of society. Conditions that occur every day and are experienced by the community, for example mugging, mugging, theft, robbery, assault, rape, murder, teenage brawls, or better known as "street crime" are challenges for the law enforcement process (Wijanarko & Ginting , 2021).

Along with the development of crime as described above, the law occupies an important position to overcome this crime problem. Legal instruments are needed to resolve conflicts or crimes that exist in society. One of the efforts to prevent and control crime is to use criminal law with sanctions in the form of criminal penalties (Arief, 1998b).

Violence committed by individuals, either together or individually, against people or property is increasing and is disturbing the public and law enforcement officers. The Criminal Code Book II Chapter V regulates crimes against public order contained in Articles 153-181. In Article 170 paragraph (1) of the Criminal Code it is stated that: "Anyone who in public, together commits violence against people or property..." can be seen in this article as having elements that provide limits on being able to ensnare someone who committing violent crimes.

Compared to other violent crimes which are also contained in the Criminal Code, Article 170 of the Criminal Code has a heavier criminal threat than the articles regulating other forms of violence in the Criminal Code. Article 170 paragraph (2) 1 of the Criminal Code further states that "The guilty person will be punished with imprisonment for a maximum of seven years, if he intentionally damages property or if the violence carried out causes someone to be injured." In this article, it is not only the element of violence, but also the element of causing someone to be injured. Judging from its elements, Article 170 of the Criminal Code has a difference from Article 55 paragraph (1) of the Criminal Code regarding criminal acts committed by more than one person (Arif, 1998a).

A person who commits a criminal act that falls under Article 170 paragraph (1) or paragraph (2) of the Criminal Code must be processed based on the applicable legal regulations. This will be the judge's responsibility to determine the punishment for the perpetrator of the crime in accordance with the elements contained in the article (Marshanda, 2008).

Judges as one of the law enforcers who play an important role in justice must be able to act as fairly as possible, because judges have a central position in the law enforcement process and are able to hand down decisions against perpetrators of criminal acts. The judge's decision is very important because it is a benchmark for the judge's understanding of a criminal case being tried in court and is the culmination of the struggle to obtain justice (Dewi, 2010).



In accordance with the Judicial Power Law, a judge has the ability to implement the law independently and is not bound by the jurisprudence or decisions of previous judges in similar cases. Judges can impose penalties on perpetrators of criminal acts that are regulated in a statutory regulation in accordance with the judge's own thoughts (Annisa, 2017).

Implementation of the crime imposed by the judge at the Surabaya District Court against the perpetrator of the criminal act Article 170 paragraph (2) 1 of the Criminal Code concerning criminal acts with joint forces carrying out violence against people who cause injury or damage to property (beatings), the judge must have implementation in This article will then be able to provide the best decision for the perpetrator of the crime. Based on this background and remembering the previous descriptions, the author is interested in discussing further the Juvenile Criminal Justice System, through a paper entitled Punishment of Perpetrators of Criminal Group Fights (Case Study Decision Number 411/Pid.B/2022/Pn Sby).

## **2. RESEARCH METHODS**

Normative research, with a conceptual approach, namely legal research that looks for principles, doctrines and sources of law in a juridical philosophical sense. This research also examines generally accepted principles or is called philosophical research on norms, rules and legislation, which is used descriptive analytically. Analytical descriptive is a method that functions to describe or provide an image of the object under study through data that has been collected regarding criminal acts of defamation by carrying out analysis and making conclusions.

## **3. RESULTS AND DISCUSSION**

### **Punishment of Perpetrators of the Crime of Fighting Study Group Decision Number: 411/Pid.B/2022/PN Sby**

Decision Number: 411/Pid.B/2022/PN Sby is a decision in the criminal case of fighting between groups with the defendant Muhammad Sais Candra Bin Abdul Malik. In full, regarding the identity of the defendant as the perpetrator of a fight between groups, contained in Decision Number: 411/Pid.B/2022/PN Sby is as follows:

Full name: Muhammad Sais Candra Bin Abdul Malik

Place of birth : Surabaya

Age / date. Born : 20 Years / 08 October 2001;

Male gender;

Citizenship : Indonesia;



Residence: Dsn Dadap Kuning Rt 01 Rw 01 Cerme Kec. Gresik District or Dinamo CV Roda Mas Machinery Warehouse Jl Bulak Banteng Madya Depan Gang 19 Surabaya;

Religion: Islam

Work : Students / Students;

Furthermore, to make it easier to analyze the punishment of the perpetrators of the criminal act of group fighting with the defendant Muhammad Sais Candra Bin Abdul Malik mentioned above, the discussion will be described systematically as follows.

#### 1. Case Position

The start of this case occurred on Friday 17 December 2021 at around 00.15 WIB, the defendant gathered together with Br. MUHAMMAD WAHYU RAMADHANY, Br. MUKHAMMAD SYARIF HIDAYAT, Br. DIMAS RIZKY SAPUTRA, Br. AKBAR MUJAHIDIN PUTRA LELONO, Br. RIZKY ALS SANTET, Br. SATRIA, Br. RANGGA, Br. GALIH, bro. DAYAT, who are IKSPI fellow students, gathered at the futsal field on Jl. Wonorejo, Surabaya discussed that an IKSPI child had been beaten by the SH Teratai school so that the defendant and his friends went to meet the victim witness MOHAMAD JAENURI and the victim witness NURHADI PANJI SAPUTRA who were sitting on a black Honda CB 150 R motorbike with registration number AE 6847 MN has a sticker of Doraemon waiting for COD or meeting with the previous shoe seller and the defendant shouted "Is this a PSHT person or not?" while pointing with his right hand towards the victim witness NURHADI PANJI SAPUTRA and witness MOHAMAD JAENURI so that the convoy group in front turned around and ganged up on him. who was behind, first witness MUHAMMAD WAHYU RAMADHANY kicked 2 (two) times at the right wing of the motorbike and the front side, then witness MUKHAMMAD SYARIF HIDAYAT who provided the motorbike as a seat, hit him using a bati 1 (one) time On the right rear acupressure of the motorbike, the defendant then hit the victim witness MOHAMMAD JAENURI in the back, head and waist and also kicked the victim witness NURHADI PANJI SAPUTRA in the back 4-6 times until he fell to the left into a water ditch using a wooden block towards the head repeatedly. three times until the Lemon yellow INK brand helmet fell off his head and then the defendant and his friends left the scene.

That based on the results of the Visum Et Repertum from the Bhakti Dharma Husada Regional General Hospital Number: 400/RM/13/436.7.8/2021 dated 17 December 2021 in the name of MUHAMMAD ZAENURI signed by Dr. Irda Rein Christina with Examination Results:

1. Head : no abnormalities;
2. Neck : no abnormalities;



3. Chest : Babras wound on the chest;
4. Back : Back injury;
5. Stomach : Babras wounds in the stomach;
6. Upper limbs : Babras wounds on the right and left arms;
7. Lower limbs: Babras wounds on the knees and right and left feet
8. Genitals: no abnormalities;

Conclusion: Babras on the back, chest, stomach, knees, and right and left legs, right and left arms;

That based on the results of the Visum Et Repertum from the Bhakti Dharma Husada Regional General Hospital Number: 400/RM/14/436.7.8/2021 dated 17 December 2021 in the name of NURHADI PANJI SAPUTRA which was signed by Dr. Irda Rein Christina with Examination Results:

1. Head : Scar wound on the head measuring approximately one centimeter;
2. Neck : no abnormalities;
3. Chest : no abnormalities;
4. Back : no abnormalities;
5. Stomach : no abnormalities;
6. Upper limbs : no abnormalities;
7. Lower limbs: Babras wounds on the legs
8. Genitals: no abnormalities;

Conclusion: a laceration on the head and a wound on the left leg

## 2. Public Prosecutor's Indictment

Due to his actions as mentioned above, the defendant, Muhammad Sais Candra Bin Abdul Malik, was brought to trial at the Surabaya District Court with the following charges:

1. Declare that the defendant MUHAMMAD SAIS CANDRA BIN ABDUL MALIK has been legally and convincingly proven guilty of committing the crime of "openly and collectively using violence against people or property if he intentionally destroys property or if the violence used results in injuries" as regulated and threatened with criminal charges in the Public Prosecutor's indictment for violating Article 170 paragraph (2) 1 of the Criminal Code in conjunction with Article 65 paragraph (1) of the Criminal Code.
2. Sentenced the defendant MUHAMMAD SAIS CANDRA BIN ABDUL MALIK to prison for 10 (ten) months minus the period of detention and the period of arrest with the order that the defendant remain in detention.
3. State evidence in the form of:



2 (two) photos of the injuries suffered by the two victims as a result of the Visum Et Repertum

Attached in file

1 (one) pink Vivo A37F cellphone, call number 083856877100

1 (one) piece of black magic kera pencak silat clothing

Seized for destruction

4. Determine that the defendant pay court costs of IDR 2,000 (two thousand rupiah).

3. Witness statements

To prove the above indictment, the prosecutor as public prosecutor presented 2 (two) witnesses at the trial, consisting of: a). NURHADI PANJI SAPUTRA, b). MOHAMAD JAENURI These witnesses, under oath, have each given statements which are essentially as follows:

a. Witness NURHADI PANJI SAPUTRA under oath basically explained as follows:

That the witness confirmed his statement in the BAP;

That on Friday 17 December 2021 at approximately 00.15 WIB the defendant together with his friends

That the defendant and his friends went to meet the victim witness MOHAMAD ZAINURI and the victim witness who were sitting on a motorbike, then the convoy group at the front turned around and ganged up followed by the group at the back, with witness MUHAMMAD WAHYU RAMADHANY first kicking 2 (two) times hit the right wing of the motorbike and the front fender, then witness MUHAMMAD SYARIF HIDAYAT, who provided the motorbike as a jockey, hit the motorbike with a stone 1 (one) time, then the defendant hit the victim witness MOHAMMAD JAENURI hit the back, head, waist and also kicked the victim witness in the back;

b. Witness MUHAMMAD ZAINUR under oath basically explains as follows:

That the witness confirmed his statement in the BAP;

That on Friday 17 December 2021 at approximately 00.15 WIB the defendants gathered together at the futsal field on Jl. Wonorejo, Surabaya discussed that an IKSPI child had been beaten by the SH Teratai school so that the defendant and his friends went to meet the victim witness and victim witness NURHADI PANJI SAPUTRA who was sitting on a black Honda CB 150 R motorbike with registration number AE 6847 MN, then the convoy group at the front turned around and ganged up followed by the group at the back, first witness MUHAMMAD WAHYU RAMADHANY kicked 2 (two) times at the right wing of the motorbike and the front fender then witness MUHAMMAD SYARIF HIDAYAT hit him with a stone 1 (one) time on the rear right side of the motorbike, then the defendant hit the victim witness in the back, head and waist and





also kicked the victim witness NURHADI PANJI SAPUTRA in the back 4-6 times until he fell to the left into a water ditch using a wooden block. directed his head repeatedly three times until the Lemon yellow INK brand helmet fell off his head, then the defendant and his friends left the scene;

#### 4. Defendant's statement

Furthermore, during the trial the defendant Muhammad Sais Candra Bin Abdul Malik's statement was also heard, which was basically as follows: That on Friday 17 December 2021 at approximately 00.15 WIB the defendant gathered together with Br. MUHAMMAD WAHYU RAMADHANY, Br. MUKHAMMAD SYARIF HIDAYAT, Br. DIMAS RIZKY SAPUTRA, Br. AKBAR MUJAHIDIN PUTRA LELONO, Br. RIZKY ALS SANTET, Br. SATRIA, Br. RANGGA, Br. GALIH, bro. DAYAT, who are IKSPI fellow students, gathered at the futsal field on Jl. Wonorejo, Surabaya discussed that an IKSPI child had been beaten by the SH Teratai school so the defendant and his friends went to meet the victim witness MOHAMAD ZAINURI and the victim witness NURHADI PANJI SAPUTRA who were sitting on a black Honda CB 150 R motorbike with registration number AE 6847 MN had a sticker of Doraemon waiting for COD or meeting the previous shoe seller and the defendant shouted. "Is this a PSHT person or not?" while pointing with his right hand towards the victim witness NURHADI PANJI SAPUTRA and witness MOHAMAD JAENURI so that the convoy group in front turned around and ganged up followed by the group behind, first MUHAMMAD WAHYU RAMADHANY kicked him 2 (two) times hit the right wing of the motorbike and the front fender, then MUHAMMAD SYARIF HIDAYAT, who provided the motorbike as a jockey, hit the motorbike with a stone 1 (one) time, then the defendant hit the victim witness, MOHAMMAD JAENURI, on the back and head. , waist and also kicked the victim witness NURHADI PANJI SAPUTRA in the back 4-6 times until he fell to the left into a water ditch using a wooden block towards the head repeatedly up to three times until the Lemon yellow INK brand helmet fell off the head and then the defendant and his friends left the scene;

#### 5. Legal Facts

Based on the statements of the witnesses, the defendant, the letter of post mortem et repertum results and the evidence submitted, the following legal facts were obtained:

That on Friday 17 December 2021 at approximately 00.15 WIB the defendant gathered together with Br. MUHAMMAD WAHYU RAMADHANY, Br. MUKHAMMAD SYARIF HIDAYAT, Br. DIMAS RIZKY SAPUTRA, Br. AKBAR MUJAHIDIN PUTRA LELONO, Br. RIZKY ALS SANTET, Br. SATRIA, Br. RANGGA, Br. GALIH, bro. DAYAT gathered at the futsal field on Jl. Wonorejo, Surabaya discussed that an IKSPI child had been beaten by the SH

Teratai school so the defendant and his friends went to meet the victim witness MOHAMAD ZAINURI and the victim witness NURHADI PANJI SAPUTRA who were sitting on a black Honda CB 150 R motorbike with registration number AE 6847 MN, the defendant shouted "Is this a PSHT person or not" while pointing with his right hand towards the victim witness NURHADI PANJI SAPUTRA and witness MUHAMMAD ZAINURI so that the convoy group at the front turned around and ganged up followed by the group at the back, with witness MUHAMMAD WAHYU RAMADHANY kicking first. 2 (two) times he hit the right wing of the motorbike and the front fender, then the witness MUHAMMAD SYARIF HIDAYAT, who provided the motorbike as a jockey, hit the motorbike with a stone 1 (one) time, then the defendant hit the witness. the victim MOHAMMAD JAENURI was hit in the back, head, waist and also kicked the victim witness NURHADI PANJI SAPUTRA in the back 4-6 times until he fell to the left into a water ditch using a wooden block towards the head repeatedly up to three times until the helmet was yellow INK brand The lemon fell off his head and the defendant and his friends left the scene.

Whereas the actions of the defendant and his friend the victim witness MOHAMAD ZAINURI resulted in bruises and abrasions on the back area, and the victim witness NURHADI PANJI SAPUTRA resulted in lacerations on the left side of the head;

#### 6. Judge's Decision

The judge then handed down the following verdict:

1. Declare that the defendant Muhammad Sais Candra Bin Abdul Malik has been legally and convincingly proven guilty of committing a criminal act of jointly committing violence against people which resulted in injuries;
2. Sentence the defendant to imprisonment for 7 (seven) months;
3. Determine the period of arrest and detention that the Defendant has served, to be deducted entirely from the sentence imposed;
4. Determining that the Defendant remains in custody;
5. Determine evidence in the form of;

2 (two) photos of the injuries suffered by the two victims as a result of the Visum Et Repertum

Attached in file

1 (one) pink Vivo A37F cellphone, call number 083856877100

1 (one) piece of black magic kera pencak silat clothing

Seized for destruction





6. Charge the defendant to pay court costs of IDR 2,000 (two thousand rupiah);

**Analysis of Decision Number 411/Pid.B/2022/PN Sby related to aspects of punishment for perpetrators of criminal acts of group fighting**

The Panel of Judges stated that the Defendant Muhammad Sais Candra Bin Abdul Malik; has been legally and convincingly proven guilty of committing a criminal act with joint force in committing violence against a person resulting in injury, as regulated and punishable by crime in Article 170 paragraph (2) 1 of the Criminal Code. We can know this because the elements in Article 170 paragraph (2) 1 of the Criminal Code have been fulfilled. These elements are as follows:

Considering, that the Defendant has been charged by the Public Prosecutor with a single charge as regulated in Article 170 paragraph (2) 1 of the Criminal Code in conjunction with Article 65 paragraph (1) of the Criminal Code, the elements of which are as follows:

1. Whoever;
2. Jointly committing violence against people resulting in injuries;

Considering, that regarding these elements the Panel of Judges considers the following:

Ad.1. Whose element?

Considering, that the meaning of "whoever" here is any person or legal subject who is charged with committing a criminal act whose identity is as stated in the Public Prosecutor's indictment;

Considering, that the person presented at this trial based on the facts revealed at the trial obtained from the statements of sworn witnesses and the defendant's own statement which confirmed his identity was MUHAMMAD SAIS CANDRA BIN ABDUL MALIK

Considering, based on the considerations above, there is no mistake regarding the person as the Defendant so that the element of "whoever" has been fulfilled;

Ad.2. The element of jointly committing violence against a person resulting in injuries;

Considering, that what is meant by committing violence is using no small amount of physical force or strength illegally;

Considering, that based on the facts revealed which are also supported by the defendant's own statement, the fact is that on Friday 17 December 2021 at approximately 00.15 WIB the defendant gathered together with Mr. MUHAMMAD WAHYU RAMADHANY, Br. MUKHAMMAD SYARIF HIDAYAT, Br. DIMAS RIZKY SAPUTRA, Br. AKBAR MUJAHIDIN PUTRA LELONO, Br. RIZKY ALS SANTET, Br. SATRIA, Br. RANGGA, Br. GALIH, bro. DAYAT attacked the victim witness, first witness MUHAMMAD WAHYU RAMADHANY kicked 2 (two)

times to the right wing of the motorbike and the front axle, then the defendant hit the victim witness MOCHAMMAD ZAENURI on the back, head and waist and also kicked the victim witness NURHADI PANJI SAPUTRA hit his back until he fell and then the defendant and his friends left the scene;

Considering, that in this way these elements have been fulfilled; Considering, that because all the elements of Article 170 paragraph (2) 1 of the Criminal Code in conjunction with Article 65 paragraph (1) of the Criminal Code have been fulfilled, the Defendant must be declared to have been legally and convincingly proven guilty of committing a criminal act of committing violence against another person. which results in injuries;

Considering, that because during the examination of the case the Panel of Judges assessed that the defendant was physically and mentally healthy so that he was deemed capable of taking responsibility for all his actions and during the examination of the case it was not found that there was any excuse or justification that could eliminate the element of guilt of the Defendant, then the Defendant must be sentenced to a crime commensurate with the the mistake;

Considering, that because during the investigation of the case, the Defendant was arrested and detained, the length of the period of arrest and detention that the Defendant has served will be fully deducted from the sentence imposed on him and with an order that the Defendant remain in detention;

Considering, that the evidence presented at the trial is further considered as follows:  
Considering, that the evidence is in the form of 2 (two) photographs of the injuries suffered by the two victims as a result of the Visum Et Repertum, which are mentioned in the attachment to this case, then this evidence remains attached to the case file;

Considering that the evidence consists of 1 (one) pink Vivo A37F cellphone, call number 083856877100; 1 (one) piece of black magic kera pencak silat clothing, which has been used to commit a crime and is feared to be used to repeat the crime, it is necessary to determine that this evidence must be destroyed;

Considering, that because the defendant was found guilty and sentenced to a crime, he must also be burdened with paying court costs, the amount of which will be stated in this decision;  
Considering, that before the Panel of Judges determines the severity of the sentence to be imposed on the defendants, the following aggravating and mitigating circumstances will first be considered:  
Aggravating circumstances:

- Causing widespread anxiety for the community
- The defendant's actions harmed other people



Extenuating circumstances:

- The defendant regretted his actions.
- The defendant admitted frankly.
- The defendant behaved politely during the trial

**The Judge's Basic Considerations in Providing Decisions on Perpetrators of Criminal Group Fights with Decision Study Number: 411/Pid.B/2022/PN Sby**

In making a decision, the judge has the freedom to determine the severity of a crime. The freedom possessed by judges must have a limit so that the decisions given remain objective and in accordance with applicable legal rules. The decision given by the judge must have considerations both juridical, psychological and sociological. Apart from that, the judge, when considering a decision, must also pay attention to the severity of the crime and the good and bad characteristics of the defendant so that he can make a decision in accordance with the law and society's sense of justice.

The application of a criminal sanction against a defendant also determines whether the defendant's actions fulfill all the elements contained in the criminal provisions for which the defendant is charged. When imposing a sentence, the age factor of the defendant, who is relatively young, is an obligation for the judge to consider, because the judge in imposing a sentence is obliged to consider everything that aggravates or mitigates the sentence.

Considering that the Defendant was brought to trial on the charges as outlined in indictment 411/Pid.B/2022/PN Sby;

Considering that after the indictment was read the Defendant stated that he had understood the contents and intent of the indictment;

Considering that to prove the charges the Public Prosecutor presented witnesses whose respective statements were heard before the trial, namely:

1. 1st Witness, Nurhadi Panji Saputra (under oath)
2. 2nd witness, Mohamad Zainuri (under oath)

All witnesses whose statements were heard before the court all pointed to the truth that there was a crime of beatings committed by the defendant

Considering that the Visum Et Repertum has been read from the Bhakti Dharma Husada Regional General Hospital Number: 400/RM/13/436.7.8/2021 dated 17 December 2021 in the name of MUHAMMAD ZAENURI, signed by Dr. Irda Rein Christina with Examination Results:

1. Head : no abnormalities;
2. Neck : no abnormalities;



3. Chest : Babras wound on the chest;
4. Back : Back injury;
5. Stomach : Babras wounds in the stomach;
6. Upper limbs : Babras wounds on the right and left arms;
7. Lower limbs: Babras wounds on the knees and right and left feet
8. Genitals: no abnormalities;

Conclusion: Babras on the back, chest, stomach, knees, and right and left legs, right and left arms;

That based on the results of the Visum Et Repertum from the Bhakti Dharma Husada Regional General Hospital Number: 400/RM/14/436.7.8/2021 dated 17 December 2021 in the name of NURHADI PANJI SAPUTRA which was signed by Dr. Irda Rein Christina with Examination Results:

- B. Head : Scar wound on the head measuring approximately one centimeter;
- C. Neck : no abnormalities;
- D. Chest : no abnormalities;
- AND. Back : no abnormalities;
- F. Stomach : no abnormalities;
- G. Upper limbs : no abnormalities;
- H. Lower limbs: Babras wounds on the legs
- I. Genitals: no abnormalities;

Conclusion: a laceration on the head and a wound on the left leg

Considering that based on the testimony of witnesses, the defendant's statement at trial, documentary evidence and in connection with the evidence, the following legal facts are obtained:

That on Friday 17 December 2021 at approximately 00.15 WIB the defendant gathered together with Br. MUHAMMAD WAHYU RAMADHANY, Br. MUKHAMMAD SYARIF HIDAYAT, Br. DIMAS RIZKY SAPUTRA, Br. AKBAR MUJAHIDIN PUTRA LELONO, Br. RIZKY ALS SANTET, Br. SATRIA, Br. RANGGA, Br. GALIH, bro. DAYAT gathered at the futsal field on Jl. Wonorejo, Surabaya discussed that an IKSPI child had been beaten by the SH Teratai school so the defendant and his friends went to meet the victim witness MOHAMAD ZAINURI and the victim witness NURHADI PANJI SAPUTRA who were sitting on a black Honda CB 150 R motorbike with registration number AE 6847 MN, the defendant shouted "Is this a PSHT person or not" while pointing with his right hand towards the victim witness NURHADI PANJI SAPUTRA and witness MUHAMMAD ZAINURI so that the convoy group at the front turned around and ganged up followed by the group at the back, with witness MUHAMMAD



WAHYU RAMADHANY kicking first. 2 (two) times he hit the right wing of the motorbike and the front fender, then the witness MUHAMMAD SYARIF HIDAYAT, who provided the motorbike as a jockey, hit the motorbike with a stone 1 (one) time, then the defendant hit the witness. the victim MOHAMMAD JAENURI was hit in the back, head, waist and also kicked the victim witness NURHADI PANJI SAPUTRA in the back 4-6 times until he fell to the left into a water ditch using a wooden block towards the head repeatedly up to three times until the helmet was yellow INK brand The lemon fell off his head and the defendant and his friends left the scene.

Whereas the actions of the defendant and his friend the victim witness MOHAMAD ZAINURI resulted in bruises and abrasions on the back area, and the victim witness NURHADI PANJI SAPUTRA resulted in lacerations on the left side of the head;

Considering that based on the matters described above, can this be applied to the indictment of the Public Prosecutor who charged the Defendant with a single charge of Article 170 paragraph (2) 1 of the Criminal Code;

Considering that the Defendant was charged with committing a criminal act of violating Article 170 paragraph (2) 1 of the Criminal Code which contains the following elements:

1. Whoever :
2. openly with joint energy:
3. Committing violence to people or property:
4. cause other people injury.

Considering that because the Panel of Judges agrees with the Public Prosecutor in proving all the elements of the single indictment legally and according to law;

Considering that in order to realize the aim of punishment which is basically aimed at preventing the commission of criminal acts by enforcing legal norms for the protection of society for the Defendant, the following will also be considered aggravating matters and matters that mitigate the sentence for the Defendant:

Aggravating things:

1. The Defendant's actions caused injury to other people. Mitigating factors: The Defendant has never been convicted
2. The defendant pleaded guilty and regretted his actions and promised not to repeat his actions again
3. It is hoped that the defendant is still young and can improve his actions in the future
4. The defendant was polite and frank in court, thus making the trial smoother

Considering that because the Defendant has been legally and convincingly proven guilty of committing a crime as mentioned above, the Defendant must be burdened with paying the costs of this case, the amount of which is stated in this decision;

The judge decides a case based on objective and subjective considerations. Objective considerations are based on the provisions of applicable laws and regulations, namely:

1. The Criminal Code, namely in Article 170 paragraph (2) 1 of the Criminal Code, the elements of which are as follows:
  - a) Whoever,
  - b) Frankly with joint energy,
  - c) Committing violence to people or property,
  - d) causes injury to another person, if all the elements outlined in the decision have been fulfilled;
2. Law no. 8 of 1981 concerning Criminal Procedure Law, there is evidence that has been presented before the trial, namely witness statements, defendant statements, Visum et Repertum number 445/537/IV/2007 which was signed by Dr. Yeni Titisari R dated 4 April 2007 on behalf of TUKIMIN from Banyudono Boyolali Hospital as well as additional evidence at the trial;
3. Law No.2 of 1986 jo. Law no. 8 of 2004 concerning General Courts, the District Court has the duty and authority to examine, decide and resolve cases submitted to the District Court. In this case the judge is obliged to examine, decide and resolve the case he receives;
4. Law no. 4 of 2004 concerning Judicial Power, Article 28 paragraph (2) explains that in considering the severity of the crime, the judge is obliged to also pay attention to the good and evil characteristics of the defendant.

In consideration from a subjective perspective, it is based on the (personal) beliefs of the judge who is adjudicating a case, where these beliefs can be measured by considerations within the defendant, such as the defendant's good faith, the level of his/her mistakes/negligence and the defendant's inner attitude. The basis for this subjective consideration is that there are no clear rules or benchmarks, and this is left entirely to the judge's discretion in making decisions to fulfill justice in society, especially for those who seek justice (Indonesia, 1981).

The judge, when examining and deciding the defendant's case, considers the following matters:

1. Whether the criminal act which constitutes the crime was committed by the defendant with an intention arising from his conscience and giving rise to awareness in committing the crime or not;



2. Look at the method used by the defendant to commit the crime, whether he hit the victim with his bare hands, a stone, etc.;
3. The place where the criminal act committed by the defendant in accordance with the article charged is in a public place or a place where the public can see the crime of beatings;
4. See how many perpetrators or people have committed criminal acts. Article 170 of the Criminal Code states that a criminal act is committed jointly, meaning that the criminal act was committed by more than 1 (one) person who can be held responsible.

Roeslan Saleh expressed the view that the judge, in making a decision, was based on an assessment regarding the decision regarding the act of which the defendant was accused and the decision regarding the criminal regulations, namely that the act committed by the defendant was indeed a criminal act. The Panel of Judges' belief that the criminal act actually occurred and the defendant is guilty of committing it, in this case must be supported by at least 2 (two) valid pieces of evidence as regulated in Article 183 of the Criminal Procedure Code. In Article 184 paragraph (1) of the Criminal Procedure Code, the evidence is as follows:

1. Witness Statement;
2. Member Testimony;
3. Letters;
4. Instruction;
5. Defendant's statement.

In the case of the Defendant Muhammad Sais Candra Bin Abdul Malik, there are statements from witnesses, namely Witnesses Nurhadi Panji Saputra and Mohamad Jaenuri as well as the defendant's own statement, which has been read by the Visum Et Repertum from the Bhakti Dharma Husada Regional General Hospital Number: 400/RM/13/ 436.7.8/2021 dated 17 December 2021 in the name of MUHAMMAD ZAENURI signed by dr. Irda Rein Christina and Visum Et Repertum from Bhakti Dharma Husada Regional General Hospital Number: 400/RM/14/436.7.8/2021 dated 17 December 2021 in the name of NURHADI PANJI SAPUTRA signed by Dr. Irda Rein, So from the legal evidence and evidence, the Panel of Judges is convinced that there has been a criminal act committed by the defendant Muhammad Sais Candra Bin Abdul Malik and decided to sentence the defendant to a prison sentence of 7 (seven) months during the arrest and detention period that the defendant has served. , deducted entirely from the sentence imposed;

According to the author, when imposing a prison sentence, the judge must look at each case objectively, in the sense that the judge must be fair to both the victim or the victim's family and the





defendant. Where the victim and the defendant have entered into a peace agreement and the defendant has paid all hospital costs, while the defendant is relatively young so the future of the defendant must also be considered.

According to Mr. M.H. Tirtaamidjaja in his book *The Position of Judges and Prosecutors* quoted by Leden Marpaung, judges in determining a criminal sentence that is felt by the public and the defendant itself is a fair and responsible punishment, the judge must pay attention to the following matters:

1. The nature of the criminal law violation (whether it is a serious or light criminal violation);
2. Threat of punishment for the criminal violation;
3. Circumstances and circumstances at the time the criminal offense was committed (aggravating and mitigating factors);
4. The person of the defendant, whether he is a genuine criminal or a criminal who has been repeatedly convicted (recidive) or a criminal only this one time; or whether he is a young man or an old man;
5. The reasons for committing the criminal offense;
6. The defendant's attitude during the examination of the case (whether he regrets his mistake or vehemently denies it even though there is sufficient evidence of his guilt);
7. public interest (criminal law is established to protect the public interest, which in certain circumstances requires serious punishment for criminal offenses).

Apart from the above, the judge can find other factors such as the absence of things that erase the defendant's crime, whether there are forgiving reasons or justifiable reasons in the defendant, the defendant behaves well during the trial and speaks honestly and frankly and admits guilt for the actions he has committed. carried out during the trial in influencing the decision made against the defendant because the judge has the freedom to determine a decision as long as it is in accordance with the applicable rules.

That's it The basis for the judge's consideration in handing down a decision against the perpetrator of the criminal act of group fighting with the study of Decision Number: 1002/Pid.B/2008/PN.Smg. In summary, it can be seen that there are 5 (five) basic considerations for judges in handing down decisions against perpetrators of criminal acts of group fighting by studying Decision Number: 411/Pid.B/2022/PN Sby, namely: (1). based on the prosecutor's indictment; (2). based on evidence at trial (both witness evidence, letters and the defendant's statement); (3). based on articles in the Criminal Code and Criminal Procedure Code; (4). based on legal facts revealed at trial; (5). based on the circumstances that led to the crime



#### 4. CONCLUSION

The judge's basis for consideration in handing down a decision against the perpetrator of the criminal act of group fighting based on the study of Decision Number: 411/Pid.B/2022/PN Sby is 5 (five), namely: (a). based on the prosecutor's indictment; (b). based on evidence at trial (both witness evidence, letters and the defendant's statement); (c). based on articles in the Criminal Code and Criminal Procedure Code; (d). based on legal facts revealed at trial; (e). based on the circumstances that led to the crime

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