

ABSTRAK

Penelitian ini merupakan penelitian yang bersifat normatif dengan teknik pengumpulan menggunakan teknik studi kepustakaan serta teknik analisa kualitatif. Penelitian ini bertujuan untuk menjawab tiga pokok permasalahan, pertama yaitu bagaimana pertanggungjawaban pidana terhadap pelaku investasi bodong berdasarkan putusan pengadilan negeri nomor 360/Pid.Sus/2017/Pn.Jkt.Brt, kedua yaitu terkait dengan analisa alasan majelis hakim memutuskan tidak sesuai dengan dakwaan pertama yang disampaikan oleh jaksa penuntut umum, ketiga yaitu terkait analisa alasan penuntut umum tidak memasukkan pasal 28 ayat 1 dan pasal 45A Undang-Undang Informasi dan Transaksi Elektronik dalam dakwaan alternatifnya

Berdasarkan penelitian yang telah penulis lakukan, penulis menemukan bahwasanya putusan Majelis Hakim 360/Pid.Sus/2017/Pn.Jkt.Brt belum memenuhi pertimbangan yang baik berdasarkan asas dengan jelas dan rinci serta belum memperhatikan kecermatan dan ketelitian dalam pertimbangannya. Selain itu pertanggungjawaban pidana oleh terdakwa Fili Muttaqien telah memenuhi unsur-unsur yang jelas berdasarkan pasal 378 KUHP jo pasal 55 ayat (1) jo pasal 64 ayat (1), selain itu hukuman yang di berikan pun tidak melampaui batas dari apa yang di tentukan oleh undang-undang atau mungkin terlalu jauh dari hukuman maksimal yang di kenakan pasal tersebut. Kemudian mengenai dakwaan penuntut umum yang bersifat alternatif, berdasarkan hasil penelitian dapat diambil kesimpulan alangkah baiknya bagi kasus investasi bodong ini agar penerapan pasalnya di lakukan dengan berhati-hati, bahwasanya penuntut umum dapat memperluas pasal dengan mencantumkan pasal 28 ayat 1 Undang-Undang Informasi dan Transaksi Elektronik agar hakim dapat menghasilkan keputusan yang seadil-adilnya dan bermanfaat bagi banyak orang.

Kata Kunci : *Pertanggungjawaban Pidana, Dakwaan Alternatif, Pertimbangan Hakim*

ABSTRACT

This research is a normative research with collection techniques using literature study techniques and qualitative analysis techniques. This study aims to answer three main problems, first, namely how criminal responsibility for fraudulent investments is based on the district court decision number 360/Pid.Sus/2017/Pn.Jkt.Brt, second, to analyze the reasons why the panel of judges decided not to comply with the first Indictment that was submitted by the public prosecutor, the third was to analyze the reasons why the public prosecutor did not include article 28 paragraph 1 and article 45A of the Electronic Information and Transaction Law in his alternative indictment.

Based on the research that the author has done, the author find that the decision of the Panel of Judges 360/Pid.Sus/2017/Pn.Jkt.Brt has not fulfilled good considerations based on clear and detailed principles and has not paid attention to accuracy and thoroughness in its considerations. In addition, the criminal liability by the defendant Fili Muttaqien has fulfilled the clear elements based on article 378 of the Criminal Code in conjunction with article 55 paragraph (1) in conjunction with article 64 paragraph (1), besides that the punishment given did not exceed the limit of what was determined by the law or may be too far from the maximum penalty imposed by the article. Then regarding the alternative indictment of the public prosecutor, based on the results of the research, it can be concluded that it would be better for this fraudulent investment case so that the application of the article is carried out carefully, that the public prosecutor can expand the article by including article 28 paragraph 1 of the Information and Electronic Transaction Law, in order that judges can make fair and beneficial decisions for many people.

Keywords: *Criminal Liability, Alternative Indictment, Judge's Consideration*