



## **A JURIDICAL ANALYSIS OF JUDGES' LEGAL CONSIDERATIONS IN DECISION NUMBER 1/PID.B/2026/PN SKT FROM THE PERSPECTIVE OF CRIMINAL PROCEDURAL LAW PRINCIPLES**

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### **Abstract**

Judges' legal considerations constitute a fundamental part of criminal decisions because they provide the juridical basis connecting facts established at trial with the operative part of the judgment. The quality of such legal considerations is essential for achieving legal certainty, justice, and utility in the criminal justice process. This study aims to analyze the legal considerations of the panel of judges in Decision Number 1/Pid.B/2026/PN Skt and to examine their conformity with the principles of Indonesian criminal procedural law. This research applies a normative legal method using statutory, case, and conceptual approaches. The legal materials consist of primary, secondary, and tertiary legal sources obtained through library research and analyzed qualitatively through deductive reasoning. The findings show that the judges' considerations were constructed on the basis of legal facts revealed at trial, valid evidence, and the fulfillment or non-fulfillment of the elements of the charged offence. The panel considered both juridical and non-juridical aspects in reaching its verdict and, in general, applied the principles of evidentiary assessment, presumption of innocence, in dubio pro reo, due process of law, and fair trial. Nevertheless, the formulation of legal arguments in criminal judgments should continue to be strengthened, particularly in explaining the relationship between legal facts, evidence, causality, mens rea, and the application of criminal procedural norms. This research is expected to contribute to the development of criminal procedural law and to serve as evaluation material for judges in formulating legal reasoning in criminal decisions.

**Keywords:** judges' legal considerations, criminal decisions, criminal procedural law, evidence, normative legal research

### **INTRODUCTION**

Indonesia is a state based on law as affirmed in Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia. The consequence of this constitutional principle is that every exercise of state power, including judicial power, must be based on law and directed toward the realization of justice, legal certainty, and social utility. In a democratic state governed by the rule of law, law is not merely an instrument for maintaining order, but also a means of protecting human rights and controlling state power so that it is not exercised arbitrarily (Indonesia, 1945; Asshiddiqie, 2010; Manan, 2017).

The implementation of the rule-of-law principle in the judiciary is realized through independent judicial power as regulated in Law Number 48 of 2009 concerning Judicial Power. Judicial independence authorizes judges to examine, hear, and decide cases on the basis of trial facts, valid evidence, statutory provisions, and the values of justice living in society. Judges are therefore not only required to apply legal norms textually, but also to provide rational and accountable legal arguments so that their decisions reflect substantive justice (Indonesia, 2009; Mertokusumo, 2015).

Within the criminal justice system, a judicial decision is a legal product that determines the legal status of the accused and at the same time represents the concrete application of criminal procedural law. A criminal decision must be built through an evidentiary process that complies with the Criminal Procedure Code and must be accompanied by clear, logical, and systematic legal considerations. These considerations are important because they connect the facts disclosed at trial with the applicable legal norms and ultimately lead to the verdict (Hamzah, 2012;

Harahap, 2005). In criminal court practice, a judge's decision is the culmination of the entire process of law enforcement and determines whether a person bears criminal responsibility. Accordingly, a criminal judgment is not only a juridical product that ends a case, but also a manifestation of the principle of due process of law in criminal justice. It must be based on lawful evidence, logical reasoning, and proper application of legal norms in order to achieve legal certainty, justice, and utility in a balanced manner.

Judges' legal considerations have a central position because they provide the rational basis for linking the facts established in court with the relevant legal rules. Through legal considerations, judges explain their assessment of evidence, the proof of the elements of the offence, and the reasons underlying the imposition of criminal sanctions or the release of the accused. Thus, the quality of legal considerations reflects the quality of the decision itself. Systematic, objective, and legally grounded reasoning strengthens the legitimacy of a decision, while inadequate reasoning may create disparity, legal uncertainty, and declining public trust in the judiciary (Mertokusumo, 2015; Shidarta, 2006).

Normatively, the obligation of judges to provide complete legal considerations is regulated in the Criminal Procedure Code. Article 183 of the Criminal Procedure Code stipulates that a judge may not impose a sentence unless at least two valid pieces of evidence create the judge's conviction that a criminal offence has truly occurred and that the accused committed it. Article 197 paragraph (1) further requires a criminal decision to contain considerations regarding facts, evidence, and the legal grounds forming the basis for conviction. These provisions show that legal reasoning is not merely an administrative complement, but an essential element affecting the validity of a criminal judgment (Indonesia, 1981; Harahap, 2005).

Although the legal framework is clear, court practice shows that the quality of legal argumentation in judicial decisions remains uneven. Not all decisions comprehensively explain the relationship among legal facts, evidence, the elements of the offence, and the grounds for sentencing or acquittal. This diversity of reasoning quality is one of the reasons why research on court decisions is important. By analyzing judges' legal considerations, it can be assessed whether criminal procedural principles have been consistently implemented in judicial practice.

Studies on judges' legal considerations in criminal decisions have been conducted in various contexts. Research on sentencing, acquittal, aggravating and mitigating circumstances, digital incitement, and freedom of expression has contributed to the development of criminal law studies (Nurhafifah & Rahmiati, 2015; Simbolon & Nababan, 2025; Wicaksono et al., 2025). However, many studies still focus on the characteristics of certain offences or sentencing outcomes and have not systematically examined whether the overall structure of judicial reasoning complies with the principles of criminal procedure, particularly regarding evidentiary systems, the use of evidence, construction of legal facts, causality, mens rea, and the formulation of juridical argumentation.

This study has novelty because it specifically analyzes Decision Number 1/Pid.B/2026/PN Skt by focusing on the conformity of the judges' legal considerations with criminal procedural law principles. The analysis is not limited to the reasons for the verdict, but also examines how the judges constructed their legal reasoning from the assessment of evidence, proof of the elements of the offence, causality, intent, and the constitutional protection of expression. This research is expected to provide an academic contribution to the evaluation of the quality of judicial reasoning and to enrich the study of the implementation of criminal procedural law in Indonesian courts.

Based on the foregoing, this research aims to analyze the judges' legal considerations in Decision Number 1/Pid.B/2026/PN Skt and to examine their conformity with the principles of criminal procedural law. The analysis is conducted by reviewing the construction of the judges' reasoning based on legal facts revealed at trial, the evidence used, the application of the elements of the offence, and the juridical basis underlying the verdict.

## **LITERATURE REVIEW**

Legal reasoning in judicial decisions is a key element of adjudication because it explains why a judge accepts or rejects an argument, evidence, or legal construction. In criminal cases, the judge's reasoning must demonstrate a clear link between the indictment, trial facts, evidence, legal norms, and the verdict. The reasoning should also show whether the judge has considered both juridical aspects, such as statutory rules and evidence, and non-juridical aspects, such as the social background of the offence, proportionality, and fairness (Hamzah, 2012; Mulyadi, 2007).

Criminal procedural law places evidence at the core of the adjudicative process. The evidentiary system requires not only the existence of valid evidence but also the judge's conviction derived from that evidence. The principle of presumption of innocence protects the accused from being treated as guilty before a final and binding judgment. In addition, the principle of *in dubio pro reo* requires that reasonable doubt be resolved in favor of the accused. These principles are intended to prevent arbitrary punishment and to ensure that criminal liability is established lawfully and convincingly (Hiariej, 2012; Reksodiputro, 2018).

The offence of incitement in the digital era creates particular challenges because expressions on social media can be interpreted in different ways depending on linguistic, psychological, social, and political contexts. A distinction must be drawn between constitutionally protected criticism or solidarity and punishable incitement to commit a crime or violence. In this regard, the doctrine of material offence is important because liability for incitement should not be based solely on the existence of a statement, but must also consider whether the statement produced a prohibited consequence and whether a causal relationship exists between the statement and that consequence (Wicaksono et al., 2025; Constitutional Court of the Republic of Indonesia, 2009).

Freedom of expression is a constitutional right protected by Article 28E paragraph (3) and Article 28F of the 1945 Constitution. Nevertheless, this right may be limited under Article 28J paragraph (2) in order to protect the rights of others, morality, religious values, security, and public order in a democratic society. Therefore, criminal law enforcement against expression must be carried out cautiously so that it does not lead to overcriminalization, especially when the expression is connected to criticism of public institutions or solidarity movements (Rizqi Azmi et al., 2025).

## **METHOD**

This research is normative legal research focusing on the study of legal norms found in legislation, court decisions, doctrines, and legal literature relevant to the issue under examination. Normative legal research is appropriate because the object of this study is Decision Number 1/Pid.B/2026/PN Skt, which is analyzed on the basis of criminal procedural law provisions and legal principles governing the examination and adjudication of criminal cases (Marzuki, 2014; Soekanto & Mamudji, 2011).

This study is descriptive-analytical. The descriptive aspect is used to present systematically the legal facts contained in Decision Number 1/Pid.B/2026/PN Skt, particularly the judges' legal considerations in examining and deciding the case. The analytical aspect is used to evaluate the conformity of those considerations with criminal procedural rules, including the Criminal Procedure Code, Law Number 48 of 2009 concerning Judicial Power, and doctrines in criminal law and criminal procedure.

Three approaches are used in this study: the statute approach, the case approach, and the conceptual approach. The statute approach examines the 1945 Constitution, the Criminal Procedure Code, Law Number 48 of 2009 concerning Judicial Power, Law Number 1 of 2023 concerning the Criminal Code, and other relevant legal instruments. The case approach is conducted by analyzing Decision Number 1/Pid.B/2026/PN Skt as the main object of research. The conceptual approach is used to understand concepts concerning judicial reasoning, evidentiary law, criminal judgments, incitement, causality, mens rea, due process of law, and freedom of expression.

The legal materials used consist of primary, secondary, and tertiary legal materials. Primary legal materials include the 1945 Constitution, the Criminal Procedure Code, Law Number 48 of 2009 concerning Judicial Power, Law Number 1 of 2023 concerning the Criminal Code, Constitutional Court Decision Number 7/PUU-VII/2009, and Decision Number 1/Pid.B/2026/PN Skt. Secondary legal materials include books, legal journals, previous research, and expert opinions on judicial reasoning and criminal procedural law. Tertiary legal materials include legal dictionaries, legal encyclopedias, and other supporting references.

Legal materials were collected through library research by tracing, inventorying, and reviewing all materials relevant to the research focus. The materials were then analyzed qualitatively using deductive reasoning, namely by examining general legal provisions and principles and applying them to the legal facts contained in Decision Number 1/Pid.B/2026/PN Skt. This method is expected to produce conclusions regarding the conformity of the judges' reasoning with criminal procedural law principles and its implementation in criminal adjudication.

## **RESULTS AND DISCUSSION**

### **A. General Overview of the Case**

This study analyzes Surakarta District Court Decision Number 1/Pid.B/2026/PN Skt. The case originated from demonstrations and unrest in Surakarta on 29 August 2025, which were part of a national wave of protests triggered by the death of an online motorcycle taxi driver, hereinafter referred to as Victim A, who was run over by a Brimob tactical vehicle during a demonstration in Jakarta. The defendants in this case were charged under alternative indictments.

The first indictment referred to Article 246 in conjunction with Article 20 letters a or c of Law Number 1 of 2023 concerning the Criminal Code, concerning public incitement by oral or written means to commit a criminal offence or to resist public authority by violence. The second indictment referred to Article 247 in conjunction with Article 20 letters a or c of Law Number 1 of 2023 concerning the Criminal Code, concerning the broadcasting or

dissemination through information technology of content containing incitement to commit a criminal offence or to resist public authority by violence. The core of the indictment concerned the creation and dissemination of a digital flyer inviting people to join an action at Ngarsopuro. The flyer contained the hashtag #PolisiPembunuh, the time of the action after Maghrib prayer, and a call to remove group attributes and unite with the masses. After trials conducted from January to March 2026, the Panel of Judges of the Surakarta District Court rendered an acquittal (*vrijspraak*) for all defendants. The panel held that the defendants were not legally and convincingly proven to have committed the offence of incitement as charged.

## **B. The Judges' Legal Considerations in the Decision**

### **1. Consideration of the Element of Incitement**

The Panel of Judges interpreted the element of 'incitement' by referring to the explanation of Article 246 of the 2023 Criminal Code, namely encouraging, inviting, arousing, or inflaming the spirit of others to do something. The judges considered that the flyer distributed by the defendants did not qualify as incitement. Literally, the flyer contained information and an invitation to gather, without any explicit command to commit a criminal offence or violence.

The hashtag #PolisiPembunuh was assessed as an emotional expression and criticism of the death of Victim A, a narrative that had existed in public discourse since the Kanjuruhan tragedy. This assessment was supported by the testimony of a semiotics expert, who stated that the hashtag was connotative and hyperbolic rather than a factual invitation to kill. A human rights expert also emphasized that the hashtag constituted a factual statement, not an actual action or an invitation to violence.

The call to 'remove all flag attributes' and 'unite with the masses' was interpreted by the panel as a metaphor for solidarity rather than an instruction to conceal identity in order to commit a crime. This interpretation demonstrates that the judges did not rely solely on the literal appearance of the words, but also considered their context, communicative function, and relation to constitutionally protected expression.

### **2. Consideration of Causality**

Causality became the main pillar of the acquittal. The Panel of Judges referred to Constitutional Court Decision Number 7/PUU-VII/2009, which transformed the offence of incitement into a material offence, thereby requiring a clear causal link between the alleged incitement and the prohibited consequence. Based on the facts revealed at trial, the judges found that the unrest on 29 August 2025 occurred nationally in several cities, not only in Surakarta. This indicated that the triggering factors were complex and systemic, rather than being derived from a single flyer.

The witnesses involved in the unrest, anonymized as Witness 1, Witness 2, and Witness 3, each had motives and reasons that had developed before the flyer was seen. Witness 1 admitted participating in the unrest because of anger toward the police over the incident in Jakarta and past trauma involving the police; he had even brought gasoline on the instruction of another actor before seeing the flyer. Witness 2 came because of a friend's invitation and only saw the flyer after the action had ended. Witness 3 had already intended to demonstrate after watching a TikTok livestream about unrest elsewhere before the flyer was distributed.

A psychology expert explained that a person's conduct does not arise suddenly, but through a process of accumulation and internalization over a period of three to six months, influenced by internal factors such as personal experiences and external factors such as the social environment. Therefore, the conduct of the perpetrators could not be simplified as a direct response to a single poster. Criminal law and causality experts also emphasized that under the principle of *lex stricta*, analogy is prohibited in criminal law. Causality must be proven scientifically for each perpetrator of unrest to establish whether their actions were truly caused by the flyer. This was not proven in the case.

Accordingly, the panel concluded that there was insufficient causal link between the defendants' conduct and the unrest. This conclusion was significant because, in a material offence, the absence of causality means that criminal liability cannot be established solely from the existence of a statement or digital content.

### **3. Consideration of Mens Rea or Opzet**

The Panel of Judges also assessed the element of intent (*opzet*) on the part of the defendants. Based on the testimony of the defendants and a de charge witnesses, anonymized as Witness 4 and Witness 5, the court found that the purpose of creating and distributing the flyer was to invite people to a peaceful solidarity action in the form of collective prayer and candle lighting. Such activities had previously been carried out by the same community, including solidarity actions related to the Kanjuruhan tragedy.



The defendants had no record as organizers of violent action; their activities were more closely related to literacy, social activities, and peaceful demonstrations. Defendant III also voluntarily took down the flyer on the evening of 29 August 2025 after learning that the situation in Solo had become chaotic, because the unrest was inconsistent with the initial intention of the flyer. These facts strengthened the judges' conclusion that malicious intent to incite or cause unrest was not proven.

#### **4. Consideration of Constitutional Rights**

The Panel of Judges considered that freedom of expression, assembly, and opinion are constitutional rights guaranteed by Article 28E paragraph (3) and Article 28F of the 1945 Constitution. Restrictions on these rights may only be imposed under Article 28J paragraph (2) of the Constitution and Article 19 paragraph (3) of the International Covenant on Civil and Political Rights, which has been ratified by Indonesia, to protect the rights of others, national security, and public order in a democratic society.

The judges held that the flyer and the hashtag #PolisiPembunuh did not exceed the limits justified by law because they were not proven to constitute incitement to commit a crime or violence. The expression was considered to remain within the scope of public criticism of law enforcement institutions, which is protected in a democratic state governed by the rule of law.

#### **C. Conformity of the Judges' Considerations with Criminal Procedural Law Principles**

Based on the analysis, the judges' legal considerations in Decision Number 1/Pid.B/2026/PN Skt were generally consistent with the applicable principles of criminal procedural law. This conformity can be seen through several aspects: the application of the presumption of innocence, the evidentiary system based on law, the principle of *in dubio pro reo*, the doctrine of material offence, and the enforcement of due process of law.

First, the principle of presumption of innocence was applied properly. Article 8 paragraph (1) of Law Number 20 of 2025 concerning the Criminal Procedure Code provides that a person is not required to prove his or her innocence and cannot be punished before a final and binding court decision. The Panel of Judges did not shift the burden of proof to the defendants. Instead, the panel critically assessed all evidence submitted by the public prosecutor. When doubt remained, the judges decided to acquit the defendants.

Second, the panel applied the evidentiary system based on law. Article 235 paragraph (1) of the 2025 Criminal Procedure Code provides that a judge may not impose a sentence unless there are at least two valid pieces of evidence and judicial conviction. In this case, the judges carefully assessed witness statements, expert testimony, electronic evidence, and the statements of the defendants. The statements of witnesses involved in the unrest were not considered strong enough to prove direct influence from the flyer, because they showed other dominant motives, including personal anger, trauma, invitation by friends, and the influence of other social media content.

Expert testimony was explored comprehensively. The judges considered experts from several disciplines, including linguistics, communication, human rights, psychology, criminology, and criminal law. These expert opinions were central to interpreting the meaning of the flyer and the element of incitement. The judges also considered electronic evidence and the defendants' statements, which were consistent with the *a de charge* witnesses regarding the peaceful purpose of the flyer.

Third, the principle of *in dubio pro reo* was strongly reflected in the decision. When there was doubt as to whether the flyer was truly incitement that directly caused unrest or merely an expression of solidarity later interpreted differently by others, the panel chose the interpretation favorable to the defendants. The judges expressly stated that there was no sentence clearly and firmly inviting others to commit a criminal offence.

Fourth, the decision was consistent with the doctrine of material offence after Constitutional Court Decision Number 7/PUU-VII/2009. The panel understood that incitement under Articles 246 and 247 of the 2023 Criminal Code must be proven as a material offence, requiring three cumulative elements: an act of incitement, a consequence in the form of a criminal offence or violence, and a causal link between the two. The public prosecutor failed to prove causality because the unrest was caused by multiple national and situational factors. Therefore, the acquittal was consistent with criminal procedural requirements.

Fifth, the trial process reflected due process of law and procedural justice. During the proceedings, the panel gave both parties a fair opportunity to submit evidence, present witnesses and experts, and deliver their defense. The acquittal also showed that the judges were not bound by public pressure or interests outside the law, but adhered to juridical proof. Consequently, the decision reflects the protection of constitutional rights to freedom of expression so long as the expression does not violate criminal provisions proven lawfully and convincingly.

## CONCLUSION AND SUGGESTIONS

Based on the research and discussion regarding the judges' legal considerations in Decision Number 1/Pid.B/2026/PN Skt, two conclusions may be drawn. First, the judges' considerations principally emphasized a narrow interpretation of the element of incitement, the absence of a proven causal relationship (causal verband) between the flyer and the unrest as required in a material offence after Constitutional Court Decision Number 7/PUU-VII/2009, the absence of proven malicious intent (*mens rea* or *opzet*) on the part of the defendants, and the recognition that the uploaded flyer formed part of the constitutional right to freedom of expression guaranteed by Articles 28E and 28F of the 1945 Constitution, provided that such expression does not exceed statutory limitations.

Second, the judges' legal considerations were generally in conformity with the principles of Indonesian criminal procedural law. This conformity was reflected in the application of the presumption of innocence, the evidentiary system based on law, the principle of *in dubio pro reo*, the doctrine of material offence, and the fulfillment of due process of law and fair trial principles throughout the proceedings.

Based on these conclusions, judges and law enforcement officers should consistently apply the doctrine of material offence in incitement cases, especially those involving social media, by clearly proving the causal relationship between uploaded content and the criminal act that occurred. Law enforcement must carefully distinguish between constitutionally protected criticism or solidarity and punishable incitement in order to avoid overcriminalization that may threaten democratic space and freedom of opinion in the digital sphere.

Public prosecutors in similar cases should support indictments and demands with strong scientific evidence, including digital forensic examination of electronic evidence and psychological assessment of perpetrators, so that causality between content and conduct can be proven legally and convincingly rather than being based merely on assumptions or analogy. Society and younger generations should also understand that freedom of expression is a constitutional right that must be exercised responsibly and with legal awareness. Academics and legal researchers are encouraged to conduct further studies on the application of material offence doctrine to digital incitement and comparative research on the limits of freedom of expression from the perspectives of criminal law and human rights.

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