

## DISPARITY IN JUDGES' DECISIONS ON THE CRIME OF AGGRAVATED THEFT (AN ANALYSIS OF DECISION NUMBER 968/PID.B/2025/PN MDN AND DECISION NUMBER 1445/PID.B/2025/PN MDN)

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### *Abstract*

*Based on the results of the study, it shows that the form of disparity in the judge's decision in the case of aggravated theft based on decision number 968 / Pid.B / 2025 / PN Mdn and Number 1445 / Pid.B / 2025 / PN Mdn is the difference in sentencing to the defendant, namely a 4-year prison sentence for Defendant M. Irfan and a 5-month prison sentence for Defendant Fasi Duhu Baene. The judge's consideration in deciding the defendant's guilt in decisions number 968 and Number 1445 is appropriate. The suitability of the judge's decision with the provisions of criminal law related to aggravated theft in decisions number 968 and number 1445 has been implemented well and the provision of proportional sanctions is appropriate except in Decision Number 1445 which is less proportional because the Defendant was only sentenced to 5 months in prison.*

**Keywords:** (Disparity, Judge's Decision, Aggravated Theft Crime).

## 1. INTRODUCTION

Regarding the sentencing of perpetrators of theft crimes, there are often issues, namely the gap between statutory regulations and their practical implementation in the field, namely the existence of disparities in sentencing (disparity) for perpetrators who commit crimes collectively. This difference phenomenon is not only a subject of debate among academics but is also complained about by the general public and legal practitioners. Judges must not act arbitrarily in deciding a case, but must base their decisions solely on the law and true justice. In this study, the researcher examines two Medan District Court decisions regarding theft with aggravating circumstances that show a significant disparity in the imposed sentences, namely Decision Number 968/Pid.B/2025/PN Mdn and Decision Number 1445/Pid.B/2025/PN Mdn. In Decision No. 968, the defendant was sentenced to four years of imprisonment for being

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proven guilty of committing theft under aggravating circumstances, whereas in Decision No. 1445, the defendant was sentenced to five months of imprisonment for being proven guilty of committing theft under aggravating circumstances. Based on the two decisions above, it can be simply observed that there is a difference in the punishment received by the defendants, namely four years versus five months, even though the same judge adjudicated both cases, including one of them, Judge Frans Effendi Manurung, S.H., M.H.

## 2.METHODOLOGY

This research uses a normative legal research method (normative juridical) with a descriptive-analytical nature, which is research aimed at describing and analyzing the prevailing legal provisions as well as their application in law enforcement practice. The statutory approach is carried out by examining various regulations related to theft with aggravating circumstances, namely the Criminal Code (Kitab Undang-Undang Hukum Pidana – KUHP) and its implementing regulations. The case approach is conducted through in-depth analysis of Medan District Court Decision Number 497/Pid.Sus/2024/PN Mdn as the main object of the study. The data sources used in this research are secondary data consisting of primary legal materials, secondary legal materials, and tertiary legal materials. Primary legal materials include relevant statutory regulations and court decisions. Secondary legal materials consist of books, scientific journals, and research results related to theft with aggravating circumstances and law enforcement. Tertiary legal materials include legal dictionaries and legal encyclopedias. Data collection techniques are conducted through library research. Data analysis is carried out qualitatively by interpreting the legal norms and legal facts contained in court decisions. The results of the analysis are presented systematically to provide a comprehensive overview of theft with aggravating circumstances.

## 3.RESEARCH RESULTS AND DISCUSSION

Based on the research results and discussion, it shows that the form of disparity in judges' decisions in cases of theft with aggravating circumstances based on Decision Numbers 968/Pid.B/2025/PN Mdn and 1445/Pid.B/2025/PN Mdn is the difference in sentencing for defendants who committed theft under aggravating circumstances as regulated in Article 363 paragraph (1) points 4 and 5 of the Criminal Code. Defendant M. Irfan was sentenced to four years of imprisonment, while Defendant Fasi Duhu Baene was sentenced to

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five months of imprisonment, even though the loss value causing the four-year sentence was smaller than the loss value causing the five-month sentence. However, in general, disparities in penalties that are not based on clear and transparent rationale can create perceptions of injustice and reduce trust in the criminal justice system. Therefore, it is important for judges to provide sufficient reasons and grounds for consideration in imposing sentences to achieve the principles of justice and legal certainty. In this context, differences in sentencing for defendants who commit theft under aggravating circumstances must be based on objective and consistent legal considerations so as not to create unfounded disparities. The judges' considerations in determining the guilt of the defendants in Decisions Numbers 968/Pid.B/2025/PN Mdn and 1445/Pid.B/2025/PN Mdn were appropriate because the legal considerations of the panel concluded that the elements of "*whoever*", the element of taking someone else's property entirely, with the intent to unlawfully possess it, the element of being conducted by two people in collusion, and the element that to enter the crime location or reach the property to be taken by breaking, smashing, climbing, or using a false key or official uniform, have been fulfilled based on evidentiary materials, witness testimonies, defendant statements, and indicative evidence according to Article 184 of the Criminal Procedure Code (KUHAP). Legal considerations that before imposing a sentence on the defendants, aggravating and mitigating circumstances must first be considered were appropriate in accordance with Article 197 paragraph (1) letter f of the KUHAP. The judges' considerations in enforcing the elements of theft and considering the defendants' circumstances objectively and proportionally were appropriate and in accordance with legal provisions. This shows that the decisions were based on sufficient legal facts and valid legal considerations, thus resulting in just and fair decisions. The conformity of the judges' decisions with criminal law provisions regarding theft with aggravating circumstances in Decisions Numbers 968/Pid.B/2025/PN Mdn and 1445/Pid.B/2025/PN Mdn has been well applied, namely the process of assessing the elements of theft with aggravating circumstances, considering the evidence presented during trial, including legal considerations supporting justice, and considering aggravating and mitigating circumstances for the defendants. The imposition of proportional sanctions has been in accordance with applicable criminal law provisions, except for the sanction imposed on the defendant in Decision Number 1445, which was less proportional because the defendant was only sentenced to five months of imprisonment, whereas the maximum penalty under Article 363 paragraph (1) points 4 and 5 is seven years of imprisonment. This indicates

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a difference of six years and seven months; thus, the imposed penalty is not proportional. In general, the process of assessing the elements of the crime and legal considerations in the decisions was appropriate and in accordance with legal provisions. However, the imposition of sanctions in Decision Number 1445 was not proportional and did not comply with applicable criminal law provisions because it did not consider the maximum penalty, which should be a reference in imposing punishment. This needs attention so that sentencing truly reflects justice and proportionality in accordance with criminal law provisions.

## 4. CONCLUSION

The conclusion regarding the disparity in judges' decisions on theft with aggravating circumstances in Decisions Numbers 968/Pid.B/2025/PN Mdn and 1445/Pid.B/2025/PN Mdn shows differences in the application of criminal sanctions that require attention. In general, the process of assessing the elements of the crime and legal considerations in both decisions has been in accordance with legal provisions, including evidence evaluation and considering aggravating and mitigating factors. However, there is a discrepancy in the imposition of criminal sanctions in Decision Number 1445, where the sentence imposed was much lighter and disproportionate compared to the maximum penalty stipulated in Article 363 paragraph (1) of the Criminal Code, creating a significant difference and potentially undermining justice in law enforcement. Therefore, it is important for judges to ensure that imposed criminal sanctions are proportional, in accordance with legal provisions, and reflect the severity of the crime while maintaining legal certainty.

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therefore constructive criticism and suggestions are highly expected for the improvement of future research.

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