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LEGAL REVIEW OF THE ELEMENT OF NEGLIGENCE IN TRAFFIC ACCIDENT

CRIMES CAUSING DEATH: ANALYSIS OF DECISION NUMBER

1331/PID.SUS/2025/PN MDN

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Abstract

This research aims to analyze the regulation of the element of negligence in the Criminal Code and Law Number 22 of 2009 on Road Traffic and Transportation, the application of the element of negligence in the evidentiary process in criminal court practice, the legal considerations of judges in Decision Number 1331/Pid.Sus/2025/PN Mdn, as well as the obstacles and solutions in proving the element of negligence in traffic accident cases resulting in death. The results of the study show that the element of negligence in traffic accident crimes has been clearly regulated through Article 359 of the Criminal Code and Article 310 paragraph (4) of Law Number 22 of 2009 as a special provision. The application of the element of negligence in judicial practice is carried out through comprehensive proof by linking the defendant's conduct to the applicable standard of due care. In Decision Number 1331/Pid.Sus/2025/PN Mdn, the judge has systematically considered the facts revealed at trial and the evidence presented, thereby concluding that the element of negligence and the defendant's criminal liability were fulfilled. The obstacles in proving the element of negligence include limitations in witnesses and technical evidence, which can be addressed through the optimization of technology, improvement in the quality of investigations, and the active role of judges during trial in order to achieve fair and just law enforcement.

Keywords: Negligence (Culpa), Traffic Accidents, Criminal Liability, Judicial Decisions

1. INTRODUCTION

Traffic accidents constitute a complex legal problem that continues to increase, both in terms of the number of incidents and the impacts caused, particularly when resulting in loss of life. In the context of criminal law, traffic accidents caused by driver negligence become a serious concern because they are directly related to the protection of the right to life and the enforcement of order on the roads. Therefore, the determination of criminal liability on the basis of negligence becomes a very important aspect.

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The element of negligence (*culpa*) is regulated in Article 359 of the Criminal Code and reaffirmed in Law Number 22 of 2009 concerning Road Traffic and Transportation, which obliges every driver to act carefully for the safety of road users. Law enforcement in cases of traffic accidents resulting in death is highly dependent on proving negligence, which is not sufficiently seen from the consequence alone, but must be traced through the driver's behavior and violations of the applicable standards of care.

This is reflected in Decision Number 1331/Pid.Sus/2025/PN Mdn, which involved the defendant Bambang Purnomo in a traffic accident that caused the victim's death. Based on the facts of the trial and the results of the *visum et repertum*, the accident occurred due to the defendant's lack of caution while driving a large vehicle and turning without paying attention to the surrounding conditions, thereby colliding with the victim's motorcycle and causing serious injuries leading to death.

Based on these conditions, this research emphasizes the importance of an in-depth analysis of the element of negligence in enforcing traffic accident law. This research also encourages the utilization of evidentiary technology as well as the need for standardization in assessing negligence so that judges have clear and uniform guidelines. Thus, it is expected that legal certainty, consistency of decisions, and increased public trust in the criminal justice system will be achieved.

2. METHODOLOGY

This research was conducted at the District Court of Medan in October 2025 using a normative legal research method that is descriptive-analytical in nature, through a statutory approach and a case study of Decision Number 1331/Pid.Sus/2025/PN Mdn. The research data were obtained through a literature study of laws and regulations, particularly Law Number 22 of 2009 concerning Road Traffic and Transportation, as well as relevant legal literature, and were supplemented by interviews with the judge who handled the case. All data obtained were analyzed descriptively and qualitatively by processing and examining legal materials systematically and logically to explain criminal liability for traffic accident crimes due to negligence and to comprehensively answer the research problems.

3. FUNCTIONALITY

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In the Criminal Code, provisions regarding negligence can be found implicitly in Article 359 and Article 360 of the Criminal Code. These articles regulate the consequences arising from an act due to negligence, including causing death or serious injury. Article 359 of the Criminal Code specifically regulates negligence resulting in the death of another person. This provision serves as the general basis for punishment of negligent acts prior to the existence of specific regulations in the field of traffic. Thus, the Criminal Code functions as *lex generalis* in the regulation of negligence.

Social developments and the increasing number of traffic accidents have encouraged the enactment of Law Number 22 of 2009 concerning Road Traffic and Transportation. This law regulates traffic crimes more specifically. In the context of negligence resulting in death, Article 310 paragraph (4) of the LLAJ Law becomes the main provision. This regulation shows the specialization of traffic criminal law. Thus, the LLAJ Law acts as *lex specialis* to the Criminal Code.

Article 310 paragraph (4) of the LLAJ Law states that any person who due to his negligence causes a traffic accident resulting in the death of another person may be punished. The element of negligence in this article becomes the key element that must be proven. Negligence in the context of traffic is usually related to violations of driving rules. For example, not paying attention to traffic signs, not maintaining a safe distance, or not paying attention to the surrounding conditions of the vehicle. Therefore, negligence in the LLAJ Law has both technical and juridical dimensions.

The application of the element of negligence is also related to proving the causal relationship between the act and the consequence. The judge must ensure that the victim's death is the direct result of the defendant's negligence. Without a causal relationship, criminal liability cannot be imposed. In traffic accident cases, the causal relationship is usually proven through *visum et repertum*. The *visum* provides medical certainty regarding the cause of the victim's death.

In the practice of criminal justice in Indonesia, proving the element of negligence often faces obstacles. One of the main obstacles is the lack of eyewitnesses who truly saw the incident. In addition, changes in the condition of the crime scene also complicate proof. These obstacles can weaken the construction of proof by the public prosecutor. Therefore, law enforcement officers are required to work professionally and carefully.

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4.DISCUSSION

The element of negligence (*culpa*) is a form of fault in criminal law that constitutes a requirement for criminal liability, particularly in traffic accident crimes. The Criminal Code does not explicitly formulate negligence, but through Article 359 and Article 360 regulates negligence resulting in consequences in the form of death or serious injury. In doctrine, negligence is understood as a lack of caution where the perpetrator does not intend the consequence, but the consequence arises due to a violation of the standard of care that should have been fulfilled. Thus, the Criminal Code functions as *lex generalis* in the regulation of negligence.

As traffic accidents increase, Law Number 22 of 2009 concerning Road Traffic and Transportation is present as *lex specialis* that specifically regulates negligence in the context of driving. Article 310 paragraph (4) of the LLAJ Law emphasizes that negligence resulting in death may be punished. Negligence in this law is directly linked to violations of traffic regulations, thus possessing technical and juridical dimensions. The difference from the Criminal Code lies in the context of the act, where negligence in the LLAJ Law is more specific to the activity of driving motor vehicles.

The regulation of the element of negligence in the LLAJ Law aims to provide legal certainty, increase drivers' awareness and caution, and carry out the preventive function of criminal law to protect society. The assessment of the level of negligence—whether minor or serious—is conducted casuistically by the judge based on the facts of the trial, such as the driver's behavior and road conditions. Therefore, normative understanding of negligence becomes an important basis in analyzing the application of Article 310 paragraph (4) of the LLAJ Law in judicial practice, including in Decision Number 1331/Pid.Sus/2025/PN Mdn.

The application of the element of negligence in traffic accident cases resulting in death is a crucial stage because negligence cannot be assumed, but must be lawfully and convincingly proven by the public prosecutor. Proof begins from the investigation stage through crime scene processing to collect technical facts, such as vehicle positions, road conditions, and alleged violations of traffic regulations, which are then recorded in the Investigation Report as evidence in court. This stage is important because negligence relates

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to the perpetrator's mental attitude, which can only be inferred from a series of actions and objective facts.

In the trial process, proving the element of negligence is carried out by combining various valid pieces of evidence, such as witness testimony, expert testimony, documentary evidence, visum et repertum, and the defendant's statement. Witnesses and experts play a role in explaining the chronology of events and the causal relationship between the driver's actions and the victim's death, while the visum provides medical certainty regarding the cause of death. The judge assesses all such evidence comprehensively to determine whether the defendant violated the legal obligation to act carefully based on the standard of care of a prudent driver.

In the practice of criminal justice in Indonesia, proving the element of negligence often faces obstacles, such as limited witnesses or changes in the condition of the crime scene. However, through a systematic approach and active assessment by the judge, the element of negligence can still be proven objectively and rationally in accordance with the principle of minimum proof in the Criminal Procedure Code (KUHAP). This approach shows that punishment is not merely based on the consequence of death, but on the proven negligence and criminal liability of the defendant in a fair and proportional manner.

Proving the element of negligence in traffic accident cases resulting in death faces various obstacles, including limited eyewitnesses, changes in the condition of the crime scene, and the lack of objective technical evidence such as CCTV recordings or speed recording devices. Such conditions often cause witness statements to be incomplete, contradictory, or influenced by psychological factors such as trauma, thereby making it difficult for the public prosecutor and judge to reconstruct the event wholly and convincingly. In addition, the difficulty in distinguishing between driver negligence and unavoidable traffic risks further complicates the assessment of the element of fault.

Obstacles in proof are also influenced by the quality of investigation and the consistency of evidence. An insufficiently careful investigation may result in an Investigation Report that is weak and not synchronized with witness and defendant statements in court. This inconsistency requires the judge to conduct a very careful assessment to avoid errors in determining criminal liability. This condition shows that proving the element of negligence is

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complex and highly dependent on the professionalism of law enforcement officers from the initial stage of case handling.

As a solution, it is necessary to optimize the use of technology and scientific evidence, such as CCTV, dashcams, and expert testimony support to strengthen objective proof. In addition, improving the quality of investigations, the active role of judges in uncovering facts at trial, and synergy between investigators, public prosecutors, and judges are key to overcoming obstacles in proof. These efforts must still be carried out while guaranteeing the rights of the defendant, so that law enforcement against traffic accidents can proceed fairly, proportionally, and justly.

5. CONCLUSION

Based on the results of the discussion regarding the regulation of the element of negligence in traffic accident crimes resulting in death, it can be concluded that the concept of negligence (*culpa*) has been regulated both in the Criminal Code and in Law Number 22 of 2009 concerning Road Traffic and Transportation. The Criminal Code provides a general basis regarding negligence, particularly through Article 359 of the Criminal Code, while the LLAJ Law regulates it specifically through Article 310 paragraph (4). This regulation shows a *lex generalis* and *lex specialis* relationship that complement each other. The element of negligence is understood as a lack of caution that should have been avoidable by the perpetrator. Thus, the normative regulation of the element of negligence has provided a sufficiently clear legal basis for law enforcement. Based on the results of the discussion regarding the application of the element of negligence in the process of proving traffic accident crimes in criminal justice practice, it is carried out through a comprehensive evidentiary mechanism. The element of negligence is proven by linking the defendant's behavior with the applicable standard of care in traffic. The evidence used includes witness testimony, defendant testimony, documentary evidence, and expert testimony. The judge assesses all such evidence as a whole and interrelated. Thus, proving the element of negligence is not carried out simply, but through a careful and rational assessment process. Based on the analysis of Decision Number 1331/Pid.Sus/2025/PN Mdn, it can be concluded that the judge's legal considerations in determining the element of negligence and the defendant's criminal liability were carried out systematically and in accordance with the

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applicable legal provisions. The judge considered the facts of the trial, valid evidence, and the elements of the criminal act in Article 310 paragraph (4) of the LLAJ Law. The judge assessed that the defendant had been negligent because he did not pay attention to the surrounding conditions of the vehicle when turning, resulting in an accident and the victim's death. In addition, the judge also proportionally considered aggravating and mitigating circumstances. Thus, the decision reflects the application of law that is fair and balanced. The obstacles in proving the element of negligence in traffic accident cases resulting in death are complex and multidimensional. These obstacles include limited eyewitnesses, lack of technical evidence, changes in the condition of the crime scene, and suboptimal quality of investigation. Nevertheless, these obstacles can be overcome through various solutions, including optimizing the use of technology, improving the quality of investigations, the active role of judges in trials, and synergy among law enforcement officers. With the implementation of these solutions, proving the element of negligence can be carried out more effectively. Therefore, law enforcement against traffic accidents is expected to proceed fairly and provide legal certainty.

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