

THE STATUS OF EVIDENCE PROCEEDS OF CRIME IN GENERAL AND MILITARY CRIMES

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ABSTRACT

Determination of the status of evidence of crimes in military courts has the same legal implications as in general courts. Based on the provisions of Article 191 of Law 31 of 1997 concerning Military Courts, it is stated that "In the case of a sentencing decision or being free from all charges or acquittal from all legal charges, the Court stipulates that the confiscated evidence be handed over to the party most entitled to receive it back whose names are listed in the the decision, except if according to the provisions of the legislation, the evidence must be confiscated for the benefit of the state or destroyed or damaged so that it cannot be used anymore", but when the court decides that the evidence is returned to the rightful person, it often issues a decision that raises the question of who is entitled to it. . The purpose of this study is to analyze using the approach method used in this study is a juridical approach by conducting a comprehensive study based on laws and regulations and also empirical juridical research, namely conducting an assessment based on observations of several court decisions which until now have not been able to return of evidence to the rightful person. The results of this study indicate that according to the procedural law applicable in the Military Courts and general courts, it is necessary for the judge to confirm in the court's decision by stating who has the right so that there is legal certainty.

Keywords: Evidence, Military Crime, General Crime, Judge.

INTRODUCTION

We often see the sound of court decisions; "Declaring that the defendant is legally and convincingly proven to have committed a criminal act of fraud, sentenced the Defendant to 1 (one) year in prison, determined that 1 (one) unit of Indonesian National Police Number F XXXX car was returned to the most entitled,..." The sentence fragment is part of a decision by the Court of Justice. Decisions of the Panel of Judges Courts often issue decisions that raise questions. We feel at first glance that there is no problem or problem with a decision, but if we look more deeply, we will experience that several questions arise, first; What general crime was committed by the Defendant, Second; Is one unit of the Republic of Indonesia Police Number XXXX the proceeds of a crime or is it used for a crime, and on whose behalf is the owner of the car unit. If the question has been answered, then a question arises which is the conclusion that the decision is fair?.

The author is very interested in discussing and dissecting the above court decisions with the hope that readers can understand that justice does not only apply to victims but also to perpetrators of crimes and the general public.

THEORETICAL FRAMEWORK

The evidence is as follows:

1. Returned to the most entitled party.

In essence, if the case has been decided, the confiscated objects to be used as evidence in the trial are returned to the person or those who have the right as referred to in the judge's decision. The law does not state who is meant by those entitled. Thus, to whom the evidence is returned, it is handed over to the judge in question after hearing the statements of the witnesses and the defendant, both regarding the case and concerning the evidence in the examination of the trial in court (Afiah, 1988: 199).

Afiah (1988:200-203) referred to as people who are entitled to receive evidence, among others:

1. The person or those from whom the goods are confiscated, namely the person or those who hold or control the goods at the time the investigator makes the confiscation where the goods are at the time the investigator makes the confiscation where in the examination at trial it is he who is entitled to the goods.
2. The actual owner, when confiscated, the object that is used as evidence is not within the control of that person. However, during the examination, it turned out that the object belonged to him who in that case acted as a witness to the victim. This often happens in cases of crimes against property.
3. Heirs, in the event that the person entitled to the evidence has died before the decision is rendered, then with regard to the evidence, the judge's decision stipulates that the evidence is returned to the heir or his family.
4. The holder of the final right, the evidence can also be returned to the holder of the last right to the object as long as it can be proven that he legally has the right to the object.

2. Confiscated for the benefit of the state or destroyed or damaged.

The judge's decision which states that evidence is confiscated for the benefit of the state is usually found in cases of economic crimes, smuggling of firearms, explosives, narcotics. The goods are sold at auction and the proceeds of the auction become the property of the state. However, there are also state looted goods that cannot be sold at auction, namely goods that are prohibited or prohibited from being circulated, because these objects cannot be owned by the public.

According to Article 45 paragraph (4) of the Criminal Procedure Code and its explanation, "the object must be submitted to the relevant department in accordance with the applicable provisions". For example, explosives, ammunition or firearms are handed over to the Ministry of Defense and Security. Items that can be confiscated to be destroyed or damaged so that they can no longer be used are usually tools to commit crimes, such as machetes to persecute victims or crowbars used to dismantle other people's homes. 3. Evidence is still needed in other cases Afiah (1998:207) There are three possibilities that can lead to a decision like the one above:

1. There are two offenses where the perpetrator is only one person, the first case has been decided by the judge while the evidence is still needed to prove the second case.
2. There is an offense that has more than one perpetrator, the defendants are examined separately or the case is split. The first defendant has been decided while the evidence is still needed to prove the other defendants.

3. Connectivity cases, in this case one offense was committed by more than one person (civilian and TNI). The civil defendant has been decided by the court, while the evidence is still needed for cases where the defendant is the TNI.

METHODS

This research was conducted using a normative juridical research method by conducting a comprehensive study based on legislation and empirical juridical research, namely conducting an assessment based on observations of the handling of acts of terrorism in Indonesia involving the TNI. This research is a legal research that uses several approaches to answer the problems studied, namely: 1) the statute approach, 2) the conceptual approach, 3) the comparison approach, and 4) historical and philosophical approaches (historical approach) and (philosophy approach).

The main data needed in this research is secondary data. Secondary data is obtained by conducting a study of the following documents:

1. Primary legal materials, namely binding legal materials in the form of the Constitution to the laws and regulations under it and other legal documents;
2. Secondary legal materials that provide an explanation of primary legal materials, namely research materials related to the main theme of this research and the results of discussions in various other scientific forums;
3. Tertiary legal materials or supporting legal materials such as dictionaries, encyclopedias, and other materials that complement research data.

Data processing is done qualitatively. The written legal materials that have been collected are then systematized according to the problems studied. Furthermore, the legal material is reviewed and described in accordance with the problem using the relevant theoretical basis. To answer the problem, the legal material that has been systematized is then assessed so that it can answer correctly the meaning and position and legal implications of the content of court decisions and the existence of legal certainty for the evidence.

DISCUSSION

The general description of the case above is that a criminal committed a criminal act of fraud against a number of parties by offering investment, the perpetrator managed to collect some money and bought a car made in his own name with the police number F XXXX RI. The victims reported the actions of the perpetrators so that investigators confiscated several belongings of the perpetrators, including one unit of the F XXXX RI car. After going through the examination process at the Court, it was revealed that the Defendant used some of the money collected for his personal interests and the defendant's actions were legally and convincingly proven to have committed a criminal act of fraud so that the Judge handed down a guilty verdict with a conviction and determined that the status of the evidence was returned to the most entitled. Legally, because the name listed on the vehicle registration and BPKB is the name of the defendant, legally the Military Prosecutor must submit the evidence to the perpetrators of the crime, even though the evidence was purchased by the perpetrators with money that came from the victims.

In general, the purpose of criminal law is to protect individual interests or protect human rights and protect the interests of the community and the state from crimes or disgraceful acts

that harm individuals, society and the state, and also to keep the authorities from acting arbitrarily on individuals or society. The purpose of punishment based on the Theory of Retaliation or the theory of Rewards (Vergfalden) or the theory of Absolutes (Vergeldingstheorieen) is revenge in the form of a crime without questioning the consequences of punishment for the convict, while the purpose of sentencing is based on Relative Theory (Nisbi) or Objective theory (Doeltheorieen) to prevent crime (ne peccetur). The existence of a criminal threat is intended to frighten the potential criminal in question or for general prevention. When compared with the sentencing decision above, these two theories are not fulfilled, because if the evidence of the proceeds of the crime is returned to the perpetrator, then in the future they will commit the crime again and other people will follow the example, because after completing the crime, the convict has assets.

Juridical Aspects of Evidence.

The general public do not all understand the difference between evidence and evidence, the two terms are still considered the same when in fact the two terms are different and have different legal implications. In the Criminal Procedure Code, commonly known as "evidence" and "evidence". Article 184 of the Criminal Procedure Code emphasizes that what is meant by evidence consists of witness statements, expert statements, letters, instructions and statements of suspects. Meanwhile, what is meant by "evidence" is goods regarding the offense being committed (object) of the offense and the goods with which the offense is committed, namely the tools used to commit the offense. Including evidence is the result of the offense. The position of evidence in criminal cases throughout the criminal justice system in the world is very important in proving an indictment.

Proof of criminal offenses in the common law system such as in the United States is different from continental Europe, especially regarding evidence. In the United States Criminal Procedure Law, the so-called forms of evidence or evidence are: real evidence, documentary evidence, testimonial evidence and judicial notice. In this Common Law system, real evidence is the most valuable evidence. Evidence is an object used to convince the judge of the defendant's guilt in the criminal case accused of him; items that can be used as evidence in a case. Evidence is the result of a series of actions by investigators in confiscation and or search and or examination of documents to take over and or keep under their control movable or intangible objects for the purpose of proof in investigation, prosecution and trial.

In the development of criminal procedural law in Indonesia from the past until now, it is inseparable from what is referred to as evidence, any type of criminal act must go through the evidentiary process. This is inseparable from the Indonesian criminal evidence system in the Criminal Procedure Code which still adheres to the Wettelijk Negative System in criminal evidence. Proof in this case is not just an attempt to find fault with the perpetrator, but the main goal is to seek material truth and justice. In the process of criminal cases in military courts, evidence plays a very important role, where evidence can shed light on the occurrence of a crime and will eventually be used as evidence, to support the judge's belief in the guilt of the accused as charged by the military prosecutor. in the indictment in court. The evidence includes, among others, objects that are objects of a criminal act, the proceeds of a criminal act and other objects that have a relationship with a criminal act. To maintain the security and integrity of these objects, the law gives investigators the authority to confiscate them.

Article 183 of the Criminal Procedure Code indicates that in order to determine whether or not a defendant is wrong or not according to the statutory proof system negatively, there are two components: (a) Evidence must be carried out according to the method and with valid

evidence according to the law; (b) The judge's conviction must also be based on a lawful method. From these provisions, it is clear that juridically it does not regulate evidence. Although evidence is not regulated in Article 183 of the Criminal Procedure Code or in a separate article in the Criminal Procedure Code as one of the requirements in proof, evidence has a value/function and is useful in proving efforts, even though the evidence confiscated by the investigating officer is not formally juridical as a tool. valid evidence according to the Criminal Procedure Code. The Criminal Procedure Code does not clearly state what is meant by evidence.

However, Article 39 paragraph (1) of the Criminal Procedure Code states that what can be confiscated, namely:

1. goods or claims of the suspect or defendant which are wholly or partly suspected to have been obtained from a criminal act or as a result of a criminal act;
2. objects that have been used directly to commit a crime or to prepare it;
3. objects used to hinder criminal investigations;
4. objects specially made or intended to commit a criminal act;
5. other objects that have a direct relationship with the criminal act committed, or in other words, objects that can be confiscated as stated in Article 39 paragraph (1) of the Criminal Procedure Code can be referred to as evidence. Regarding the evidence in question, it is regulated in Article 39 of the Criminal Procedure Code concerning what can be confiscated by investigators at the scene of the case which can be said to be evidence.

In court, the evidence is used at the time of examining the evidence in order to validate the evidence, which is done by showing it directly to the defendant and the witness, then asking questions both to the defendant and the witness related to the evidence presented in the trial in order to clarify and find it. facts regarding the guilt of the defendant or the guilt of the defendant himself (guilty or not guilty). This indicates to us that the importance of examining evidence in court in order to reveal a criminal event.

That in addition to the Criminal Procedure Code, we will also find matters relating to Evidence, namely in article 42 of Hetterziene in Land Regerment ("HIR"), the article explains that employees, officials or authorized persons are required to look for crimes and violations and then seek and seize the goods. used to commit a crime and goods obtained from a crime. Elucidation of Article 42 of HIR states that items that need to be rehabilitated include:

- a. Goods that are the target of a crime (*corpora delicti*)
- b. Goods that occur as a result of a criminal act (*corpora delicti*)
- c. Items used to commit a crime (*instrumenta delicti*)
- d. Items that can generally be used to incriminate or alleviate the defendant's guilt (*corpora delicti*).

Legal Status of Evidence

The status of the evidence as explained above is for the purpose of proving the criminal act that was charged to the defendant, so that when the judge makes a decision, the judge must also determine the status of the evidence. Evidence in criminal cases consists of *Corpora Delicti*, namely objects or claims of the Suspect or the Defendant which are wholly or partly suspected to have been obtained from a criminal act or as a result of a criminal act; while *Instrumenta Delicti*, includes:

- a. objects that have been used directly to commit a crime or to prepare it;
- b. objects used to hinder the investigation of criminal acts;
- c. objects specially made or intended to commit a crime;
- d. other objects that have a direct relationship with the crime committed.

The Indonesian evidentiary system is regulated in Article 183 of the Criminal Procedure Code which reads, a judge may not impose a sentence on a person unless with at least two valid pieces of evidence he obtains the belief that a criminal act has actually occurred and that the defendant is guilty of committing it. Whereas in Article 294 of the HIR which contains, no punishment will be imposed on anyone if the judge is not sure of the guilt of the Defendant by means of evidence according to the law that it is true that a criminal act has occurred and that it is the accused who is wrong in committing the act. According to the article, both Article 183 of the Criminal Procedure Code and Article 294 of the HIR both adhere to the evidence system according to the law in a negative way. What distinguishes between the two, only lies in the emphasis. In addition, the formulation of Article 183 of the Criminal Procedure Code can be considered more perfect because it has determined a stricter limit for judges in an effort to prove guilt.

The defendant is to impose a sentence, and the minimum limit of evidence is also determined, namely at least two valid pieces of evidence as regulated in the law. This indicates that the negative evidence system in the Criminal Procedure Code is better and guarantees legal certainty for the sake of upholding justice, truth, and legal certainty. This is because in this evidentiary system there is a unified integration between the conviction in time system and the positive wettelijk stelsel system. The status of evidence in the Criminal Procedure Code is included in the *judex facti* policy, unless otherwise stipulated by law as stated in Supreme Court Jurisprudence No. 100 K/Kr/1974 dated 6 May 1975. Is it handed over to the most entitled party (victim witness or third party), attached in a separate case file or confiscated for the state. UU no. 7 of 1955 and Article 39 of the Criminal Code for confiscation is not required (Supreme Court Decision No. 22 K/Kr/1964 dated 22 December 1964). Based on the Supreme Court Decision No. 20 K/Kr/1976 dated July 1, 1978; Evidence consisting of goods obtained from criminal acts of corruption must be confiscated for the State.

In the event that the defendant is acquitted of all legal charges, all evidence must be returned to the defendant. (Supreme Court Decision No. 87 K/Kr/1970 dated March 3, 1972). Article 181 of the Criminal Procedure Code regulates the examination of evidence at trial, (1) The presiding judge at trial shows the defendant all the evidence and asks him whether he knows the objects by taking into account the provisions as referred to in Article 45 of this law. (2) If necessary, the presiding judge of the session will also show the object to the Witness. The evidence is very important for the judge to seek and find the material truth of the case he is handling or examining. Evidence and evidence are an inseparable series. In the trial, in order to pursue the truth of what the Public Prosecutor has accused, then after examining the Defendant and the Witness, the Judge also shows the evidence, and asks the Defendant and Witness whether he knows the evidence, and whether it is true that the evidence was stolen. by the Defendant and whether the evidence actually belongs to the Witness, and so on. The Panel of Judges will determine the status of the evidence in the final decision after being used in court, including:

1. Returned to the person or persons named in the decision.
2. Deprived for the State.
3. Seized to be destroyed or damaged until it can no longer be used.
4. Returned to investigators or public prosecutors if still needed.

In some special crimes such as Narcotics crime, Article 136 of Law Number 35 of 2009 mandates "Narcotics and Narcotics Precursors and the results obtained from Narcotics crime and/or Narcotics Precursor criminal acts, both in the form of assets in the form of movable and immovable objects. , tangible or intangible as well as goods or equipment used to commit

criminal acts of Narcotics and criminal acts of Narcotics Precursors confiscated for the State". Article 78 paragraph 15 of Law Number 41 of 1999 concerning Forestry, states: "All forest products resulting from crimes and violations and or the means of transportation used to commit crimes and or violations as referred to in this article are confiscated for the State". Article 104 paragraph (2) of Law Number 31 of 2004 concerning Fisheries states: "Objects and/or tools used in and/or resulting from fisheries crime can be confiscated for the State". Meanwhile, in Article 105 paragraph (1), it is stated that "Objects and/or tools confiscated from the proceeds of a fishery crime as referred to in Article 104 are auctioned for the State".

In general criminal cases such as fraud, embezzlement and robbery, the judge always refers to Article 194 Paragraph (1) of the Criminal Procedure Code to determine the status of the evidence, namely "in the event that the verdict is free or free from all legal charges, the court determines that the confiscated evidence is handed over to the party most entitled to receive it back whose name is listed in the decision unless according to the law, the evidence must be confiscated for the benefit of the state or destroyed or damaged so that it cannot be used again. From the provisions of the article, it can be concluded that there are three possible statuses of evidence, namely:

1. Returned to the party most entitled. This usually occurs in the case of evidence obtained from crime. To determine who has the most right, we can look at the facts revealed at the trial. If in the case of theft, the victim's witness states that the goods are his, then he is the party most deserving of the evidence;
2. Confiscated in the interest of the State. This usually happens in cases that are detrimental to the interests of the State, for example a car is purchased from the proceeds of corruption, with the intention that the car will be auctioned and the proceeds handed over to the State.
3. Seized to be destroyed or damaged so that it can no longer be used. This condition occurs because the evidence is used as a tool to commit a crime.

Status of Evidence in the Military Justice System

The procedural law in the military justice system applies Law Number 31 of 1997 concerning Military Courts, but in general the procedural law is not much different from the Criminal Procedure Code, the only difference being the legal subjects. A crime that is tried in a Military Court is any criminal act committed by the military or equivalent to the military and civilians which is categorized as a crime of connectivity.

Based on article 95 of Law 31 of 1997 concerning Military Courts in a limitative manner, it stipulates that:

(1) Goods subject to confiscation are returned to the person or to those from whom the goods were confiscated or to the person or to those most entitled if: (a) the interests of investigation and prosecution no longer require; (b) the case is not prosecuted because there is insufficient evidence or it does not constitute a criminal act; or (c) the case is closed in the public interest, military interest or legal interest, except if the object is suspected to have been obtained from a criminal act or used to commit a criminal act.

(2) If the case has been decided, the object subject to confiscation is returned to the person or to those named in the decision, except if according to the judge's decision the object is confiscated for the state, to be destroyed or to be damaged until it can no longer be used or if the object is still needed as evidence in another case.

Qualification of evidence for criminal cases in the military court system is regulated in Article 88 of Law 31 of 1997 concerning Military Courts, namely: "Those subject to confiscation are:

- a. All or part of the suspect's goods or claims which are suspected to have been obtained from a criminal act or as a result of a criminal act;
- b. objects that have been used directly to commit a crime or to prepare it;
- c. objects used to hinder the investigation of criminal acts;
- d. objects specially made or used to commit a crime; or
- e. other objects that have a direct relationship with the crime committed.

The evidentiary system in military justice is the same as criminal justice in general, if in a criminal case there is evidence, then in accordance with the provisions of Article 168 of Law 31 of 1997 concerning Military Courts "The Chief Judge shows the Defendant and if necessary also to the Witness all evidence and asks him does he know the object by paying attention to the provisions as referred to in Article 94 and inquire about the relationship between the goods and the case to obtain clarity about the incident?

Determination of the status of evidence of crimes in military courts has the same legal implications as in general courts. Based on the provisions of Article 191 of Law 31 of 1997 concerning Military Courts, it is stated that "In the case of a sentencing decision or being free from all charges or acquittal from all legal charges, the Court stipulates that the confiscated evidence be handed over to the party most entitled to receive it back whose names are listed in the the decision, except if according to the provisions of the legislation, the evidence must be confiscated for the benefit of the state or destroyed or damaged so that it cannot be used anymore". Based on the provisions above, it can be concluded that the status of the evidence can be grouped into: (a) Returned to the person or those named in decision, (b) Deprived for the State (c) Seized to be destroyed or destroyed until it can no longer be used , (d) Returned to investigators or public prosecutors if still needed.

Who is Most Entitled to Evidence

The status of the evidence to be discussed by the author is limited to the status of the evidence being returned to the most entitled in the case of a criminal act of fraud, because the status of the evidence confiscated for the State does not need to be debated, namely if it is detrimental to the State, it is confiscated for the State and or the origin of the evidence. is not found in the trial, the evidence must be confiscated for the State.

Determination of the status of evidence in the Military Justice system has been regulated in Law Number 31 of 1997 concerning Military Courts, but in practice it is still found that military court decisions do not reflect a sense of justice so that what is the goal of sentencing is difficult to achieve, even according to the author, it could be the other way around in the future. will be used by unscrupulous soldiers or in other words become a mode to commit crimes. In cases of fraud, robbery is not uncommon, the proceeds of crime can be disguised or transferred to buy assets of economic value, for example the proceeds of committing fraud are buying vehicles, houses, as well as the proceeds of the crime of robbing can be used by the perpetrators to buy various assets.

The formulation of Article 191 of Law Number 31 of 1997 concerning Military Courts which states "In the case of a verdict of sentencing or being free from all charges or acquittal from all legal charges, the Court stipulates that the confiscated evidence be handed over to the party most entitled to receive it back whose name is listed in the the decision, except if

according to the provisions of the laws and regulations, the evidence must be confiscated for the benefit of the state or destroyed or damaged so that it cannot be used anymore", for the current condition requires the Military Prosecutor and Military Judge to work hard to prove the source or origin of the evidence. presented at the Court.

The Judge's decision which contains the status of the evidence only mentions "returned to the most entitled" but never mentions who of the "name of the entitled". Such a decision brings other legal applications and makes it difficult for the Prosecutor as the executor, especially if one piece of evidence is movable property whose ownership is subject to two different provisions. For example, a car as evidence is written on the STNK and BPKB documents with the name "A", then the defendant "B" buys using the proceeds of fraud and is then guaranteed with fiduciary guarantees to a finance company, if the judge's decision only determines that it is returned to the rightful then between all three parties have the same rights. Based on the document, the most entitled owner is "A", and it can also be "B" because it was first purchased and confiscated from the defendant, then the Financing Company has rights in accordance with the provisions of the Fiduciary Law, if the facts are revealed in court the Panel of Judges should determine those who are most entitled to mention names, so that the Prosecutor can carry out the execution properly and if there are those who argue or feel aggrieved, let it be taken through the legal process in court to civil.

Progressive judges and prosecutors really determine the status of evidence, especially in cases that are of concern to the author, according to the author, the judge's decision stating that it is returned to the rightful person is an indecisive decision and will lead to legal consequences in the future. To be able to realize or determine who has the most right, the Prosecutor and Judge must progressively explore the facts of the trial, especially regarding the status of evidence that has economic value, both movable and immovable objects, and these facts serve as the basis for the Judge to name the party most entitled to receive it. evidence.

Another problem that arises without mentioning the name of the most entitled is in cases of proceeds of crime an asset is purchased where the asset becomes evidence. Based on the formulation of Article 191 of Law Number 31 of 1997 concerning Military Courts, it would be very unfair if it was returned to the most entitled person where the evidence is civilly owned by the defendant, in this case according to the author of justice that causes injustice because the defendant to obtain the evidence uses proceeds of crime that have harmed the other party. According to the author, judges must have the courage to show their independence to make progressive decisions, when the facts of the trial are revealed to obtain (purchase) evidence from deceiving other people, a fair decision is that evidence is returned to the people who were cheated together.

The judge's decision in a criminal case must be able to provide a sense of justice for the perpetrator, victim, and society, let's imagine that someone who has been cheated by a defendant has resulted in that person going bankrupt, falling into poverty, while the person who cheated has enjoyed or bought assets from the proceeds of deception. made in his own name, then the Court's Decision states that the evidence obtained by using the proceeds of fraud states that it is returned to the rightful person. If it is related to civil law, the person who has the right is the person whose name is written in this case say one unit of STNK car and BPKB is written in the name of the defendant then the most entitled is the defendant, after the defendant has served the criminal period the defendant still has assets while the victim is bankrupt.

Based on the description above, the author is of the opinion that the judge must have a progressive attitude and dare to decide the status of the evidence is returned to the most entitled by mentioning the name directly. If in the trial the origin of the evidence is not revealed but

legally belongs to the defendant, the judge must have the courage to determine that the evidence is confiscated for the State so that it becomes a deterrent effect for others not to commit fraud in the future. The form of confiscation of evidence belonging to the defendant should also be carried out in cases where the defendant has used fraud as a daily livelihood, this form of confiscation by the State can realize the purpose of punishment so that potential fraud perpetrators do not commit fraud.

CONCLUSION

Evidence in a criminal case is an important instrument in proving the occurrence of a crime, when the evidence that has been confiscated and presented in court has economic value, the status of the evidence must be stated explicitly in the judge's decision. The practice so far in determining the status of evidence is only limited to what is written, namely returning it to the most entitled, it is time to evaluate it by including the name of the rightful person. Evidence obtained from the proceeds of crime, for example the proceeds of deceiving an object of economic value, then the decision should not be returned to the defendant but returned to the rightful person, namely someone who is revealed in court as a victim and or if the source or origin of the evidence is not revealed, the decision must be confiscated. for the State, thereby creating a sense of justice for the victims, the community and the perpetrators themselves. Thus this article may be useful for dear readers.

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