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Law Enforcement Analysis of ZTE Wi-Fi Router Thievery

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ABSTRACT

The crime of theft is regulated in Book II, Chapter XXII of Law Number 1 of 1946 concerning on the Criminal Code (KUHP) Articles 362 to Article 367. In this Chapter, five types of theft are regulated, such as Ordinary theft (Article 362) Criminal Code, Theft with weight (Article 363) of the Criminal Code, Minor theft (Article 364) of the Criminal Code, Theft with violence (Article 365) of the Criminal Code, and Theft in the family (Article 367) of the Criminal Code. The type of research used in this research is sociological or empirical legal research since, in this case, the researcher directly observes what is happening in society. Based on the research result, Surabaya District Court, which conducts criminal investigations and trials, has decided in the defendant's case, sentencing the Perpetrator of Theft of Zte Wi-FiRouter Based on Decision Number 2011/Pid.B/2022/PN Sby. According to panel of judges, the punishment imposed on the defendant as stated in the court decision has been deemed as appropriate and fair, both from the defendant's interests, society's interests, and the implementation of the law generally, that punishment is used as a last resort and not as an attempt to exact revenge for the perpetrator act.

Keywords: *Crime, Theft. ZTE Wi-Fi Router.*

INTRODUCTION

There are many unemployed people worldwide as a result of the ongoing economic crisis's reduction in job prospects. It means that not everyone has the same luck in finding work. Low-welfare communities frequently disobey the applicable standards or laws, and they tend to use any methods to satisfy their wants, even with stealing. Theft is one type of crime that occurs frequently in society. The regular incidence of stealing offenses of all stripes that motivated by unmet needs (Moeljatno, 2021). The crime of theft is regulated in Book II Chapter XXII of Law Number 1 of 1946 concerning the Criminal Code (KUHP) Articles 362 to Article 367. In this Chapter, five types of theft are regulated, such as Ordinary theft (Article 362) Criminal Code, Theft with weight (Article 363) of the Criminal Code, Minor theft (Article 364) of the Criminal Code, Theft with violence (Article 365) of the Criminal Code, and Theft in the family (Article 367) of the Criminal Code (Moeljatno, 2021). According to Article 362 of the Criminal Code, the term "theft" has one element that is claimed to be its component, namely taking anything. The term "goods" refers to items like cash, clothing, necklaces, jewelry, animals, electricity, gas, and so on. Since goods do not require an economic price (worth), stealing occurs when someone takes something that belongs to someone else without that person's consent.

One of the cases of ZTE Wi-Fi Router theft is a case that has been decided by the Panel Judges at Surabaya District Court Number 2011/Pid.B/2022/PN Sby. In this case, it was legally proven that the crime of "ZTE Wi-Fi Router Theft" was occurred. The defendant conducted the action on April 2022 until June 2022 in a warehouse or in a different location of Surabaya District Court's jurisdiction. He took something that is entirely or partially owned by another person with the intent to unlawfully possess it, although each of them constitutes a crime or violation, there is such a connection that it must be viewed as one continuous action. At the time and place as mentioned above, the defendant took ZTE Wi-Fi Router when he was given the task by the witness, the Site Manager to install 4 (four) units in customer's house. The Defendant should have taken 4 (four) ZTE Wi-Fi Routers, and the router was installed on customer house and 4 (four) other routers was took it for sale. The Defendant took ± 128 (one hundred and twenty-eight) units of ZTE Wi-Fi Router and sold ZTE Wi-Fi Router with a price of IDR. 125,000.00 (one hundred and twenty thousand rupiah) per unit with a total profit of IDR. 16,000,000.00 (sixteen million rupiah). Then on Sunday 26th June 2022 around 01.00 WIB, the witness who is the Site Manager checked from the customer's data that there was a difference between installation data and warehouse data. Then, the witness gathered all technician employees in warehouse and the Defendant admitted that he had taken ZTE Wi-Fi Router

without the permission and took it since April 2022 with a total of 128 (one hundred twenty-eight) ZTE Wi-Fi Routers, resulting the loss in company of IDR. 128,000,000.00 (one hundred twenty-eight million rupiah).

Based on the case above, the judge's decision in the trial process stated that the defendant had been proven guilty of the crime of stealing the ZTE Wi-Fi Router, based on the panel of judges' decision on Article 362 of the Criminal Code in conjunction with Article 64 paragraph (1) of the Criminal Code, in imposing sanctions on the defendant with a prison sentence of 9 (nine) months in prison, minus the detention period.

RESEARCH METHODOLOGY

This research is normative juridical research that sometimes referred to as document study and uses qualitative techniques to analyze the main data and secondary data sources such rules, court rulings, books, legal theory, and doctrine (Saifudin & Rosmaya, 2022). This research type is sociological or empirical legal research since the researcher directly observes what is happening in society. In addition, this research is also supported by various sources of literature obtained from various related literature. Empirical legal research relates law to real human behavior and describes how to investigate the roles of legislation, regulation, legal policies and other legal arrangements in society (Leeuw & Schmeets, 2016).

RESULT AND DISCUSSION

The purpose of criminal procedural law is to examine, find and explore the material truth (Materieele Waarheid) or the real truth. Thus, there is no known formal truth (Formelele Waarheid) in criminal procedural law which is based on legal formalities. The conviction of judge represents the application of criminal procedure law in Indonesia implies that the judge unintentionally used the criminal procedure law's premise of finding material truth in civil court proceedings in district courts (Lengkong, 2019). According to R. Wirjono Prodjodikoro, the truth is frequently concerning specific previous occurrences. The judges require resources to re-describe those historical circumstances in order to develop this trust (Muksin & Rochaeti, 2020).

M. Yahya Harahap stated that the conviction-in-time system of evidence determines whether a defendant is right or wrong, and that the judge's evaluation of the conviction is the only factor considered when making a decision in a case. The accused's proven guilt is established by the judge's verdict. It doesn't matter in this system where judges come from or how they reach their conclusions. A judge may reach convictions based on the evidence he considered over the course of the trial. It is also possible that the results evidence investigation will be ignored by the judge and immediately withdraw the conviction from the statement of the defendant. The weakness of conviction-in-time proof system is that judges may sentence a prisoner solely on the basis of their conviction, even when there is

insufficient supporting evidence. On the other hand, the judge is free to acquit the defendant from the crime committed even though the defendant's guilt has been sufficiently proven with complete evidence, as long as the judge is not sure of the defendant's guilt. Then, in conviction-in-time system, even when the defendant's guilt has been sufficiently proven, that sufficient evidence can be set aside by the judge's conviction. On the contrary, a person can be declared guilty based only on the judge's conviction, even if the accused's guilt cannot be shown by the use of reliable evidence. When the defendant is in error, it will be determined by the dominant judge's opinion or the one that weighs the most. The form of actual truth in this evidence system is determined by the judge's perspective.

a. Conviction Rationee
   Based on this system, it can be said that the judge's conviction plays an important role in determining whether the defendant is guilty or not. However, in this evidentiary system the judge's conviction factor is limited. When in conviction-in time system the role of the judge's beliefs is free without limits, then in the conviction-raisonee system, the judge's conviction must be supported with clear reasons. The judge must describe and explain the reasons for his belief in the guilt of the defendant. The judge's belief in conviction-raisonee system must be based on acceptable reasons. The judge's conviction must have logical and truly acceptable reasons, not on the basis of closed beliefs without explanation of reasonable reasons (Permana, 2021).
b. Positive Evidence According to Law
   This system is guided by the principle of evidence determined by law to prove whether the accused is guilty or not. It is sufficient to decide the defendant's guilt without contesting the judge's verdict when the terms and circumstances of the evidence have been met according to the law. In accordance with the technique for proving with evidence that has been established by legislation, this system truly obliges the judge to examine and discover the facts regarding whether the accused is guilty or not. The statutory evidentiary system is undeniably closer to the idea of "punishment based on law." This implies that the imposition of a sentence against a person is not placed under the judge authority, but above the authority of the law which is based on the principle that a new defendant can be convicted and sentenced if what is charged against him is truly proven based on legal means and evidence in accordance with the law (Palit, 2021).
c. Negative Evidence According to Law
   The negative statutory system of proof is a balance between the two extreme opposing system. A unified system of proof by believing with the positive statutory system is incorporated into the negative statutory system as a result of this balance. The two incompatible systems were combined

> to create a negative system of statutory proof. According to the formulation, the judge decides whether a defendant is guilty or innocent based on the procedure and legal evidence used in accordance with the law (Palit, 2021).

It is conceivable for law enforcement officials to make compelled efforts, which are related to evidence, depending on the stage of a criminal investigation. A suspect is a person who should be suspected of committing a crime based on preliminary evidence because of his or her behavior or circumstances, according to Article 1 Point 14 of the Criminal Procedure Code (KUHAP). Then, the arrest is the next coercive action that issued based on sufficient preliminary evidence against a person who is highly suspected of committing a criminal offense under Article 17 of Criminal Procedure Code. Only that preliminary evidence adequate to suspect a criminal act in accordance with Article 1 point 14 of the KUHAP is intended by sufficient preliminary evidence is mentioned in the explanation of Article 17 of KUHAP.

The next issue is the use of detention as a kind of coercion conducted by law enforcement agents, including police, public prosecutors, and judges. It may use depending on the stage of the investigation itself. According to Article 21 Paragraph 1 of KUHAP, a detention order or continued detention is conducted against a suspect or defendant who is strongly suspected of committing a criminal offense based on sufficient evidence, in the circumstances which raise concerns that the suspect or defendant will escape, damage or eliminate evidence, or repeat a criminal offense. Soerjono Soekanto argues that the words preliminary evidence in Article 1 point 14 of Criminal Procedure Code are not only limited to evidence as referred to in Article 184 of Criminal Procedure Code, but can also include evidence as physical evidence or real evidence. Furthermore, to measure preliminary evidence, it cannot be separated from the article that will be charged to the suspect. In addition, the article to be charged contains the formulation of an offense that has a function as the evidence. This means that the proof of the existence of a criminal offense must be based on the elements of the criminal offense in an article (Werluka, 2019).

In order to prevent arbitrary determination of a person as a suspect or arrest and detention, every preliminary evidence must be confirmed with each other, including with the potential suspect. Regarding this, Indonesian KUHAP does not require the investigator to show the evidence to the suspect. Meanwhile according to doctrine, this is necessary to prevent the unfair prejudice (Dermawan et al., 2019). Based on criminal cases, there is no hierarchy of evidence. Therefore, in mentioning valid evidence under Article 184 of Criminal Procedure Code, it does not use numbers 1 to 5, but uses letters a-e to avoid the impression of a hierarchy in evidence. Valid evidence is regulated in Article 184 of Law Number 8 of 1981 concerning Criminal Procedure:

a. Witness statement

The definition of witness and witness statement are expressly regulated in Criminal Procedure Code. Based on Article 1 point 26 of the Criminal Procedure Code states "A witness is a person who can provide information for the investigation, prosecution and trial of a criminal case purpose that he or she has heard, seen and experienced". Meanwhile, Article 1 point 27 of the Criminal Procedure Code states: "Witness statement is one of the evidence-in a criminal case in the form of a statement from a witness regarding a criminal event that he heard, saw and experienced by himself by stating the reasons for his knowledge". A witness is someone who can provide information for the purposes of investigation, prosecution, and trial of a criminal case that he personally hears, sees, and experiences. This definition of a witness is based on the construction of Article 1 number 26 in conjunction with Article 1 number 27 in conjunction with Article 184 paragraph (1) letter of the Criminal Procedure Code. Contrarily, a witness cannot testify to an occurrence that they have not seen, heard, or experienced.

b. Expert statement

Expert testimony is information provided by a person who has special expertise on matters necessary on a criminal case for the purpose of examination. According to the provisions of Article 186 of the Criminal Procedure Code, expert testimony is something that an expert state in his field of expertise. It is stated in the explanation that this expert testimony may also have been given when the investigator or public prosecutor examined the subject and made their report at the time the subject accepted the position or job. Referring to the provisions in Criminal Procedure Code, the expertise of a person who provides expert testimony is not only based on the knowledge he has through formal education, but the expertise can also be obtained based on his experience. The expertise can also be related to his position and field of service. Likewise, expert testimony is needed to explain matters outside legal knowledge. Expert testimony is usually general in the form of an opinion on the subject matter of the criminal case or related to the subject matter. The expert is not allowed to provide an assessment of the concrete case being tried. Therefore, the questions given to experts are usually hypothetical or general statements. The expert is also not allowed to make a judgment on the guilt or innocence of the defendant based on the facts of the trial that he or she is asked about (Arini & Sujarwo, 2021).

c. Letter

The types of letters that are admissible as evidence are listed in Article 187 of Criminal Procedure Code. The letter is made on oath of office or corroborated by oath. The types of letters are:

1) Official report or other letters made by authorized public officials or made in front of him, which contain information about events or circumstances that he himself heard, saw or experienced, accompanied

by clear and firm reasons for his statement. This is because evidence in criminal cases in Indonesia adheres to free evidence. This means that judges are free to believe or not believe in valid evidence (Ilyas, 2021).

2) A letter made in accordance with the provisions of laws and regulations or a letter made by an official regarding matters included in the administration for which he is responsible and which is intended to prove a matter or a situation. For example, to prove a marriage, there is a death certificate and identity card (KTP) to prove a person's residence.
3) An official request for an expert's opinion on a subject or circumstance, along with the expert's opinion in the form of a certificate. According to the victim's request or the request of law enforcement personnel for the purpose of an investigation, a prosecution, or a trial.
4) Another letter that can only be valid if it is related to the contents of other evidentiary instruments (Siahaan, 2019). This type of letter only contains evidentiary value when the letter is related to other evidence.

d. Evidence

Based on Article 188 paragraph (1) of the Criminal Procedure Code, an evidence defined as an act, event or situation, which because of its correspondence, both between one another and with the criminal act itself, indicates that a criminal act has occurred and who the perpetrator is. This evidence can only be obtained from witness statements, letters and defendant statements. Adami Chazawi stated that the requirements of an evidence are as following below:

1) The existence of compatible acts, events and circumstances. Actions, events and circumstances are facts that show that a criminal offense has occurred, show that the defendant committed it and prove that the defendant is guilty of committing the criminal offense.
2) There are two types of compatibility, called compatibility between each act, event and circumstance with each other or compatibility between acts, events, circumstances or with the criminal offense indicted.
3) Such correspondence indicates two things, showing that there really has been a criminal offense and who the perpetrator is. This element is the conclusion of forming the clue evidence, which is also the purpose of clue evidence.
4) It can only be formed by three pieces of evidence, called witness statements, letters, and statements of the defendant. In accordance with the minimum principle of evidence abstracted from Article 183 of KUHAP, the evidence should also be generated from a minimum of

two valid pieces of evidence (Chazawi, 2021).

Based on the context of evidentiary theory, clues are circumstantial evidence or indirect evidence that is complementary or accessories evidence. This means that clues are not independent evidence, but are secondary evidence obtained from primary evidence (Nanda, 2021). in this case witness statement, letters and statement of the defendant. The clue evidence is the full authority and subjectivity of the judge in examining the case. When the judge is not convinced, there are three possibilities. First, the evidence has not met the minimum requirement of two pieces of evidence. Second, it has met the minimum requirement of evidence but produces each independent fact. Then, the clue evidence can fulfill the minimum requirement of proof. Third, the valid evidence is more than the minimum evidentiary requirement, but has not convinced the judge that a criminal offense has occurred and that the defendant is the one who committed it. In this case, the evidence is used to increase the judge's belief (Hamzah, 2017).

e. Defendant's statement

The defendant statement in evidentiary law can generally be equated with confessions evidence. According to Mark Frank, John Yarbrough, and Paul Ekman, a statement without evidence to substantiate it is worthless. KUHAP provides a definition of defendant's statement as what the defendant states in court about the actions he committed or that he himself knows or experiences. The defendant statement that contains valid evidentiary value according to Eddy O.S. Hiariej are:

a. The statement must be made in front of a court.
b. The content of the statement regarding the actions committed by the defendant, everything he knows and the events that he himself experienced.
c. The statement can only be used against himself. Regarding the aggravation or mitigation of defendant's statement in court, it applies to himself and cannot be used to alleviate or incriminate other people or other defendants in the case that being examined.
d. The testimony is not sufficient to prove that he is guilty of the act charged, but must be accompanied by other evidence (Hiariej, 2016). The statement of defendant given outside the trial can be used to help find evidence at the trial, provided by a valid piece of evidence. The examination of the defendant has also begun at the investigation stage and when the examination process. The cause of the increase in theft committed by private employees of the company, the main thing to do is to examine for internal factors. The category of internal factors into 2 types, called:

a. Special condition in individual such as mental illness, emotional power, mental and economic inferiority.

b. General characteristics can be categorized into several types, called age, gender, recreation or entertainment issues.

According to the defendant's statements, the key internal motive that led him to dare to steal the ZTE Wi-Fi Router was his intention. He had a great desire to sell it to earn more money, thus he had the audacity to commit the act. Intention is the first step in determining the occurrence of a crime which is supported by opportunity. This is also in line with the theory by the police in exploring the causes of crime, called NKK Theory. The NKK theory is the latest theory that explain the causes of crime in society. This theory is often used by the police in tackling crime in society. The formulation of this NKK Theory is:

N + KI = K2

Description:

N = Intention

KI = Opportunity

KI = Criminal Act

According to this theory, the cause of crime is the combination of intention and opportunity. Then, when there is the intention but no opportunity, a crime can't happen, and vice versa; when there is an opportunity but no intention, there will be no crime. In addition to the intention factor, an internal factor causing theft committed by company employees, the low moral factor is also one of the internal factors causing the theft. Moral is an important factor in crime. Morals can also filter against deviant human behavior, which are behavioral teachings about goodness and is vital in behavior. When someone has morals, he will avoid despicable actions.

The increase in theft committed by company employees is due to the fact that the perpetrators have low morals. The author argues that when the defendants have morals, they will not brave to steal company assets. In addition to internal elements, there are also external variables that contribute to crime. These are forces that originate from outside the individual and support the commission of a criminal offense. This component, which is highly complicated and varied, has the power to persuade someone to commit a crime. The external factors causing the theft of ZTE Wi-Fi Router by the defendant as an employee of the company were varied, including economic factors, social and social environment factors, and factors from company's management system that will be explained below:

a. Economic Factors

The economic factor is one of the most crucial aspects of human life, and a frequent justification for illegal behavior is one of the most significant. People are frequently committing crimes, including theft, because of this factor. When a perpetrator lacks a stable job or their earnings are insufficient to cover basic expenses for their family or other needs. In these cases, they may act recklessly by committing theft crimes to meet their

needs, moreover, when the motivating factor for someone to commit theft is a state of anxiety or worry caused by parents or wife or children that is seriously ill. Also, they need medicine but do not have the money to buy it. It becomes a result of such circumstances that the perpetrators are even more motivated to commit the theft.

b. Family Factor
Family is the most important part of a person's growth and development. The family should ideally be one factor that influences a person's behavior because, without attention in a family, a person will feel ignored. It will cause them to do things based on their desire without paying attention to whether the action is good or harmful and whether it violates or contradicts the norms and regulations that apply in society. The family is also responsible for the deviant behavior of a person. It is necessary to care for, pay attention and provide better parental guidance to a person in a family to prevent actions that can be detrimental to oneself and society.

c. Environmental Factor
Living conditions significantly impact a person's mentality and conduct toward the things he will do. When a person lives in a good environment, they will also experience positive effects from that environment. Still, when that environment is terrible, they will also experience its negative effects.

Being in the environment can impact a person's actions in committing crimes, including theft. For instance, spending time with friends or neighbors who commit theft will eventually lead to the person committing theft in the surrounding environment.

CONCLUSION

The Surabaya District Court, which conducts investigations and trials in criminal matters has rendered a decision in the case of the defendant, sentencing the Perpetrator of Theft of ZTE Wi-Fi Router Based on Decision Number 2011/Pid.B/2022/PN Sby. According to the panel of judges, the punishment imposed on the defendant as stated in the decision has been deemed appropriate and fair, both from the defendant's interests, society's interests, and the implementation of the law generally, based on aggravating and mitigating circumstances that punishment is used as a last resort and not as an attempt to exact revenge for the perpetrator act.

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