

Paradigmatic Study of the Supreme Court's Downgrade Decision in the Case of Premeditated Murder of Nofriansyah Yosua Hutabarat

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Abstract:

This study examines the Supreme Court's decision in the premeditated murder case involving Ferdy Sambo, focusing on the reduction of the sentence from the death penalty to life imprisonment. The research aims to identify non-legal factors influencing the verdict, analyze its implications for Indonesia's criminal law paradigm, and evaluate public responses following the cassation decision. A descriptive-analytical approach was employed, utilizing legal document analysis and the post-positivist paradigm as the theoretical framework. The study interprets judicial considerations within a dynamic legal context, integrating legal norms with

reflective interpretations. The findings reveal that the sentencing change reflects a shift in Indonesia's criminal law paradigm from retributive to rehabilitative, as adopted in the new Penal Code. The defendant's remorse was a key factor in the sentencing reduction. However, public response to the cassation decision indicated a decline in public trust and engagement with the judiciary, evidenced by reduced public discourse compared to the case's initial stages. The shift from retributive to rehabilitative justice served as the basis for the cassation decision. This study highlights challenges in strengthening public trust in the judicial system, emphasizing the need for greater transparency and accountability in legal decision-making processes.

Penelitian ini mengkaji putusan Mahkamah Agung dalam kasus pembunuhan berencana yang melibatkan Ferdy Sambo, dengan fokus pada pengurangan hukuman dari hukuman mati menjadi penjara seumur hidup. Penelitian ini bertujuan untuk mengidentifikasi faktor-faktor non-hukum yang mempengaruhi putusan, menganalisis implikasinya terhadap paradigma hukum pidana Indonesia, dan mengevaluasi tanggapan publik setelah putusan kasasi. Pendekatan deskriptif-analitis digunakan, memanfaatkan analisis dokumen hukum dan paradigma pasca-positivis sebagai kerangka teoritis. Studi ini menafsirkan pertimbangan yudisial dalam konteks hukum yang dinamis, mengintegrasikan norma hukum dengan interpretasi reflektif. Temuan ini mengungkapkan bahwa perubahan hukuman mencerminkan pergeseran paradigma hukum pidana Indonesia dari retributif menjadi rehabilitasi, seperti yang diadopsi dalam KUHP yang baru. Penyesalan terdakwa adalah faktor kunci dalam pengurangan hukuman. Namun, tanggapan publik terhadap putusan kasasi menunjukkan penurunan kepercayaan dan keterlibatan publik dengan peradilan, dibuktikan dengan berkurangnya wacana publik dibandingkan dengan tahap awal kasus tersebut. Pergeseran dari keadilan retributif ke keadilan rehabilitasi menjadi dasar keputusan kasasi. Studi ini menyoroti tantangan dalam memperkuat kepercayaan publik terhadap sistem peradilan, menekankan perlunya transparansi dan akuntabilitas yang lebih besar dalam proses pengambilan keputusan hukum.

Keywords: *Paradigm, Post-Positivism, Ferdy Sambo, Nofriansyah Yosua Hutabarat.*

Introduction

The premeditated murder case at the Indonesian National Police which occurred around July 2022 has caused an uproar in the Indonesian people. The victim was an aide named Nofriansyah Yosua Hutabarat, who was killed premeditated in such a scenario by his superior, Inspector General Ferdy Sambo, a

Head of the Propam Police Division. This incident has captured public attention ranging from investigations, and judicial processes, to death sentences in the court of first instance, as stated in the South Jakarta District Court Decision Number 796/Pid.B/2022/PN JKT. CELL. Ferdy Sambo was sentenced to death by being subject to Article 340 of the Criminal Code. Article 55 paragraph (1) 1st of the Criminal Code, and Article 49 jo. Article 33 of Law No.19 of 2016 concerning amendments to Law No.11 of 2008 concerning Information, and Electronic Transactions. Ferdy Sambo then appealed to the DKI Jakarta High Court. The results of the judicial process in the decision of the Jakarta High Court Number 53/PID/2023/PT DKI, confirmed the decision of the court of first instance, Ferdy Sambo was still sentenced to death. A different thing happened in the cassation decision, there was a reduction in the sentence received by Ferdy Sambo. Supreme Court Decision Number: 813 K/Pid/2023 sentenced Ferdy Sambo to life imprisonment. Based on the decision of the cassation level, the Ferdy Sambo case has officially had permanent legal force, until there is a court decision in extraordinary legal remedies.¹

Important provisions that regulate the role and authority of judicial power in Indonesia are contained in Article 24 of the 1945 Constitution. This article emphasizes that judicial power is an independent power to administer justice and uphold law and justice.² This reflects the basic principle that Indonesia's judicial system operates independently, without interference from executive or legislative powers, to ensure the protection of human rights, the rule of the constitution, and justice in the legal system.³ The main task of a judge is to examine, adjudicate, and decide every case submitted to him so that the existence of a court decision is the judge's sole responsibility. Qualifying and interpreting activities are part of the judge's duties in the context of the judicial process.⁴

The journey of the decision from the court of first instance to the cassation, is interesting is in the cassation decision. There is a downgrade or reduction of the

¹ Heru Siswanto and Indra Lorenly Nainggolan, "Paradigma Konstruktivisme Dalam Penegakan Hukum Kasus Pembunuhan Berencana Oleh Ferdy Sambo," *Jurnal Hukum Sasana* 9, no. 2 (2023): 305-14, <https://doi.org/10.31599/sasana.v9i2.3150>.

² Suci Wulandari et al., "Peran Mahkamah Konstitusi Sebagai Pelaku Sistem Kekuasaan Kehakiman Di Indonesia," *Sosio Yustisia Jurnal Hukum Dan Perubahan Sosial* 3, no. 2 (2023): 199-222, <https://doi.org/10.15642/sosyus.v3i2.516>.

³ Elva Imeldatur Rohmah and Zainatul Ilmiyah, "Dinamika Putusan Mahkamah Konstitusi Nomor 90/PUU-XXI/2023 Tentang Persyaratan Usia Calon Presiden Dan Wakil Presiden," *PROGRESIF: Jurnal Hukum* XIII, no. 1 (2024): 100-131.

⁴ Sudyana Sudyana and Suswoto Suswoto, "Kajian Kritis Terhadap Teori Positivisme Hukum Dalam Mencari Keadilan Substantif," *Qistie* 11, no. 1 (2018): 107-36, <https://doi.org/10.31942/jqi.v11i1.2225>.

sentence to life which was originally the death penalty. Of the five Supreme Court justices who adjudicated at the cassation level, two judges dissented opinions. The decrease in sentences can be seen as a shift in the perspective of the judges. The difference of opinion of the judge in adjudicating this case is contained in the views of each judge who is greatly influenced by the paradigm he adheres to.⁵ A paradigm is a framework of thinking that explains how to look at facts and treat science or theory. Paradigms can also explain how to understand a problem.⁶

Several scientific articles discuss the same subject, including Seran et al., which discuss legal inequality in the Ferdy Sambo case: a review of justice from the perspective of the transcendental aspects of "Unum, Verum, Bonum and Pulchrum". In this article, it is discussed about the incompatibility between the concept of law and justice with practice, from the case of Ferdy Sambo, it can be seen that in the National Police, it is necessary to increase professionalism and transparency in carrying out their duties.⁷ Likewise, Tabitha Erlinda Rachmawati studied the analysis of the theory of philosophy of the science of truth correspondence by Alfred Tarski in the verdict of Ferdy Sambo's premeditated murder. In this article, it is discussed about the application of the theory of truth of corruption to help clarify and confirm the conformity between the statements in the Criminal Code and the ITE Law and the results of the verdict handed down to Ferdy Sambo are appropriate.⁸ Various points of view in discussing the murder case of Nofriansyah Yosua Hutabarat, indicate that the case in question needs an in-depth study from a legal perspective. The studies presented will broaden the horizons and enrich the field of legal science.

In this context, the author focuses on examining the case of premeditated murder in the Indonesian National Police with a victim named Nofriansyah Yosua Hutabarat from the perspective of the post-positivism paradigm, which is one of the methods of examining law enforcement from a philosophical point of view. To

⁵ Boyce Alvhan Clifford, Erlyn Indarti, and R.B. Sularto, "Telaah Paradigmatik Tentang Penerapan Diskresi Pada Pertimbangan Dan Putusan Hakim Dalam Perkara Pidana Dengan Terdakwa Labora Sitorus," *Diponegoro Law Review* 5, no. 2 (2016): 1-13.

⁶ Citra Rosika, Azmi Fitriasia, and Ofianto Ofianto, "Analisis Paradigma Filsafat Positivisme," *COMSERVA: Jurnal Penelitian Dan Pengabdian Masyarakat* 3, no. 06 (2023): 2464-73, <https://doi.org/10.59141/comserva.v3i06.1033>.

⁷ Kuniberth De Forbin Janson Seran, F.X. Armada Riyanto, and Mathias Jebaru Adon, "Ketimpangan Hukum Dalam Kasus Ferdy Sambo: Tjauan Keadilan Dalam Prespektif Aspek Transendental "Unum, Verum, Bonum Dan Pulchrum"," *SOSMANIORA: Jurnal Ilmu Sosial Dan Humaniora* 2, no. 4 (2023): 502-7, <https://doi.org/10.55123/sosmaniora.v2i4.2777>.

⁸ Tabitha Erlinda Rachmawati, "Analisis Teori Filsafat Ilmu Kebenaran Korespondensi Oleh Alfred Tarski Dalam Putusan Pembunuhan Berencana Ferdy Sambo," *TARUNALAW: Journal of Law and Syariah* 2, no. 02 (2024): 159-65, <https://doi.org/10.54298/tarunalaw.v2i02.198>.

understand the problems in this article well, legal problems are raised, namely the role of the post-positivism paradigm in the implementation of the downgrade verdict in the premeditated murder case of Nofriansyah Yosua Hutabarat and the response of the community after the cassation decision. The purpose of this study is to find out the judge's consideration of the reduction of Ferdy Sambo's sentence, as well as the community's response after the cassation decision.

Method

This research method uses normative juridical research methods with legal, case, and conceptual approaches. The data obtained is not directly obtained from the source, so it uses secondary data with primary, secondary and tertiary legal materials.⁹ The data collection technique uses literature studies, which are then analyzed qualitatively, namely analysis techniques that study legal materials that have been collected and processed in such a way by re-examining to help authors conclude so that the analysis can be tested for correctness.¹⁰

Discussion

The Role of the Post-Positivism Paradigm in the Consideration and Decision of the Supreme Court Judge in the Case of Premeditated Murder of Nofriansyah Yosua Hutabarat

1. Post-Positivism Paradigm

More than just a collection of theories, paradigms encompass various components of scientific practice in several specialized fields of study.¹¹ Among them, the paradigm will also outline benchmarks, define the accuracy standards needed, and determine which research methodology will be chosen to be applied, or how the research results will be interpreted. It can be interpreted that the meaning of the paradigm includes the entire collection, combination, combination, or mixture of commitments embraced and applied by the members of a scientific community together, which for a certain time offers a model of problems as well as their solutions. This gives the meaning that the paradigm is an "umbrella" philosophical system and according to Guba and Lincoln includes ontology,

⁹ Peter Mahmud Marzuki, *Penelitian Hukum* (Jakarta: Kencana, 2017).

¹⁰ Soetandyo Wignjosoebroto, *Hukum: Konsep Dan Metode* (Malang: Setara Press, 2013).

¹¹ Mochamad Rizqi Nurridlo, Erlyn Indarti, and Tri Laksmi Indreswari, "Kajian Filsafat Hukum Tentang Pelaksanaan Asas Oportunitas Dalam Sistem Peradilan Pidana: Suatu Telaah Paradigmatik," *Diponegoro Law Journal* 6, no. Vol 6, No 3 (2017): Volume 6 Nomor 3, Tahun 2017 (2017): 1-11.

epistemology, and certain methodologies, each of which consists of a series of worldviews that cannot be simply interchangeable (with basic beliefs or worldviews of ontology, epistemology, and other paradigm methodologies).¹²

A paradigm represents a certain set of basic beliefs or a system that deals with the main principles that bind its users to a certain worldview, including the way in which the world should be understood and studied, and that always guides every thought, attitude, word and deed of its adherents.¹³ Paradigm can be understood as a disciplinary matrix, which is a base or source as well as a container, from which a scientific discipline is considered to have originated and is expected to continue to flow.¹⁴

The use of paradigm in legal philosophy has several main requirements, including, first; there are the most basic findings and even novelties, second; There are differences in these findings, for example, exceeding the previous findings, third; can degrade and even form other works, fourth; being a benchmark by experts in a variety of specific disciplines.¹⁵ According to FX Adji Samekto, as quoted by Heru Siswanto and Nainggolan, in studying legal science, it can be seen from two perspectives; First, legal science that studies values, concepts, and principles which are often referred to as doctrinal jurisprudence; Second, ideocratic law, which is the law that is perceived to work in society. In studying indoctrinal law ontologically, it can be understood from the paradigm, in this case it is post-positivism that the law is interpreted as all regulations in society and is influenced by other factors.¹⁶

*Post-positivism is a school that comes after positivism and is indeed very close to positivism.*¹⁷ One of the indicators that distinguishes between the two is that post-positivism trusts the process of verifying a finding of observation results through

¹² Erlyn Indarti, "Diskresi Dan Paradigma: Sebuah Telaah Filsafat Hukum" (Semarang: Badan Penerbit UNDIP, 2010).

¹³ Norman K Denzin and Yvonna S Lincoln, *The Sage Handbook of Qualitative Research (Third Edition)*, ed. Norman K Denzin, Sage Publication, third edit, vol. 1 (sage publications, 2005), <https://doi.org/10.1108/17465640610666642>.

¹⁴ Heru Siswanto and Nainggolan, "Paradigma Konstruktivisme Dalam Penegakan Hukum Kasus Pembunuhan Berencana Oleh Ferdy Sambo."

¹⁵ Heru Siswanto and Nainggolan.

¹⁶ Heru Siswanto and Nainggolan.

¹⁷ Mary Manjikian, "Positivism, Post-Positivism, and Intelligence Analysis," *International Journal of Intelligence and CounterIntelligence* 26, no. 3 (2013): 563-82, <https://doi.org/10.1080/08850607.2013.758002>.

various methods.¹⁸ Thus, a science is indeed objective if it has been verified by various circles in various ways.

The reality in the post-positivism paradigm does exist according to the laws of nature.¹⁹ However, in this paradigm in taking the truth from reality, there is no distance between humans and reality, which means being directly involved with interactive reality. The post-positivism paradigm has its own perspective to see a rule/regulation that emerges and then applies in the community, both in the process of making legislation to its implementation, or in the application of the Judge will use interpretation in understanding all the provisions contained in the regulation, so that according to the post-positivism paradigm justice can be realized as long as the provisions in the legislation submitted in the process The trial is not rigidly "read" or as far as it can be interpreted thus it is possible to use legal findings in judicial proceedings.²⁰

The judge's policy in issuing a verdict has a close relationship with the existence of factors related to the case that can be used as material for the judge's consideration.²¹ Regarding how these factors are taken into consideration by judges in making decisions, they are greatly influenced by the paradigm adopted.²² Thus, it can be concluded that two judges with different paradigms who handle the same case are likely to issue different verdicts. The post-positivism paradigm emerged as a criticism of the positivism paradigm that could not meet the needs of researchers in using interpretation methods in researching.²³ So that in this case it combines the interpretation and observation of analytical facts that can be observed in the positivism paradigm. Post-positivism jurisprudence seeks to present different and different concepts from positivist jurisprudence. The ongoing dialectic between

¹⁸ Jelena Maksimović and Jelena Evtimov, "Positivism and Post-Positivism as the Basis of Quantitative Research in Pedagogy," *Research in Pedagogy* 13, no. 1 (2023): 208–18, <https://doi.org/10.5937/istrped2301208m>.

¹⁹ Ucuk Agiyanto, "Positivistic Legal Dialectics - Positivistic Post (Comparative Study of Law towards Legal Reform)," *Khairun Law Journal* 5, no. 1 (2021): 32–43.

²⁰ Robert Pranata, Erlyn Indarti, and Tri Laksmi Indraswari, "Penemuan Hukum Dan Paradigma: Suatu Telaah Filsafat Hukum Tentang Proses Peradilan Pidana Di Pengadilan Negeri Kota Semarang," *Diponegoro Law Journal* 5, no. 4 (2016): 1–20.

²¹ Tara Yuliandora Sembiring, Syaifullah Yophie Ardiyanto, and Tengku Arif Hidayat, "Tinjauan Yuridis Urgensi Keberadaan Motif Dalam Memutus Perkara Tindak Pidana Pembunuhan Berencana," *Innovative: Journal Of Social Science Research* 4, no. 6 (2024): 2222–35.

²² R C Sukma and R D Agustanti, "Disparitas Putusan Hakim Terhadap Pelaku Tindak Pidana Ujaran Kebencian Yang Dilakukan Oleh Masyarakat Umum," *Jurnal Esensi Hukum* 5, no. 1 (2023): 50–66.

²³ Abdul Hameed Panhwar, Sanaullah Ansari, and Asif Ali Shah, "Post-Positivism: An Effective Paradigm for Social and Educational Research," *International Research Journal Arts and Humanities (IRJAH)* 45, no. 1 (2017): 253–60.

positivism and post-positivism needs to be done in order to find the right formulation to answer legal problems in Indonesia.²⁴

2. Premeditated Murder of Nofriansyah Yosua Hutabarat

The South Jakarta District Court on Monday, February 13, 2023, sentenced Ferdy Sambo to death. Presiding judge Wahyu Imam Santoso said that Sambo's actions had caused widespread uproar, as well as tarnished the institution of the National Police to drag many other members. The judge stated that there were no mitigating circumstances for Ferdy Sambo's sentence.²⁵

After the above decision, the case was then appealed to the DKI Jakarta High Court. On April 12, 2023, the Jakarta High Court Panel of Judges did not grant the arguments of Ferdy Sambo's lawyer in the appeal memorandum filed. In the appeal memory, Ferdy Sambo's lawyer argued that the death penalty filed by the South Jakarta District Court violated Human Rights. However, the panel of appeal judges led by Singgih Budi Prakoso strengthened the verdict handed down by the South Jakarta District Court against Ferdy Sambo, meaning that Ferdy Sambo remained sentenced to death. "Strengthening the decision of the South Jakarta District Court Number: 796/Pid.B/2022PN.Jkt.Sel which was requested by the appeal," said Chairman of the Panel of Judges Singgih Budi Prakoso in the trial at the DKI Jakarta High Court. The Panel of Judges of the South Jakarta High Court is of the view that the ultra petita imposed by the panel of judges of the South Jakarta District Court against Ferdy Sambo is justified in the criminal law and the panel of judges is of the view that the death penalty is still in accordance with Indonesia's positive legal system and can provide a deterrent effect on the perpetrators of crimes.²⁶

Not only up to the appeal, the case continues at the cassation level. In the Supreme Court's cassation decision Number: 813 K/Pid/2023, the judge sentenced Ferdy Sambo to life, which means that it is lower than the verdict in the District Court and the High Court.

3. Implications of the Post-Positivism Paradigm in the Consideration and Decision of the Supreme Court Judge in the Case of Premeditated Murder of

²⁴ Agiyanto, "Positivistic Legal Dialectics - Positivistic Post (Comparative Study of Law towards Legal Reform)."

²⁵ Tuty Mutiah, Arvin Hardian, and Agung Raharjo, "Dramaturgi Proses Persidangan Ferdy Sambo Diantara Personal Branding Dan Vonis Hukuman Mati," *Global Komunika: Jurnal Ilmu Sosial Dan Ilmu Politik* 6, no. 1 (2023): 19-30, <https://doi.org/10.33822/gk.v6i1.5791>.

²⁶ Fransesco Agnes Ranubaya, Reginald Siddarta, and Yohanes Endi, "Kasus Pembunuhan Brigadir J Oleh Ferdi Sambo (Dalam Tinjauan Norma Moral Obyektif & Subyektif)," *Gloria Justitia* 4, no. 1 (2024): 19-39, <https://doi.org/10.25170/gloriajustitia.v4i1.5430>.

Nofriansyah Yosua Hutabarat

The Supreme Court Cassation Decision Number 813 K/Pid/2023 needs to be studied using the post-positivism paradigm, based on the factors that influenced the decision, why it could change from the previous death penalty to a life sentence. As explained earlier, in post-positivism, the law is interpreted as all regulations in society and is influenced by other factors.

Differences between the Supreme Court's decisions and the courts under them often occur in every law enforcement, but differences of opinion must still be based on science, theory, and philosophy in order to produce decisions that prioritize substantive justice, one of which is by way of a philosophical approach. In the cassation decision of this premeditated murder case, there were two judges with a dissenting opinion, meaning that the two judges agreed with the decision of the PN and PT, namely the death penalty, as well as the considerations:

- a. PN and PT have appropriately and correctly implemented the regulations as they should, not exceeded their authority and have been based on the applicable criminal procedure law
- b. The trigger for Sambo's wife's injury regarding the injury of her self-esteem and honor as the background of the criminal act, if this is true, then Sambo's act is still unjustifiable because as a police supervisor throughout Indonesia and the defendant is also an example for all members of the police, the defendant should also be able to order his staff to examine the victim and can impose sanctions on the victim if proven to have committed a mistake or violation of the code of ethics. In other words, the reason for the forced defense by Sambo was because his pride and honor were injured in relation to the incident that befell his wife, namely Putri, as in the memory of the cassation of the defendant, there is no legal basis and must be set aside.
- c. The judge's mitigating and aggravating considerations are in accordance with article 197 paragraph (1) of the Criminal Procedure Code
- d. The rest of the defendant's grounds for cassation are related to the assessment of the results of the evidence which have all been considered appropriately and correctly, so that the grounds of cassation must be set aside
- e. The previous verdict had applied the law and had decided the defendant's case based on juridically relevant facts
- f. Murder together with premeditated and unauthorized acts that result in electronic systems not working as they should, which is done together.
- g. The trigger of the incident from his wife in Magelang, should have been checked and checked as a police officer instead of immediately receiving the report unilaterally
- h. Sambo really fired at Joshua and really wanted the victim to die

- i. Sambo Orchestrates a scenario of Joshua's murder to eliminate traces and save Richard
- j. Sambo as a police officer in the position of the main official of the Indonesian police who has judged and executed his own adjutant without any clarification, has made the victim's family and the community in general disappointed, therefore it is reasonable to reject the defendant's cassation.

It can be seen that the consideration of the two judges of the dissenting opinion emphasizes the major premise of the laws and regulations, in this case as characterized by positivism. In contrast to the three judges who agreed to reduce the sentence to life, here are the considerations:

- a. Paying attention to the objectives and guidelines of criminal law according to legal science and the politics of national criminal law after the promulgation of Law Number 1 of 2023 concerning the Criminal Code that the death penalty is seen as a special crime, no longer as a basic crime, so that the political spirit of criminal law in Indonesia has shifted from the original paradigm of retributive / retaliation / lex talionism to a rehabilitative paradigm that prioritizes the purpose of punishment as a means of prevention, corrections/rehabilitation, conflict resolution/balance restoration, creation of a sense of security and peace and the growth of convicts' remorse. For the act of joint murder, it is necessary to look at it clearly, wisely and wisely by prioritizing the principle of objectivity and proportionality of the guilt of the perpetrator of the act that has been committed. So that the criminal imposition of a sentence on the defendant in a quo case must really consider various philosophical, sociological and normative aspects until it is felt fair and useful, not only for the victim/family, but also for the defendant and society in general while still upholding the values of legal certainty that is fair.
- b. It is also necessary to pay attention to the reason why Sambo ordered the killing which was ignited from the incident in Magelang
- c. Article 8 paragraph (2) of Law Number 48 of 2009 concerning judicial power, that in considering the severity of the crime, the judge is obliged to pay attention to the good and evil nature of the defendant, from the life history and social circumstances of the defendant while serving as a member of the police, with the last position of the head of the Propam Division (his services), and the defendant admits his mistake and is ready to take responsibility. So that it is in line with the purpose of criminalization that wants to foster a sense of remorse for the perpetrators of criminal acts.

Research with a paradigm analysis knife, in this context post-positivism aims to study how the law can predict and control various social phenomena that arise in

society.²⁷ Legal knowledge according to this school of post-positivism is interpreted as—or contains—hypotheses about the cause-and-effect relationship, in order to predict and control social phenomena that emerge in society and rely on verification, but it is different from post-positivism based on falsification.²⁸ In this case, the legal fact for this group of schools is not a hypothesis that has been verified, but a hypothesis that can no longer be falsified. Only then after being generalized, this legal fact becomes part of legal knowledge. Because every legal fact can be likened to a building block for the building of legal knowledge, legal knowledge then grows gradually (accretion).

Post-positivism argues that understanding rules can be done in a contextual way, not only through textual means as in understanding positivism theory. So that in post-positivism, a rule can be assessed with conditions and situations as a consideration. Post-positivism is critical realism, meaning that judges must think critically, namely exploring the meaning behind the rules with the interpretation or interpretation of judges because of the limitations of human intellect in making laws so that judges need to criticize and not only accept the law as it is but also be able to explore values that exist outside the law. Post-positivism epistemology is a dualist or objectivist modification. Dualism cannot be maintained because judges and the rule of law are far apart, while the condition of society continues to develop and change, which means that there are doubts among judges about the rules so that there is an interpretation by each judge, and this implies a difference of opinion on the judge. The methodology of the post-positivism paradigm is falsification, the opposite of verification, where the judge still objectively examines an object of dispute referring to the rule of law critically because justice can be outside the rules. So the justice that is to be achieved in this stream is substantive justice.²⁹ The attachment of the paradigm to a judge can affect the interpretation of the provisions of the law,³⁰ which further has implications for the granting of the verdict.

²⁷ Rio Fernandia Putra, Eryln Indarti, and Yuli Sulistyawan, "Hak Dan Kewajiban Isteri Dalam Rumah Tangga: Suatu Telaah Paradigmatik Terhadap Undnag-Undang Nomor 1 Tahun 1974 Tentang Perkawinan," *Diponegoro Law Journal* 10, no. 2 (2021): 446-63.

²⁸ Choon Ling Sim et al., "Pragmatism as a Paradigm for Quality Management Research in Bridging Academic-Practitioner Gaps," *International Journal of Quality and Service Sciences* 16, no. 2 (2024): 330-42, <https://doi.org/10.1108/IJQSS-07-2024-192>.

²⁹ Ashlih Muhammad Dafizki, Silfia Hanani, and Syawan Rozi, "Rechtvinding Wasiat Wajibah Ahli Waris Beda Agama Perspektif Post Positivisme," *Hakam: Jurnal Kajian Hukum Islam Dan Hukum Ekonomi Islam* 8, no. 1 (2024): 1-12.

³⁰ Andi Irfan, "Rekonstruksi Paradigma Hukum Hakim Dalam Penanganan Kasus Tindak Pidana Korupsi Di Pengadilan Tipikor Makassar," *Kosmik Hukum* 18, no. 1 (2018), <https://doi.org/10.30595/kosmikhukum.v18i1.2337>.

As explained above, the implication of the cassation decision in the premeditated murder case with the victim Nofriansyah Yosua Hutabarat occurred in the judge's interpretation with a political interpretation of criminal law after the promulgation of the new Criminal Code from retributive to rehabilitative, this means that the judge explores the meaning behind the criminal regulation as the post-positivism paradigm which interprets the law as all regulations in society and is influenced by other factors, from the thought of Other factors are so that there are differences of opinion of each judge, especially in giving their considerations, in line with the 3 supreme court justices who decided Ferdy Sambo by lowering his sentence. In contrast to the 2 supreme court justices who still agreed to impose the death penalty with strict consideration departing from the laws and regulations as the positivism paradigm where the logic of the major premise lies in the laws and regulations.

Public Response After the Cassation Decision in the Premeditated Murder Case of Nofriansyah Yosua Hutabarat

This case became one of the biggest scandals and became a public discourse³¹ in the history of the Indonesian police for covering a high-ranking officer of the Head of the Propam Police Division.³² Not only did it reveal the dark side of the police institution, but it also triggered urgent internal reforms. The public and various civil society organizations demand transparency and accountability in resolving the case. In response, National Police Chief General Listyo Sigit Prabowo promised to clean his institution of irresponsible individuals and ensure that this case is resolved fairly. At the end of 2022, the trial of Ferdy Sambo and the other suspects was still ongoing. The media and the public continue to monitor every development of this case closely. This case not only touches the victim's family, but also shows how important integrity and public trust are in law enforcement institutions. The chronology of premeditated murder by Ferdy Sambo highlights how power can be abused by individuals who are supposed to enforce the law.³³

³¹ Mutiah, Hardian, and Raharjo, "Dramaturgi Proses Persidangan Ferdy Sambo Diantara Personal Branding Dan Vonis Hukuman Mati."

³² Titik Wardiyah Amini and Ahmad Fauzi, "PERAN KEKUASAAN ABSOLUT DALAM BIROKRASI APARAT KEPOLISIAN Analisis Studi Kasus Tindak Kriminal Irjen Ferdy Sambo," *SOSIOLOGI: Jurnal Ilmiah Kajian Ilmu Sosial Dan Budaya* 25, no. 1 (2023): 89-107, <https://doi.org/10.23960/sosiologi.v25i1.531>.

³³ Rachmawati, "Analisis Teori Filsafat Ilmu Kebenaran Korespondensi Oleh Alfred Tarski Dalam Putusan Pembunuhan Berencana Ferdy Sambo."

The role of the media in providing news in the midst of technological developments is very important, especially if it is conceptualized with framing design, namely the selection process and highlighting certain aspects of media reality. The media chooses certain issues to report. Framing can be defined as the process of making a message more prominent, meaningful, or remembered by the audience.³⁴

In line with this, for example, one media, namely Youtube Kompas TV, has reported this case since mid-July 2022, in addition to that, there have also been discussions in several international media such as The Straits Times, Channel News Asis (CAN), The Sydney Morning Herald, South China Morning Post and The Star. This indicates that the media attention to this case is not only from the national media but also from the international media. The Kompas TV Youtube media section is a form of expanding the information dissemination network through digital platforms. In this case, on the Kompas TV Youtube media alone, there is a special video column Update on the case of Novriansyah Yosua Hutabarat's death as many as 1275 views, always in August 2022. The most views were on August 9, 2022 with a total of 87 title views, then the second most on August 30, 2022 with a total of 79 title views, then the third most on August 1, 2022 with a total of 75 title views, or the following data table can be presented in full:³⁵

Number of Kompas TV YouTube Video Views Related to the Death Case of Nofriansyah Yosua Hutabarat in August 2022

Number	Air Date	Number of Titles
1.	1 Agustus 2022	75
2.	2 Agustus 2022	6
3.	3 Agustus 2022	1
4.	4 Agustus 2022	39
5.	5 Agustus 2022	31
6.	6 Agustus 2022	16
7.	7 Agustus 2022	42
8.	8 Agustus 2022	47
9.	9 Agustus 2022	87
10.	10 Agustus 2022	52
11.	11 Agustus 2022	56

³⁴ Arfian Suryasuciramdhan et al., "Analisis Framing Pemberitaan Kasus Pembunuhan Oleh Jendral Ferdy Sambo Terhadap Brigadir Joshua Pada Media Online Kompas.Com Dan Liputan6.Com," *Jurnal Kajian Dan Penelitian Umum* 2, no. 3 (2024): 54-65, <https://doi.org/10.47861/jkpu-nalanda.v2i3.1016>.

³⁵ Arta Elisabeth Purba, "Studi Kasus Pembunuhan Brigadir Yosua Di Youtube Kompas TV," *Daruna: Jurnal of Communication* 1, no. 1 (2022): 1-8.

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12.	12 Agustus 2022	47
13.	13 Agustus 2022	34
14.	14 Agustus 2022	43
15.	15 Agustus 2022	53
16.	16 Agustus 2022	32
17.	17 Agustus 2022	17
18.	18 Agustus 2022	24
19.	19 Agustus 2022	56
20.	20 Agustus 2022	29
21.	21 Agustus 2022	18
22.	22 Agustus 2022	49
23.	23 Agustus 2022	32
24.	24 Agustus 2022	62
25.	25 Agustus 2022	66
26.	26 Agustus 2022	53
27.	27 Agustus 2022	44
28.	28 Agustus 2022	20
29.	29 Agustus 2022	28
30.	30 Agustus 2022	79
31.	31 Agustus 2022	39

The polemic of the Ferdy Sambo case has had a negative impact on public trust in the institution of the National Police. The public considers that the National Police is not able to uphold justice and protect the community. This impact can be seen from various surveys conducted by survey institutions. Based on the results of the Indonesian Political Indicators survey, there is a decrease in the level of public trust in the National Police. August 2022 when compared to May 2022. The survey results show that in May 2023 the level of public trust in the National Police reached 66.7%, while in May 2023 the level of public trust in the National Police dropped to 54.2%. This shows how the Ferdy Sambo case also affects the image of the National Police in front of the public.³⁶

The broadcast as mentioned earlier is a representation of the community's response to the case, where in just one digital platform and data in one month there have been thousands of views. This gives the view that the case has seized such a large and massive public response. In addition to the case, it can be observed that after the cassation decision, the response just evaporated, from the beginning of the forum discussing the case with the hope of a heavy sentence, but after the

³⁶ Kuniberth De Forbin Janson Seran, F.X. Armada Riyanto, and Mathias Jebaru Adon, "Ketimpangan Hukum Dalam Kasus Ferdy Sambo: Tijakan Keadilan Dalam Prespektif Aspek Transendental "Unum, Verum, Bonum Dan Pulchrum"."

sentencing of the cassation decision, the attention of the public according to. On the other hand, the level of public trust in the National Police according to the time the case appeared. This is a weakness of the post-positivist perspective of the three judges who lowered their sentences, because the remaining two judges agreed with the previous decision with a positivist paradigm as a strong basis by believing the facts of the trial textually, in contrast to the Supreme Court justice who re-explored the politics of criminal law, especially after the promulgation of the new Criminal Code.

Conclusion

The legal discovery made by the Supreme Court judge regarding the life downgrade decision at the cassation level in the premeditated murder case of Nofriansyah Yosua Hutabarat was originally the death penalty. In determining this verdict, there are several considerations for the judge, including the substance of the penalty to be rehabilitative, and considering Ferdy Sambo's responsibilities and regrets. So that the Supreme Court's decision by giving a sentence to life imprisonment is in accordance with the post-positivism paradigm where in making a judge's decision is not only guided by the law, but the judge explores other factors in depth about the problem in line with the 3 judges who agreed to decide on a life sentence, different from the 2 judges who dissented the opinion with the ratio of the logic of the major premise found in the laws and regulations. Public attention decreased after the cassation decision because there was a reduction in the death penalty from death to life. Public expectations then declined as a result of the cassation decision.

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