

Monitoring The Trial Concerning The Murder of Munir

Session XXIII
The Central Jakarta District Court
Jakarta, Tuesday, 12 December 2005

Material: Reading Defense Arguments
Time: 10.10 - 11.30 Western Indonesian Time
Place: The Central Jakarta District Court, Second floor, Courtroom V

I. The trial

The trial begins at 10.10 Wib with the agenda reading the defense arguments from the defendant as well as his legal advisers. Five police officers are standing in front of the courtroom. Nearly 80 people are coming to see the trial including families and victims of Mei, Tanjung Priok and '65 case. KontraS' activists are also with them. One observer from Hendropriyono's side is also coming.

The panel of judges are:

1. Cicut Setiarso (The Chief Judges)
2. Sugito (Member)
3. Ridwan Mansur (Member)
4. Agus Subroto (Member)
5. Liliek Mulyadi (Member)

The public prosecutors are:

1. Saptani
2. Edi Saputra
3. Suroto
4. Supardi

The legal advisers are:

1. Assegaf
2. Wirawan Adnan
3. Imron Halimy
4. Uki
5. Dedy K Amudy

II. The material of defense arguments:

The defendant, Pollycarpus, and his legal advisers are reading the defense arguments separately with different documents. However, they share similar arguments which rejecting the charges of the prosecutors due to insufficient evidence that Pollycarpus is really committing the premeditated murder of Munir. They read the defense arguments in the courtroom by turns. The defendant read his plea first followed by his legal advisers.

A. Personal plea of Pollycarpus¹

The personal plea of the defendant, Pollycarpus, contains 16 pages. Pollycarpus reads the plea carefully with full emotion. He also distributes his plea to the people in the courtroom as well as to journalists.

Background of the plea

According to his personal judgment, the charge of the prosecutors is merely based on assumptions and pressures rather than facts and understanding

He thanks his legal advisers for helping and giving him assistances without payment. He also hopes Garuda Indonesian Airways would help and support the legal advisers since he is facing the trial as Garuda's employee.

Pollycarpus is telling his life story as professional pilot for 21 years, and for the last 17 years as a pilot at Garuda Indonesian Airways.

Pollycarpus says the media has built bad opinions on him that disturbs his life and his family.

He also says the examining and ransacking process by the police has disturbed his life and his family. He also criticizes the police that ask him to pretend having a disease and hide from the media.

His children are mentally and psychologically disturbed because of his case.

He also criticizes statement for the secretary of fact-finding team saying the team will investigate the money flow to him since he is able to cover his family basic needs.

Pollycarpus also tells the court on his service to the community while he was in Papua. He quits after he was offered a vacancy in airlines. He gets the job based on hard work, commitment and dedication. It is not because recommendations or nepotism.

Pollycarpus' defending arguments

¹ Read the personal plea of Pollycarpus

On who poisoned Munir

Pollycarpus mentioned that the charge by the prosecutors is based on assumptions. The prosecutors are not able to prove who put the arsenic into the welcome drink and his role in that poisoning activity.

On offering a seat to Munir and read a magazine

Pollycarpus said that it did not make any sense he had to be responsible for the murder only because he was offering a seat to Munir as part of in flight service. Moreover, the prosecutors also illogically said that reading a magazine as an unusual activity since there was no connection whatsoever between reading magazine and the death of Munir.

Illogical argument of the prosecutor

Pollycarpus told the court that it did not make any sense to call Munir and mentioned his name in the conversation if he really wanted to murder Munir .

According to Pollycarpus, the prosecutors did not have the right to make any judgments on his report activities since that would be Garuda's responsibility and Garuda already accepted the report.

Pollycarpus also told the court that he did not call Yeti, Brahmanie and Oedi to orchestrate similar perceptions. According to Pollycarpus, it was normal if he called them to share his feeling about what happened to him and Garuda.

To Singapore because he had the duty

Pollycarpus added that all documents from the chief pilot and another document signed by Garuda's officer as well as the fact that he was picked up to the airport showed that he had official task given by the company. There were no documents or notes from the company saying that he used fake letters.

Pollycarpus' closing arguments

Pollycarpus said that he did not have any intention to murder Munir. Therefore, the prosecutor's conclusions are baseless. Pollycarpus expresses his condolences and sympathy to Munir. He requests the panel of judges not to take into account

prosecutors' charges and to give fair judgment by releasing him from all charges of the prosecutors.

B. The defense arguments of the legal advisers²

The legal advisers read their defense arguments by turns. They distributed the defense arguments to the media and observers. It contains 15 pages with three chapters as follows:

Chapter I: Introduction

The legal advisers are surprised since the prosecutors charge life sentence to the defendant. They asked whether the charge come from inner self of the prosecutors or pressures. The legal advisers come to this statement based on the following reasons:

1. The public prosecutor did not attend the court with the agenda on reading the charges as agreed on November 28, 2005 without official reasons.
2. In the previous charge of the prosecutor, page 82, it says, *"reduced by the number of days when the defendant was in temporary jail"*.
3. There are no evidence whatsoever that someone already committed murder by poisoning Munir.

In this chapter, the legal advisers also mention clearly on "unrevealed identity of the real murderer". Therefore, the public prosecutor should not be proud on his charges. The legal advisers admit Munir is a hero in human rights activists that eagerly want to seek the truth and justice. The legal advisers also ask Pollycarpus to be treated as a person looking for the truth and justice as Munir did. The legal advisers also think that the rally and Munir's supporters inside the courtroom as normal.

Moreover, the legal advisers also mention about the investigation process starting from the fact-finding team that helps the police to the objective of the court that will prove *"Pollycarpus as Garuda's pilot has motivation and willingness to murder Munir"*. The legal advisers also adds that *"the defendant sentiment to Munir since Munir's activities do not support the unitary state of Republic of Indonesia"* as a motive to murder Munir, as the prosecutor said is illogical and baseless. The motive merely comes from witness' explanation that never appeared in the court

² Read the resume of defending arguments

and the prosecutor did not call the witness in purpose. The legal advisers said that the prosecutor shifted the responsibility to the panel of judges and hide behind the judges.

The legal advisers told the court that based on the facts in the court, every airlines had their regular normative rules and some habitual practices. The way Garuda assigned its staff, publishing documents, scheduling, delaying, and so forth, has followed the norms and habitual practices in the company. Therefore, the prosecutor should not look for falsifying activities on the procedure or administrative to the defendant as part of premeditated murder.

II. Facts in the court

This chapter mentions the witnesses presented by the prosecutors before the court: 25 witnesses (24 the dossier's witness, 1 additional witness: Eva Yulianti), 6 experts' witness listed in the dossier. Out of 30 the dossier's witnesses, they only read resume for 6 witnesses. The legal advisers presented two a de charge witness. The legal advisers added that the prosecutors had already provided exhibits for this case.

A. The legal advisers denied that Pollycarpus had planned murder on Munir based on the following facts during the trial:

1. There are no significant motivations or reasons of the defendant to murder Munir.
2. The change in the schedule (5-8 September to Peking) of the defendant to stand by position on September 7 for attending APG meeting was under notification of Karmal Sembiring.
3. The director, Indra Setiawan, assigned the defendant as aviation security with a letter Garuda/DZ/2270/04 September 2004. The letter submitted to Ramelgia Anwar (VP corporate security) on August 12, 2004.
4. On August 13, 2004, Ramelgia briefed the defendant on the main duty in corporate security and the need to gather information concerning the flight to Sidney, Jeddah, Hong Kong with priority to Surabaya, Denpasar, Singapore.
5. On August 28, 2004, there was a report at Changi Airport, Singapore that a plane had dumping fuel problem and it could not lift the wheel.

6. Before his departure to Balikpapan, Ujung Pandang and Denpasar, Ramelgia called and briefed the defendant on the dumping fuel problem in Singapore.
7. Rochainil Aini issued a note on changing schedule for the defendant with the letter OFA/219/04 on 6 September. In Garuda, this could be by telephone and SMS.
8. The defendant departed to Singapore on 6 September using Garuda's car, flew with GA 974 with Munir as one of its passengers. They departed at 21.30 WIT and arrived at Changi at 01.30 WIT.
9. The defendant, Oedi and Yety, knew that they would fly with GA 974 one hour and half before take off.
10. According to the arrangement, Munir should take a seat in economy class 40G, the defendant in business class 3 K. However, in reality, Munir was at 3 K, the defendant in premium class 11 C.
11. No witnesses saw the defendant entered business area and pantry room.
12. Flight attendant Oedi Irianto prepared the *welcome drink* while flight attendant Yety Susmiarty served it to the passengers. The welcome drink was served 15-20 minutes before *block off* (the plane were prepared to move)
13. At 1.30 local time, GA 974 landed at Changi Airport and all the cabin crew including the defendant stayed in Novotel Hotel, Singapore.
14. The defendant returned to Jakarta with GA 832 from Changi Airport. At the Changi Airport, the defendant interviewed a technician and based on his personal judgment, the interview was appropriate to write a report on the dumping fuel problem. The defendant submitted the report to Ramelgia Anwar and to the director, Indra Setiawan dated 8 September 2004.
15. Having arrived in Jakarta on 7 September 2004, the defendant attended the APG meeting in Ambara Hotel as scheduled.
16. In Singapore, Munir went to transit room in Changi Airport and he talked with the witness, dr. Tarmizi Hakim when the plane to Amsterdam was in boarding time. Munir was in good health that time.
17. After take off, about 15-20 minutes from Singapura heading to Amsterdam, when meal was served, Munir did not feel well and asked warm tea.

18. About three hours after take off from Singapore, Munir moved to business class because he had nausea then vomited including several trips to the toilet. He died three hours before the plane landed.
19. An autopsy for Munir's body was conducted by the NFI in the Netherlands. The visum dated September 8, 2004 said that Munir died due to high dose of arsenic inside his body.
20. Based on the conclusion drew by the expert witness after a discussion with dr. R Visser and dr. B Kubat of the NFI, it could not be determined whether the arsenic got into the body through the food or drinks. If someone was poisoned by arsenic, he would feel the pain after 10 minutes (the fastest) or 90 minutes (the longest).
21. According to the actual *Aircraft Flight Log* (AFL), the plane Boeing 747-400 GA 974 to Amsterdam from Singapore, total time for flying was 1 hour 38 minutes with transit about 1 hour 13 minutes. In total, 2 hours 51 minutes.

A. Legal advisers mentioned controversial matters found during the trial:

1. On Pollycarpus called Munir's handphone

Suciwati said that on September 2, 2004, someone called Munir and the caller introduced himself as Polly from Garuda. Polly said that he did not know the number of Munir's mobile phone and he never called Munir.

The legal advisers asked the connection between Munir's death with communication activity using mobile phone if that quod-non happened. According to the legal advisers, it did not make any sense that someone who wanted to murder called the victim and introduced his identity.

2. On whether Pollycarpus really had permission to go to Singapore

The witness Ramelgia Anwar said that he never assigned Pollycarpus to go to Singapore while Pollycarpus said that he got permission from the director Indra Setiawan and Ramelgia on the dumping fuel problem. As always, Polycarpus asked for changing schedule through telephone, SMS or telex.

B. The legal advisers said the prosecutors demonstrated manipulated as well as inaccurate facts.

1. Witness' explanation quoted from the dossier:

In the court, the witness Achirina never said that "*.....the departure of Pollycarpus to Singapore incurring loss for the company*".

2. The prosecutors eliminated several explanations of the witnesses that led to different perceptions:

- The defendant was in Premium Class and he did not take the seat in 40G based on instruction from the purser, Brahmanie.
- On 6 September 2004, Karmal Sembiring was abroad and his two deputies were not in the office.
- The OFA letter signed by Rohainil on behalf of the chief pilot already followed standardized form.
- Yety Susmiarti and Oedi Irianto never asked to be assigned in GA 974 along with the defendant.

C. The legal advisers added that the prosecutors had added another fact:

- In the charge, on page 62, the ninth point saying "*the defendant was seen several times in pantry when the flight attendant prepared welcome drink...*" and point 27, "*....after the death of Munir due to the arsen in orange juice...*"

Conclusions drew based on facts from the legal advisers:

1. No witness presented by the prosecutors that could prove the defendant had a motive to murder Munir. In order to find material truth, the prosecutor tried to use formal truth and this also could be found since the witness Hian Tian also known as Eni did not take the oath when testified and there was only one witness met the formal requirements so the testimony had a legal meaning.
2. Pollycarpus, Yety Susmiarty and Oedi did not know each other that they would be in the same flight. They knew it one hour prior to the departure and there was no agreement among them. Therefore, there was no cooperation or order and being ordered. In conclusion, there was no premeditated murder to Munir.
3. No witnesses saw Pollycarpus was in business class and pantry. Therefore, it could not be concluded that Pollycarpus knew about

the arsen in the food and drinks served to Munir. As consequence, Pollycarpus did not commit the murder.

4. Pollycarpus went to Singapore picked by a Garuda's driver and his name was on the gendec. In Singapore, he along with other Garuda's cabin crew were picked to stay in the same hotel. Therefore, it could be concluded that Pollycarpus went to Singapore performing official task.
5. Ramelgia Anwar as Vice President Security sent *interoffice correspondence* with number IS/1177/04 dated 15 September 2004 subsequently changed to the date 4 September to Karmal Fauza Sembiring, proved that Pollycarpus went to Singapore to perform company's assignment.
6. The arsen would give impact about 10-60 minutes after intake, with *deviation* around 30 minutes, and maximum 90 minutes. If the intake assumed during Munir drank the orange juice, then he should feel nausea 90 minutes (maximum) after take off from Jakarta or during Jakarta-Singapore flight. The absence of the nausea showed the intake of the arsen did not occur during Jakarta-Singapore flight.
7. At Changi, Munir was look fresh. The first symptom was seen when Munir was inside the plane from Singapore to Amsterdam. Therefore, based on the theory of intake of 10 to 90 minutes, if we looked back, then the intake should be during the transit at Changi Airport where Munir spent 1 hour 13 minutes
8. When Munir complained about the pain in his stomach, the lamp inside the cabin was already on. Therefore, technically speaking, the plane already in 10.000 feet and it took 15-20 minutes for Boeing 47-400 to be in that height. In conclusion, it is unlikely the intake of the arsen was inside GA 974 flight from Jakarta to Singapore. Most likely, the intake was at Changi Airport.

III. Conclusions and requests

The legal advisers then concluded, based on the previous facts and analysis, that the defendant did not commit criminal activity as charged by the prosecutor in the first and second indictment.

The legal advisers requested the panel of judges to make the verdicts:

1. The defendant was not proven in a convincing way committing criminal activity as mentioned in the first and second indictment.
2. Declaring that the defendant is free of all charges.
3. Ordering the defendant to be released from the jail.
4. Restoring the defendant's credibility and integrity.

