

# **Monitoring the Trial concerning the Murder of Munir**

## **Trial XXVI The Central Jakarta District Court Jakarta, Tuesday, 20 December 2005**

Material: Reading of Verdict  
Time: 10.00 - 13.00 Wib (West Indonesia Time)  
Place: Central Jakarta District Court, 2<sup>nd</sup> floor, Courtroom V

## **I. Before the Trial**

At 9.00 Wib Central Jakarta District Court was full of visitors and around 20 policemen who were on guard. In addition, about 20 people from KOMIIT (East Indonesia’s Students Committee) conducted a silent action in the District Court’s parking area, carrying a banner demanding the judges to declare the wrong to be wrong and the right to be right. These people also questioned the expert witnesses from the Netherlands Forensic team, whom the Prosecutors did not present at the court, and the demand for autopsy on Munir’s corpse in Indonesia.

At 10.00 Wib, approximately 500 people who sympathized with Munir’s case came. These people were from various victim organizations that KontraS had been working with. They demonstrated in front of the district court building and in the parking area. They demanded that the mastermind behind the case be brought to trial and that the process of uncovering Munir’s case did not stop with Pollycarpus. The courtroom itself was crowded with around 200 visitors from various background and interests. The whole event was covered by around 60 media.

## **II. The Trial**

At 10.00 Wib, the Panel of Judges opened the session with the agenda of reading the verdict. Pollycarpus was present in a white long-sleeved shirt and black trousers. He waved to the media who were greeting him and crowding for him. The Panel of Judges read the verdict in turn.

### **The Panel of Judges present:**

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

### **The Prosecutors present:**

1. Domu P Sihite
2. Narendra Jatna
3. Supardi
4. Saptani
5. Jefri
6. Ade Saputra
7. Suroto

### **The Legal Advisors present:**

1. Assegaf
2. Suhardi Sumomuljono

3. Wirawan Adnan
4. Heru Santoso
5. Uki

### III. Content of Verdict

The Judges declare that the defendant has been proven guilty beyond reasonable doubt to have committed the crimes as stated in the first charge: article 340 of KUHP (Criminal Code) jo article 55 verse (1) no-1 KUHP and the second charge article 263 verse (2) KUHP jo article 55 verse (1) no-1 KUHP.

#### Evidence

##### *A. The first charge: article 340 KUHP jo article 55 verse (1) no-1 KUHP:*

With the following elements:

1. element of a person; Pollycarpus has fulfilled this element
2. element of intentionally; the presence of a motivation

#### Consideration on Motivation

- Muchdi once warned Munir not to be too vocal but Munir did not change his way in criticizing the government
- Suciwati testified that at the time of Munir’s departure to Amsterdam, Munir called Hendropriyono to ask whether he was banned from leaving and Hendro had answered no.
- At Cengkareng Airport, Munir said that he was banned on his departure to Switzerland.

The panel of judges used these facts as a clue that *“there are parties who are not pleased with Munir because of his criticism, therefore, there is a motivation to kill him.”*

#### Pollycarpus’ Motivation

1. The judges overlooked Hian Tian’s testimony because it had been read and the witness was not present in the court. The testimony was denied by the defendant and therefore could not be used as evidence.
2. Communication between mobile number of 0811900978, belonging to Muchdi, and the defendant’s home phone number 021-7407459 and mobile number 0815843083, no less than 41 times.
3. The judges declared that Muchdi’s denial did not make sense because as a high official in BIN (State Intelligence Agency) with a strategic position, it is impossible that his communication equipment could be used by anyone because that would put him in danger.
4. Muchdi and the defendant admitted that the printout containing such communication was correct. Based on this printout and the number of

communication, 41 times, the panel of judges declared that there was a close relationship with Muchdi.

From the above facts the panel of judges declared that:

1. The motivation behind Munir’s murder can be seen from Muchdi’s testimony, in which it was stated that he warned Munir through Buyung not to be vocal in criticizing the government although Munir did not change. Based on this testimony, the person speaking in hand phone number 0811900978 was the person who wanted Munir not to be vocal in criticizing the government. *“Then this is the person who has the motivation in murdering Munir”.*
2. Based on the frequency of communication between the defendant’s number and 081900978, the defendant is then declared to have the same activities as those of the owner of 081900978 (Muchdi).
3. Although the contents of the phone conversations were unknown, the defendant’s attitude (walking around business class area, premium bar and the toilet) in the flight GA 974 Jakarta-Singapore could be connected. This meant that between the defendant and the owner of 081900978 (Muchdi), there had been an agreement about the way to carry out their desire to take Munir’s life.

Based on the above clues, the judges declared:

*“The defendant wanted Munir not to be vocal, and therefore the defendant possessed the mental capability to take Munir’s life.”*

*“There are still other parties who had wanted to take Munir’s life and this can be proven through a more accurate investigation by the authority.”*

Consideration about the letter of assignment:

- Nobody ordered the defendant to go to Singapore
- The defendant called Suciwati on 2 September to find out about Munir’s departure
- The words “please check the one in Singapore” from Ramelgia are not formal instruction
- The letter from the Director was not about assignment to Singapore but a letter of assignment in Corporate Security
- The defendant did not dare to check on the spot the case of dumping fuel in Changi because he did not have a formal assignment letter

The judge stated, *“the defendant went to Singapore without any assignment letter to go there and this proves that the defendant’s purpose of going to Singapore was to kill Munir as discussed with 081900978 (Muchdi).”*

**Consideration on how the poison entered the victims’ body:**

- Munir died because of arsenic, which could have entered his body through his food or drink
- The arsenic poison could have been put in the fried noodle or orange juice
- Because the passengers chose their own food, there is also *another possibility of how the poison entered the body*, and therefore there is another alternative in the material evidence

*“The panel of judges disagrees with the prosecutors that said arsenic was given through drink because during the preparation of welcome drink the passengers were still walking around and between the premium class and business class the curtain was still open and see through.”*

*“The panel of judges agrees with the defense counselors that there is not one witness who saw the defendant entering the pantry.”*

- During take off and landing, the defendant was in his seat, other than those times, the defendant was walking around, standing at the premium bar and in front of the toilet in business class
- The defendant spoke to Yeti Susmiarti, Oedi and Brahmanie to match their perception about Munir’s death
- Between the defendant and Yeti, Oedi and Brahmanie have known each other
- It is unknown what the defendant was doing walking around business class, the premium bar and the toilet
- Passengers usually go to the toilet after dinner preparation
- After passengers had seated in their chairs and worn their seatbelts, and the lights were out, the defendant left his seat and walked around the premium bar, pretending to read a magazine and immediately prepared two packages of food, fried noodle and pasta laden with arsenic; the fried noodle was then served by Yety, observed by the defendant while standing near the premium bar
- Arsenic was put in fried noodle from meal service, served by Yeti to Munir

**Consideration regarding nobody saw the defendant going into the pantry:**

*“There is no need to have anyone seeing him going into the pantry because there is still other evidence: the defendant was walking around and standing at the premium bar, for which his reason for not sitting because of his hemorrhoid is unacceptable.”*

### 3) Element of planning

- Enough time and the availability of intention
  - The intention occurred when the defendant offered Munir to sit on seat 3K, business class, lower deck.
  - Soon after take off, at a balance altitude, when the passengers had put their seatbelts on and the lights were out, the defendant immediately left his seat and walked towards the pantry in order to meet Yeti and Oedi, who were in the pantry already, and prepared how to put the arsenic into the food.
  - The length of time between Munir sitting in seat 3K and the passengers wearing their seatbelts and lights out was the time when the defendant thought about committing the crime or not.

*Therefore the occurrence of intention and enough time have been fulfilled.*

### 4) The element of eliminating a person’s life

- The defendant was present around business class, walking around, and standing at the premium bar.
- The defendant did not eat or drink and he was near the business toilet twice.
- In his seat, the defendant prepared himself. When the seatbelts were used and the lights were out, the defendant immediately left his seat and walked towards the pantry to meet Yeti and Oedi, where the food was prepared, and to talk about how the arsenic should be put in the food
- The defendant had known Oedi and Yeti. They could be certain to use the time effectively, by Oedi opening the seal or anything, then the defendant pour the poison into two packages of food prepared: fried noodle and pasta, which were then sealed again neatly.
- Although it was not revealed where the defendant bought the arsenic, expert witness said that arsenic is easy to be obtained and carried around as well as stored, and then to be taken into the plane undetected because arsenic is not included as something that has to be reported.
- The defendant then exited the pantry quickly and went to the premium bar to watch Yeti served the meal that Oedi had prepared by walking around, standing in front of the toilet in business class and standing at the premium bar and pretending to read a magazine in Dutch language.
- Witnesses Oedi and Yety then separated the meal containing arsenic and gave it to Munir.

- When Munir asked for fried noodle, Yeti gave the one containing arsenic. When Yety gave it to Munir, Oedi and the defendant were watching until the defendant was sure that Munir ate all the food.
- Munir died from arsenic

Based on the evidence of the elements of a person, intention, planning and taking a person’s life, the panel of judges declared that article 340 KUHP (Criminal Code) has been proven.

#### B. Proof of article 55 verse (1) no-1 KUHP

Pollycarpus’ role (committed, instructed to commit, participated in committing)

- The defendant did not play a role as the one who committed the crime because the poison that entered Munir’s body was due to the roles of Oedi Irianto and Yeti Susmiarti. Therefore, there were more than two people conspiring.

*Based on this fact, the defendant’s role was as “a person who jointly committed a crime.”*

### II. Proof of article 263 verse (2) KUHP jo article 55 verse (1) no-1 KUHP

#### A. Proof of article 263 verse 2 (falsification of letter)

- 1) the element of a person: Pollycarpus fulfilled this element
- 2) The element of intention
  - Ramelgia never instructed the defendant to go to Singapore
  - The defendant went to Singapore on his own will without any formal assignment letter
  - The two letters (4 September and 15 September) were made after Pollycarpus returned from Singapore
  - The letters dated 4 September and 15 September were made regarding accommodation so that “something illegal becomes legalized”
  - Ramelgia Anwar as the Corporate Security Vice President did not know about the defendant’s departure but was charged with the cost of the defendant’s trip
  - The letter’s date, 15 September and 4 September, did not match the content of the letter
  - The falsified letter charged the cost to Corporate Security unit

#### 3) The element of using a falsified letter

The defendant and Ramelgia have made and used a falsified letter.

#### 4) The element of incurring loss to others

The letter was made so that the accommodation cost would be charged to Corporate Security (CS) unit whereas CS unit had no idea of the defendant’s trip.

The panel of judges decided that article 263 verse 2 of KUHP has been fulfilled.

#### B. Article 55 verse 1 no 1 KUHP

Pollycarpus’ role (committed, instructed to commit, or jointly committed)

- The one who made the falsified letter was Ramelgia Anwar and the defendant used the letter
- Without Ramelgia Anwar’s action the defendant will not be able to use the falsified letter

*Therefore, Polly’s role was a person who “participated in the falsification of the letter.”*

#### in his consideration the judges stated

1. The First Charge of article 340 KUHP jo article 55 verse (1) no-1 KUHP and the second charge of article 263 verse (2) KUHP jo article 55 verse (1) no-1 KUHP have been proven
2. There is no justification to what the defendant had committed
3. The defendant was not alone in committing the crime; therefore others still have to be found and accurate investigation still have to be carried. Based on this, the prosecutor’s demand for life sentence is too severe.

#### Mitigating circumstances

The defendant was polite, has never been convicted and has a wife and children.

#### Incriminating circumstances

1. the crime was committed in conspiracy
2. the defendant did not give straight answers and hide the truth that he knows

#### IV. Points of the Judges’ Verdict

1. the defendant was proven guilty beyond reasonable doubt to have participated in a planned murder and a fake letter
2. the defendant was sentenced to 14 years in prison
3. the defendant’s sentence is reduced by the time he already served
4. the defendant had to pay case fee of 5,000 rupiahs
5. the evidence is returned to the prosecutors to be used as evidence in other cases

#### V. Response from the defendant and legal advisors

The defendant, in loud and emotional voice, rejected the judges’ verdict and the legal advisors also rejected the decision. Outside the courtroom, Assegaf stated that he would submit an appeal and report the judges to the Judicial Commission for their verdict. In Assegaf’s opinion, the panel of judges had forced their decision because of the following reasons:

1. The verdict was out of charges (poison in the food)
2. Pollycarpus was not proven to be involved in the murder
3. The facts about poisoning through fried noodle were not presented in the trial

#### VI. Pointers of the Verdict

1. The panel of judges had different findings and perspective from the reconstruction from those of the Prosecutors.

- Pollycarpus’ motivation to kill Munir. The panel of judges think that the motive was based on witness Muchdi’s message to Adnan Buyung Nasution, warning Munir not to be too vocal, and the telephone conversation between Pollycarpus and Muchdi PR, which occurred no less than 41 times. It is based on this ground that the judges believe that Pollycarpus also has similar activities with Muchdi’s (not wanting Munir to be vocal in criticizing the government), “*some parties are not pleased with Munir*”. The prosecutor’s version of Pollycarpus’ motivation, which was proven based on Hian Tian’s testimony (that Polly was NKRI’s activist), is overlooked by the judges, under the consideration that the witness was not presented in the court and his testimony had been denied by the defendant.
- Reconstruction on the process of arsenic poisoning. The prosecutor’s version was that the poison was given in orange juice. According to the panel of judges, the poison was put by Pollycarpus in the fried noodle when Oedi and Yeti were in the

pantry preparing meal service. According to the panel of judges, there were still too many passengers walking around during the preparation of welcome drink and therefore no opportunity to put arsenic in the orange juice. Instead, the poison was put during the preparation of meal service, after all passengers had their seat belt on and the lights were out. The fact that the defendant was walking around, standing in the premium bar and in business class toilet are used as separate clues by the panel of judges.

3. From the findings and reconstruction, the panel of judges declared that there are still other parties involved in Munir’s assassination. Muchdi PR, Yety and Oedi were the ones whom the Judges strongly declared to be involved in Munir’s assassination.
4. In their consideration, the panel of judges declared that Pollycarpus played a role in “jointly” committed the crime; therefore, there must be a serious investigation by the authorized institutions against other parties who are clearly indicated to have been involved in the murder.
5. For the falsified letter, the judges also declared that Pollycarpus’ role was participant, in which case Ramelgia Anwar is also accountable as the person who made the falsified letter.
6. Although all the charges were proven, the panel of judges only sentenced the defendant to 14 years of imprisonment, under the consideration that Pollycarpus was only “participating” and that there are still other parties that must be held accountable.