

REQUISITOIR

Case number : PDM – 1305/JKT.PST/07/2005

I. INTRODUCTION

The Honorable Panel of Judges,
The Respected Legal Adviseries,
And The Audiences of the Court.

Let us all send our praise and prayers to GOD Almighty because He's the one whose blessings gathered us all here today so we could participate in this trial with good health.

This Legal trial by the name of defendant POLLYCARPUS BUDIHARI PRIYANTO in the District Court of Central Jakarta has been processed to the 19th (nineteenth) trial. The long process of the trial is priceless compared with the founding of material truth in this trial. During the trial process, there has been a lot of different opinions especially between the Public Prosecutor and the team of Legal Adviser. However, because of those differences has the same purpose that is to search and find the materiel truth, those differences is an addition repertory of science and experience to find the truth.

Before reading the Requisitoir, let us give thanks to the Panel of Judges who already has lead the trial firmly, fairly, and wisely, until the trial go on in order and smooth. we also give the same to the Legal Adviser, Police, Press Colleague, and also the audience who already kept the orderliness and the composure so the trial went along in a securely, smoothly, and opened manner. And we hope that the undergo trial would occure as safe as before.

II. CHARGES

The Honorable Panel of Judges,
The Respected Legal Adviser,
And The Audiences of the Court.

The Public Prosecutor in the District Court of Central Jakarta by observing the result of the trial with the defendant :

Name	: POLLYCARPUS BUDIHARI PRIYANTO
Born	: Solo
Age / Born Date	: 44 years old / 26 January 1961
Nationality	: Indonesia

Sex : Male
Address : Pamulang Permai I Blok B No.1 Rt.01/22
Pamulang,Tangerang
Religion : Catholic
Occupation : Garuda Indonesia Airways Pilot
Education : -

Based on the Letter of Judge assesment in the Dictrict Court of Central Jakarta Number : 1360/Pid.B/2005/PN.JKT.PST dated August 1st, 2005 and the Letter of Act of Extending Case with Common Investigation Jurisdiction in July 29th, 2005 Number : B-931/0.1.10/Ep.1/07/2005, the defendant POLLYCARPUS BUDIHARI PRIYANTO is brought to trial with the following charges:

FIRST :

The Defendant, POLLYCARPUS BUDIHARI PRIYANTO, whether acting alone or in collaboration with Yeti Susmiarti and Oedi Irianto (in a separate dossier), on Monday 6 September 2004 to Tuesday 7 September 2004, or at the least at a certain time in the month of September 2004, in a Garuda Indonesia Airways aeroplane of Flight Number GA-974 on route from Jakarta to Singapore, did commit, order the committing of, or participate in a deliberate and planned act first of all causing the loss of another person's life, namely, that of the victim MUNIR,SH SH. which is done by the defendant with the following methods:

- That the defendant POLLYCARPUS BUDIHARI PRIYANTO since 1999 has done activities with excuse to uphold The Republic of Indonesia, regards the victim MUNIR,SH as an activist of NGO and the leader of Kontras who oftens identifies himself as the motor and the vanguard of democracy development in Indonesia, defends Human Rights and frequently criticize government programs, doing social critics, comments, negatives respons and many other activities, which by the defendant or other parties perceives to be very disturNIAg and obstructs government programs to be carried out. This causes some people, could not accept it including the defendant.
- Underlain with that assumption and judgement urges the defendant that he needs to cease the activities of the victim MUNIR,SH by carefully planning methods to cause the loss of the victim, MUNIR,SH's, SH life.
- In order to carry out his plan to loose the life of the victim MUNIR,SH, the defendant started to observe the activities of MUNIR,SH directly or indirectly, until he knew that the victim MUNIR,SH plans to go to the Nethergrounds to continue study.

- and then, to make sure, what time MUNIR,SH departs, the defendant tried to call MUNIR,SH by his hand phone. The call was received by SUCIWATI (MUNIR,SH'S, SH wife) who told that MUNIR,SH would fly on Monday, September 6th, 2004.

- Knowing about the departure of MUNIR,SH flight, the defendant searched for a chance to take the flight together with MUNIR,SH on September 6th, 2004, whereas the defendant asked for flight operations changes as an extra crew, while based the defendant's operation schedule from September 5th, 2004, until September 9th, 2004, the defendant should of been departing for Peking, China. But the schedule changed so that in September 6th, 2004, his flight went to Singapore. This changing was written on the Changing Note Number : OFA/ 219/04 dated September 6th, 2004 which was made by ROHAINIL AINI based on the defendant's reason by the time that there is a job from the witness RAMELGIA ANWAR as Vice President Corporate Security Garuda Indonesia Airways which furthermore in the implementation would contact the Chief Pilot KARMAL FAUZA SEMBIRING. But actually, the assesment was false. However because of that reason, a General Declaration was issued for the departure of the defendant to Singapore as a Extra Crew to do the Aviation Security assignment. While actually, the Aviation Security assignment was not the specialization of the defendant, whose main job in Garuda Indonesia Airways, was only a pilot or at the least, he does not own special permission as an Aviation Security.

- Furthermore, in September 6th 2004, the defendant left to the Soekarno-Hatta Internasional Airport to fly to Singapore by taking Garuda Indonesia Airways with flight number GA-974, the same plane that MUNIR,SH was boarding. After checked in, the defendant walked into the airplane through the corridor that connected the waiting room with the airplane door. At that time, the defendant saw MUNIR,SH also walking to the airplane door.

- Then the defendant came close to MUNIR,SH to greet and asked where did MUNIR,SH seat. And MUNIR,SH showed his seat number which is number 40G in economic class.

- Futhermore, MUNIR,SH asked where that seat was and the defendant answered in the back of the airplane. But by that time, The defendant offered his own seat to MUNIR,SH which was in the business class number 3K, intending to make his plan much easier to do, because in the business class there were only 18 seats.

- To make the other passengers unsuspecting, the defendant told to a witness BRAHMANIE HASTAWATI as the plane Purser about the changing seat facilities of his seat to MUNIR,SH. After that, the witness BRAHMANIE HASTAWATI came close to MUNIR,SH

and greeted him.

- BRAHMANIE HASTAWATI allowed the defendant to seat in the business Class and a few moments before the plane took off, a witness OEDI IRIANTO as a flight attendant served the welcome drink as his job in the plane including to MUNIR,SH. When the witness OEDI IRIANTO served the welcome drink, the defendant got up from his seat and went to the pantry near the premium bar. When the time the intention of the defendant was to put something inside MUNIR,SH'S, SH orange juice, which by the result of Forensic League of Ministry of Justice Laboratorium Investigation in October 13th, 2004, signed by dr.ROBBERT VISSER, a doctor and patolog cooperate with dr. B. KUBAT was ensured as arsenic poison in a lethal dose.

- that the defendant gave the arsenic to the orange juice was because the defendant knew that MUNIR,SH did not drink alcohol. Meanwhile, the airplane only serve orange juice and wine as the welcome drink.

- Furthermore, witness YETI SUSMIARTI as a female flight attendant took two glasses of wine and two glasses of orange juice where in those two orange juices was already filled with arsenic arranged in a tray of two glasses of wine and two glasses orange juice with the comNIAation of Wine/Orange juice at the front and two glasses of the same comNIAation at the back of the tray. After that, a witness YETI SUSMIARTI went to the seat number 3K in business class where the MUNIR,SH seated. When she was in front of MUNIR,SH, the witness YETI SUSMIARTI offered the drink to the witness LIE KHIE NGIAN who seated beside MUNIR,SH and he took the wine.

- When the time of the offering, the defendant, the witness ODIE IRIANTO and YETI SUSMIARTI definitely knew that the witness LIE KHIE NGIAN is a Netherground and he will take wine as his welcome drink.

- After that the witness YETI SUSMIARTI served the welcome drink to MUNIR,SH who apparently was without suspicion took the orange juice in the front tray that was filled with arsenic.

- at the same time, the defendant was watching YETY SUSMIARTI's act when she served the orange juice to MUNIR,SH; watching MUNIR,SH in his seat when MUNIR,SH drank a glass of orange juice in his hand. the defendant moved back and forth in the front of the pantry near the business class bar. After the defendant had assured that MUNIR,SH has drank all of the orange juice filled by arsenic poison, the defendant went up to the premium class upperdeck while able to go to the pilot room to talk with the witness PANTUN MATONDANG as a pilot.

- After the flight time, approximately about 120 (one hundred and twenty) minutes later, at 23.32 WIB airplane Garuda Indonesia Airways with flight number GA-974 grounded in Changi Airport, Singapore and all of the airplane crew included the defendant went down to exchange the crew, whereas all of the airplane crew from Jakarta stayed overnight in Novotel Hotel Singapore.

- Before continuing his journey to the Nethergrounds in Changi MUNIR,SH waited for about 1 hour 13 minutes for transit. After that MUNIR,SH returned to the same airplane and seated in his own seat in 40 G Economy class, and after that at 00.45 WIB September 7th 2004 the airplane took off from Changi Airport Singapore. 15 minutes after taking off, MUNIR,SH started to have slight stomachaches as a consequence of the reaction of the arsenic poison in his body and after that, the victims started to vomit and spilled over the victim's shirt and pants.

- 3(three) hours later, after taking off from Changi airport Singapore the witness PANTUN MANTONDANG as a pilot received a report from the purser MADJIB R. NASUTION that the victim, MUNIR,SH was ill and had been treated by dokter TARMIZI. Further later, witness PANTUN MATONDANG gave order to purser MADJIB R. NASUTION to monitor his development. At that same time the victim MUNIR,SH was decided to be brought to the business class to lie down and by the witness Dr. TARMIZI gave 2 (two) pill of New Diatabs ; 1 (one) pill of Zantac ; 1 (one) pill of Promag and inject with Primperam and Diazepam until the victim appeared to calm down.

- However 2 (two) hours before grounded, the witness PANTUN MATONDANG received another report from the purser MADJIB NASUTION that the victim MUNIR,SH had already passed away. Which after that the witness PANTUN MATONDANG as a pilot invited DR. TARMIDZI to receive an explanation that MUNIR,SH suffered slight stomachache and diarrhea. Then moments after he got the reports that the victim MUNIR,SH had passed away, he then wrote the official statement of death.

- Based on the result of the visum et repertum wich was made by pro justice from Nethergrounds Ministry of Justice, Institution of Forensic in 13th October 2004, wich was signed by doctor ROBBERT VISSER, doctor and pathologist cooperating with dr. KUBAT, explained that had examined a body with the name MUNIR,SH during 8th September 2004 until 13th October 2004 with a conclusion that MUNIR,SH, 38 years old has died. Toxicology investigation found that "arsenic concentration has suddenly increased" in his blood and concentration of arsenic increased in his urine also in his gastric.

- Furthermore the victim's shirt, spilled by the victim's vomit while he was in the airplane, after checked in the Central of Forensic Laboratory of Indonesia Police State Criminal Detective League, based on the Jurisdiction Note of Criminalistic Laboratory Investigation in Central Forensic Laboratory of Indonesia Police State Criminal Detective League number LAB: 3952/KTF/2002 dated July 14th, 2005, investigation of the exhibits : grey and blue t-shirt, black long jeans, blue socks, and brown underwear that the victim wore, can be concluded ; that the Exhibit, grey and blue t-shirts, black long jeans, positively does contain arsenic.

-----*That defendant POLLYCARPUS BUDIHARI PRIYANTO, was arranged and threatened to punishment based on Article 340 Penal code in juncto Article 55 (1) Penal code-----*

AND

SECOND :

----- The defendant, POLLYCARPUS BUDIHARI PRIYANTO, whether acting alone or in collaboration with Ramelgia Anwar and Rohanil Aini (in a separate dossier), on Monday 6 September 2004 in the offices of Garuda Indonesia Airways Airways at the Sukarno Hatta Airport in Cengkareng, *did commit, order the committing of, or participate in a deliberate and planned act to make use of false documents or documents falsified to appear original, and the use of these documents generate loss.* the act which the defendant did with the following methods: -----

- That the defendant in September 6th, 2004, around 3pm until 4pm or around the afternoon has called a witness ROHAINIL AINI, where in that time the defendant asked about the existence of the pilot, and answered by the witness ROHAINIL AINI "what for?"

- Furthermore, the defendant told that he has been assigned by a witness RAMELGIA ANWAR to go to Singapore and will go onboard with flight GA-974, while the defendant knew that the witness RAMELGIA ANWAR was out of town. Listening to the request of the defendant, the witness ROHAINIL AINI asked about Mr.KARMAL (witness Capt. KARMAL FAUZA SEMBIRING) as the superior of the defendant and the defendant answered that the witness RAMELGIA ANWAR will call Mr. KARMAL. Then, the witness ROHAINIL AINI before hanging up the phone said, "You promise that Mr.RAMELGIA will call Capt.KARMAL", and the defendant said, "Yes.",

- Based on that telephone case, the witness ROHAINIL AINI having believed and assured because of the defendant's status as a senior Garuda Pilot, decided to make the Exchange Schedule Note

number : OFA/219/04 in that time signed by her although she did not have the authority. The Exchange note was an exchange for the letter with number OFA/210104 dated August 31th, 2004, which contained the omit departure of the defendant's schedule as a Extra Crew to Peking. The Belief of the witness ROHAINIL AINI was also based on the letter of Garuda Main Director number : DZ/2270/04 dated August 11th, 2004, whereas stated in the letter the defendant was assigned as an assistance staff in Corporate Security/IS which is led by the witness M. RAMELGIA ANWAR.

- Based on Exchange Schedule Note number OFA/219/04 dated September 6th, 2004, which is obvious false because the original before that changing note have been made, there were never any order from the witness RAMELGIA ANWAR to assign the defendant to went to Singapore, however, the defendant finally went to Singapore pretending he was a extra crew that assigned for the Garuda Aviation Security job using the Garuda Boeing 747-400 with flight number GA-974.

- That after the defendants returns to Indonesia from Singapore, meanwhile the journey from Singapore to Indonesia was causing financial burden for transportation and accommodation. Because of that the witness Capt. KAMAL FAUZIA SEMBIRING called the defendant and ask the defendant to report to the witness RAMELGIA ANWAR. Furthermore the defendant requested the witness RAMELGIA ANWAR to gave an letter of assesment for the defendant and then the witness RAMELGIA ANWAR make the official letter for the defendant assignment with number : IS/1177/04 dated September 15th 2004 and then gave it to the defendant. The purpose of the letter was to make the cost of the defendant was RAMELGIA ANWAR responsibility and not Capt. KAMAL FAUZIA SEMBIRING's.

- Remember that the defendant went to Singapore at September 6th, 2004 as an extra crew, so to complete that the duty was true, the defendant once again ask to the witness RAMELGIA ANWAR to make an official letter for the defendant assignment dated before September 6th 2004, based on that request, finally the witness RAMELGIA ANWAR make a letter of assesment again with the same number and content which is numbered : IS/1177/04 dated September 4th 2004;

- Furthermore, based on the false letter Number : IS/1177/04 dated September 4th 2004 which has been made like an original letter, finally Garuda Indonesia Airways burden for the cost of the defendant's journey with the result that Garuda Indonesia Airways to suffer a financial loss as the fair of airplane from Jakarta – Singapore and Singapore – Jakarta plus accommodation charges

and hotel rented as long as the defendant in Singapore.

-----*This defendant action was arranged and threatened punishment based on Article 263 (2) Penal code in juncto Article 55 Penal code in juncto Article 55 (1)first Penal code.*

III. COURT FACTS

Facts that are revealed during the court session chronologically are witness' testimonies, expert evidence, letters inspection, defendant's testimonies, evidence, and indications sequentially as following

A.WITNESSES TESTIMONIES

1. Witness SUCIWATI: under oath substantially explains as follows:
 - That witness confirms her testimony in the Investigation Profile which was made and signed by the Investigator.
 - The witness knows the defendant with no relation both from family or work.
 - That was true that the victim, MUNIR is an activist who, among others, is against the Military bill, and about Aceh.
 - That was true that MUNIR's activities during his lifetime receives many hostility in form of bomb terror as well as letters that threaten from the military and gangster members done both in the office, or at home.
 - That was true that MUNIR was hospitalized for 7 days in 2003 due to cardiac disease.
 - That was true that in 2004 he victim MUNIR had had medical check up and was declared as healthy.
 - That was true that a week before his departure to Nethergrounds, the victim MUNIR always had meals with the witness and had never had Fried Noodle and Orange Juice.
 - That was true that the victim's plane ticket was bought by IRMA NURJANAH on GARUDA NDONESIAN AIRWAYS as requested by the victim, MUNIR, himself and in economic class and the victim considered to use the airways to give income to the country.
 - That was true when he was flying from Jakarta to Nethergrounds, MUNIR didn't have Antimo, an anti nausea drug, with him.
 - The witness knew and met the defendant on 8 November 2004 in GIA office in order to investigate the chronology of MUNIR's death, the witness' husband. That it is true the witness, on 2 September 2004 had received a phone call in MUNIR's cell from someone saying that he's POLLY from GIA, who asked about MUNIR's departure, specifically asked if MUNIR was indeed going to

Nethergrounds. Which is confirmed by the witness, SUCIWATI, and MUNIR was leaving on Monday 6 September 2004 on GIA. That it is true that based on SUCIWATI's answer, defendant had replied "will go together."

- That was true that the witness then retold the conversation to the victim and asked whether he knew POLLY from Garuda, which was answered by MUNIR "Strange man, and that man is over friendly.

- That was true MUNIR told the witness that the defendant had asked MUNIR to post a letter for him in Switzerland when the victim went to Switzerland.

- That was true to the defendant's request, Munir had refused, saying: do you think I'm stupid, if the letter were a threat, then I will get the blame because my fingerprints were still printed.

- That was true on 6 September 2004 around 7 p.m., the witness with MUNIR waited at Dunkin Donuts Soekarno-Hatta airport in order to say goodbye to MUNIR, then his friends came among others: PUNKY, RATNA, UPIK IRMA, SUGIARTO, and AAL, then victim had milk cocoa but he didn't finish it and the witness finished it instead and they took pictures together.

- That was true on 6 September 2004, around 9 p.m. The witness received a text from MUNIR saying that victim was in good condition.

- That was true on 6 September 2004 the defendant had called MUNIR based on the evidence found by the Fact Investigator Team and the print out is also available. The witness found out that MUNIR had passed away on 7 September 2004 after Adzan Maghrib, called by USMAN HAMID.

- That was true to confirm the victim's death, the witness had called GIA and was replied that in due course there were no news about MUNIR's death.

- That was true witness called Ms. LILI (the woman, whose place was going to be used by MUNIR to live) in Nethergrounds, and was replied MUNIR had passed away but she hadn't seen the body, yet.

- Then USMAN HAMID came to the witness' house and said to the witness it was true that MUNIR had passed away.

- That was true that then the witness called GIA representative in Nethergrounds through Mr. YAN who confirmed that MUNIR had passed away, but Mr. YAN forbid her to extend the information, since he was not the official PR of GIA.

- That was true on 8 September 2004 the witness with PUNKY, INDARTI, RUSDI MARPAUNG, USMAN HAMID, and RASYID went to Nethergrounds and arrived on 9 September 2004, they met with the Nethergrounds Police Department and the ICCO.

- That was true the witness saw the victim's body in Mortarium

Schipol in lifeless condition, wearing white long clothes, with his face, hands, hair, and feet showing. While waiting, the witness was told that the victim had been autopsied.

- That was true the witness had given permission to do the autopsy.
- That was true the victim had been buried on 9 September 2004.
- That was true MUNIR's cell phone number which was contacted by the defendant is 081199058
- That was true the defendant had once contacted YENI, ROSA, INDARTI, even offer INDARTI a free flight.
- That was true the defendant had asked ROSA in Blok M to make peace. In October 2004 on the 1st meeting with Punky, Rachlan, Rusdi Marpaung and T. Mulya Lubis and met GIA representatives among others Indra Setiawan as GIA CEO and was asked whether there was a man named POLLY from GIA, and was confirmed by Indra, saying that "Yes, there is. He's a pilot of airbus" Then the witness asked Indra Setiawan again whether he was assigned to Nethergrounds and was replied "Airbus pilot, is not a pilot for big planes to Nethergrounds."
- witness had the 2nd meeting with GIA, still in October 2004, which discuss the food MUNIR had during his flight, according to flight attendant TIA DAMBARI, the victim, MUNIR, had fried noodles and 2 glasses of orange juice during his flight from Jakarta to Singapore. Whereas from Singapore to Amsterdam victim only had a glass of hot tea, he didn't eat because he had a stomachache.
- Still in October, there was the 3rd meeting in which the defendant was present, where the witness asked whether the defendant knew the victim, MUNIR, and the defendant said that the mrs.' Husband's memory is very good because they only met once in Bundaran HI, but he still remembered. When the witness was in the waiting room, the witness asked the defendant again he gave his seat and he replied because MUNIR is a public figure and the defendant wanted to give comfort and also the defendant had been permitted by Purser BRAHMANIE.
- That was true witness heard the explanation from the flight attendant TIA DEWI AMBARI known as TIA had awaken MUNIR for dinner, but MUNIR asked for Promag, ulcer medication, because he thought his ulcer had attacked. MUNIR said it after drinking the orange juice on the flight from Jakarta to Singapore. Since the drug was not available, MUNIR asked for hot tea and when TIA was serving dinner she saw MUNIR going to the Lavatory.
- That on the 3rd meeting, the defendant said that GIA crew as Aviation Security and was replied by the witness then you must be an Intel agent and the defendant directly said no, no. - That it is true then he was very confusing.

- That was true on 9 September 2004 the witness got a letter saying congratulations.
- That was true on 12 November 2004 witness got the autopsy result of MUNIR from the investigators which concluded that there was extremely high concentration of arsenic in victim's stomach.
- In November 2004, witness receive a package which contained a chicken's head, a cow's foot and a message saying "Don't sue Munir's case"
- That witness clearly memorizes the voice she heard on 2nd September 2004 from MUNIR's cell which asked about MUNIR's departure is the same voice when she met face to face with the defendant in GIA office. That the evidence which is a shirt and trousers as shown in the court is MUNIR's clothes which he wore when he went from Jakarta-Singapore-Amsterdam.

The Defendant's response:

- The meeting in GIA was only a gathering.
- The defendant had never phoned the victim before he went to Nethergrounds
- It is untrue the defendant asked the victim to post a letter to Switzerland On the departure, the defendant met MUNIR on a glass door.
- Defendant had no boarding pass.
- On 6 September 2004, defendant didn't phone MUNIR
- The meeting in Bundaran HI were caused by traffic jam and to respect the flower given by MUNIR

2.Witness Ir. INDRA SETIAWAN, M.BA: under oath substantially explains as follows:

- That witness confirms his testimony in the Investigation Profile which was made and signed by the Investigator.
- The witness knows the defendant with no relation from family but has a work relation as the superior of the defendant.
- That was true witness is the CEO of GIA Ltd, heading among others Strategy and General Directorate with Mr.M. RAMELGIA ANWAR as manager.
- That the witness had never ordered the defendant to go to Singapore. That the witness had given a letter on 11 August 2004 which contained work assistance and the letter is a legal cover, however, the job should be followed up by the Strategic and General Directorate which will be issued by M. RAMELGIA ANWAR.
- That there were 2 letters which formed on 11 August 2004, the 1st letter had been signed on 11 August 2004 and the 2nd had been signed after that day, and those letters defiantly has different

substantives.

- That was true that the ID card of the defendant was made in a different day with the task memo that witness signed namely the ID card was made on 16 June 2004 earlier than the memo on 11 August 2004.
- That was true ID card was supposed to be made after task memo dated 11 August 2004, and then ID card is issued.
- Witness admitted that there was a mistake in the process of ID card making which wasn't based on task memo dated on 11 August 2004.
- That the witness got a report from R.RAMELGIA ANWAR that there was a dumping fuel in Singapore.
- That was true the defendant's main job is Co Pilot
- That was true the defendant were given a task by R. RAMELGIA ANWAR to Singapore in order to investigate the dumping fuel That it is true before 11 August 2004 the defendant had never been assigned in a Corporate Security.
- That was true the defendant had got this task for the first time.
- The reason why the job is given to the defendant are:
 - Defendant known as a pilot, diligent, APG (Asosiasi Penerbang Garuda/ Garuda's pilot association), extensive flying route, while the defendant as FOA Airbus 330.
- That was true the witness had received a report from the defendant through R. RAMELGIA ANWAR and the report wasn't qualified.
- That was true there was supposed to be a report from the representatives of GIA in Singapore about the incident, however there were only a text message, while the wheel that wouldn't be loaded could be handled by the Singapore technician. That what's used for the report is from the representatives of GIA in Singapore.
- That was true witness had never assigned the defendant to check on the dumping fuel in Singapore. That the authorized decided the defendant's flying schedule as pilot is the Scheduling Crew in the Operational Directorate under the command of Capt.RUDY A. HARDJONO.
- That was true the defendant had worked outside the context of the task memo which the defendant's personal responsibility.
- That was true on 17 February 2005 witness had read letters dated 4 and 15 September 2004 no. IS 11177104 addressed to OFA about the delegation which was signed by R. RAMELGIA ANWAR, made after R. RAMELGIA ANWAR came back from business trip.
- That was true witness on 10 September came to the mourning family's house.

The Defendant's response

- On 8 September 2004 the defendant had handed in the report through R. RAMELGIA ANWAR.

3. Witness M. RAMELGIA ANWAR: under oath substantially explains as follows:

- That witness confirms his testimony in the Investigation Profile which was made and signed by the Investigator.
- The witness knows the defendant with no relation from family but has a work relation as the superior of the defendant.
- That was true the witness works in GIA Ltd. As Vice President of Corporate Security.
- That assignment for anyone in Corporate Security is from each General Manager.
- That was true a pilot, a co-pilot, and cabin crew are the main actors in security during flight.
- That working relationship between witness and defendant is not in direct order, since the defendant is under the control of Capt. KARMAL FAUZA SEMBIRING and Capt. RONGGO.
- That was true while the witness is outside the city, he never received any report from Capt. KARMAL or Capt. RONGGO about the departure to Singapore.
- That was true on 15 September 2004, witness was already in Jakarta and knew that the defendant had left for Singapore and Capt. RONGGO refused to take the charges.
- That was true there was a letter from the CEO of GIA Ltd. On 11 August 2004 no. GARUDA/ DZ – 2270/04, about the assistance in Corporation Security which was shown to the defendant.
- That each assignment should get permission from the direct superior with a clear job description, time limit.
- That was true witness received a report from the defendant dated 08 September 2004 which was received on 16 September 2004 and the report should be addressed to the one who gave the assignment, and report refers to the CEO and the defendant said that the report to Singapore is on point five.
- That the witness knew that the defendant had left for Singapore from Capt. KARMAL FAUZA SEMBIRING on 15 September 2004 and on 16 September 2004 the defendant came to meet the witness saying that he had left Singapore and then Capt. KARMAL FAUZA SEMBIRING was upset about the defendant's departure to Singapore.
- That the memo dated on 4 September 2004 was made on 20 September 2004, no. 15/1177/04, which was given to the

defendant had never registered, but memo dated on 15 September 2004 had been registered.

- Witness had never asked the defendant about the defendant's departure to Singapore.

- That witness had never asked witness INDRA SETIAWAN (CEO of GIA Ltd.) about defendant's departure.

- That was true the witness had never ordered the defendant to fly to Singapore neither from Capt. KARMAL FAUZA SEMBIRING, from Capt. RONGGO, nor ROHAINIL AINI.

- That on 16 September 2004 Capt. KARMAL asked for corrections of letter dated on 15 September 2004 because Capt. KARMAL didn't want to be responsible for

any cost which Capt. KARMAL will have to hold responsible and witness will be charged.

- That was true witness had issued a letter dated on 4 September 2004 and 15 September 2004 and there were a different in the autograph because it was signed while he was standing, but the other one was signed while he was sitting, however, the autograph which signed on those letter is his autograph.

- That while defendant doing his assignment, the witness had never given any permission, but it was done by defendant own initiative.

- That was letter dated on 15 September 2004 was made and signed on 15 September 2004, but the letter dated on 4 September 2004 was made and signed on 17 September 2004 and for the filing, the letter was assigned on 20 September 2005.

- That was true the defendant went to Singapore without any task memo.

- That defendant as a pilot who assisted in Corporate Security were according with the CEO's Letter dated on 11 August 2004 and there was no regulation about assistance of a pilot in other section.

- That the defendant received a task memo from CEO of GIA Ltd. , witness had never arranged about the defendant's duty.

- That task memo dated on 11 September 2004 from GIA Ltd. CEO, witness hand it to the defendant which had been witnessed by DMN AHMAD.

- That was true witness had never report about lack of employee to GIA Ltd. CEO and there was no report which tells about the un effective working unit under the witness control.

- That was true the witness didn't know about defendant's departure on 6 September 2004 to Singapore but witness knew about Dumping fuel in Singapore and witness had never know if there was other dumping fuel in other district and it was the first case of dumping fuel.

- That the dumping fuel in Singapore witness had never receive any

report from the representative of GIA Ltd. In Singapore.

- That dumping fuel is not witness' job field.
- That witness didn't know if defendant had any qualification to be assisted in Corporate Security section.
- That was true witness knew that defendant as Aviation Security didn't qualified because defendant wasn't an Aviation Security officer about monitoring aviation, flying standard.
- That Dumping fuel wasn't Aviation Security field.
- That the defendant had never worked as Corporate Security.
- That who had the initiative of ordering defendant in assisting in Corporate Security is GIA Ltd. CEO.(witness iNDRA SETIAWAN)
- That was true every task should have the time limit and mentioning authorization and responsibility.
- That the defendant was assisted in other section there was a regulation which is PKB/PKB Aviation in article 27 which contains pilot who is assigned is regulated in a specified regulation (witness didn't mention the specified regulation/ lex specialist).
- That the defendant in the organization is not witness concern, because defendant's job is a pilot.
- That was the defendant never done any assignment as a witness before August 11th. After August 11th 2004, the defendant still had the ID card.
- The Defendant's ID card was made on July 16th 2004, but the letter of assesment of the defendant was made for assignment in August 11th 2004. because of this, the defendant's ID card was false.
- The letter on September 4th 2004 was used to cover cost payment.

About the flight schedule, the witness did not know about the schedule.

- The witness had known that there was a schedule exchange after he was investigated by the police investigator.
- That was true that ROHAINI AINI made the flight schedule while ROHAINI AINI did not have the authority to make the flight schedule. the person who has the authority to make the flight schedule is the Chief pilot.
- That the person who had the authority to order the defendant to fly was the Main Director of Garuda Indonesia Airways. (the witness iNDRA SETIAWAN).
- That was true that Extra Crew had a boarding pass and had the special characteristics.
- That the upgrade sheet could have been done on ground. Someone who was doing the upgrade sheet had been in charged the extra cost and officer in the ground had the authority of the

upgrade sheet. If the aeroplane door was closed, so the pilot/purser had the authority. If the door is open, it must be reported to the ground.

- There was a confrontation between M RAMELGIA ANWAR (the witness) with INDRA SETIAWAN (the witness) on the court. The results of the confrontation was :

a. The witness M RAMELGIA ANWAR

He still answered based on her investigation report. The answer was that the witness never gave the assignment to the defendant for flying to Singapore, but INDRA SETIAWAN gave the assignment to the defendant because it was his responsibility.

b. The witness INDRA SETIAWAN

He answered that was true that M. RAMELGIA ANWAR (the witness) gave the assignment to the defendant to fly to Singapore.

The Defendant's response

- The defendant qualifications as a pilot was already twenty years and had an Aviation Security Certificate.
- That was something founded in the field.
- That the defendant's report had been given to the witness for training substance.
- That every assignment could be done by written order, oral, and by the phone.
- That the report which was given by the defendant, the report was already accepted after finished the assignment.
- That the defendant had asked permission to the Chief Pilot.
- That the defendant had been given a promise by M RAMELGIA ANWAR (witness) that if the defendant worked good he would get a training/scholarships in Singapore.

4). The witness ROHAINI AINI : under oath substantially stated as follow:

- That witness said that her testimony which was made and signed in was true.
- That the witness had known the defendant, the witness did not have family relationship with the defendant, but the witness has occupation relationship with the defendant.
- The witness knew the defendant since the witness worked as the flight Operation Support Officer on 1999-2000.
- The witness's assignment were:

- Doing all of correspondent administration activity. Synchronizing the changes of the cockpit crew flight schedule with the chief permission.
- Making the cockpit crew's day off schedule.
- Helping her chief in scheduling counseling time for the cockpit crew
- Preparing the suggestion Administration of upgrading Cockpit crew.
- Making the shedule of the chief's activity.
- Re-schedule meetings between the chief's with any third party. Preparing the requirements for the meeting.
- Saving the imprest fund for the chief pilot unit requirements. Doing other assignment which were given by the chief.
- That was true that the defendant should of flew Jakarta-Peking from september 5th to september 8th 2004.
- That was true that the defendant called the witness at 3 PM. And asked whether Captain KARMAL FAUZA SEMBIRING was in the office. The witness told the defendant that the captain wasn't in the office. The defendant had an assignment from M RAMELGIA ANWAR and would call the Captain KARMAL FAUZA SEMBIRING.
- That was true that the witness accepted the phone from the defendant who said there was a re-schedule about his flight to Singapore and the re-schedule of his flight was requested by the defendant.
- That was true that the witness never gave the report to the Chief about a flight re-schedule that must have the chief's permission.
- That was true that the witness made a note to the tracking office about a re-schedule based on the letter on the date August 11th 2004, from Ir. INDRA SETIAWAN, M.B.A.
- The witness was warned by Chief Pilot about the defendant's flight to Singapore, because the witness did not report to the chief pilot. The witness did not give the report because the defendant said to the witness that he promised he would call Captain KARMAL FAUZA SEMBIRING.
- That the base of the of the defendant's re-schedule to Singapore was based on the letter from Main Director of Garuda Indonesia Airways August 11th 2004.
- That there was two schedule changes. They were on August 31st 2004 and September 6th 2004.
- The shedule that was changed on august 31st 2004 was requested by Captain KARMAL FAUZA SEMBIRING, but the schedule that was changed September 6th 2004 was requested by the defendant.
- Extra crew went to Singapore.

- That was true that the witness accepted the letter on the date September 4th 2004 after September 6th 2004.
- The person who could request the flight re-schedule was only the pilot.
- That was true that the flight schedule on September 6th 2004 did not have the permission from the Chief.
- That was true that the witness making the re-schedule for September 6th 2004 did not pay the attention to the documents.
- That was true that the Chief said the witness was guilty in this case, because the witness did not give the report about the defendant flight re-schedule to the Chief.
- That was true when the defendant was calling the witness, the defendant told about the aeroplane Boeing 747 400 GA 974.

The Defendant's response:

- the order could be given orally or written. The pilot should be on stand-by anytime.
- There was GA 974, if there were first chance.

5.) The witness KARMAL FAUZA SEMBIRING : under oath substantially stated as follow:

- That the witness confirms all of the investigation report (BAP) which was made and signed with the investigators.
- That the witness had known the defendant, the witness did not have family relationship with the defendant, but the witness had an occupation relationship with the defendant.
- That was true that the witness knew the victim MUNIR,SH since 10 years ago as the Kontras activist from newspaper and electronic media.
- That was true the witness had assignment and responsibilities to keep the competence of the Airbus Pilots.
- That was true that the defendant only drove the Airbus 330.
- That was true that the defendant as an extra crew had an ID and should had Boarding Pass.
- The witness knew thw victim died on September 6th 2004 from the Mass Media and Electronic Media on September 8th 2004.
- That was true that the witness never been contacted by M RAMELGIA ANWAR about the defndant activity which is went to Singapore and never been contacted by ROHAINI AINI too. That was true that the witness had called ROHAINI AINI to questioned about the flight schedule of the defendant to singapore.
- That was true that the defendant as Airbus co-pilot was the witness responsibility.

- That was true that the defendant who went to Singapore as an extra crew did not have permission from the witness.
- If the defendant was assign for another assignment that the defendant should ask permission to witness (not go to fly), but if the defendant should go to fly, it could be given by ROHAINI AINI.
- The witness never accepted the written report or oral report from ROHANINIL AINI about the defendant's flight to singapore.
- The witness had meet ROHAINI AINI about the request of re-schedule of flight to peking dated September 5th – 8th 2004, it was true the 6th september schedule was requested by the defendant.
- That was true the defendant departure on 6th september didn't have witness's permission.
- That was true that the witness was helped by Internal Security to audit the aeroplane which was went to Singapore.
- In August 15th 2004, the witness had been called by RONGGO and the MAIN DIRECTOR of Garuda Indonesia Airways to assigned the defendant to help in witness case.
- The defendant went to Singapore based on the Internal Security Order and regarding his other activities, the witness didnt know.
- The witness did not accepted the report that the defendant went to Singapore on September 6th 2004.
- That there's re-schedule on the September 6th 2004 should been reported to the witness but ROHAINI AINI never gave the report to the witness.
- That the witness never accepted the report from ROHAINI AINI by phone, oral, or written.
- That ROHAINI AINI made note to the Tracing should had a permission / agreement from the witness, which was based on Protap.
- That the defendant as Extra Crew who went to Singapore was the Internal Security responsibility not the witness responsibility.
- That the defendant's departure to Singapore could cause loss for Garuda Indonesia Airways.
- That the witness never accepted the letter which on the date September 11th 2004 from INDRA SETIAWAN as Main Director of Garuda Indonesia.
- That witness had accepted two letters. The first letter dated September 15th 2004, was accepted on September 15th 2004 at 3.30 PM WIB by fax, and the second letter dated September 4th 2004, was accepted on September 17th 2004, which was delivered by the defendant to the witness. Both letters had the different date but had the same substance which said about the

defendant assignment to Singapore and the cost of the assignment would be paid by Internal Security.

- That the Internal Security had contacted the witness about the defendant assignment to Singapore, whether the defendant had another duty / assignment to Singapore.
- That the witness did not know the defendant's departure to Singapore because the witness just came from China and stayed in China for 3 or 4 days.
- That was true that the event which the defendant helped in Aviation Security was the first time and about the extra crew request was very uncommon.
- That the defendant only could drive the Airbus plane, beside that it was forbidden and the rules was used since the year of 2000.

The Defendant's response :

- The flight re-schedule assignment on the date September 4th 2004 was made on September 15th 2004.
- The defendant could flying another plane besides the Airbus.
- General Declaration was false, was not written but the defendant could fly.
- The defendant never met the witness about the changing of the schedule on the date September 7th 2004.

6.) The witness EDI SANTOSO : under oath substantially stated as follow:

- That the witness confirms all of the investigation report (BAP) which was made and signed with the investigators.
- That the witness did not know the defendant but just knew the name because the defendant was a pilot in Garuda Indonesia Airways as F/O A 330.
- That was true that the witness heard MUNIR,SH as a victim, died in Garuda Indonesia's flight with the destination Jakarta-Singapore.
- That was true that the witness never made crew schedule.
- That was true that the name of the defendant was not on the crew schedule with destination Jakarta-Singapore-Amsterdam using the plane Boeing 747-400 Flight GA 974 on September 6th 2004.
- That the schedule was made a month before.
- That the schedule was the witness responsibility.
- That the re-schedule and the letter on the date September 31st 2004 with the substance of the letter to change the departure schedule of the defendant had been accepted by the witness

- from ROHAINIL AINI. The re-schedule and the letter were delivered by the office boy and accepted by his staff, but the witness did not read the letter.
- On the date 5th until 7th September 2004, the defendant should have flown to Peking, but the witness on September 6th 2004 flew to Singapore.
 - The witness had known the re-schedule and the letter about the re-schedule when the witness was investigated by the Police.
 - That was true that the departures on the date September 5th 2004 until September 6th 2004 had been cancelled, so there was no activity for the defendant's activity to Singapore.
 - If the crew did the activity as the assignment from the schedule, the cost would be paid by the company, but if the activity is not an assignment, the cost would be paid by the person who is in charge or gave the assignment.
 - The names in the schedule crew must be the same with the names in the General Declaration which is based on the schedule crew.
 - That the term to re-schedule crew at least 6 hours before the departure time, it was based on a written agreement between the crew division.
 - The General Declaration was not the witness's authority.
 - The captain of the flight GA 974 with destination Jakarta-Singapore was SABUR MUHAMMAD TAUFIK and about half of the substance on the schedule was original and the other substance was re-schedule.
 - The witness did not know the re-schedule of the flight on the date September 6th 2004 which had been done by the defendant.
 - That the schedule was made one month before, but the crew tracking was made for one day later.
 - A flight does not always have extra crew. When the flight Jakarta-Singapore on the date September 6th 2004, it must not have extra crew.

The Defendant's response :

- The time of the flight schedule could be changed anytime.
- The other testimonials from the witness were confirmed.

7.) The witness ACHIRINA, SE : under oath substantially stated as follows:

- That the witness confirms all of the investigation report (BAP) which was made and signed on investigation as true.
- That the witness did not know the defendant but the witness knew the defendant as Garuda Indonesia Company official.

- That was true that was a rule for the pilot to obey SOP, but for the official must obey the PKB (Perjanjian Kerja Bersama/Corporate Agreement)
- That was true that the witness knew the defendant as a pilot. If there were a flight assignment, it should had an assignment letter which usually called SPPD.
- That was true that the assignment to fly must had matched with the schedule, and if there were another assignment, it should had SPPD and from which division that gave the order.
- The SPPD should had the name who gave the order, job description, the detail of the time to go flight, the place of destination, the time to come back. And after finished the assignment should be reported to the person who give the order.
- If there was an order out of shedule, the person who gave the order has the responsibility of the order.
- That was forbidden for someone who was flied without SPPD.
- The defendant who was not using SPPD was not tolerated.
- That by the defendant flight to Singapore, cause loss to the company

The Defendant's response :

- The assignment to singapore based on the order from The Captain M. RAMELGIA ANWAR and assignment letter from main director.

8.) The witness HERMAWAN : under oath substantially stated as follow :

- That the witness confirms all of the investigation report (BAP) which was made and signed with the investigators.
- That the witness had known the defendant only by name whose had a file in the computer as an Airbus Pilot.
- That was true that the defendant should flied to Peking on the date September 5-8 2004 based on on the schedule on the date 31st 2004.
- That was true that the witness knew the re-schedule about the changing departure from the the status of the defendant was cancelled becoming standby. The witness had known the re-schedule from the letter on the date August 31st 2004.
- That was true that the defendant on the date September 6th 2004 as the extra crew.
- That the person made the re-schedule was her official, CHARLES TAMBUNAN. But CHARLES TAMBUNAN never gave the report about the re-schedule to the witness.

- The changing of extra crew was made by Trecking Crew Division which need one or two days time before departure.
- That was true that the witness was given the assignment to Singapore but there was not any result from the assignment.
- That was true if there was a flight assignment, it should based on the schedule but if there wasn't flight assignment, it should had permission from co-pilot.
- That was true that the crew should ready fot pick ups 6 hours before the departures.
- Gendec was made in the departure station which the destination flight Jakarta-Singapore-Amsterdam. Gendec was made in Cengkareng sector in Singapore.

The Defendant's response :

- Confirms all witnesses testimonials

9.) The witness SABUR MUHAMMAD TAUFIK : under oath substantially stated as follow :

- That the witness confirms all of the investigation report (BAP) which was made and signed with the investigators.
- That was true that the witness worked at Garuda Indonesia as a pilot.
- That was true that the flight on Jakarta-Singapore on the date September 6th 2004. the witness became the Captain of the pilot on that flight, but the next flight with the destination Singapore-Amsterdam was continued by another crew.
- The witness never met with the defendant when on the flight with destination Jakarta-Singapore.
- That was true that the defendant went to Singapore as an extra crew.
- That was true that the witness had met the defendant on the ground of Singapore. Because the witness had the same bus which delivered to the hotel.
- If the defendant was given an assignment as extra crew should had a SPPD which was made and signed by the division who was gave the assignment. If went to abroad, the person who in charge to sign the SPPD was the director. And for the defendant which was given assignment to Singapore did not had the SPPD.
- That was true that the defendant as the extra crew who was given an assignment/task to Singapore musr reported to Garuda Agency in Singapore.
- That was true that extra crew had a special seat on Bussiness Class.

- That was true that during the flight, it is forbidden to switch seat from Economic class to Business Class or from Business Class to Economic Class. The witness did not remember about the rule that controlled it. If there had the changing of the seat, it should be reported to Chief Pilot.
- That never had changing of seat, during the witness became captain of the pilot.
- That was true that the substance of general declaration never decreased or increased during the witness became the captain of pilot.
- That was true that some passengers had moved from economic class to Business class after passenger MUNIR,SH was assassinated during the flight with destination Jakarta-Singapore. The time of the exchange was not remembered.
- That was true that the defendant never had been going to Co-Pilot during the flight.

The Defendant's responses :

- During the flight with destination Jakarta-Singapore, the defendant never went to Cockpit

10). Witness ALEX MANEKLARAN ,SE. AK under oath substantially stated as follow:

- That the witness confirms all of the investigation report (BAP) which was made and signed with the investigators.
- That is true that witness is an employee to Garuda Indonesia Airways as the executive VP finance.
- That is true that witness never saw the document about the departure of the defendant to singapore.
- It is true that "extra crew" that assigned in a normative way accounted to the company.
- For the "Extra crew" that was assigned , there should be a "SPPD" which contain the information about time, accomodation fee, etc.
- Witness did not know the departure of the defendant assigned by which unit.
- That is true that until this moment witness could not find "SPPD" on behalf of the defendant that assigned to singapore on 6th september 2004
- That is true that the flight abroad "SPPD" signed by the director.

The Defendant's response:

- Did not response witness testimonies.

11). Witness BRAHMANIE HASTAWATI under oath substantially stated as follow :

- That the witness confirms all of the investigation report (BAP) which was made and signed with the investigators.
- Witness know the defendant , they do not have any family relationship, but they have the same job relation as an employee for the Garuda Indonesia Airways with the position "Purser" and the defendant as the airbus pilot for Garuda
- That was true that the plane GA 974 is a flight Jakarta-Singapore-Amsterdam and the defendant was an active and extra crew.
- It's true that the defendant as an Extra Crew Jakarta-Singapore. And there was other extra crew Singapore-Amsterdam. It was true that witness did not see the defendant nor MUNIR,SH got inside the plane. The witness only saw both of the inside the plane already.
- That was true that witness only took the trip to singapore and witness saw the defendant got out of the plane in singapore. And it' is true that the GFA874 Plane have two entry which is the front door and the second left door.
- That was true that witness was at the front door when the passenger got on the plane and if the defendant sat in the business class the defendant had to enter from the front door.
- That was true that the defendant did not sat in the business class but in the premium class.
- That was true that the defendant informed witness that the defendant is going to switch seat with his/her friends which is MUNIR,SH.
- That was true that witness saw MUNIR,SH sat in the business class and witness greet him.
- The information about the seat was informed by the defendant after MUNIR,SH took his seat.
- it switching a seat between premium and business class is forbidden.
- That was true that by that time the defendant are still standing at the front door.
- That was true that the defendant hold the green boarding pass , that boarding pass used to sat on the economy class and the defendant wore a uniform not without rank indicator.
- That was true that when witness serve welcome drink, ms EVA in premium class and ms. YETI KUSMIATI in business class.
- That the drink served at that time is orange juice and champagne, the orange juice was prepared by witness OEDI IRIANTO

- It is true that there are 9 passengers in the business class including MUNIR,SH and 7 other extra crew.
- Witness saw the defendant walked between premium –bar which is 1,5 meters.
- That was true that witness saw the defendant stood in the bar before and after the plane took off while the other passengers sat down. That the witness saw the defendant go up to the upper deck before the plane took off.
- Witness knew that MUNIR,SH died on the 8th September 2004 when Captain SABUR MUHAMMAD TAUFIK held a briefing attended by YETTY SUSMIARTI, OEDI IRIANTO, TRI WIRYASMADI, EVA YULIANTI ABAS, BRAHMANI HASTAWATI, etc that informed that there was a passenger named MUNIR,SH died on the flight Jakarta-Singapore and it was forbidden for publicity, and inform the defendant's statement to Capt. SABUR MUHAMMAD TAFUIK that MUNIR,SH was going to enter the cockpit but the captain forbid him.
- That was true that the defendant asked for explanation about the report from the witness.
- That was true that after incident witness was called by the defendant several time. The defendant would like to meet witness and informed his complaining that he could not sleep, so he would like to meet EVA YULIANTI ABAS, TRI WIRYASMADI, OEDI IRIANTO, and YETTY SUSMIARTI to make same perception and stated that whoever called is going to be the defendant.
- That was true that witness knew from YETTY SUSMIARTI, OEDI IRIANTO and TRI WIRY ASMADI. That they were called by the defendant that had the same substance as the call to the witness.

The Defendant's response:

- the defendant did not respond to the witness testimonies.

12). Witness OEDI IRIANTO under the oath stated that:

- That the witness confirms all of the investigation report (BAP) which was made and signed with the investigators.
- Witness know the defendant, they do not have any family relationship, but they have the same job relation as an employee for the Garuda Indonesia Airways.
- That was true that on 6th September 2004 witness flew from Jakarta to Singapore on the GA974 flight including the defendant.
- The witness is the flight attendant on flight GA974 with work area in gate 21 business class.
- That was true that the witness checked the business class's

passengers but did not pay attention how many seat available because he only checked whether the safety belt is ready for take off.

- The welcome drink was served by YETTY SUSMIARTI. Hile the witness only poured it.
- At the time YETTY SUSMIARTI served the drink witness is stood next to the pantry and also observed YETTY SUSMIARTI delivered the drink in business class.
- YETTY SUSMIARTI took the welcome drink to be served and there is 2 alley in that plane,.
- When the flight attendantserved the welcome drink the beverage was already poured to the glass in the pantry ,for the second time the beverage was poured when the passenger asked.

The The Defendant's response :

- At the time the welcome dirnk served the defendant confessed that he is not in his seat.

13) witness TRY WIRYASMADI under oath substantially stated as follow :

- That the witness confirms all of the investigation report (BAP) which was made and signed with the investigators.
- Witness know the defendant , they do not have any family relationship. Witness was assigned as the flight attendant on the 6th september 2004 on a flight Jakarta-Singapore. It is true that witness saw the defendant sat on the seat 11b in the premium class.
- Witness assigned at seat 10-17 premium class.
- That was true that witness saw the defendant sat on his seat before and after take off. Witness saw the defendant three times.
- That was true that while the witness worked with EVA YULIANTI ABAS, witness did not see the defendant sat on his seat so his food was still on the trolley.
- That was true that by the time the welcome drink served. Witness stood at door 12.
- Witness saw the defendant standind at the bar twice, one time near the premium toilet and the distance between premium and business is not far.
- Witness talked to the defendant where the defendant answer that he is an extra crew and witness asked the defendant *"where are you going?"* and the defendant answered *"I'm going to Singapore as an extra crew"*
- At the time witness have the duty at door 12 witness did not saw the defendant got off in singapore.

- Witness saw the defendant as the plane took off at seat 11b Premium.
- Witness Checked at hotel in singapore including active crew, while the defendant checked in by himself.
- Check in was based on the name attached in the Gendec.
- It is true that all the expense for the active crew accounted to the company.
- There is no other person beside the defendant stood near the premium toilet and premium bar.
- Witness OEDI IRIANTO did his job as described.
- It is true that the defendant heard MUNIR,SH died on 9th september 2004. from Capt. SABUR MUHAMMAD TAUFIK.
- It is true that witness received briefing from Capt. SABUR MUHAMMAD TAUFIK that one of their jakrta-singapore passenger died

The The Defendant's response:

- The distance between business class seat an 3K approximately 10 metres.

14)witness YETTY SUSMIARTI under oath substantially stated as follow:

- That the witness confirms all of the investigation report (BAP) which was made and signed with the investigators.
- Witness worked for Garuda Indonesia Airways as a flight attendant.
- For the flight dated 6th September 2004 witness assigned as a flight attendant from Jakarta-Singapore.
- At the time the passenger got up the plane witness have the duty at door 11
- Witness did not see the defendant got up the plane.
- That was true that the defendant greeted witness at the premium bar whend the plane is still on the ground.
- The defendant asked witness "Do you work here?" and was answered "yes" , then witness asked "what is yout seat number?" and it was answered "3K" the defendant mentioned switching seat partner , at that time witness haven't see MUNIR,SH in the business class.
- The defendant did not reveal his reason about the seat exchange.
- The defendant did not seat in the business class.
- Witness saw MUNIR,SH sat in the business class 3K at boarding process.
- That was true that OEDI IRIANTO prepared the welcome drink . there were 3 kind of beverage. Orange juice was one of those.

- That was true that at the time witness served the welcome drink it has already prepared by OEDI IRIANTO which already poured to the glass and witness only served it.
- That was true that beverage left over was thrown away by OEDI IRIANTO.
- By the time OEDI IRIANTO prepared the beverage, witness moved around to serve welcome drink.
- Witness recognized that she flew with OEDI for 1,5 hours and the defendant before took off.
- That was true that witness served the welcome drink for the business class including MUNIR,SH and orange juice was taken.
- It is true that the beverage served to the victim drank entirely.
- That was true that by the time the plane took off witness saw the defendant in the premium class standing at the mini bar twice.
- That was true that witness saw the defendant writing at the mini bar on a paper while witness passed by.
- It is true that witness served fried noodle and orange juice to the victim MUNIR,SH.
- Witness did not see the defendant got off the plane in Singapore. But MUNIR,SH was Got off the plane in Singapore.
- Witness knew that MUNIR,SH died on 8th September in Singapore. It is true that witness was contacted by defendant after the investigation by the police, complaint that he was chased by the mass media and reporters.
- That was true that the defendant wife contacted witness telling that police was arrested and witness told to the wife not to call again.
- That was true that witness never give her Cellphone number either to the defendant nor his wife.

The Defendant's response:

- The defendant did not response to the witness testimonies.

15) witness PANTUN MATHONDANG stated under the oath:

- That the witness confirms all of the investigation report (BAP) which was made and signed with the investigators.
- Witness acquainted the defendant , they do not have any family relationship.
- That was true that witness was GA pilot and it is true that on 6-7 september 2004 witness flew from Jakarta-Singapore-Amsterdam.
- That was true that witness sat in the seat 4B premium class while the defendant still standing.

- That was true that witness flew from Jakarta-Singapore on 6th September 2004 as an extra Crew and witness saw the defendant before the plane took off.
- That was true that witness knew that MUNIR,SH was ill from MAJIB RAJAB NASUTION. 4,5 hours before take off MUNIR,SH's condition looks fine.
- The Flight from Singapore-Amsterdam took about 6hours. Before the plane took off passenger MUNIR,SH passed away and was helped by DR. TARMIDZI.
- That was true that witness signed MUNIR,SH death Certificate.

The Defendant's response:

No response from the defendant.

16) witness TIA DEWI AMBARI a.k.a TIA under oath substantially stated as follow:

- That was true that witness have been working for PT Garuda since 1994. as a Flight attendant.
- That was true that witness knew the defendant but they do not have any family relationship.
- That was true that witness on 6th September 2004 flew from Jakarta-Singapore-Amsterdam with flight no GA974.
- That was true that witness'd served 50 passengers including MUNIR,SH and had met MUNIR,SH 10-15 minutes after took off, there were no complaint from MUNIR,SH while they were met.
- That was true that witness communicated with MUNIR,SH and ask for PROMAG medicine and witness explained that they did not have any Promag.
- That was true that while witness was serving the food MUNIR,SH did not eat because his stomach is hurt and MUNIR,SH asked for ice tea.
- After served the food witness saw MUNIR,SH went to the toilet once, while witness's serving food to other passenger.
- It is true that witness NAJIB RAJAB NASUTION informed to witness that there were an ill passenger in the Economy class.
- That was true that witness heard from witness ASEP that there were A passenger that were lift up from the bath room.

The Defendant's response:

- No response from the defendant.

17) Witness MADJID RADJAB NASUTION under oath substantially stated as follow:

- That was true that witness works for Garuda Indonesia Airways

as a Pilot.

- Witness know the defendant but they don't have any work relation.
- That was true that witness flew from Jakarta-Singapore as an Extra Crew.
- That was true that witness got up the plane before boarding and witness did not see the defendant got up the plane.
- That was true that witness sat on seat 4K and witness did not pay attention seat 3K and who's sitting there.
- That was true that witness hold gender .The gender contain the name of the active crews and also the extra crews and info listed in the gender they had to depart.
- That was true that the name POLLYCARPUS scratched out and it was not informed to witness.
- While the plane taking off from Singapore- Amsterdam witness did not see MUNIR,SH . at boarding time witness saw MUNIR,SH was already inside the plane.
- 2 hours after the plane took off witness BONDAN report to witness that there were a passenger named MUNIR,SH feeling sick and went to bath room six times.,
- That was true that MUNIR,SH met witness askin for help to met a DR. TARMIDZI.and they were together woke dr. TARMIZI and MUNIR,SH complaint about his bladder problem.
- That DR. TARMIDZI observed and gave assistance to MUNIR,SH. And Doctor asked for salt water , ice tea. MUNIR,SH threw up every time he took the beverage.
- That was true that the doctor asked for infusion but not available and gave the stomach medicine "diatabs, but then he threw up again.
- That was true that MUNIR,SH went to the toilet again with BONDAN and by the time he sat and examined by DR. TARMIDZI , he still looked healthy.
- That was true that MUNIR,SH complaint when he felt sick . he said he already threw up and went to the bath room 6 times. He's wrong to take the orange juice on his flight from Jakarta-Singapore.
- That was true that MUNIR,SH vomit spilled over in the witness clothes.
- That was true that the second time MUNIR,SH picked up because he's already laen on the bath room . because he felt so sick he asked to slept on the floor and he was given a blanket by witness BONDAN.,
- 3hours before grounded the passengers received breakfast and MUNIR,SH still felt ill so that all the crew also felt his sickness.

Then DR. TARMIDZI slept.

- That was true that witness called the doctor and held victim's hand and slap MUNIR,SH but he had already passed away with indications : no pulse, cold, and his body turned blue.
- Witness heard DR. TARMIDZI explanation that someone who had diarrhea would restrain for 3-4 days. But MUNIR,SH was too fast.. something is not right and the doctor asked for otopion as soon they arrived in Netherground.
- That was true that witness and DR. TARMIDZI went to the captain and made MUNIR,SH death record.
- That was true that at the time the plane flying witness report the passenger condition to netherground airport.
- At the time the plane grounded in Netherground's airport, Netherground's police examined MUNIR,SH's seat 40B and the police interrogated passengers around the victim.
- That was true that while the landing process. There were some briefing from captain RONGGO telling to talk with out lying.
- It is true that the one who prepared for ambulance is capt RONGGO as asked by DR. TARMIDZI.. at the time they were in The Netherground the police got up to the plane immediately.
- That the equipment that the police brought was a medicine box with an instruction about medicine usage.
- That DR. TARMIDZI injected the medicine from ampul in the medicine box
- That was true, MUNIR,SH (victim) has been injected by DR. TARMIDZI twice and the medicine was taken from the medikit, the first injection was injection on the left hand and the second injection was on the right hand, the interval between both injection are 2 hours.
- That was true the one who prepared the medikit are Captain Pilot whose on the list
- That was true there has been a seat exchange of the witness and the witness doesn't have authority about this.
- That its true in the normal situation the exchange of the seats are not allowed
- The time of fly from Singapore to Amsterdam are 13 hours

The Defendant's response:

- Doesn't give comment about this.

18.) Witness MUHAMMAD BONDAN HERNAWA: stated under the oath:

- that Witness doesn't know that Defendant is listed as an extra crew

- Witness is an extra crew, listed from Jakarta to Singapore
- That was true that witness flew from Singapore to Amsterdam and before take off, witness saw that MUNIR,SH complaining sick, that is 2 hours before take off.
- That was true that witness is knew that MUNIR,SH complaining sick at the Gate 22 and goes from the place he seated and came to the witness and he said he got a stomachache and witness said " can MUNIR,SH see DR. TARMIDZI" and give a card name of DR. TARMIDZI to witness and in that time MUNIR,SH ask where is the toilet and went to business toilet and saw MUNIR,SH is vomiting.
- That was before MUNIR,SH vomited, witness is reported to witness Madjib Rajab Nasution there is a sick passenger .
- Witness check a passenger manifest, where is DR. TARMIDZI seat located and with witness Bonda wake DR. TARMIDZI.
- Witness called by witness Madjib that the sleep position of MUNIR,SH is at the bottom and the position are unnatural and saw that MUNIR,SH is pass away.
- That was true that victim MUNIR,SH dead at the time when breakfast was served.

The Defendant's response

- Doesn't give comment about this.

19.) Witness Dr. TARMIZI HAKIM FICS FCCP : under oath substantially stated as follow:

- That was true that witness is a doctor whom work at Hospital of Harapan Kita Jakarta
- That was true that witness know the Deffendant and doesn't have a family relationship
- That was true that witness is flew from Jakarta-Singapore-Amsterdam at date of 6 September 2004
- That was true that witness is woken 2-3 hours after take off and told there is a sick passenger named MUNIR,SH and the one who speak with him is witness MADJID RADJAB NASUTION
- That was true that witness knowing the victim MUNIR,SH go to the toilet and vomiting about 6 times since take off from victim witness of MUNIR,SH
- That was true because victim still in pain, witness gave him an assistance by gave him a medicine Primperam (anti sickness and vomit) which taken from the medikit but victim MUNIR,SH still vomiting.

- That was true that witness gave him an injection shot for victim MUNIR,SH which contain a Diazepam with dosage 5 ml after all victim willing to sleep in the floor which provide by Purser MADJID near the corner of the right in front toilet.
- That was true MADJID reported to witness, that victim MUNIR,SH doesn't make any movement, then witness check the victim MUNIR,SH that MUNIR,SH is already pass away with no pulse and their no heart beat.
- That was true that witness side by side seated with victim MUNIR,SH more or less about 1.5-2 hours and witness know that victim MUNIR,SH is vomiting with the yellow/green liquid of stomach.
- There is complaining that victim told to the witness that the cause of sickness are sleepless.
- Witness is true that he said to the Netherground Police that victim MUNIR,SH must be Autopsy Because of vomiting and the dead feces is not quick like that, it can still hold for 2-3 days
- That was true that witness knowed the man who seated in the row of 3J Business class is a Chinese and told himself as an apoteker
- That is true that when in the Netherground witness signed the Dead Report of MUNIR,SH

The Defendant's response :

- Doesn't give comment about this.

20.) Witness ASEP ROHMAN: under oath substantially stated as follow:

- Witness knew with Deffendant but he doesn't have a family connection
- Witness are worked at PT GARUDA as a steward. That is true that witness doesn't see Deffendant when landing or on board
- That was true that witness saw MUNIR,SH on board there is when he served food in work area of witness at the business class seat row 39-47
- That was true witness saw victim MUNIR,SH went to the toilet where is MUNIR,SH was wear a jacket and a shirt
- That was true that witness saw MUNIR,SH vomiting at the place where he seated, floor even spilled on the shirt which use by victim MUNIR,SH
- That was true that MUNIR,SH is vomiting 2-3 hours before grounded in Netherground
- That was true that flight from Singapore-Amsterdam MUNIR,SH did not ate anything, because the food which is served is still in wrapped.

- That was true that witness knowing that MUNIR,SH passed away told by friends and
- That was true that MUNIR,SH for flying from Singapore - Netherground did not ate anything cause it still wrapped.

The Defendant's response

- Doesn't give comment about this.

21. Witness SRI SUHARNI : under oath substantially stated as follow:

- That was true that witness worked at PT GARUDA as a stewardess since 1979 until now.
- That was true at date of 6 September 2004 witness flew from Jakarta-Singapore-Amsterdam, in Jakarta-Singapore witness is an extra crew, and from Singapore-Amsterdam witness status is an active crew.
- That was true that witness is boarding first before passengers and onboard witness saw victim MUNIR,SH seat at business class row 40 G and witness doesn't ask about seat exchange about MUNIR,SH relocated and witness is seated in Economy class and when transit in Singapore witness doesn't off board but still on board.
- That was true that the catering with the condition was still wrapped.
- That was true that witness saw Dr. TARMIZI taken care victim, because of request from DR. TARMIDZI witness told to bring him water and salt which taken from sealed mineral water and has been pouring into the glass and given salt still inset and opened after close victim MUNIR,SH
- That was true that witness saw DR. TARMIDZI injected victim MUNIR,SH with the medicine from the medikit.
- That was true that victim MUNIR,SH passed away 3 hours before landing in Amsterdam

The Defendant's response

- Doesn't give comment about this.

22.) Witness DWI MURWATI TITIK : under oath substantially stated as follow:

- That is true that the witness worked at PT GARUDA as a stewardess since 1979 until now.

- That was true at date of 6 September 2004 witness flew from Jakarta-Singapore-Amsterdam, in Jakarta-Singapore witness is an extra crew, and from Singapore-Amsterdam witness status is an active crew.
- That was true that witness doesn't know that Defendant was on board. That is true that witness is boarding earlier than passengers and when on board flew from Jakarta-Singapore witness is sleeping because she is continuing to Amsterdam.
- Witness knew that MUNIR,SH is complaining and hold his hands against chest and want to sleep on the floor.
- That was true that witness saw MUNIR,SH is vomiting even witness is affected by the vomit from MUNIR,SH.
- - That was true that that MUNIR,SH seated at row 4E and before that is seated at row 40 G
- That witness work area is at business class area.
- That is true that at welcome drink orange juice, champagne. Fried noodles was not served
- That was true that when flew Singapore-Amsterdam MUNIR,SH seated at Economy class, because MUNIR,SH was sick so he moved to the business class and 3 hours after take off
- That was true that witness knowing MUNIR,SH pass away because it has been prayed with the verse from Al-Quran

The Defendant's response

- Doesn't give comment about this.

23.) Witness M.CHOIRUL ANAM , SH. : under oath substantially stated as follow:

- That was true that witness knowing victim MUNIR,SH and they are like brothers.
- That was true that witness know with the Defendant but there is no family relationship
- That was true that witness pass away at 8 September 2004 when flew from Jakarta to Amsterdam.
- That was true that MUNIR,SH told to witness that he is been seized to overseas and he called HENDROPRIYONO and MUNIR,SH told is just about an administration problem.
- Witness know from MUNIR,SH's wife after MUNIR,SH pass away that told her MUNIR,SH's dead is from somebody and it is Poli Garuda.
- That is true that before MUNIR,SH dead, MUNIR,SH got an unofficial invitation from NIA and there is a meeting with MUNIR,SH and the agenda is Situation (politic's and democracy)

- That was true that witness was met with BIJAH SUBIAKTO 2 times in November 2005 and asking it is true that MUNIR,SH was invite unofficially by NIA and answered by BIJAH SUBIAKTO that is right and witness asked why doesn't use an official letter and answered only just for both importance and is knowed by HENDROPRIYONO.
- That was true that after MUNIR,SH's death there has been phone contact between Deffendant POLLYCARPUS BUDI PRIYATNO with Mudi PR (NIA) for 35 times with the number from businessman and inform from Usman even usman says there is print out.
- Witness knowing that HENDRO PRIYINI in-laws name ANDIKA (Papua) has been made a personal record of ANDIKA is will to go to school overseas.
- Witness knowing that Deffendant activity after MUNIR,SH's death there is bring someone Timur Leste to Jakarta.
- That was true that witness has been asked to BIJAH SUBIAKTO who killed MUNIR,SH and answered by BIJAH SUBIAKTO after witness knowed what case is has been handled by MUNIR,SH previously in this year it's connected.
- Witness ever asked to BIJAH SUBIAKTO it is closed to HENDROPRIYONO and answered Yes!!
- It is true that in the MUNIR,SH's lifetime, MUNIR,SH's has been played around by NIA like: terror, threat, following by motorcycle, seized.
- That was true that MUNIR,SH has been 3 times go to overseas.
- That was true that MUNIR,SH ever told to witness that Deffendant is entrust MUNIR,SH to post a mail, but victim MUNIR,SH doesn't want it because worried something happen
- That was true that MUNIR,SH goes to Netherground in order to go school and sponsor is looking alone that is ICCO.

The Defendant's response

- Deffendant confess that he doesn't know with MUHDI PR, HENDROPRIYONO and ANDHIKA
- Deffendant never called MUCHDI PR
- Deffendant never entrusted mail to be posted for MUNIR,SH.

23.) Witness H.MUCHDI PURWOPRAJONO under oath substantially stated as follow: -

- That is true witness held office as Deputy V/ Supporting Team NIA since 2001 until 2005 and now is still a NIA Agent
 - Deputi V NIA consist of :

- Director I Planning and Controlling BUDI SANTOSO
- Director II Supporting Team of ideology of politics AGUS PUTRANTO
- Director III Supporting Team Economy ZAELANI
- Director IV Supporting Team Social Culture DARCHAN
- Director V Supporting Team National Security and Order KOL .AMBONG
- Witness confess that he doesn't know with Deffendant POLLYCARPUS BUDIHARTI PRIYATNO and knowing the Deffendant name from mass media.
- Witness doesn't know MUNIR,SH and know from mass media that victim MUNIR,SH is an activist Kontras
- That is the work area space of NIA doesn't connect with responsibility and task with vocal people, just remembered by the senior.
- That is true that MUNIR,SH is not a target operation
- That is witness never communicated with Deffendant
- That witness ever remembered to ADNAN BUYUNG NASUTION that MUNIR,SH don't be so vocal
- That cell phone with number 0811-900978 since 1995 is not owned by witness but it's belong to business man and witness just have one cell number 0816818182 is being used by witness kid since 2004
- That witness doesn't remembered in 25 August 2004, 5-7 September 2004 and 13 November 2004 0815-8430375 enter the number 0811-900978
- When print out was showed, the use of 0811-900978 to cell number 0815-8430375, Deffendant confessed but witness never contacted that number.
- That witness never called and communicate used the fixed line of the house of Deffendant
- In the cell phone of witness there are no phone number of Deffendant
- That witness doesn't remember what has been told by ADNAN BUYUNG NASUTION to witness.
- That cell phone with number 0811-900978 used by witness paid by PT Barito Pacific
- Witness never hear and knowing MUNIR,SH called by State Intellegence Agency
- Witness never know that MUNIR,SH is seized and never know that MUNIR,SH is going to Netherground
- Witness phone number home is 021-7210850 and cell phone is 0811-900978

- Witness confess never contact by phone with the Deffendant with reason that witness cell phone with number 0811-900978, often left in the car and possible used by someone else, until cell phone number owned by witness recorded and there is connection with cell number and fixed line of Deffendant.
- Access to make contact with the witness cell number which the number are 0811-900978 are close friends of witness from the students in college, religion, and others. But witness never make a permit. It can happen because of relationship with friends and cell which owned by witness not pay by witness but by PT. BARITO PASIFIC TOWER which handle by YOHANES HARDIAN (one of the Director)
- According to witness, MUNIR,SH is not the man who endanger, but he is try the approach by ADNAN BUYUNG NASUTION (his senior) that don't be so vocal.
- Agent is: a personnel (organic or non organic) which use to complete an assignment. Organic agent is a NIA personnel located in central or region, organic agent is a functional title. Otherwise non organic agent is an agent which recruit from outside NIA from inside or outside bureau
- For non organic agent can use the cover name or real identity. The data is on main secretary at the Bureau Personnel Chief. The one who responsible to the data is Main Secretary.

The Deffendant's response

- Deffendant never contacted or called witness and witness confession is true

25.) Witness AGUSTINUS KRISMANTO orderliness in Formal Investigation Report

- Witness title is Vice President Flight Safety Aviation Security & Environment since 31 March 2005 the assignment is to make sure safety management system is being carried out as standard
- As a VP of Flight Safety Aviation Security & Environment, witness would not make a double title like given to the Deffendant, because is not effective, which meaning the goal will not achieved, and the consequence is not effective.
- Deffendant reason went to Singapore is not right according with incident happens at GARUDA Boeing 747-400 which plane tyre can't pull up which need an investigation from technician from Singapore, because Deffendant doesn't have an ability in that case so is not efficient and effective, otherwise that case doesn't have a connection at all with the Aviation Security. Hereby Garuda is unprofitable that Deffendant send to Singapore.

- The one who responsible reported the incident what happen on board is Crew, in this case Captain Pilot to Safety Department through Chief Pilot (CAPT. JOHN KAIALATU). Representative Singapore Technician will report to Technical Department Centre. In advance Pilot work on investigation if the report is not complete. Otherwise for technical problem is being investigated by Unit Quality Assurance Technic to know why the incident can happened.
- Deffendant doesn't have a qualification to investigate to Singapore, because only the man work in the Quality Assurance section have an ability. So is not unprofitable that Deffendant went to Singapore

26.) Witness LIE KHIE NGIAN orderliness in Formal Investigation Report which didacted in the court are

- Witness (Netherground citizenship) as a one of the passengers Garuda with flight number GA-974 Jakarta-Amsterdam which seated in row 3J Business Class, right next to MUNIR,SH was seated.
- During the flight, witness never communicate with MUNIR,SH
- Witness never pay attention to MUNIR,SH's activity on flight Jakarta – Singapore
- Witness and his wife (LIE FON NIE) came to Indonesia in order as a expert as consultant at PT. Berno Farm (Pharmacy factory/medicine) in Sidoarjo which pointed by PUM
- Witness went home together with his wife (LIE FON NIE) in September 6, 2004. They sat separately which he was in 3J Business Class while his wife was in 12D Premium Class.
- Witness set his arriving schedule to Netherground earlier dated from September 13, 2004 to September 6, 2004 because his visa was run out of date in September 6, 2004.

27). Witness LIE FON NIE: the summary below is details stated in BAP that had been read in from of the court:

- Witness (recorded as Netherground citizen) was passenger of flight number GA-974 with destination Jakarta- Singapore- Amsterdam, seat number 12D in Premium Class.
- Witness sat in Premium Class because her ticket was bought with her own money, while her husband LIE KHIE NGIAN had ticket in the expense of his company.
- Witness and her husband should went home to Netherground at September 4, 2004, but was postponed until September 6, 2004 because they run out of tickets.
- Witness did not acquaint with the passenger that sat next to her and about MUNIR,SH either.

28). Witness MEHA BOOB HUSSAIN: the summary below is details stated in BAP that had been read in from of the court:

- Witness is Duty Manager in Novotel Hotel (Furama Riverfront) since August 2, 2004. She works from 7am until 3pm (in local time).
- As Duty Manager, witness' job description is behaving on the behalf of management and arranging hotel's guesses acceptance together with employees in receptionist front, porter, and telephone operator.
- Witness knew about room reservation made by PT Garuda for its crew from flight number GA 826 when they checked-in at 3pm in September 6, 2004. According to the schedule, this crew left Singapore in September 7, 2004 with flight number GA 823. They checked-out from hotel at 6am (in local time).
- The crew's name that checked-in in the hotel were RUDI RUDIONO, BAMBANG ADI SURYA, YUDA NURUL HUDA, ISNANTO WAHYUDI, IAN REGINALD, ASTRID REZA, RISA MARIZA. When witness worked until 7pm, another Garuda's crew with uniform and identity of Garuda, wanted to check-in. He acknowledged his name as POLLYCARPUS and only said "I am with the crew of Garuda flight number GA 823 that has just checked-in". He never said his Garuda flight number that took him to Singapore.
- Witness never issued tax invoice with rectangle symbol of Novotel.
- It is correct that tax invoice was issued by Novotel Apollo Singapore and there was a room 1628.
- All Garuda crew that checked-in in the hotel has never asked for tax-invoice except defendant. Witness never gave it to him.

29) Witness Drs. NURHADI JAZULI: the summary below is details stated in BAP that had been read in from of the court:

- Witness did not acquaint with the defendant.
- Witness was Primary Secretary of National Intelligence Agency from 2001 until 2003, had to serve all the Deputy needs, with responsibility and job description below:
- Duty: to control program or administration planning (budget, human resources) and material stuff (equipment, vehicle, and supporting needs to conduct duty).
- Responsibility: to conduct as an element of Chief' staff and reported to Head of National Intelligence Agency.
- Right: to legalize documents, letters, and to control development project, to give signature in Member Card of National Intelligence Agency and Card of Legal Firearms, also another documents.

- Original data for organic agent is stored in Bank Agent under supervising of Primary Secretary Personal Bureau. Data for non-organic agents is in Agent Dossier in each Deputy.
- Special for non-organic agent, original data and cover name recorded neatly inside data Agent Dossier. Witness did not know for sure. To have an access to the data, one should go through Agent Handler that placed in center and local region. Agent Handler are many and witness did not have any clue about who Agent Handler is.
- Organic and non-organic Agents are not given special budget to conduct their duties, but they have operation budget from National Intelligence Agency. Witness did not know and never heard about punishment and reward matters.
- Witness never knew and never involved in discussion concerning groups of people that regard as "dangerous" (for state). Witness classified people who put state in danger are terrorist, separatist, and international drug cartel.
- Member Card for Organic Agent from National Intelligence Agency's civil servant is submitted by their own Deputy to Primary Secretary. Primary Secretary then gives signature on behalf of Head of National Intelligence Agency. For non-organic Agent, recruitment procedures are done by Agent Handler; submit to Deputy through Dir Ren Dal Ops. The member card then set forward to Primary Secretary of National intelligence Agency and use cover name.
- Card of Legal Firearms are not given to non-organic agent. As long as witness becomes Primary Secretary, he never signed Card of Legal Firearms for non-organic agent.

30) Witness HIAN TAN a.k.a ENI: the summary below is details stated in BAP that had been read in from of the court:

- Witness is acquainted with the defendant while she was in Jakarta in order to give assistance to BAKIN (Former Mr. ARI KUMAAT, SUBAGIO SURYO, NURHADI CHOLIL).
- In witness' perspective, the defendant is kind of person who would like to help other people and he has many companions. To name a few are War Commander of OPM Nabire (JULIAN JAB MAREY), EURICO GUTERES (Commander of East Timor pro integration). Defendant also known as eager to do intelligence works.
- Witness met defendant few times with people from BAKIN such as NURHADI, BAGIO SURYO in Jakarta.
- Defendant only wants to help National Intelligence Agency to defend Republic Indonesia from people who put it in jeopardy.

31) Witness EVA YULIANTI ABAS: the summary below is details stated in BAP that had been read in front of the court:

0. Witness known defendant as employee of PT Garuda.
0. In September 6, 2004. Witness joined flight from Jakarta to Singapore as active stewardess in Garuda Boeing 747-400.
0. It is correct that witness stepped inside the plane earlier than passengers.
0. Witness did not see defendant stepped inside the plane and sat in seat number 11B Premium Class.
0. Witness served the passengers in Premium Class including the defendant's seat.
0. Witness offered the defendant welcome drink and chose orange juice.
0. Witness saw defendant in his seat and did not see him afterward when she picked up an empty glass.
0. It is correct that the witness heard about MUNIR,SH's death from Captain SOBUR in briefing before went back to Jakarta.
0. It is correct that at the time the witness delivered meal service, defendant was not in his seat so the meal could not be served or put in the table.

Defendant Response:

when the time of meal service, he was in cockpit.

B. STATEMENT MADE BY EXPERT-WITNESS

1. Expert witness Dr. RIDLA BAKRI, M.Phil: under oath, the witness statements are enlisted below:

- It is correct that witness is Toxicologist from University of Indonesia, Jakarta.
- It is correct that in May 2005, witness together with other 7 fellows in team went to Netherground for 6 days in order to trace the causes of MUNIR,SH's death.
- When in Netherground, witness with the fellows from Indonesia and Netherground opened discussion about the cause of MUNIR,SH's death is suffered from arsenic toxic.
- It is stated that in MUNIR,SH's gastric, urine, and blood there was highly concentrated arsenic.
- In Netherground, witness with fellows from Indonesia discussed about material contained arsenic that spread in Indonesian market and concluded that chemistry compound mostly found in Indonesia are AsO₃, Perish green (insecticide), and CCA (wood preservation).

- Discussion also noted that equipments and place where MUNIR,SH is autopsied are new and met the international standard.
- AsO₃ is shaped in white solid.
- Arsenic dissolves in 21gram/liter and able to pour in food or drink.
- Arsenic could be dissolved in pure water and lasting long. Common people are also aware that mis-use arsenic could kill people.
- Arsenic reaction inside body starts to emerge after 30 minutes.
- Within an hour, the symptoms begin to emerge.
- Common symptoms are diarrhea (the most symptoms), headache, dried throat, and stiff.
- Arsenic is un-smell, but when it mixes with protein, the smell is like onion.
- MUNIR,SH' inside gastric was colored green.
- When arsenic is mixes together with orange juice,it will not change into any colors.
- MUNIR,SH's death was because highly concentration of arsenic inside his body through mouth; Arsenic left in his body are: 83mg/liter in gastric (poisonous enough), in blood was about 3,1mg/liter, and urine 4,8mg/liter.
- Witness saw and read the result of Discussion of Visum Et Repertum from Netherground that had already issued and written in English.
- Process of MUNIR,SH's death was classified acute. Arsenic went in through mouth.
- It is correct that method, code of conduct, and equipments used by experts in Netherground met the international standard.
- Arsenic is possible to perform in gas, white crystal, or white solid. Arsenic is not so clearly shape inside MUNIR,SH's body because it already dissolved in his gastric.
- When someone is poisoned it could be detected from his nails even after 7 days.
- In MUNIR,SH's case, symptoms emerged when in Changi Airport. The Exhibit was strengthened with the medicine for stomachache just after step inside the plane with flight destination Singapore-Amsterdam.
- Early symptoms happen about 10-60 minutes since intake, plus deviation less than 30 minutes.
- Maximum intake is 90 minutes before early symptoms. In MUNIR,SH's case, it would be happened in flight from Jakarta-Singapore.

- MUNIR,SH's death happened less than 8 hours after take off from Singapore (or 3 hours before landing). It showed that the death happen so fast correlate with large amount of dosages of arsenic.

The Defendant's response:

did not give argument from witness statements.

2). Expert-witness ADDY QURESMAN, ST: under oath, the witness statements are enlisted below:

- It is correct that the witness is member of National Police (POLRI) as toxicologist since 1985 up to now.
- It is correct that witness had already testified twice as toxicologist.
- It is correct that witness as an expert in toxicology gave statement to prosecutor related to MUNIR,SH's death.
- It is correct that in November 25, 2005 until December 4, 2005, witness was on duty to Netherground in order to bring home Visum Et Repertum MUNIR,SH together with Kombes.POL. Drs. ANTON CHARLIAN, MPKN, PROFESSOR AMAR SIGH (Toxicologist from USU, Medan), Dr. BUDI SAMPURNA (Forensic expert from University of Indonesia), Dr. AGUNG (Forensic expert from Polda Metro Jaya), Dr. RIDLA BAKRI, M.PHIL (lecturer in Department of Chemistry, Faculty of Mathematics and Natural Sciences University of Indonesia), and AHMAD BESTARI (Ministry of Foreign Affairs Republic Indonesia).
- It is correct that witness had met with toxicologists from Netherground.
- It is correct that in November 26, 2004. team from Indonesia have discussion with expert team from Netherground for about an hour to talked about MUNIR,SH's death and took the result of Visum Et Repertum. To summarize, the discussion is about high concentration of arsenic inside MUNIR,SH body after re-examination come up with the same result.
- Arsenic concentration is 460mg/liter Exhibitd in gastric.
- Arsenic went in through the mouth delivered by food or drink because gastric is contained large amount of arsenic.
- It is correct that expert team from Indonesia have asked the expert team from Netherground what kind of chemistry compound inside. The answer was only mentioned that it performed in liquid.
- Autopsy result from Netherground's experts mentioned that concentration of arsenic in MUNIR,SH's gastric was high more or less 180ml liquid/liter or equal to 82,8mg arsenic.

- It is correct that arsenic endanger human's life when it is consumed more than 1mg-2,5mg arsenic/kg weight.
- Most commonly, arsenic performs in solid shape like flour. Sometimes, it performs liquid because it can be mixed with acid depends on the reactor. Arsenic trioxide takes form in liquid.
- It is correct that arsenic will liquefy sooner under hot temperatures.
- Arsenic will react faster in active body.
- Symptoms will emerge the fastest between 0.5-1.5 hour and the slowest between 3-4 hours.
- Arsenic concentration in MUNIR,SH' body stated in Visum Et Repertum could devastated someone's life.
- Visum Et Repertum MUNIR,SH is liable because witness together with other fellow have seen the operation room, equipments etc.
- It is correct that the discussion result has been reported to Police Headquarter.
- Examination on nails and hair proved deposited arsenic which show that MUNIR,SH was chronically poisoned.
- People poisonous with arsenic have symptoms like gastric twinge, headache, diarrhea, dried throat, faint, and memory decline.
- It is correct that liquid taken from MUNIR,SH's gastric as Exhibit, has muddy color just like the color of ground after heavy rain.
- It is correct that experts from Netherground did not include or explain time reaction between 3-4 hours because they only reported what they saw.
- In Indonesia, arsenic is sold in crystal shape and does not need certain recommendation for public to access.
- Arsenic can be found in rodent insecticide, grass exterminator, wood preservation, and can easily killed human being.
- First symptom appeared when people consume arsenic is stomachache before he suffers vomit.
- It is correct that experts team from Indonesia has asked MUNIR,SH's parts of body (gastric, liver, kidney, blood, and hair for DNA test, but only small amount of gastric liquid about 5cc) used for examination. It is correct that arsenic is smell like onion.
- It is correct that Gastric liquid in MUNIR,SH's body smell like onion.

The Defendant's response:

- Did not give any argument from witness statements.

3) Expert witness Dr. BUDI SAMPURNA: under oath, the witness statements are enlisted below:

- It is correct that witness has no friendship and relatives' relation with the defendant.
- It is correct that witness is expertise in forensic in University of Indonesia Jakarta.
- It is correct that in May, witness together with other 7 fellows in team went to Netherground in order to investigate MUNIR,SH's causal death.
- Witness together with fellows from Indonesia has met experts from Netherground to discuss two agenda. First, to discuss whether the forensic process has met international standard or not; the result is positive. Second, to verify examination result and asked for the original Visum Et Repertum.
- Experts from Netherground have done method of examination that met the international standard.
- Procedure standard conducted by experts from Netherground has met the qualification, correct, and come up with correct result.
- Suspicion that MUNIR,SH had been poisoned, was proved by autopsy and re-examination with the same result.
- Arsenic was found in blood, urine, and gastric, and concentration was quiet high.
- Concentration of arsenic left in gastric was about 83mg/liter, in blood 3,1mg/liter, and urine 4,8 mg/liter. The dosage was enough to kill.
- MUNIR,SH's death was determined by arsenic because no other disease he might suffer from. Arsenic starts to react in first ten minutes with symptoms of stomachache, dried throat, and it will be lasting for an hour.
- If arsenic is mixed with food, the symptoms start to emerge after 90 minutes.
- Early symptoms happened in Changi's Airport waiting room and when stepped into the plane destination flight Singapore-Amsterdam. In other words, it happened 10 minutes before or 90 minutes before.
- Arsenic reaction depends on material, reactor As 3 or As 5 which As 3 is faster and more dangerous than that of As 5.
- The reaction of arsenic performs in liquid is fastest.
- Arsenic liquefy sooner in hot temperatures depend on acid concentration.
- Arsenic was liquefied with orange juice in temperatures of 10-15 Celsius degree.
- The process of MUNIR,SH's death was considered severe.
- Arsenic deposits on blood, urine, and gastric expressed that it was quiet new.

- Discussion result between expert team from Indonesia and Netherground make it more critical to investigate MUNIR,SH's death and to determine the quantitative data.
- 95% MUNIR,SH causal of death was because arsenic toxic.
- Arsenic toxic attacks digestion process, so the victim will suffer from vomit and defecation.
- Analysis result reported no other disease found, so did the expert team from Netherground.
- Expert team from Indonesia has submitted analysis report to prosecutor in letter form and document report (berita Acara).
- Witness went to Netherground according to task warrant from Kabareskrim Polri Number Pol.sprin/192/V/2005/Bareskrim date issue May 12, 2005 to conduct forensic technical discussion concerning to MUNIR,SH's causal of death with forensic Toxicologists and Forensic Pathologists NFI in order to determine what kind of chemistry compound-arsenic consumed by victim. They were also predicted in-take time arsenic reaction in victim's body.
- Discussion result with Netherground forensic are reported below:
 - a). chemistry compound-arsenic consumed by MUNIR,SH:
 - 1) Discussion considered any kinds of materials sold freely in Indonesian market that contain arsenic and concluded that chemistry compound mostly found in Indonesia are AsO₃, Perish green (insecticide), and CCA (wood preservation).
 - (2) From the XRF result, high arsenic was found, but other substances, including Chrom, Cobalt, and Pb, were normal, so the possibility of CCA could be eliminated.
 - (3) The stomach is contained dark-green liquid; the possibility of Perish Green is still exist.
 - b) At arsen in-take:
 - (1) Abdominal discomfort/pain is the first indication in general.
 - (2) In MUNIR,SH case, The indication was happened during waiting time at Singapore Changi Airport, this Exhibit was supported by MUNIR,SH's request for stomachache medicine when entering the plane, Singapore-Amsterdam flight.
 - (3) That first indication usually happen 10-60 minutes after *in-take*, plus deviation time \pm 30 minutes.
 - (4) Thus, maximum *in-take* time was 90 minutes before first indication or during the Jakarta-Singapore flight.
 - (5) The possibility of *in-take* time before take off at Jakarta is deemed "unlikely".

(6) The death time during 8 hours after take off (3 hours before landing), showed that it was very rapid death and was correlated with massive arsenic poisoning.

c) The discussion at NFI is attended by:

(1) Prof. FREDERIK A DE WOLFF MA, PhD EurClinChem ERI" FATS, Clinical and Forensic Toxicology Specialist from Leiden University.

(2) R. VISSER, MD, PhD, Patologic of NFI.

(3) INGRID BOSMAN, PhD, Forensic Scientist Toxicology from NFI.

The defendant's response:

- Defendant did not give comment about the witness' statements.

4. Expert witness AVIRIANTO: under oath substantially stated as follow: :

- It's true that he knew the defendant because both of them are aviator.
- Co pilot is the second people at the plane
- Co pilot is given Aviation Security task that has special policy, pilot just fly the plane.
- Extra Crew is the pilot who will take the active flight. Non-active pilot is same with Extra Crew and the passenger. The Extra Crew Pilot who takes Aviation Security must have complete instruction letter.
- Aviation Security must check-in at the destination spot.
- Aviation Security Pilot must report to the Chief Pilot.
- Steward or stewardess can be an Extra Crew too.

The defendant's response:

- Defendant did not give comment about the expert witness' statements.
-

5. Expert witness RIZAL ALI BALU WEEL: stated under the oath, explained that:

- He knew and heard MUNIR,SH's death from mass media, printed and electronic.
- Witness did not acquainted the defendant.
- Extra Crew who takes Aviation Security must have weekly schedule, at least for two weeks, for necessary.
- Change schedule must be reported to the scheduling division and to the Chief Pilot and to the Operational Director with a clear explanation (authentic proof).
- The report will be given to the Chief Pilot and the Operational Director if the extra crew gets the permission.

- Extra Crew must be record on General Declaration if he wants to take an international flight; however, it is not necessary in the domestic flight.
- General Declaration is made at the first departure and if there is change, it must be report at the next operation division.
- It's true that the witness did not know the Aviation Security and pilot never gets Aviation Security task.
- The pilot is an aviator who flies the plane. It's true that the witness never hears and knows The Aviation Security Pilot.
- Pilot cannot be helped in any place according to the liaison regulation that forbid dumping fuel pilot.

The defendant's response:

- Dumping Fuel is seeking information and confirmation.

6. Expert witness Dr. CHAIRUL HUDA, SH. MH stated under the oath, explained that:

- The witness did not know the defendant and did not have a family relationship.
- It's true that the witness is Criminal Law Scientist from Jakarta Muhammadiyah University.
- He verifies the whole BAP that is made by investigating officer. The investigating officer uses PENAL CODE section 263: falsifying.
- Falsifying is making a false letter, so people who signs the letter is not competent and the letter is not right.
- If a letter is false according to the procedure, contain of the letter is also false.
- In a detriment, it's not necessary to explain who cause the detriment.
- It's true that in this case, Garuda get the detriment.
- The witness is a Criminal Law lecturer and Ketua Bagian II Bidang Hukum Pidana dan Hukum Acara at Jakarta Muhammadiyah University.
- Interoffice Note of Garuda Indonesia Airways: OFA/219/04, 6th of September 2004 which was made and signed by ROHANIL AINI as a Chief Pilot:
 - a) The note was made and signed by incompetent side and did not take a competent delegate to publish it, so the document is false.
 - b) This note was published based on mistake of fact at ROHANIL AINI. The defendant's falsehood was forgiven based on Criminal Law (*Starfluitingsgronden*) which is counted as a justifiable cause or forgivable cause. Meanwhile, the publishing

of the note will fully be the defendant's responsibility. The defendant's behavior, that use ROHANIL AINI as the mediator to make Interoffice note number: OFA/219/04, 6th of September 2004, could be categorized in making a false document that can bring up a right for taking a Jakarta-Singapore-Jakarta flight. There is an enclosing relation which is known as ordering to make a false letter that is regulated on *Pasal 263 ayat (1) PENAL CODE Jo. Pasal 55 ke-1 PENAL CODE*.

c) Because of the defendant used interoffice note number OFA/219/04, 6th of September 2004 which was apparently false as if it os real and not false, it caused Garuda Indonesia Airways suffer a financial loss, so the defendant's behavior can be qualified as a criminal behavior which is regulated in Pasal 263 ayat (2) PENAL CODE.

- About Garuda's document number IS/1177/04, 4th of September 2004, that was made and signed on 17th of September 2004 by M. RAMELGIA ANWAR (VP Internal Security), the witness says:
 - a) Document number IS/1177/04, 4th September 2004, that was made on 17th of September 2004, with a purpose that the document could be brought with the defendant's trip, Jakarta-Singapore-Jakarta, so that the defendant trip is right as an official trip from Garuda Indonesia Airways. Although the document was made and signed by Internal Security Vice President, but the document was published because the defendant lied to Internal Security VP. The document number IS/1177/04, 15th September 2004 must be appropriated with the trip according to Chief Pilot KARMAL FAUZA ZEMHIRING and dated on 4th of September 2004. So the document was false because it was published with the defendant's lie and did not appropriate with the real date.
 - b) Document number IS/1177/04, 4th September 2004, was made by Internal Security VP based on the defendant's lying and did not have the correct date. Therefore, the document was not only false but also could not be a reason for the defendant to release his responsibility to fee the trip, Jakarta-Singapore-Jakarta. This based on the appearance of unrighteousness.
 - c) According to that point, the publishing of the document number IS/1177/04, 4th September 2004, which was made by the defendant and Internal Security VP RAMELGIA ANWAR, His position as Internal Security should not be that easy to be influenced by the defendant. Since the publishing of document number IS/1177/04, 4th September 2004, the defendant and

RAMELIA ANWAR must be responsible. It's a criminal behavior that is regulated in article 263 (1) and (2) PENAL CODE.

d) The illegal interoffice note number OFA/219/04, 6th of September 2004 was the basis for the publishing of General Declaration that provide a right as an extra crew on the Jakarta-Singapore-Jakarta trip, so the document number IS/1177/04, 4th September 2004, which was made and sign by Internal Security VP on 17th of September 2004, was published. This proof reinforce the defendant's criminal behavior that caused the detriment of Garuda Indonesia Airways.

e) The question about whether the defendant helped a planned killing that could be claimed before the first actor, the expert witness explained that it could be done based on these reasons:

- First, Helping a criminal behavior should be claimed splittingly from the first actor. It's because helping a criminal behavior should be looked as a sole offense. In the other words, a regulation about helping criminal behavior is a regulation about an expansion of criminal behavior, which is not an expansion of criminal responsibility (dualist theory). Thus, in this case, the defendant could be claimed before the first defendant.
- Second, We must differentiate between criminal behavior on material law (substantive criminal law) and criminal behavior on formal law (criminal law). We cannot claim a person who helps the criminal behavior if we found principally a criminal behavior. Claim for defendant who helps planned killing could be done even the main actor doesn't claim yet.
- -Third, in another case, a criminal actor who is connected with another criminal behavior can be claimed towards the court even the first criminal behavior isn't demanded yet (ex. Robbery). And so does the money laundry criminal. So, a planned killing can be claimed even the main actor isn't claimed yet (cause it is looked as a sole offense).
- Forth, a criminal helper can be claimed first if the main actor couldn't be proved with criminal law, the main actor had diplomatic resistance, was died, or ran away so that nobody know where he was, or he had an forgivable reason or other excuses reasons.

f) About MUNIR,SH's case, expert witness said that it was a helping type. It was based on the fact : the defendant only helped planned killing which was done by the main actor. So, the difference between helping and other participations

(ordering, taking part, or giving advices) is: the defendant only makes it easier or planned the offense. A criminal behavior would only be happened because of people deed, this is called participation.

The defendant's response :

- The defendant admitted that he used to perform his duty without a recommendation letter.

C. Witness ADE CHARGE

1. Witness BAMBANG KUSNARIO, explained:

- In front of the court, the witness takes the oath as a fact witness.
- Witness is an aviator for Garuda Boeing 747400.
- The witness knew the defendant was an A330 pilot.
- Public Prosecuting Attorney asked an objection, because BAMBANG KUSNARIO explained his Exhibit based on his knowledge, experience, and skill.
- The Judges received the objection, because of witness' Exhibit.
- Legal Counsel Team asks The Judges to change witness' status from fact witness to be an expert witness and take the oath. But The Judges did not receive.

The defendant's response:

- The defendant verifies the testimonies of the witness.

2. Witness BOWO NARINDO, Explained :

- First, that was true the witnesses occupation was a purser/pilot for the Garuda Indonesia Airways
- That was true the witness is a flight specialist
- That was true the welcome drink was served before the block out for three minutes
- The Welcome drink that was served on the trolley was Champagne. Orange juice and wine
- Extra Crew have boarding pas or not
- The Minibar on the plane is for drinking and reading newspaper and anybody may drink there.
- The exchange of seats is not prohibited and the witness never has experienced it.
- The exchange of seats before the airplane door closes requires permission from the ground officer, but if the airplane already closed then the authority is in the hands of the pilot or the purser.

The Defendant response:

- The defendant verifies the testimonies of the witness.

D. DOCUMENTS:

- A sheet original document with Kop Garuda Indonesia Nomor GARUDA/DZ-2270/04, 11th of August 2004 about Surat Penugasan, which was addressed to P. BUDIHARI PRIYANTO/52259 Flight Operation Unit (JKTOFGA) and was signed by INDRA SETIAWAN (Managing Director of Garuda Indonesia Airways).
- A sheet original Interoffice Correspondence Letter with Kop Garuda Indonesia, which was addressed to OFA No. Ref: IS/1177/04, 4th of September 2004 and was sign by M. RAMELGIA ANWAR (Vice Corporate Security).
- A sheet original Interoffice Correspondence Letter with Kop Garuda Indonesia, which was addressed to OFA No. Ref: 15/1177/04, 15th of September 2004 and was sign by M. RAMELGIA ANWAR (Vice Corporate Security) with serial number: 00781.
- 3 (three) sheets original letter on 8th of September 2004 which were signed by POLLYCARPUS BUDIHARI PRIYANTO BHP, which were addressed to Corporate Security VP of Garuda Indonesia Airways.
- 2 (two) sheets original letter on 8th of September 2004 which were signed by POLLYCARPUS BUDIHARI PRIYANTO which were addressed to Flight Operational Manager of Garuda Indonesia Airways.
- A bundle of original letter on 8th of September 2004 which were addressed to Corporate Security VP of Garuda Indonesia Airways which is signed by the defendant, POLLYCARPUS BUDIHARI PRIYANTO BHP /522659 about Assignment Report PDZ-2270/04.
- -A sheet original Tax Invoice Novotel Apollo Singapore in the name of the defendant POLLYCARPUS BUDIHARI PRIYANTO F /O Garuda GA 826 Room No. 1618 arrived on 6th of September 2004, depart on 7th September 2004 – Monthly Schedule Original in the name of the defendant POLLYCARPUS BUDIHARI PRIYANTO, 1st of August until 26th of September 2004.
- An original ID Card in the name of POLLYCARPUS BUDIHARI PRIYANTO No. 522659, position as Aviation Security which is published on 16th of June 2004 and was sign by HR. MANAGEMANT VP. DAAN ACHMAD.
- An exemplar original General Declaration Singapore-Amsterdam Flight on 7th of September 2004.
- A copy of note from Chief Pilot A 330 which was signed by ROHANIL AINI Nota OFA/210/04 on 31st of August 2004 about Asking Flight Change in the name of the defendant POLLYCARPUS.

- A copy of note from Chief Pilot A 330 which was signed by ROHANIL AINI Nota OFA/210/04 on 6th of September 2004 about Asking Flight Change in the name of the defendant POLLYCARPUS BUDIHARI PRIYANTO.
- A bundle of original *Kininklijke Merechaussee Distric Schiphol Algemene Recherche, Dossier Onderzoek Niet Batuurlijke Dood MUNIR,SH Geborn : 08-12-1965 te Malang, Indonesia.*
- A copy of “*Verslag betreffende een niet netuurlijke dood*”, which was published by HB. DAMMEN as “*de Officer van Justitie in het arrondissement Haarlem*”, 7th of September 2004.
- A “*Voorlopige Bevindungen*” letter which is published by dr. R. VISSER, pathologist from Manistrie van Justitie-Nedergrounds Forensich Instituut, at Rijkwijk on September 8th, 2004.
- 16 (sixteen) pages of Mr. MUNIR,SH’s corpse images during Sectie on 8th of September 2004.
- dr. R. Visser’s letter from the NFI to Mr. E. Visser, Arrondissemensparket Harleem, on 13th of October 2004.
- A document of investigation result of Postmortem Pro Justitia No. 04-419/R102 which was made by dr. R. VISSER from Manistrie van Justitie-Nedergrounds Forensich Instituut on 13th of October 2004.
- “*Deskundigenrapport, voorloping rapport*” which was published by dr. K.J.LUSTOV, apotheker – toxicoloog from Ministrie van Justitie – Nedergrounds Forensich Instituut, Zaaknummer 2004.09.08.036, Uw kenmerk BPS/XPOL Nummer: PL278C/04-08133, Sectie Nummer: 2004419, 1st of October 2004.
- “*Deskundigenrapport, voorloping rapport*” which was published by dr. K.J.LUSTOV, apotheker – toxicoloog from Ministrie van Justitie – Nedergrounds Forensich Instituut, Zaaknummer 2004.09.08.036, Uw kenmerk BPS/XPOL Nummer: PL278C/04-08133, Sectie Nummer: 2004419, 4th of November 2004.
- A copy of a note of legalized document transfer from Ministrie van Justitie to The Embassy of Republic of Indonesia on 25th November 2004.
- An exemplar of legalized copy of General Declaration of Jakarta-Singapore-Jakarta flight on 6th of September 2004.

E. THE DEFENDANT’S EXPLANATION

At the court, POLLYCARPUS BUDIHARI PRIYANTO explained :

- The defendant had been investigated and had given explanation to the investigator and keep correcting his explanation during the investigation.

- The defendant was a pilot for Airbus 330 owned by Garuda Indonesia Airways.
- The chief of the defendant was Capt. KARMAL FAUZI SEMBIRING.
- On Augustus, 30th 2004, the defendant has received a flight schedule for September 2004.
- According to the flight schedule, from September, 5th to September, 9th 2004, the defendant had a flight to Peking.
- The defendant had been given assignment assistance for Aviation & Internal Security based on an assignment document, Surat Dirut Garuda Nomor: GARUDA/GZ-2270 on August, 11th 2004. The document was an assignment for the defendant. Furthermore, the defendant was facilitated by an ID card which was given by DA'AN ACHMAD (witness) whom was the Head of Personalia for Garuda. The process of making the ID card was done at the head office of Garuda, 2nd floor in Jl. Merdeka Selatan No.13, Central Jakarta.
- The defendant does not have special education background in Aviation Security, but had attended two general trainings at Garuda Jakarta, which are: (1) two days training for Dangerous Goods and Aviation Security for Air Crew on September, 24th -25th 1998. (2) Training of Aviation Security Course for Cockpit and CaNIA Crew on January, 8th 1991.
- The defendant has received the flight schedule that was not signed.
- The defendant asked for a flight reschedule to the Garuda Office via phone call and was accepted by ROHAINIL AINI (NINI) on Augustus, 31st 2004 with an excusable explanation that on September, 7th 2004, the defendant has to attend an Association of Garuda Pilot meeting.
- The flight schedule was changed from standby pilot by scratching out the letter without making a formal one.
- On the assignment document released on Augustus, 11th 2004 did not specifically stating a flight for September, 6th 2004.
- On September, 6th 2004, the defendant called ROHAINIL AINI on the way to SITORUS's home. The conversation which had taken at that moment was to ask if whether Capt. KARMAL FAUZA SEMBIRING gave the defendant permission for a chance to make a flight to Singapore, since there was a duty call from Mr. RAMELGIA dan asked to contact Capt. KARMAL FAUZA SEMBIRING and ROHAINIL AINI.
- The Defendant had told before to ROHAINIL AINI (witness) that the defendant cancelled the flight to Peking, since there was no pickup.

- On September, 6th 2004, the defendant was an Extra Crew who made confirmation on the incident which was taken place on Augustus, 20th 2004. The explanation on the incident include: throwing out the fuel, a lot of passenger, the return of the airplane to Jakarta was in empty condition, and the wheel of the airplane which could not ascend.
- Extra Crew and the other crews had the same facility.
- On the assignment document did not give any detailed information about the task description and the time it would be taken.
- The defendant did not made a detailed report of the incident issued on Augustus, 28th 2004 in Singapore. The defendant only made a report on September, 8th 2004 and explained orally to Capt. RAMELGIA ANWAR and did not give any report to Capt. KARMAL FAUZA SEMBIRING.
- The defendant also did not give any report to Garuda representative in Singapore.
- The defendant only gave a confirmation to technician whose name was unknown and just met in the Boeing 747 airplane during his flight to Jakarta.
- The defendant had known MUNIR,SH at Bundaran Hotel Indonesia when he gave flower to the defendant. The defendant had been talking with MUNIR,SH before entering the plane with a flight from Jakarta-Singapore-Amsterdam on September 6th 2004 at 10 PM.
- The defendant asked a seat for MUNIR,SH (witness) with a Boarding Pass Shift.
- The defendant reported a seat to BRAHMANI HASTAWATI.
- The defendant showed the seat number 40G to BRAHMANI HASTAWATI.
- The defendant sat in Premium 11K for a while and went to the cockpit when the plane was in place.
- During the Welcome Drink, the defendant was not in his seat.
- The flight from Jakarta to Singapore took 30 minutes.
- The defendant read a magazine at the Premium Mini Bar near the toilet and stood up and left the place.
- The defendant met OEDI IRIANTO and not makes any conversation except saying Hello.
- The defendant also met YETI SUSMIATI in between the toilets and he forgot the things he said.
- The activity which was done by the defendant when leaving the bar was reading magazine in Netherground and Indonesian languages.
- The defendant went to the toilet two times during the flight.

- The defendant knew the death of MUNIR,SH from Elshinta Radio on September, 8th 2004.
- During the flight, the defendant exchange his seat to Amien Rais as an Extra Crew to Denpasar Bali.
- The result of lying detector test was stated during the court session, but the defendant did not give any respond to it.
- During the Aviation Security duty, the defendant only interviewed a technician inside the Garuda plane which would be taking off to Jakarta on September, 7th 2004, 06.00 AM according to Singapore time.
- The result of the interview between the defendant and the technician was considered enough, but if the defendant needs more data, he can look for other data's and he can even delay his departure to Jakarta on the same day.
- The defendant made an interview with the technician whom name was not known for 20 minutes. When he arrived in Jakarta, he made an interview with his friends.
- The result of the report which was done by the defendant on September, 8th 2004 was not only report which was taken during the flight to Singapore, but also his flight experiences in the past.
- The defendant was only on an assignment in Aviation Security during the 20 minutes interview with the technician. The defendant did not complete his duty during the flight Jakarta-Singapore on September, 6th 2004.
- The Inter Office Correspondence Document issued on September, 4th 2004 and September, 15th 2004 was made after the defendant return to Jakarta related to the incident of MUNIR,SH's death inside the Garuda airplane.
- If there was no incident of MUNIR,SH's death which was caused by arsenic, then the Inter Office Correspondence Document issued on September, 4th and September, 15th 2004 would never be released.
- Those documents were made in order to cover the cost which was caused by the cost of the defendant's flight to Singapore.
- The defendant flew to Singapore on Monday, September 6th 2004 using Garuda Indonesia Airways, with a flight number GA 974 which would be departed in Singapore at 09.40 PM on September, 4th 2004 and on September, 15th 2004. Since there was a delay on the flight which was not yet known by the defendant, the plane took off at 10.02 PM to Singapore.
- The airplane which had a technical problem in Chiangi Airport on Augustus 24th 2004 or Augustus, 26th 2004 was Boeing 747 with a serial number 400. The defendant forgot the PK or the registration number of the airplane.

- The status of the defendant during the flight from Jakarta to Singapore in September, 6th 2004 was an Extra Crew and convinced that he was on his duty to make a truthful confirmation about the airplane which had a technical problem in Chiangi Airport, Singapore.
- On September, 6th 2004, the defendant reported to Mrs. ROHANIL AINI, secretary Airbus A 330 by phone call between 12.00 PM-01.00 PM. He said that MBAK NINIK (defendant) had a duty from Mr. RAMEL whom asked a permission to Mr. KARMAL if there is any first flight chance to Singapore. Mrs. ROHANIL AINI answered "YES" and the defendant waited for the next confirmation for the time of the departure.
- At 07.30 PM, the defendant dress up in a untitled pilot suite and brought a pilot bag and a red-colored mobile phone NOKIA with a number of 08159690617 and was picked up by Garuda car with a driver, Mr. HERY K. whom gave the defendant a piece of document titled Crew Transport Order Departure.
- As the defendant arrived in Cengkareng, he reported to the OY desk or Crew Departure Report Desk at GSO (Garuda Sentra Operasi) at 21.00 PM and was accepted by the Garuda crew. The defendant came to the desk to collect crew card by his name according to the flight schedule GA 974 to Singapore.
- At 21.05 PM, the defendant confirmed for seat number and received number 3K in the Business Class.
- During boarding, the defendant was in front of the boarding door with the other passengers and did not join the non-active crew.
- During walk time from the gate to the plane, the defendant did not meet the Garuda Crew whether are still active or not. There was a lot of passenger and the defendant was in front right-hand-side of MUNIR,SH (victim). The victim saw the defendant.
- The defendant departed to Singapore on September, 6th 2004 using Garuda GA 974. He met MUNIR,SH in front of boarding door of the plane. At that time the passengers who were stood in line entering the plane showed 09.40 PM. MUNIR,SH saw the defendant in front of him. MUNIR,SH was smiling at him and the defendant asked "Are You Mr. MUNIR,SH?" and he said "Yes".
- When the defendant entered the Garuda GA 974 airplane with MUNIR,SH, he asked to MUNIR,SH," Where are going Sir?" and he answered " To Nethergrounds". Then the defendant asked him, "Just you alone? And how about your family?". MUNIR,SH was laughing said that," Yes, because the money is not enough". The conversation was taken place when walking through the corridor that connects to the airplane. Actually there were two corridors, the left-hand corridor was for the business class, and the right-

hand corridor was for the economic class. The defendant did not see MUNIR,SH when he entered the corridor that connected him to business class. This happened since the defendant had walked first to reach the business class door and at the moment he reached the business class door, he saw MUNIR,SH was next him. MUNIR,SH showed his seat number to the defendant and asked, "Where is this seat, Sir?". The defendant answered, "This is in the backside of the plane. I really don't know, because this plane is too big. Maybe is next to the wing of the plane".

- Before they entered the plane, the defendant heard MUNIR,SH talking to himself, "The last flight from Ujung Pandang, the plane was shaky and made me stomachache". When the defendant heard MUNIR,SH was talking to himself, he said, "If you want to have a seat in front of the plane, you can ask the purser" and showed him where the place is in the front side of the plane. The defendant said, "If only there is seat available and the purser allowed you. But if is not allowed, then am sorry". Then the defendant walked in to the plane.
- The defendant had entered plane first and then followed by MUNIR,SH.
- The position of BRAHMANIE HASTAWATI was a purser and stood 2 or 3 meters from the entering door number 11 of the business class. There were also a few female attendants that were standing beside BRAHMANIE HASTAWATI, but the defendant did not remember who they were.
- After the defendant put his bag in the cabin of seat 4 A B business class, the defendant came to BRAHMANIE HASTAWATI and said in Javanese language, "Sister, there is Pak MUNIR,SH". BRAHMANIE HASTAWATI responded in Javanese language, "Is he your friend? Where is the person?". After that BRAHMANIE HASTAWATI went to seek where MUNIR,SH was and found him sitting on seat 3 J. BRAHMANIE HASTAWATI approached MUNIR,SH who was already taking his seat and kissed his hand. The defendant did not know what the two persons were talking about.
- The defendant saw MUNIR,SH moved his seat from 3 J to 3 K, since there was a 60-year old man who placed his bag at seat 3 J. Furthermore, the defendant walked to the backside and went to Upper deck and entered the cockpit in order to report to Capt. TAUFIK SABUR until the plane moved to the runway. The defendant went down to the Premium Bar and met BRAHMANIE HASTAWATI. She allowed the defendant to choose any seat at the premium. Thus, the defendant has chosen seat number 12 B until the plane took off. After that, the defendant moved to seat 11 B

since he saw a passenger in seat 10 B (foreign person) who were complaining too much.

- When the welcome drink in the business class was served, the defendant was in the upper deck inside the cockpit. The defendant stayed there for nearly 15 minutes and talked to Capt. TAUFIK SABUR and FO. NUR ACHMAD.
- In front of the Premium Bar, the defendant met and talked to male attendant, OEDI IRIANTO.
- In Singapore, the defendant stayed at the NOVOTEL APOLLO Hotel by using his own name (POLLYCARPUS) at room number 1618. Garuda Indonesia was in charge for all the fees (pickup from the airport to the hotel, from hotel to airport, room, and breakfast).
- At 06.30 AM Singapore time, the defendant checked out and leaved the hotel to the airport with other Garuda crews GA 823. The defendant met one of the technicians and collected some information and departed from Singapore to Jakarta at 07.30 AM according to Singapore time. He arrived in Jakarta at 08.05 AM.
- The journey, the whole accommodation and the return cost to Jakarta of the defendant from Singapore in September, 6th 2004 was charged by the unit of corporate security Garuda.
- When the defendant had arrived from Singapore, he made a duty report on September, 8th 2004 to VP. International Security by using a manual typing machine. He got criticism since the report he made was not formatted according to IS standard. It was the first time the defendant made a duty report and explained that the wheels of the airplane could not ascend. The plane did not continue its flight to the airport and returned to Singapore. The plane turned over above the sea and threw fuels 98 tons. After the plane grounded, the passenger went to the hotel. The plane was flown to Jakarta without any passenger (empty). When the plane took off from Singapore to Jakarta, the wheels were in normal condition and were fixed in Jakarta.
- The mobile phone of the defendant was 0819690617 and he forgot the other one. The defendant had been using mobile phone number 0811807186 owned by INDRA SETIAWAN, MAIN DIRECTOR of Garuda Indonesia Airways.
- The defendant had been using the mobile phone number of 0811807186 owned by INDRA SETIAWAN from September to December 2004 or perhaps the defendant had been using it many times before, but he forgot the exact time.
- The defendant did not remember the owner of the mobile phone number of 0811900978. the defendant did not recognized any mobile phone numbers of 081511355065, 08129263335,

0817191705, 0817880545, and a telephone number 021-79179374.

- The defendant was also anxious about the several mobile phone numbers and a telephone number he did not know. He had a mobile phone number of 081584369375 which often stayed at home and used by his wife and his three children. He has also a foster child named NICOLAS whom was a native Papua Ambon and had been in Jakarta for a year in July 2004. Nicolas was in Jakarta in order to enter Aviation School
- During his journey, the defendant did not use any mobile phone. The defendant only connected RAMELGIA ANWAR at the Garuda Head Office in mid September 2004.
- The pictures which were taken by the defendant are now in the investigator hand. The pictures which are in the investigator hand are those taken on September, 6th 2004, such as: the situation of the GA 974 which the defendant took before traveled to Singapore, the position of the victim inside the plane, the defendant and the foreigner positions inside the plane during the flight from Jakarta to Amsterdam via Singapore.
- The defendant did not know the owner of mobile phone number of 0811900978 whom have called the defendant via defendant's home phone number 021-7407459 as following: 2 phone calls at Augustus, 25th 2004, 2 phone calls at September, 3rd 2004, 2 phone calls at September, 6th 2004 and 4 phone calls at September, 7th 2004.
- TRI WAHYUNI is the biological sister of the defendant whom was called by the defendant through phone call at March, 24th 2005. The defendant forgot the conversation he had with his sister.
- The defendant forgot whether the conversation he had with his sister (TRI WAHYUNI) via phone call was to order her to get rid of the phone book and destroy defendant's SONY ERICSON mobile phone with number of 081584369375 at his house.
- The Exhibits which were shown in front of the defendant were corrected by him.

F. LEAD

According to Penal code Article 188 (1) in junction, the word "Lead" means any act, incident, or circumstances in which the appropriation between one and another or between one and a criminal act could be taken as an Exhibit that a criminal act has occurred and an Exhibit to lead the suspect.

The lead which was meant above is only available according to Penal code Article 188 (2) in junction:

- The explanation of the victim
- Mail or Document
- The explanation of the defendant

Lead is a "prerequisite" for an act, incident or circumstances which could be pulled out according to the prerequisite by an appropriation and the criminal act itself. This give a signal in appropriation that would create a clue or Exhibit thus will lead to "define reality" where the criminal act was taken and placing the defendant as a suspect.

From those understandings above, a general definition will lead to instruments of Exhibit or clue that could be formed as it follow the requirements bellow:

There is a sequence of actions, events or circumstances which is in appropriation or interconnected with that particular criminal act. The interconnectednes of one and another means that a criminal act has taken place. From this point a suspect can be recognized.

The result of the investigation of tools of Exhibit such as witnesses and documents which stated the suspect as defendant during the court session could be extracted some Exhibits or clues as following:

1. According to the witnesses, documents and confession of the defendant can be pulled out legal facts that the defendant knew the departure of the witness of MUNIR,SH (victim) by checking it out via mobile phone call which is owned by MUNIR,SH (victim) and was accepted by SUCIWATI (MUNIR,SH's wife-witness).
2. Based on witnesses statement, letter Exhibit and defendant's statement got the clue about the presence of law fact, that's right that the defendant had the initiative to depart to Singapore 6 September 2004. That initiative has done by the defendant by manipulating the assignment to the defendant from witness INDRA SETIAWAN, whom was the president director of Garuda Indonesia at that time, based by President Director of Garuda's letter number DZ/2270/04 on 11 August 2004, which on that letter, the defendant assigned as staff assistance in Corporate Security/IS which headed by witness M.RAMELGIA ANWAR. The major issue on that assignment letter is general assignment so that assignment needed to be explained further more, which was a special duty of witness Ramelgia Anwar as Vice President Internal Security. Next the defendant also has done a lie by saying that defendant ordered by witness Ramelgia Anwar to depart to Singapore on 6 September 2004, by asking witness

ROHAINIL AINI to change defendant's flight schedule from canceled status to Beijing based by Interoffice changing Note OFA/210/04 on 31 August 2004 to later scheduled flying to Singapore on 6 September 2004 based by Interoffice changing Note OFA/219/04 on 6 September 2004. While in the other hand witness Ramelgia Anwar never ordered defendant to go to Singapore on 6 September 2004, next witness himself knew that defendant go to Singapore on 8 September 2004.

3. Based on witnesses statement, letter Exhibit and defendant's statement got the clue about the presence of law fact, that's right the defendant on 7 September 2004 has scheduled and registered to attend APG (Garuda's Pilot Association)'s meeting in Hotel Ambara Jakarta. The invitation of that program listed that the meeting would start at 6.00 WIB.
4. Based on witnesses's statement, letter Exhibit and defendant's statement got the clue about the presence of law fact, that defendant has taken the victim MUNIR,SH to Business Class which has less passenger, on purpose. That thing has done by the defendant started when the defendant met victim MUNIR,SH on that corridor toward airplane's door that only dedicated for Business Class and Premium. The defendant as a pilot must knew that Business Class area for Boeing 747-400 are only few (at fact only 18 seats). Next the process has done by defendant by changed and offered to change from victim MUNIR,SH's seat at 40 G Economy Class to defendant's seat at 3 K Business Class.
5. Based on witnesses's statement and defendant's statement got the clue about the presence of law fact, that defendant has done an act that caused victim MUNIR,SH died. An act that can be seen from unusual behaviour by the defendant such as stood on the bar reading Netherground's magazine while the defendant can't read in Nederground language, reading Garuda's magazine while that magazine always present in every Garuda's flight. Logically the presence of that magazine would be interesting for people who never read it and became uninteresting for people who often read it such as Garuda's crew include the defendant as Garuda's pilot.
6. Based on witnesses's statement and defendant's statement got the clue about the presence of law fact, that defendant have *ambeien* illness so experience disturNIAg or pain if sit for a long time, therefore must have to stand for unlogically reason because the fact has shown that defendant was presently aboard in airplane and not yet sat for a long time.

7. Based on witnesses's statement and defendant's statement got the clue about the presence of law fact, that defendant was saw walking around surrounding bar area and pantry, on the other side at that time all passenger including the other extra crew sit peacefully, when on that time defendant met with witness ODIE IRIANTO, steward who prepared welcome drink. On that time witness greet the defendant. That short conversation done by the defendant while witness ODIE IRIANTO was preparing welcome drink such as orange juice for the passengers in Business Class where victim MUNIR,SH sat. Defendant was stand near the toilet, very close to witness ODIE IRIANTO that prepared welcome drink, which is given by witness YETTY SUSMIARTI to victim MUNIR,SH.
8. Based on witnesses's statement and defendant's statement got the clue about the presence of law fact, that when the defendant arrived in Singapore, the defendant was not joining with another Garuda's crew otherwise the defendant split with another Garuda's crew and check-in at Hotel Novotel alone without another Garuda's crew, which is uncommon to do by Garuda's crew.
9. Based on witnesses's statement and defendant's statement got the clue about the presence of law fact, that the defendant had not done his job, which based by the defendant statement must done because it was ordered to him as special assignment to check about fuel dumping on Garuda's airplane in Changi Airport Singapore, which the defendant never done that assignment about that Fuel Dumping. Because the defendant never met Changi Airport authority, at least met the staff who in charge at Garuda Indonesia representative at Changi Airport. The defendant just arrived at Changi Airport on 7 September 2004 at about 01.30 Singapore time and the defendant back to Jakarta on 7 September 2004 at 07.00 Singapore time, very not logic on that very short time specially on the night time to get the data about fuel dumping.
10. Based on witnesses's statement and defendant's statement got the clue about the presence of law fact, that the defendant has made assignment report that not fulfills Garuda Indonesia Airways's reporting standard, especially about aviation/internal security assignment to reporting fuel dumping Garuda's Boeing 747-400 in Singapore, that report only typed manually and the content based by defendant statement is the information by mechanic staff that the defendant did not know that mechanic's name.

11. Based on witnesses's statement and defendant's statement got the clue about the presence of law fact, that the defendant never report the result of fuel dumping check, and then after the news about MUNIR,SH death rise, the defendant make the report that unprofessional because that report was made not specific as the truth, giving direction that the report to giving justification about assignment to check fuel dumping, which never done by the defendant.
12. Based on witnesses's statement and defendant's statement got the clue about the presence of law fact, that defendant has called witness BRAHMANI, witness YETTY and witness ODIE IRIANTO with purpose to equalized perception in giving answer if they called by the police about MUNIR,SH death, giving direction psychologically about the defendant worried so his work did not knew in the way to influence those witnesses.

G. EXHIBITS

Exhibits that presented on the court:

- 1.1 (one) sheet of original letter with Garuda Indonesia's header number GARUDA/DZ-2270/04 on 11 August 2004 about Assignment Letter for P. BUDIHARI PRIYANTO / 55659 Unit Flight Operation (JKTOFGA) and signed by INDRA SETIAWAN (President Director of Garuda Indonesia Airways).
- 2.1 (one) sheet copy of letter from A 330 Chief Pilot that signed by ROHANIL AINI Note OFA/210/04 on 31 August 2004 about request for changing Flight Schedule for DEFENDANT POLLYCARPUS BUDIHARI PRIYANTO.
- 3.1 (one) sheet copy of letter from A 330 Chief Pilot that signed by ROHANIL AINI Note OFA/219/04 on 6 September 2004 about request for changing Flight Schedule for DEFENDANT POLLYCARPUS BUDIHARI PRIYANTO.
4. 1 (one) sheet of original letter from Interoffice Correspondence with Garuda Indonesia's header for OFA No. Ref: IS/1177/04 on 4 September 2004 about assignment that signed by M. RAMELGIA ANWAR (Vice Corporate Security).
- 5.1 (one) sheet of original letter from Interoffice Correspondence with Garuda Indonesia's header for OFA No. Ref: IS/1177/04 on 15 September 2004 about assignment that signed by M. RAMELGIA ANWAR (Vice Corporate Security) serial number 00781.
- 6.3 (three) sheets of original letter on 8 September 2004 that signed by POLLYCARPUS BUDIHARI PRIYANTO BHP for Garuda Indonesia Airways's VP Corporate Security.

- 7.2 (two) sheets of original letter on 8 September 2004 that signed by POLLYCARPUS BUDIHARI PRIYANTO BHP for Garuda Indonesia Airways's Flight Operation Manager.
- 8.1 (one) bundle of original letter on 8 September 2004 for Garuda Indonesia Airways's VP CORPORATE SECURITY signed by DEFENDANT POLLYCARPUS BUDIHARI PRIYANTO BHP / 522659 about Assignment Report PDZ-2270/04.
- 9.1 (one) piece of ID Card on behalf of POL. BUDIHARI PRIYANTO No.522659 as Aviation Security issued on 16 June 2004 signed by VP. HR. MANAGEMENT DAAN ACHMAD.
- 10.1 (one) sheet of Original Tax Invoice Novotel Apollo Singapore on behalf of DEFENDANT POLLYCARPUS BUDIHARI PRIYANTO F/O Garuda GA 826 room No. 1618 check in on 6 September 2004 and check out on 7 September 2004.
11. Monthly Schedule Original on behalf of DEFENDANT POLLYCARPUS BUDIHARI PRIYANTO on 1 August until 26 September 2004.
- 12.1 (one) bundle of original Kininlijke Mereschausse Distric Schiphol Algemene Rescherche, Dossier Onderzoek Niet Natuurlijke Dood MUNIR,SH geboren : 08-12-1965 te Malang, Indonesia.
13. Copy of letter "Verslag betreffende een niet natuurlijke dood", issued by HB Dammen as "de Officer van Justitie in het arrondissement Haarlem", 7 September 2004.
14. Letter "Voorlopige Bevindingen" that issued by dr R. VISSER as Pathologist from Ministerie van Justitie-Nedergronds Forensich Instituut in Rijkwijk, 8 September 2004.
15. 16 (sixteen) pages content photos of Mr. MUNIR,SH bodies at Sectie on 8 September 2004.
16. Letter from dr. R. VISSER from NFI to Mr. E. VISSER officer of Arrondissementsparket Haarlem on 13 October 2004.
17. Document of postmortem examination Pro Justitia No.04-419/R102 made by dr. R. VISSER from Ministerie van Justitie-Nedergronds Forensich Instituut on 13 October 2004.
18. Document of "Deskundigenrapport, voorlopig rapport" that issued by dr. K.J. LUSTHOV apotheker- toxicoloog from Ministerie van Justitie-Nedergronds Forensich Instituut, Zaaknummer 2004.09.08.036, U kenmerk BPS/Xpol Nummer : PL278C/04-08133, Sectie Nummer : 2004419, on 1 October 2004.
19. Document of "Deskundigenrapport, voorlopig rapport" that issued by dr. K.J. LUSTHOV apotheker- toxicoloog from Ministerie van Justitie-Nedergronds Forensich Instituut, Zaaknummer 2004.09.08.036, U kenmerk BPS/Xpol Nummer :

- PL278C/04-08133, Sectie Nummer : 2004419, on 4 November 2004.
20. Copy of document acceptance letter that has legalized by Ministerie van Justitie for Indonesian Embassy on 25 November 2004.
 - 21.1 (one) piece of brown NOKIA cellular phone with SIM Card number 081596690617.
 - 22.1 (one) copy legalized by General Declaration Jakarta-Singapore flight on 6 September 2004.
 - 23.1 (one) original General Declaration Singapore-Amsterdam flight on 7 September 2004.
 24. One piece of memo book pad on behalf of Defendant POLLYCARPUS.
 25. Acer travelmate Notebook 4000 series model ZL I with it's case.
 26. Nokia Cellular Phone 9210, CE 168 type RAE-3N.
 27. Telkomsel SIM Card No. 6210100013006566.
 28. Clothes that has worn by victim MUNIR,SH on Jakarta-Singapore-Amsterdam flight.

Exhibits that presence on this court has been summoned legally by the law and because of that can be used to strengthen proof . that on the court head of penal of judge has seeing that Exhibits to the defendant and/or witnesses.

IV. LAW FACT

Honorable panel of judges,
Respected legal advisers
And the audience of the court

Before we discuss judicial elements of the act that has been done by the defendant, first law facts based by witnesses statement, direction, letter Exhibit and defendant statement such as :

- 1) Based by witness HIAN TAN a.k.a ENI statement that defendant is a nationalist has done many activities with excuse to maintain Unity State of Republic Indonesia, saw MUNIR,SH as NGO activist and head of KontraS often identificate himself as motor of democratic development, defend human rights and often to criticize government's program, done social criticize, comment, negative reaction and other activities, that saw by the defendant and some side to very disturbing and became an obstacle or for carry out government program, cause presence of side, including the defendant that can't accepted it.

- 2) That the defendant based by the PT. Garuda's flight schedule that has been accepted and known by the defendant 15 (fiveteen) days before, the defendant should have been on 5 until 9 September 2004 to assign a duty at Garuda's airplane pilot to Beijing.
- 3) That the defendant on 31 August 2004 at 15.00 WIB called Garuda's office and accepted by ROHAINIL AINI who asked for the presence of Captain KARMAL FAUZA SEMBIRING, and answered not in the place, and the defendant told to ROHAINIL AINI that the defendant has the assignment from M. RAMELGIA ANWAR to Singapore, so the defendant request to change schedule from the defendant should go to Beijing on 5 until 9 September 2004 to be canceled, changed to be stand by on the other hand on 7 September 2004 to attend the APG meeting at Hotel Ambara Jakarta, but the defendant on 6 September 2004 go to Singapore.
- 4) That on 2 September 2004, which is 4 (four) days before MUNIR,SH's departure to Nederground, witness SUCIWATI, wife of MUNIR,SH has accepted telephone call from someone who said POLLY's name from Garuda and asked about MUNIR,SH dperture to Nederground and witness SUCIWATI answered "departure confirm" by Garuda flight on 6 September 2004.
- 5) That witness SUCIWATI later told that phonecall to MUNIR,SH, and asked whether he knew POLLY friom Garuda, and then answered by MUNIR,SH " strange man, and that man pretend to knew me".
- 6) That MUNIR,SH has told witness SUCIWATI that the defendant once has give the letter to be posted in Switserground, when victim MUNIR,SH went to Switserground, and then MUNIR,SH refuse defendant's request by saying : " I'm not stupid man, if the content of that letter is threat, so MUNIR,SH would be accused because his fingerprints is stillon that envelope."
- 7) That MUNIR,SH's phone number has been called by the defendant number 081199058.
- 8) That before MUNIR,SH went to Nederground on 6 September 2004, he has told to CHAIRUL ANAM about MUNIR,SH's feeling was not good because his departure has known by the defendant.
- 9) Connected by defendat's request to change that schedule on first point, to convince ROHAINIL AINI, the defendant told that M. RAMELGIA ANWAR as VP Corporate Security that responsible on defendant's assignment to check Fuel Dumping to Singapore, would call to captain KARMAL FAUZA SEMBIRING, defendant's direct chief, on the fact M. RAMELGIA ANWAR never assign

- defendant to Singapore on 6 September 2004 to check Fuel Dumping.
- 10) Based by defendant's request, ROHAINIL AINI made schedule changing note number OFA/219/04 on 6 September 2004 that signed by ROHAINIL AINI about defendant's assignment as Extra Crew that assign to Singapore on 6 September 2004 that lead on President Director Garuda's letter No. Garuda/DZ/Z270/04 on 11 August 2004 about defendant's assignment, in that President Director Garuda's letter never mention specifically to check Fuel Dumping to Singapore, whereas ROHAINIL AINI is not have the right to signed that letter and defendant is don't have special expertise about Aviation Security which handled Fuel Dumping.
 - 11) On 31 August 2004 appear Note OFA/210/04 about the request to change flight schedule on behalf of the defendant from scheduled to fly to Beijing but has changed to be stand by because on 7 September 2004, the defendant would attend APG's meeting at Hotel Ambara Jakarta.
 - 12) That based by witness KARMAL FAUZA SEMBIRING, Chief Pilot Airbus Garuda statement, that witness ROHAINIL AINI as secretary isn't have the right to signed OFA/219/04 note on 6 September 2004, because it addressed for non active extra crew or non flying assignment extra crew.
 - 13) That witness Ir. INDRA SETIAWAN, M.BA never assign the defendant to Singapore.
 - 14) That witness Ir. INDRA SETIAWAN, M.BA once assign the defendant on 11 August 2004 about job assistance while that job assignment from Directorate of Strategic and General that would issued by M. RAMELGIA ANWAR.
 - 15) Although there isn't assignment letter from M. RAMELGIA ANWAR as VP Corporate Security to check Fuel Dumping to Singapore but on 6 September 2004, defendant depart to Singapore by flight Garuda GA-974 on 6 September 2004 to check Fuel Dumping and on that flight one of the passenger was MUNIR,SH. Departed from Sukarno-Hatta airport about 21.30 WIB and arrived at Changi at 01.30 Singapore time.
 - 16) That MUNIR,SH's depart by Garuda flight by Economy class ticket on seat 40 G, and the defendant by Business Class ticket on seat 3K.
 - 17) That the defendant met MUNIR,SH in airplane's door when they was going to aboard the plane, defendant greet MUNIR,SH and offered seat change so MUNIR,SH can seat in business class with reason that MUNIR,SH is a popular person. For that offered MUNIR,SH accepted and then Defendant please MUNIR,SH to sat in 3 K seat at Business Class while inform to purser BRAHMANI

- HASTAWATI that MUNIR,SH is defendant's friend and would seat in business class, while the defendant did not sat at MUNIR,SH's seat at economy class but seat at Premium Class number 11 C not far from MUNIR,SH's seat at Business Class.
- 18) That after that seat exchange defendant must sat at MUNIR,SH's seat at 40 G, but defendant on that time did not sat but walking around pantry, met and greet OEDI IRIANTO the steward who on that time was preparing welcome drink such as orange juice.
 - 19) Defendant was on pantry at the moment steward was preparing welcome drink, and then defendant go to Premium class seat near MUNIR,SH's seat.
 - 20) That after steward prepared welcome drink such as champagne and orange juice, then that welcome drink is served by stewardess YETTY SUSMIARTI and MUNIR,SH took one glass of orange juice which is placed on most front tray that separated with the other glass of orange juice and then MUNIR,SH drank that orange juice.
 - 21) That Garuda Air plane, GA-974 grounded in Changi Airport on September 7th 2004 at 01.30 Singapore Time, the crew of Garuda that works from Jakarta to Singapore spent the night in Novotel Hotel Singapore, checked in collectively, while the defendant did not stay together with that crew but checked in for himself.
 - 22) Although in the "General Declaration" on September 7th 2004, the defendant was described as to fly until Amsterdam, but the fact was that the defendant's name in the "General Declaration" list was erased, and the defendant went home to Jakarta on that day, September 7th 2004 at 07.00 Singapore Time, with the reason to follow "APG" Meeting at Ambara Hotel, Jakarta that was to be held at 06.00 West Indonesian Time. So that the defendant presence in Singapore was only for a few hours in the night, thus making it logically imposible to make a Dumping Fuel check in Singapore.
 - 23) That was true that the Garuda Airplane GA-974, made transit in Changi Airport, Singapore for 45 minutes, and then continued to fly to Amsterdam. About 10 minutes after the plane took off, MUNIR,SH started to continuously go to the toilet and flushed. After that he had received treatment from dr. TARMIZI with medicine and relaxing injection.
 - 24) That three hours before Garuda Airplane arrive in Amsterdam, MUNIR, SH was already dead.
 - 25) Based on "Visum et Repertum" and result of the forensic checkup of MUNIR'S SH body, was same as was the result of

- the Pro Justitia from Judging Ministries Forensik Institution in Holground in September 8th 2004 that was signed by Dr. ROBERT VISSER, doctor and pathologist, whom cooperated with dr. B. KUBAT, doctor and pathologist. Both of them lived in Rijswijk, and from the result of toxology examination, they found in the blood of MUNIR,SH, high concentrations of arsenic, also in the stomache was found high concentrations of arsenic. So thus the death of MUNIR,SH can be explained by arsenic poisoning.
- 26) In September 7th 2004 at 07.00 Singapore Time, the defendant went from Changi Airport Singapore to Jakarta with Garuda Indonesia Airplane, and after he arrived at Jakarta he then knew about the news that MUNIR,SH was already dead in the Garuda Airplane GA-974 on the way from Jakarta-Singapore-Amsterdam.
- 27) That after the death of MUNIR,SH that was caused by arsenic in the orange juice, did then the defendant ask RAMELGIA ANWAR to make a letter, like Interoffice Correspondence Number: 15/1177/04 on September 15th 2004 which was signed by M. RAMELGIA ANWAR in September 15th 2004 about an assignment for the defendant to fly as a non-active crew in sector JKT-SUB-JKT, JKT-DPS-JKT, JKT-SIN –JKT. That was used by the defendant to justify the his trip from Jakarta to Singapore on September 6th 2004 with all cost that may arise.
- 28) That the letter which was accepted by the defendant from RAMELGIA ANWAR was letter number IS/1177/04 dated August 15th 2004 and the same letter dated on September 4th 2004. both were signed by M. RAMELGIA ANWAR. And the letter number 15/1177/04 on September 4th 2004 that had been accepted on September 17th 2004, because of the content is the same as the content of the letter IS/1177/04 on September 15th 2004, so then those letters are illegal. But it has been used by M. RAMELGIA ANWAR to cover the cost that arise in defendant trip on September 4th 2004 to legalize the defendant's trip on September 6th 2004 to Singapore with all cost that arise.
- 29) That letter of Interoffice Correspondence No. IS/1177/04 on September 4th 2004 that made in September 17th 2004 with purpose so the letter can be one way with defendant trip Jakarta-Singapura-Jakarta were defendant lie so the trip can be legal as official trip from Garuda Indonesia Airways. Although the letter was made and signed by authorities parties that are Vice President Corporate Security, but the letter showed up because defendant tell a lie to VP Corporate Security that letter No. IS/1177/04 on September 15th 2004 must same as the trip

based on Instruction from Chief Pilot KARMAL FAUZA SEMBIRING and given date that differ from the real time,
30) so letter Number IS/1177/04 is a false letter or falsified because it was issued from lie and cheat and also not same as the original. That letter No. IS/1177/04 on September 4th 2004 was made by VP Corporate Security based on lie and not same as the real time. So, the letter is illegal and cannot make defendant free from responsibility to pay the cost that arise from his trip on Jakarta-Singapore-Jakarta. This is based on the rights that arise from illegal material.

V. JUDICIAL EXAMINATION

Based on legal facts above, the public prosecutors stated that the defendant POLLYCARPUS BUDIHARI PRIYANTO (PBP) has been proved committing criminal activities as follows:

FIRST : *Article 340 of the Penal code in juncto article 55 (1) of the Penal Code*

AND

SECOND : *Article 263 (2) of the Penal code in juncto article 55 (1) first of the Penal Code*

In regards of the charges faced by the defendant are cumulatif, the first charge will be proven first: Article 340 of the Penal code in juncto article 55 (1) of the Penal code with following aspects:

A. FIRST CHARGES:

Article 340 of the Penal code in juncto article 55 (1) of The Penal code With the following aspects:

- 1) Anyone
- 2) Who deliberately
- 3) causes loss of other people lives;
- 4) Committing , orders to committing or participating in the committing of that act

The public prosecutor in exploring the aspects mentioned above will first proved crimes based on Article 340 of the Penal code in juncto article 55 (1) of the Penal code:

EXPLANATORY:

1. "Anyone" aspects

"anyone" is man or legal subject that have a responsibility and can be responsible in law about his action that have been done. That prove in the court has been faced a man named Polly Carpus Budikari Priyanto as a legal subject which have been mentioned about his identity as mentioned in conviction letter. Because in his trial proved that defendant is in healthy condition, whether physically or mentally so there is no any reason which have been found in defendant that can disappeared to erase defendant's fault and considered as a legal person because of that. This element according to us is proved.

2. "Who deliberately" Aspects

Element deliberately and Planned Before That Penal code don't give definition for deliberately but in MvT, deliberately means *willen en wetten* (wanted and knowed) which means that the criminal was wanted what he has done and have to know what is he wanted. It means someone who done things deliberately has wanted and knowed his action and or it cause. (E.Y Kanter, *Asas-Asas Hukum Pidanan Indonesia dan Penerapannya*, Page 167)

And then The Criminal Law Expert divides three form of deliberately, which is:

1. deliberately as Will (*Opzet als Oormeerck*) that if a man deliberately do a crime with aim to gain purpose which he wanted to;
2. deliberately with awareness that it must be happened (*Opzet bij zekerheids bewijzijn*), that if a man do something to gain a purpose that he wanted to. Meanwhile he aware that other things which is not mentioned as a purpose that must be happened.
3. deliberately with knowing the possibility (*Dolus Eventualis*), that if a person do something, meanwhile he knows that his action that have been done will make another cause that is not mentioned.

That the form of Consciously in Chapter 340 penal code is a form of Consciously which do with planned before. Because of that, Consciously in this chapter entered qualification Consciously as Will. This thing contain understanding that MUNIR,SH's dead is actually wanted as a will to do the purpose that he wanted to.

Fact that explains about there is a desire/will to kill MUNIR,SH which planned before can be proved as following:

- Based on witness HIAN TAN's information also known as Eni, defendant is a nationalist that has done many things for The United Republic Of Indonesia sees that MUNIR,SH, as a NGO activist and Chief Of KontraS which often identified himself as a motor and motivator of democracy development, defender of

human rights and not rarely even criticize the government program, do social critics, comment that sound negative and also his other activity which marked by defendant and also by other parties have been annoying and become an obstacles or problems so the government problems will be done, cause the parties include the defendant which can't accept it.

- That defendant based on PT. Garuda flight schedule accepted and known by defendant 15 days before, defendant in September 5th - 9th 2004 must worked as a pilot of Garuda Airplane to Peking.
- That defendant in August 31st 2004 at 15.00 WIB called Garuda's Office and accepted by ROHAINIL AINI which asked about KARMAL FAUZA SEMBIRING and answered he is not there and defendant says to ROHAINIL AINI defendant has a job from M. RAMELGIA ANWAR to Singapore because of that the defendant asked a schedule changes that defendant in September 5th - 9th 2004 must flight to Peking was delayed to September 6th 2004 to Singapore
- That about September 2nd 2004, four days before MUNIR,SH Departure to Holground, witness SUCIWATI, MUNIR,SH's wife accept a call from someone who mention Polly's name from Garuda who asked about MUNIR,SH's departure to Holground and answered by witness SUCIWATI "He's going" with Garuda Airlines in September 6th 2004.
- That witness SUCIWATI then gave the information from the telephone to MUNIR,SH and asked whether he knows about Polly from Garuda and then MUNIR,SH answered "what a weird and arrogant man."
- MUNIR,SH has told to witness SUCIWATI that defendant has sent a letter to be posted in Swiss when MUNIR,SH is arrive in Swiss. Victim MUNIR,SH refused that request and says: "you think I'm a fool man, if the letter content is a threat, I'll be blamed because my fingerprints are still in the letters's envelope.
- That MUNIR,SH telephone number which have been contacted by defendant is 081199058
- That before MUNIR,SH went to Holground on September 9th 2004, he had told Chairul Anam that MUNIR,SH is not feeling good because his departure was known by defendant.
- Based on defendant request to change the schedule in point one, to make sure ROHAINIL AINI, defendant said that M. RAMELGIA ANWAR VP Internal Corporate Security that responsible in defendant duties to check dumping fuel to Singapore will call Kapten KARMAL FAUZA SEMBIRING, defendant direct superior, but in fact M. RAMELGIA ANWAR never send defendant to Singapore on September 6th 2004 to check dumping fuel.

- Based on defendant request, ROHAINIL AINI made a note on August 31st 2004 Number OFA/210104 about schedules arrangements in Tracking Zone so that
- note is made with number OFA/219/04 on September 6th 2004 which signed by ROHAINIL AINI about assignment for defendant as extra crew to go to Singapore on September 6th 2004 based on Garuda General Director Letter No. Garuda /DZ/2270/04 on August 11st 2004 about assignment for defendant which on on that letter is not specially told about checking dumping fuel to Singapore, meanwhile defendant is not having special ability about Aviation Security that will handle Dumping Fuel.
- On August 31st 2004 came Letter OFA/210/04 about request for Schedule changing in the name of defendant that before is scheduled to fly to Peking but then is change to Standby because on September 7th 2004 defendant will followed meeting APG in Hotel Ambara Jakarta.
- That witness KARMAL FAUZA SEMBIRING Chief Pilot Air Bus Garuda says that witness ROHAINIL AINI as secretary is not authorized to signed Letter OFA/219/04 on September 6th 2004, cause it's for extra crew non active or extra crew that did not fly.
- That witness Ir. INDRA SETIAWAN, MBA never assign defendant go to Singapore.
- That witness Ir. INDRA SETIAWAN, MBA was assign defendant on August 11st 2004 to helping some works meanwhile his assignment come from Directory Of Strategy and General that will be given by M. RAMELGIA ANWAR.
- Even there were no assignment letter from RAMELGIA ANWAR to checking Fuel Dumping to Singapore but defendant on September 6th 2004 go to Singapore with Garuda GA-974 which MUNIR,SH was inside the air plane.Fly from Soekarno-Hatta Airport about 21.30 WIB dan arrive on Changi Airport at 01.30 Singapore Time.
- That MUNIR,SH departure with Garuda Airplane on economy class, seat number 40 G, meanwhile defendant in Business Class, seat number 3 K
- That defendant meet MUNIR,SH in the Airplane door when they came into airplane, defendant talk with MUNIR,SH and offer seat change so MUNIR,SH can seat at Business Class on reason that MUNIR,SH is a famous man. MUNIR,SH accept the offer and then defendant told BRAHMANI HASTAWATI that MUNIR,SH is defendant's friend and will sit at Business Class. And then defendant sit on Premium Class Number 11 C that not far from MUNIR,SH in Business Class.
- That Garuda Airplane GA-974 landing in Changi Airport on September 7th 2004 at 01.30 Singapore Time, all Garuda's crew

that works from Jakarta to Singapore stay in Novotel Hotel Singapore, check in Collectively, meanwhile defendant not staying together with that crew but check in for himself.

- Even in The General Declaration On September 7th 2004 defendant described flying until Amsterdam, but the fact is defendant's name was erased from General Declaration list, and defendant went home that day on September 7th 2004 at 07.00 Singapore Time with reasoning that he will attend meeting APG at Ambara Hotel in Jakarta at 06.00 WIB, so the presence of the defendant in Singapore is just for a few hours in the night that is logically impossible to do check Dumping Fuel in Singapore.
- Based on Law Fact, it is obvious that defendant went to Singapore because of his initiative not doing work from Aviation Security as described by defendant, but a plan with a will to do some actions.
- That the action can be connected to information from expert witness ADDY QURESMAN, ST on November 25th 2004 – December 4th 2004 was assigned to Holground to take "Visum Et Repertum" MUNIR,SH together with
- Police High Commissioner Drs. Anton Charlian, MPKN, Prof. Amar Singh (Toxicologist From North Sumatra University), Dr. Budi Sampurna (Forensic Expert from UI), Dr. Agung (Forensic Expert from Police Region Metro Jaya), Dr. Ridla Bakri (Teaching Staff Chemistry Department, Mathematics and Natural Science Faculty, UI) and Ahmad Bestari (Department of Foreign Affairs) on November 26th 2004, the team from that made the discussion said that the victim MUNIR,SH has a high concentration of Arsenic so has made another test and the result is the same that a high concentration of arsenic.
- That is true that expert team from Indonesia asked to the Expert Team from Holground about the kind of molecule but the answer from Holground just saying that they got just a liquid form. That medical test form Holground expert team which sent to Indonesian Expert Team made shocking fact because the number of arsenic in the stomach of MUNIR,SH is so big which at least 180 mL liquid/liter that means 82,8 mg arsenic.
- Arsenic is dangerous if consumed by out of fatal line which more or less than 1 mg-2,5 mg arsenic/kg weight.
- Based on the conclusion about the fact from Holground Judging Doctor Institution that sent to the Indonesian Toxicologist, is known that the victim MUNIR,SH is dead because of poisoned by a high number of arsenic in his body.
- That The Criminal Law Terminology is known about Planned Murder with terminology "Moord", a murder that done by poison has been accepted in Law Practice at Indonesia as Moord. It is because

every murder with poison must be made with a plan first. So this element has been fulfilled.

3. *"causes loss of other people lives" Aspects*

The fact that explains about *"causes loss of other people lives"* can be proved like this:

- That about September 2nd 2004, four days before MUNIR,SH's departure to Holground, witness SUCIWATI, MUNIR,SH's wife accepted a call from someone who mentioned Polly's name from Garuda who asked about MUNIR,SH's departure to Holground and answered by witness SUCIWATI "He's going" with Garuda Airlines in September 6th 2004.
- That witness SUCIWATI then gave the information from the telephone to MUNIR,SH and asked whether he knows about Polly from Garuda and then MUNIR,SH answered "what a weird and arrogant man."
- MUNIR,SH has told witness SUCIWATI that defendant has sent a letter to be posted in Swiss when MUNIR,SH arrives in Swiss. Victim MUNIR,SH refused that request and says: "you think I'm a fool man, if the letter content is a threat, I'll be blamed because my fingerprints are still in the letter's envelope."
- That before MUNIR,SH goes to Holground on September 9th 2004, he had told Chairul Anam that MUNIR,SH is not feeling good because his departure was known by defendant.
- Based on defendant's request to change the schedule in point one, to make sure ROHAINIL AINI, defendant said that M. RAMELGIA ANWAR VP Internal Corporate Security is responsible in defendant's duties to check dumping fuel to Singapore will call Kapten KARMAL FAUZA SEMBIRING, defendant's direct superior, but in fact M. RAMELGIA ANWAR never sent defendant to Singapore on September 6th 2004 to check dumping fuel.
- Based on defendant's request, ROHAINIL AINI made a note on August 31st 2004 Number OFA/210104 about schedule arrangements in Tracking Zone so that note is made with number OFA/219/04 on September 6th 2004 which is signed by ROHAINIL AINI about assignment for defendant as extra crew to go to Singapore on September 6th 2004 based on Garuda General Director Letter No. Garuda /DZ/2270/04 on August 11st 2004. About assignment of defendant in August 2004, in these letters of Garuda's managing director was not mentioned peculiarly for Dumping Fuel checking to Singapore, though ROHAINIL AINI had no business in signing these letters and the defendant did not have capability in Aviation Security which handled the Dumping Fuel.

- On August 31, 2004, he published NOTE of OFA/210/04 about Schedule changing requested of Aviation on behalf of the defendant's name, which firstly scheduled flight to Peking. But has changed to be standby because on September 7, 2004 the defendant would joined APG 'sarasehan' (gathering) in Ambara Jakarta Hotels.
- That According to the witness explanation (KARMAL FAUZAN SEMBIRING) chief pilot Ajr GARUDA Bus, witness ROHAINIL AINI as secretary had not authority to signed NOTE of OFA/219/04 on September 6, 2004 because it was addressed to non active extra crew or to extra crew who was off on flying.
- That witness Ir. INDRA SETIAWAN, MBA never commanded the defendant to Singapore.
- That witness Ir. INDRA SETIAWAN, MBA even commanded the defendant on August 11, 2004 about *aid working* as a umbrella while his aid working of Strategy Directory and Global would released by M.RAMELGIA ANWAR.
- In spite of no aid working from M.RAMELGIA ANWAR as VP corporate security for, checking dumping fuel to Singapore, actually on September 6, 2004 the defendant went to Singapore with Garuda flight GA/974 which inside that Plane one of that passenger was MUNIR,SH. Took of from Bandar Soekarno Hatta Airport was about on 21.30 pm and arrived on Cangi Airport on 01.30 Singapore's time
- that departure of MUNIR,SH with Garuda Air with ticket of economic class seat of number 40 G, while defendant with ticket of class business of seat of number 3K
- That defendant came in contact with MUNIR,SH of door of plane at the same time would took plane together, The defendant MUNIR,SH offered transfer of seat, so that MUNIR,SH sit on class of Business with reason that MUNIR,SH is Famous. For that tender MUNIR,SH accepted later; then the defendant passed in MUNIR,SH sit number 3K class of business at the same time advised to Purser BRAHMANI HASTAWATI that MUNIR,SH is friend of defendant and will sit on class of defendant of pad of business class, while defendant did not sit on economic class seat of MUNIR,SH but sit class of premium of no 11C Which not far from seat of MUNIR,SH of business class.
- That after defendant seat transfer ought to sat t in place MUNIR,SH number chair 40 G, but defendant at that moment did not sit in place the defendant but shuffle through around Pantry, meeting and admonishing OEDI IRIANTO steward which that moment was preparing Welcome Drink, who prepared Welcome Drink to all passenger in the form of orange juice and champagne

at the same time , later then at that moment the defendant included arsenic poison in one of the containing orange juice glass , and then placed it in most front tray and far from others , but the welcomed drink which has included by Poison was presented by Yeti Susmiati stewardess for example to MUNIR,SH and MUNIR,SH took beverage Orange Juice which was in most front tray and then drunk by MUNIR,SH.

- That implement of eagle of GA_974 transit in airport of Changi Singapura was about 45 minute , later then continued air transport went to Amsterdam , it was about 10 minute after plane took off, MUNIR,SH started to shuffle through to toilet, and the pukings and then DR. TARMIDZI did treatment by giving medicinize and injection calming
- That 3 Hours before The Garuda airplane has arrived in Amsterdam, MUNIR,SH Had known died
- That according to Visum et Repertum and result of dead body autopsy of MUNIR,SH as Pro Justitia of forensic institute judgement ministry of Begrounda on September 8th 2004 has signed bi dr.Robbert Visser doctor and potolog , supported by dr B KUBAT, Doctor and potolog, both of them lived in Risjwijk.as a result of Toksotogi inspection in bold Victim MUNIR,SH had found arsenic in his blood in high concentration, inside his stomach there are several dosage that maybe fatal, the death of MUNIR,SH could explained because of the poisoning arsenic.
- That based on section 184 verse (2) Penal code explain that everything which have been known by public not need to be proven. In criminal law science this thoughtful generally known as "Notoire Feiten". That general case is the situations or manners which generally known by everybody because of his habit.
- That even Notoire Feiten is not a proof which said as norm in section 184 verse (1) KUHAP, but KUHAP as a norm giving formal judicial confession that cases which have been happen generally could be used to proof a criminal action. The most important here is that Notoire Feiten is not contradictory and supported by the other proofs, that is between orange juice and arsenic which are different substances that mixing in one container called a glass which filled with orange juice and arsenic by the defendant.
- Relates with this proofs, the General Prosecutor will analyze all factors which causing MUNIR,SH's death considering in Notoire Feiten aspect, such as :
- By the founding of arsenic in high concentration in his stomach without any wounded which characteristic is not opening his belly that enable the liquid entering the stomach, this causing a fact

that generally have been known by other person that the entrance of arsenic through the mouth/ orally.

- Considering that arsenic is not a kind of drink which generally drunk and its characteristic is dangerous for human's soul and also there is a result of the autopsy of MUNIR,SH's dead body which have been discussed with The Expert of Indonesian Toxicology, between Dr. Budi Sampurna, explained that the arsenic had been mixture with the liquid of orange juice. This case proofs that the orange juice is one of the medium which is most possible as the entrance way of the arsenic through mouth / orally to the stomach.
- To prove more detail whether it is true that the entering of arsenic to the stomach the victim MUNIR,SH is through orange juice orange medium
 - a) Information from Dr. Budi Sampurna that the autopsy result of MUNIR,SH's death body had found arsenic which had been dissolved in his stomach. That the arsenic could dissolve in through the orange juice at temperature 10-15 °C. That the arsenic put out a smell like an onion.
 - b) Information from Dr. Ridla Bakri, M. Phil that the autopsy result of MUNIR,SH's death body had found the arsenic which had been dissolved in his stomach which color is greenish. That the arsenic could dissolve in usual water. That the arsenic put out a smell like an onion. That the first reaction the in-take happened to the arsenic is in 30 minutes until 1.5 hours for the fastest and 3 until 4 hours for the longest.
 - c) The result of discussion with The Expert of Netherground Forensic are :
 1. The early indicator generally as abdominal discomfort/ pain.
 2. In MUNIR,SH case, this indicator happened for along the waiting time in Changi Airport Singapore, moreover with the request for stomachache when he had just entering the plane Flight of Singapore/ Amsterdam.
 3. That early indicator happened in 10-60 minutes since the in-take time, and also the defiation in 30 minutes.
 4. Thus, the maximum time for in-take is 90 minutes before the early indicator,or it means that along the flight between Jakarta-Singapore.
 5. The probability time in-take before he entered the plane in Jakarta considered as "unlikely ligret"or most impossible.
 6. The death time which occurred in about 8 hours before he took-off from Singapore (3 hours before the plane grounded) shows that the death was occur hastily (very death) and correlates with high dosage (massive arsenic voice soning).

Based on the facts above that it could be proofed that the arsenic had entered through the mouth through liquid food. Considering the in-take time the arsenic entered MUNIR,SH's body, proven that in-take time happened in Jakarta-Singapore flight with assumption flight time from take-off until the landing is about 1-1.5 hours.

It's proved that in-take process, the beverage of MUNIR,SH had mixed Arsen. MUNIR,SH drink it. It correlated with result from expert Netherground Forensic (NFI) discussion shall be as follows:

A. Arsen compound was consumed by MUNIR,SH

1. Arsen compound Materials which arounded on Indonesian Market are As₂ - O₃ (Warangan), perish , perish green, (inseccuida and CCA Crom Cobard Arsenic)
2. From RXF is found highly arsen ettapi and another unsure including corm, cobald and Pb normal, so CCA can be wasted
3. Volume of his stomach is green so can be concluded compound Perish Green are still there.

B. In-take time Arsen:

1. Beginning syndrome in general are abdominal discomfort /find
2. On MUNIR,SH case that's first syndrome were happened during waiting for at Changi Airport, Singapore. It's strengthen when MUNIR,SH ask for stomache pil while entering Flight Singapore Amsterdam
3. That's first syndrome in generally will process between ten to sixty minutes since in-take, it added defiation approximately thirty minutes.
4. Thus, in-take time are nineteen minutes before first syndrome or means during flight between Jakarta and Singapore.
5. It possible in-take time before he took the plane in Jakarta are unlikely imposible
6. The death time which happen approximately eight hour after take off from Singapore (three hour before landing), it showed his death happen rapidly and correlated with highly arsen doses.

Those people who came in NFI discusson are:

1. Prof. Fredrik A de Wolff MA, Phd EurClinChem EART FATS, are professor in Clinical and Forensic Toxicology from University of Leidern.
2. R. Vjsser, MD, PhD, is Patolog from NFI
3. Ingrid Bosman, PhD, Forensic Scientist Toxicology from NFI.

That correlated with entering of Arsen in to orange juice can be proved through clues which was God from witnesses and defendant, expert explanation letter and visum at repertum which enclosed on law suit.

So with all of above description, causes loss of other people lives are proven.

4) "Committing , orders to committing or participating in the committing of that act " Aspect

Chapter 55, article 1 at first penal code said: "Punished as a tort, a man who orders to committing " from chapter 55 article 1 first only talk element which relevant with letter of assertion, there are "participating" comparing to chapter 55 article 1 first penal code , people which together do crime action , in this case with consciously action.

According POMPE which are followed Hoge Raad, "participating" means 2 thing:

Must be coordination among subject.

Must be consciousness inside their relation among subject

In addition with doctrine "participating" must be said there are jurisprudence which can be used as basic standard , " *if the subject straightly have coordination implement their plane and its coordination means so completely and perfectly, there are no excuse who finish their criminal mission*" (HR May 17 ,1943 No 576). After that Hoge Raad did not recommend in "have a joint always together living in some place where they did criminal action, for example one of the doer keep stay in their home (Jongens , page 104-105)

Moeljanto said their act each of doers mustn't fulfill all of delik aspect, it can only one of aspect meet one delik and others meet another crime act to fill the other elements of accused crime, then all of audiences action as one unity make accused crime happen. On the other word, the audiences is not conditioned must fill all elements of criminal actions in their doing, as if they realize that their action is in cooperational goal. (arrest HR. June 9th W. 1941 No. 883)

Aspects of "participating" can be explained with based on fact this below:

- That Defendant saw MUNIR,SH in the door of plane when they would ascend to the plane together, Defendant said hello to MUNIR,SH and offered exchange of seat in order MUNIR,SH to the seat in Business Class with giving the reason that he's the famous people. This Bargaining was accepted by MUNIR,SH and then defendant excused MUNIR,SH to sit in number 3 K Business

Class and told purser BRAHMANI HASTAWATI that MUNIR,SH is defendant's friend and would sit on the defendant's seat in Business Class, defendant did not sit on economic class on MUNIR,SH seat but sit in premium number 11 C that's not far from MUNIR,SH seat on the business class.

- That after exchange of of seat defendant should sit on the MUNIR,SH place in premium class number 11 C that's not far from the seat of MUNIR,SH in Business Class.
- Defendant is just a moment around of pantry when steward OEDI IRIANTO prepared "Welcome Drink", then defendant to the premium class seat that's near of MUNIR,SH seat.
- That after steward OEDI IRIANTO prepared "Welcome drink" in the form of campagne and orange juice, then "Welcome drink" was served by stewardess YETTI SUSMIARTI and MUNIR,SH took one glass of orange juice that was put in frontalest tray that's separated from other orange juice glass then MUNIR,SH drink that orange juice served.

Thus, defendant consciously was not wanted to participate in the implementation of the planned murder of MUNIR,SH, S.H.

Based an explanation above, so "Element of participating" has failed in. That element of 'participating', has proved. The First element of Charges is chapter 340 penal code jo chapter 55 article (1) penal code

That because of match of Charges letter, dependant was accused with Charges has cummmulative Charges, so in below explanation discussed second Charges.

B. SECOND CHARGES

Article 263 (2) penal code in juncto article 55 (1) first penal code , that have elements below.

- Anyone
- Who deliberately
- using false letter or falsify letter as if it was original.
- the usage of letter can generate a loss
- Committing , orders to committing or participating in the committing of that act

EXPLANATORY

1) "**Anyone**" Aspect :

"Anyone" means person or law subject which have responsibility from formal law based on his action, it's proven on assembly had come POLYCARPUS BUDI HARIPRYANTO as a law subject. Because during on

assembly, obviously the defendant in a good health either psychically or spiritually so there're no one reason that's found on defendant can erase guilty of defendant and seen well as low subject because it's aspect according to us are proven.

2) "**Deliberately**" aspect

Subjective aspect from tort used letter which was faked or made fake are *opzettelijk* aspect or deliberately. Based on placement in tort conception used letter, which was faked, or made fake as mean before, consciously aspect was put in front, thus to declare defendant fulfill consciously aspect, must be proven.

1. there are willing from defendant used that faked letter as seem as a real letter and wasn't faked
2. there are knowledge of defendant that letter are used was a fake letter

Based on court fact , willing and knowledge off defendant or one of his willing or knowledge could be proved as :

- That ROHANIL AINI base on commend via telephone from leader of defendant because got assessment form IS (RAMELGIA ANWAR), have made CHANGING NOTE no OFA/219/04 at September 6, 2004 which signed by him self because defendant promised RAMELGIA ANWAR will ask permission to chief pilot KARMAL FAUZA SEMBIRING and was basing by assessment letter gendral director GARUDA no GARUDA/ DZ.2270/04 at august 11, 2004, for releasing general declaration which inside it was written name of defendant as Extra Crew for departure to Singapore, without command from leader chief pilot KARMAL FAUZA SEMBIRING and M.RAMELGIA ANWAR.
- That assessment letter gendral director GARUDA no GARUDA/DZ.2270/04 at august 11, 2004 which signed ba INDRA SETIAWAN for defendant which generally accepted and no operational yet, so can't used for base assessment to defendant before assessment letter exist from unit which was helped, Internal Security.
- That RAMELGIA ANWAR never give special assessment to Singapore for defendant, but once give instruction for assessment which must completed, is Surabaya- Denpasar- Singapore –Sidney, Hongkong – Jedah and obviously right had made to chief pilot KARMAL FAUZA SEMBIRING, with number of letter IS /117/04 at august 15, 2004, signed by RAMELGIA ANWAR at September 15, 2004 and the same letter with number of letter IS/1177/04, which signed RAMELGIA ANWAR at September 17 2004 about general assessment to defendant is

about assessment to Surabaya-Denpasar-Singapore- Sidney-Hongkong and Jedah, indicated that changing note no OFA/219/04 at September 6,2004 signed by ROHANIL AINI was not base on command from RAMELGIA ANWAR to defendant for assessment to Singapore. Mean while letter 15/1177/04 at august 4,2004 signed by RAMELGIA ANWAR at September 17 2004, about general assessment to defendant are same letter with letter 15/1177/04 august 15,2004 signed RAMELGIA ANWAR at September 15 2004, lo letter 15/1177/04 at august 2004 was not valid.

- That KARMAL FAUZAL SEMBIRING never received call from witness RAMELGIA ANWAR about permission for assessment defendant to Singapore, either or KARMEL FAUZA SEMBIRING never give permission to defendant while changing note of letter no OFA/219/04 at September 6,2004 which signed by ROHANIL AINI without permission witness as chief pilot which have right signed that letter.
- That general declaration was made for departure defendant as passenger extra crew with destination to Singapore base on changing note no OFA/ 219/04 at September 6,2004 which received from operation departure signed by ROHAINIL AINI, so changing note no OFA/219/04 at September 2004 had succeed resulting right, which facility extra crew to, because join in general declaration flight Jakarta- Singapore.
- That expert DR. CHAIRUL HUDA, SH, MH explained that note interoffice no OFA/219/04 at September 2004 which released by witness ROHAINIL on behalf chiefpilot was unauthorized so it was false, and the Internal Security letter that made and signed by witness M RAMELGIA ANWAR No. 15/1177/04 dated September 4th 2004, and yet it was made on 17 September 2004, that legalize the defendant's departure to Singapore on September 6th 2004 is a false letter, the letter made falsely, either the date or the content that explain the events before the making of the letter
- Defendant explanation that admit receiving assignment from Chief Director Garuda for supporting assignment in IS, has called witness Rohanil Aini to make a changing of schedule note with assignment from RAMELGIA ANWAR as an excuse, whom will ask the permission to Chief Pilot KARMAL FAUZA SEMBIRING, so that the Note of Change No. OFA/219/04 dated September 6th 2004 as a base for defendant to enter General Declaration Jakarta-Singapore flight as an extra crew passenger and requesti to issue letter no. 15/1177/04 dated September 4th 2004 but signed by witness M. Ramelgia Anwar on September 17th 2004

- Exhibit such as:
 1. Note of Change no.OFA/219/04 dated September 6th 2004
 2. Interoffice Correspondence Letter no.151177/04 dated September 4th 2004
 3. Interoffice Correspondence Letter no.15/1177/04 dated September 15th 2004

Note of change No.OFA/219/04 dated September 6th 2004 caused the issue of General Declaration Jakarta-Singapore flight with all its facility for defendant to legalize his departure, so the aspect on purpose has been proved legally

3) ***'Using false letter or falsify letter as if it was original'aspect***

In one of his arrest, Hoge Raad said that using a false letter intentionally is a criminal act that separated from the criminal act of the falsification itself. To say that someone is guilty because of the usage of false letter, it is not important that the making of that letter has caused a falsification which can made the actor sentenced as a criminal, it is enough that if the false letter was used at that time and the actor is aware of that. The usage of a false letter or a letter that in the process of making it includes a falsification as written in Article 23 paragraph (2) penal code, it is does not matter whether the defendant's aim has been fulfilled or not.

From the history of jurisprudence still can be known to use a letter that has been falsify or made falsely, the convicted don't have to use it to trick another person, it is enough if the convicted is asking other person to show the letter to another person. It is written in arrest dated February 26th 1934, NJ 1934 page 788, dated March 26th 1934. NJ 1934 page 945, W.12760 dated November 14th 1938, NJ 1939 No. 367, basically HOGE RAAD had decided that:

Whoever ordered somebody else to show a letter that has been falsify, or made by falsification can be seen as using the letter. according the Exhibit in the court it can be proved that:

- Rohanil Aini made Note of Change no.OFA/219/04 dated September 6th 2004 as requested by the defendant
- The Note of Change No.OFA/219/04 dated September 6th 2004 which is illegal has been used as if it was legal by sending it to the Scheduling division to put the defendant's name in the General Declaration Jakarta-Singapore flight.
- That the making of General Declaration the convicted's departure as an extra crew passenger to Singapore based on Note of Change no.OFA/219/04 dated September 6th 2004, which received from operational division that signed by Rohanil Aini, so the Note of Change no.OFA/219/04 dated September 2004 has been used as if

it was legal to issue General Declaration Jakarta-Singapore flight dated September 6th 2004 where defendant's name was in.

- Note of Change no. OFA/219/04 dated September 6th 2004 received by operational division, signed by a person who has no authorization to sign that letter (Rojahnil Aini)
- That KARMAL FAUZA SEMBIRING never receive any phone call from RAMELGIA ANWAR about permission to give convicted a task top Singapore, KARMAL FAUZA SEMBIRING also never give convicted any permission, and yet Rohanil Aini did sign the Note of Change no.OFA/219/04 dated September 6th 2004 without any permission from KARMAL FAUZA SEMBIRING as a Chief Pilot who has the authority to sign that letter.
- That Ramelgia Anwar never give any special assignment to defendant to go to Singapore, but he did give him directive assignment that need to be done in Surabaya-Denpasar-Singapore-Sydney-Hongkong and Jeddah, and it is true that he has made a letter to Chief Pilot KARMAL FAUZA SEMBIRING no.IS/1177/04 dated August 15th 2004 and signed by Ramelgia Anwar on September 15th 2004 and the same exact letter no.IS/1177/04 dated August 4th 2004 that signed by Ramelgia Anwar on September 17th 2004 about general assignment to defendant, thus letter no.15/1177/04 dated August 4th 2004 is illegal.
- That letter received by defendant from RAMELGIA ANWAR no.15/1177/04 dated September 15th 2004 and the same letter dated September 4th September 2004 which both signed by M. Ramelgia Anwar and letter no.15/1177/04 dated September 4th 2004 received on September 17th 2004, because the content is the same with letter 15/1177/04 dated September 15th 2004, so those letters are false. Ramelgia Anwar used that letter to cover the convicted's travelling cost on September 6th 2004 and yet defendant used the Note of Change no.PFA/219/04 dated September 6th 2004 and Interoffice Correspondence 15/1177/04 dated September 4th 2004 to legalize his flight to Singapore with GA-974.
- That Interoffice Correspondence Letter no.15/117/04 dated September 4th 2004 which made on September 17th 2004 so that letter will be the same with defendant's trip Jakarta-Singapore-Jakarta which means *defendant made it up so that his trip will be legal as an assignment trip from Garuda Indonesia*. Even though that letter is made and signed by an authorized person that is Vice President Internal Security, but still that letter was issued caused by defendant's lie to VP Corporate Security that letter no.15/117/04 dated September 15th 2004 had to be match with Chief Pilot Karmal Fauza instruction and dated differently with the actual time, that

letter no.15/1177/04 dated September 4th 2004 is a false letter or being falsify because it's issued caused by defendant's lie and it's dated not in the actual time.

- That letter no.IS/1177/04 dated September 4th 2004 made by VP Corporate Security based on defendant's lie not match with the actual time, not only that letter is false but also that letter can't be a based to give away defendant's responsibility to pay all the expenses for his Jakarta-Singapore-Jakarta trip facilities. This point based on the existence of right that come up from a illegal base.
- That the issue of letter no.IS/1177/04 dated September 4th 2004 caused by defendant's lie and VP Corporate Security Ramelgia Anwar. Ramelgia Anwar position as a VP Corporate Security shouldn't be that easy to be persuaded by defendant. Thus, to letter no.IS/1177/04 dated September 4th 2004 both defendant and Ramelgia Anwar must be responsible for doing criminal act such as letter falsification and usage of a false letter.

Then it is clear that the aspect '*using a letter which content being falsify as if it is legal and not being falsify*', has been fulfilled perfectly as witness' explanations and defendant's explanations above.

4) '*The usage of letter can generate a loss*' aspect

from the word 'can' could be known that loss as meant in that objective aspect don't have to really emerge, because what had been qualify in criminal law article 263 paragraph (2) PENAL CODE is just a possibility generating a loss. According to Hoge Raad in his decision on October 14th 1940, NJ 1941 no.42, Februari 17th 1936 no.471 that what meant by loss not only a material loss but also immaterial such as public interest.

According to Exhibit in court '*the usage of that letter can generate a loss*' can be proved as following:

- that the putting defendant's name in General Declaration Jakarta-Singapore flight on September 6th 2004 will generate defendant's right in the form of facilities which are Jakarta-Singapore-Jakarta flight paid by Garuda, accomodation, transportation in Singapore, and defendant was given allowance by Garuda without any assignment from Garuda. It shows that the usage of Schedule Note of Change no. OFA/219/04 dated September 6th 2006 which caused the issue of General Declaration Jakarta-Singapore flight dated September 6th 2004 where defendant's name was in, caused a loss for Garuda.
- That receiving letter IS/1177/04 dated September 4th 2004 has made defendant free from his sanction that is returning the facilities which caused by General Declaration Jakarta-Singapore flight dated September 6th 2004 where defendant's name is in and caused

facility consequences. It shows that all the personal facilities that defendant has received whom was not doing any assignment from Garuda, and yet the facilities were claimed to Garuda.

- That the making of General Declaration or defendant's departure as an extra crew passenger to Singapore was based on the Note of Change no.OFA/219/04 dated September 6th 2004 that received from Operating Division which signed by Rohanil Aini on September 6th 2004 where defendant's name is in, has generate facilities for defendant either transportation or accomodation that were claimed to Garuda.
- That defendant received facilities as an extra crew for Business Class and while he was in Singapore, he stayed in Novotel Appolo Singapore and also received a pick up facility either in Jakarta or Singapore. It shows that the usage of the false letter had caused loss for Garuda that all facilities received by defendant claimed to Garuda

Thus, the usage aspect can generate a loss has been fulfilled, Garuda has suffered a loss as explained by the witness and defendant's confession above.

5)" Committing, orders to committing or participating in the committing of that act" Aspect.

Article 55 (1) first penal code formulate :

'sentenced as a criminal actor, person who orders to committing or participating in the committing of that act'

From the element Article 55 (1) first penal code above only explain the relevant elements with the prosecution letter, that is *'participate'* according to Article 55 (1) first penal code is anyone who cooperate in doing criminal act, and in this case on purpose.

According to Pompe and followed by Hoge Raad, *'participate'* has 2 (two) conditions such as:

2. there has to be a cooperation between one actor with another actor(s)
3. there has to be an awareness in that cooperation.

In connection with *'participate'* it is need to be said that there is a jurisprudence which can be used as a base:

'if the actor has directly cooperate in doing the plan and that cooperation so complete and perfect, then it would not be a matter which actor who has completed the crime' (HR Mei 1st 1943 No.576).

HOGUE RAAD was also not conditioned *'participate'* had to be altogether in the crime scene, i.e. one of them can just stay at home (Jonger pp. 104-105)

Moeljanto believed that it is not really necessary to judge that each actor will likely fulfill all aspects of prosecution, instead it may be

possible that a change occurring in one of these actors may resemble the first element, followed by the second participant fulfilling the second. Prosecution criterion, and so on. In the end, the collective fulfillment done by each participant will merge into a common unity, resulting into final prosecutory item. In other words, the actors are not required to be assigned to every element of the crime itself, as long as they realize that their acts are done within the scope of supporting the main act of crime.

Aspect '*participate*' can be explained based on these facts:

- That order by phone done by defendant that he got assignment from IS (Ramelgia Anwar) has made Note of Change no.OFA/219/64 dated September 6th 2004 signed by himself, because defendant has promised Ramelgia Anwar to ask Chief Pilot KARMAL FAUZA SEMBIRING's permission and based on Chief Director's warrant no. GARUDA/DZ-2270/04 dated August 11th 2004 to issue General Declaration where defendant's name was in as an extra crew to go to Singapore, shows witness Rohanil Aini had made a letter that caused the issue of defendant's rights to get extra crew's facilities, without any order or permission from his Chief Pilot KARMAL FAUZA SEMBIRING.
- That Chief Director's warrant no.GARUDA/DZ-2270/04 dated August 11th 2004 signed by witness for the defendant only had a general characteristics and not operational yet from the unit that being assisted, in this case IS. It shows that the making of Note of Change no.OFA/219/04 on September 6th 2004 and signed by Rohanil Aini is illegal.
- That Ramelgia Anwar never gave defendant any special assignment to Singapore. But he did ever gave a direction of assignment that needs to be done to Surabaya-Denpasar-Singapore-Sydney-Hongkong and Jeddah, and it is true that he has made a letter to Chief Pilot KARMAL FAUZA SEMBIRING no.IS/1177/04 dated August 15th 2004 and signed by Ramelgia Anwar on September 15th 2004 and the same exact letter no.IS/1177/04 dated August 4th 2004 that signed by Ramelgia Anwar on September 17th 2004 about general assignment to defendant that is assignment to Surabaya-Denpasar-Singapore-Sydney-Hongkong and Jeddah, shows that the Note of Change no.OFA/219/04 dated September 6th 2004 signed by ROHAINIL AINI was not based on the existence of order from witness Ramelgia Anwar to defendant to go to Singapore. And yet letter IS/1177/04 dated September 15th 2004 signed by witness on September 17th 2004 that was about general assignment for defendant is the same exact letter with letter IS/1177/04 dated

September 15th 2004 signed by witness on September 15th 2004. Thus, letter IS/1177/04 dated September 4th 2004 is illegal.

- That KARMAL FAUZA SEMBIRING never received a phone call from RAMELGIA ANWAR asking about permission to warrant defendant to go to Singapore, KARMAL FAUZA SEMBIRING also never gave permission to defendant, and yet the signing Note Of Change no.OFA/219/04 dated September 6th 2004 by Rohanil Aini was done without any permission from KARMAL FAUZA SEMBIRING as Chief Pilot who has the authorization to sign the letter. And yet the letter which received from RAMELGIA ANWAR was no.15/1177/04 letter dated September 15th 2004 and the same exact letter dated September 4th 2004 both signed by M. Ramelgia Anwar. It shows that letter Note of Change no.OFA/219/04 dated September 6th 2004 signed by ROHAINIL AINI was made without any authorization, which is illegal, and because of the similarity of the content between letter IS/1177/04 dated September 4th 2004 received on September 17th 2004 and 15/1177/04 dated September 15th 2004, has caused one of them became illegal, which is the IS/1177/04 letter dated September 4th 2004. But the illegal letter was used by M. Ramelgia Anwar to cover all the expenses on defendant's trip on September 6th 2004 and yet defendant used letter Note of Change no.OFA/219/04 dated September 6th 2004 and Interoffice Correspondence IS/1177/04 dated September 4th 2004 to legalize defendant's trip on September 6th 2004 to Singapore with GA-974.

From the series of accounts mentioned above, it can be seen clearly that there is a sense of consciousness embedded within each actor in implementing the offense. The offense itself is inseparable with entire account of connectivity between an actor's role with the others, that is defendant's awareness and M. Ramelgia Anwar in using the Interoffice Correspondence no.IS/1177/04 dated September 4th 2004

The same thing can be seen in Pompe's vies and Mojanto's, including jurisprudence, that is if the actors themselves have committed themselves to fully cooperate in carrying out the plan, and if the cooperation process itself were indeed sufficient and complete, it would then be a matter of simplicity in determining which actor completed the crime, where defendant and M. Ramelgia Anwar has altogether using the Interoffice Correspondence letter dated September 4th September 2004 as explained above in series of Exhibit, so that what defendant POLLYCARPUS BUDIHARI PRIYANTO has done can be qualified as a 'participate' as explained in Article 55 (1) first penal code.

According to explanation above, 'participation' aspect has proved legally. Thus within 'participation' aspect is being proved means that all the aspects in the second prosecution, that is article 263 (2) panel code in juncto Article 55 (1) first penal code.

VI. CLOSURE

Honorable board of judges,
Respected legal advisers,
Audience of the court

By proving the charges on defendant, and by taking Exhibit over the fact of the absence of elements which may purge unlawfulness of the defendant, POLLYCARPUS BUDIHARI PRIYANTO, thus it is deemed that, the defendant may take up his responsibility through criminal prosecution. Nevertheless, before we arrive to the point of convicting the defendant, please allow us to present several items which we have made as a plead. Of consideration to present a criminal charge:

Points of Disadvantages:

- the defendant has violated the principles of truthfulness and honesty in order to flee the responsibility of his acts.
- A criminal prosecution with a heavy sentence for the defendant

Points of Advantages:

- by taking response to the description mentioned above, we as public prosecutors of this case will take observance upon relevant acts and verses of the law.

TO PROSECUTE

the panel of judges of central Jakarta district court who trial the case of defendant POLLYCARPUS BUDIHARI PRIYANTO to decide:

1. Stating that the defendant POLLYCARPUS BUDIHARI PRIYANTO has been legally proved committing criminal act "planned murder and using false letters" as stipulated in article 340 of the Penal code in juncto article 55

(1) and article 263 (2) in juncto of article 55(1) of the Penal code.

*2. The defendant POLLYCARPUS BUDIHARI PRIYANTO should get **LIFE SENTENCE**. The defendant also should remain in the custody.*

3. The Exhibits:

1. One page original letter with Garuda Indonesia header on top

with number Garuda/DZ-2270/04 dated August 11, 2004 on the assignment of PBP signed by Garuda's director, INDRA SETIAWAN.

2. One page original letter inter office correspondence with Garuda Indonesia header on top with number OFA/1177/04 dated September 4, 2004 on the assignment to the defendant signed by Ramelgia Anwar.

3. One page original letter interoffice correspondence with Garuda Indonesia header on top with number OFA/1177/04 dated September 15, 2004 on the assignment to the defendant signed by Ramelgia Anwar.

4. Three original letters dated September 8, 2004 signed by Pollycarpus addressed to VP corporate Security of Garuda.

5. Two original letters dated September 8, 2004 signed by Pollycarpus addressed to Operational manager of Garuda.

6. 1 pile of original letters dated September 8, 2004 addressed to VP corporate Security PT Garuda signed by the defendant Pollycarpus on assignment report with number PDZ-2270-04.

7. 1 page original Tax Invoice Novotel Hotel Apollo Singapore on the defendant's name: Pollycarpus F/) GA 826 room No. 1618, arrived at September 6, departed at September 7, 2004.

8. Original monthly schedule of the defendant, Pollycarpus dated August 1 until September 26, 2004.

9. 1 original ID card of Pollycarpus No. 522659, Occupation: Aviation Security issued on June 16, 2004 signed by Vice President Human Resources Management, Daan Ahmad.

10. 1 original General Declaration (Gendec) of the flight from Singapore to Amsterdam dated September 7, 2004.

11. 1 page photo copy of a letter from pilot chief pilot A 330 signed by ROHAINILAINI, no. OFA/210/04 dated August 31, 2004 on requesting to change the schedule of the flight for Pollycarpus.

12. 1 page photo copy of a letter from chief pilot A 330 signed by ROHAINILAINI, Note OFA/219/04 dated September 6, 2004 on requesting to change the schedule of the flight for Pollycarpus.

13. 1 pile of documents from *kininklijke merechaussee distric schipol algemene recherche, dossier onderzoek niet batuurlike dood MUNIR, SH Geboren 08-12-1965 te Malang, Indonesia.*

14. 1 photo copy of a letter, "*Verslog betreffende een niet natuurlijke dood*", issued by HB Dammen as "*de Officer Van Justitie in het arrondissement haarlem*" dated September 7, 2004.

15. A letter "*Voor Bevindingen*" issued by dr. R. Visser as patholog from Menisterie Van Justitie Nedergrounds Forensich Instituut at Rijkswijk dated September 8. 16. Sixteen pages of pictures

of MUNIR,SH's body.

17. A letter from dr. R. Visser of NFI to Mr. E. Visser, an officer Arrondissementparket Haarlem dated October 13.
18. A letter of the result of psot mortem examination postmortem pro justitia No. 04419/R102 made by dr. R. Visser dated October 13, 2004.
19. A letter "Deskundigenrapport, Voorlopig rapport" issued by dr. K.J. Lushov, apothekertoxicoloog of Ministerie Van JustitieNedergro unds Forensich Intituut, Zaaknummer 2004.09.08.036 Uw Kenmerk PBS/XPOL Nummer: PL278C/0408133, Sectie Nummer: 2004419, dated November 1, 2004
20. A letter "Deskundigenrapport, Voorlopig rapport" issued by dr. K.J. Lusthov, apothekertoxicoloog of Ministerie Van Justitie Nedergrounds Forensich Intituut, Zaaknummer 2004.09.08.036 Uw Kenmerk PBS/XPOL Nummer: PL278C/0408133, Sectie Nummer: 2004419, dated November 4, 2004.
21. A copy of letter on submitting the legalized documents from Ministerie van Justitie to The Indonesian Embassy dated November 25 2004.
22. 1 photo copy, legalized by General Declaration on the flight from Jakarta--Singapore dated September 6, 2004
23. One memo pad belongs to the defendant, Pollycarpus
24. I handphone Nokia, casing: brown and black including Sim card with the number 081596690617
25. Handphone Nokia 921, CE 168 Type RAE-3N
26. Simcard from Telkomsel with the number No. 6210100013006566
27. MUNIR,SH's clothes during the flight from Jakarta to Singapore to Amsterdam.
28. A note book, Acer Travel Mate 4000 Model ZL I including the bag.

The exhibits were submitted to The Central Jakarta Attorney to be used as exhibits in other case.

4. Stated that the defendant should pay the cost of the case amount to Rp 2.500,- (dua ribu lima ratus rupiah) or US\$ 0.25

The dossiers of the charges read and sumitted in the court on Thursday, December 1, 2005, signed by

The Public Prosecutor,

**Domu P Sihite, SH, MH,
(230016855)**