

## ABSTRAK

Hakim sebagai penentu untuk memutuskan suatu perkara yang diajukan ke pengadilan, sehingga dalam menjatuhkan harus memiliki pertimbangan-pertimbangan. Tujuan penelitian 1) untuk mengetahui dan menjelaskan dasar hukum pertimbangan hakim tingkat pertamahakim tingkat banding, 2) untuk mengetahui dan menjelaskan dasar hukum pertimbangan hakim tingkat kasasi sampai terdakwa diputus lepas dari segala tuntutan hukum dan 3) untuk mengetahui dan menjelaskan hak-hak terdakwa adanya putusan lepas dari segala tuntutan hukum.

Hasil penelitian menunjukkan bahwa : 1). Dasar pertimbangan hukum hakim tingkat pertama dalam perkara No.86/Pid.Sus/2012/PN.Kbm yang amarnya menyatakan perbuatan terdakwa secara sah melakukan tindak pidana merusak kesopanan dimuka orang lain “ dengan pidana penjara selama 1 (satu) tahun dan dasar pertimbangan hukum hakim tingkat banding dalam perkara No. 390/Pid.Sus/2012/PT.Smg, yang amarnya menguatkan putusan hakim tingkat pertama, sehingga dengan demikian maka dasar pertimbangan hukum hakim tingkat banding sama dengan hakim tingkat pertama. 2). Dasar pertimbangan hukum hakim tingkat kasasi dalam perkara No. 865.K/Pid.Sus/2013 yang amarnya membatalkan putusan banding No.390/Pid.Sus/2012/PT.Smg, menyatakan terdakwa telah terbukti melakukan perbuatan seperti tersebut dalam surat dakwaan pertama dari jaksa penuntut umum Pasal 82 UU RI No.23 tahun 2002 tentang perlindungan anak, melepaskan terdakwa oleh karena dari segala tuntutan hukum, memulihkan hak-hak terdakwa dalam kedudukan, kemampuan, harkat serta martabatnya dikarenakan terdakwa tidak mampu bertanggung jawab (Ps 44 KUHP). 3). Hak terdakwa atas putusan kasasi yang telah memutus terdakwa lepas dari segala tuntutan hukum, sehingga terdakwa sekaligus telah memperoleh hak rehabilitasi dan terdakwa juga mempunyai hak menuntut ganti kerugian yang diatur dalam Pasal 95 KUHAP No. 8 Tahun 1981.

**Kata kunci : Putusan Kasasi No.865.K/Pid.Sus/2013.**

## **ABSTRACT**

*Judges a determinant for found a case filed in court, so the drop must have considerations. The research objective 1) to determine the legal basis for consideration of the trial judge, 2) to determine the legal basis for consideration of the judge appellate level, 3) to determine the legal basis for consideration of the judge cassation to the defendant cut off from all lawsuits and 4) to determine the rights accused the verdict free from any lawsuits.*

*The results showed that :1). Legal foundation considerations of the trial judge in the case Num. 86 / Pid.Sus / 2012 / PN.Kbm ruled that the defendant has been proven legally and convincingly guilty with crime "Deliberately damaging courtesy before others" with imprisonment for one (1) year as stipulated under Article, with the following elements: 1). Whoever; 2). Deliberately damaging courtesy before others present are not on their own accord;2).Found legal consideration of appeals in the case No. 390 / Pid.Sus / 2012 / PT.Smg, that the High Court judge had ruled Semarang verdict upheld the ruling that the trial judge, and thus the basis of consideration of appeals judges equal level with the trial judge. Found legal considerations appeal in case No. 865.K / Pid.Sus / 2013 has passed a decision that overturned the verdict of the appeal verdict 390 / Pid.Sus / 2012 / PT.Smg, said the defendant has been proven to do a thing like that in the indictment,dignity and dignity, as stipulated by Article 44 of the criminal Code which reads elements: 1). Whoever grind act, which can not be insured to him because of less than perfect because of illness changed his mind or intellect should not be punished. "2). If the real action that can not be insured to him because of less than perfect because of illness changed his mind or sense then the judge may not order to put him in the hospital crazy for ever a year to be examined. 3). Specified in the above paragraph, only applies to the Supreme Court, High Court and District Court.3).defendant on appeal verdict which had cut off the defendant of all charges, the defendant at the same time has gained the right rehabilitation and compensation stipulated in Article 95 of the Criminal Procedure Code No. 8 of 1981.*

**Keywords: Cassation Decision No.865.K / Pid.Sus / 2013.**