



## LEGAL ANALYSIS OF CONTRADICTIONS IN THE TESTIMONY OF THE WITNESS A DE CHARGE THAT INFLUENCE THE DEFENDANT: A CASE STUDY OF MA DECISION NUMBER 4050 K/PID.SUS/2024

Sofia Khairunnisa Damanik<sup>1</sup> Atikah Rahmi<sup>2</sup>

<sup>123</sup> Universitas Muhammadiyah Sumatera Utara

E-mail: [sofiakd53@gmail.com](mailto:sofiakd53@gmail.com) [atikahrahmi@umsu.ac.id](mailto:atikahrahmi@umsu.ac.id)

Article Info	Abstract
<p><b>Article History</b> Received: 2025-11-25 Revised: 2025-12-29 Published: 2026-01-10</p> <p><b>Keywords:</b> <i>Analysis,</i> <i>contradiction,</i> <i>witness,</i> <i>defendati</i></p>	<p>The defendant's right to present mitigating witnesses (witnesses a de charge) is an integral part of the principle of fair trial and the protection of human rights in criminal procedural law. Normatively, the Criminal Procedure Code (KUHP) does not differentiate the evidentiary value of witnesses based on the party presenting them, but rather emphasizes the fulfillment of formal and material requirements for witness testimony as valid evidence. However, in criminal justice practice, the testimony of witnesses a de charge is not always mitigating and in certain conditions actually contains contradictions that strengthen the charges and incriminate the defendant.</p> <p>This study aims to analyze the legal position and legal implications of the contradictions in the testimony of witnesses a de charge that incriminate the defendant, with a case study of Supreme Court Decision Number 4050 K/Pid.Sus/2024. The research method used is normative legal research with a statutory, doctrinal, and court decision study approach. The results of the study indicate that the witness's status as a de charge does not determine the direction of the assessment of his testimony.</p> <p>Judges, based on the principle of freedom to negatively assess evidence in the statutory evidentiary system, have the authority to objectively assess the substance, consistency, and relevance of witness testimony. Supreme Court Decision Number 4050 K/Pid.Sus/2024 confirms that contradictory testimony from a de charge witness may still be used as part of the evidence against the defendant as long as it meets the requirements of valid evidence and is linked to other evidence. This finding demonstrates that the protection of the defendant's rights within a fair trial framework is not absolute but must be placed proportionally in the pursuit of material truth and the upholding of substantive justice.</p>

## I. INTRODUCTION

Procedural law plays a fundamental role in ensuring a fair, objective, and human rights-based judicial process. One of the main principles underpinning criminal procedural law is the protection of the rights of suspects and defendants, including the right to optimal self-defense in court. This principle is realized, among other things, by providing defendants with the opportunity to present mitigating evidence, including the presence of witnesses known as "ad charge" witnesses.

The presence of "ad charge" witnesses is a manifestation of the principle of equality before the law and a fair trial, which places the defendant and the public prosecutor on equal footing in the evidentiary process. Normatively, the defendant's right to present favorable witnesses is expressly regulated in the Criminal Procedure Code (KUHAP), specifically Article 65 and Article 116 paragraph (3), which affirms that the defendant has the right to seek and present witnesses or experts favorable to his or her defense.

This provision demonstrates that the Indonesian criminal justice system is not solely oriented toward proving guilt, but also toward protecting the defendant's rights from arbitrary violations by state authorities.

Conceptually, an a de charge witness is understood as a witness expected to provide mitigating evidence, either by refuting the elements of the crime charged or by strengthening the defendant's defense arguments. However, in criminal justice practice, the testimony of an a de charge witness does not always serve its intended purpose. It is not uncommon to find witness testimony that contains contradictions, inconsistencies, or even strengthens the prosecutor's charges, potentially complicating the defendant's case.

This situation raises important legal issues, particularly regarding the status and evidentiary value of the testimony of an a de charge witness, formally presented to defend the defendant, but materially detrimental to their position. This issue becomes even more significant when the contradictory testimony is considered by the judge in rendering a

verdict. Therefore, the witness's status as a de charge does not automatically guarantee that the judge will consider their testimony mitigating.

In the development of criminal procedural law, the orientation of law enforcement is no longer solely focused on formal truth but must also be directed toward achieving substantive justice. Rahmi (2018) emphasized that the criminal justice process should provide a fair and proportional assessment of evidence, including witness testimony, so that the resulting verdict truly reflects a sense of justice and protects the defendant's rights. Inaccuracy in assessing witness testimony has the potential to result in a verdict that deviates from the principles of a fair trial.

The issue of contradictory testimony from a de charge witness is also closely related to the principle of judicial freedom in assessing evidence (*vrij bewijswaardering*). In the negative legal system of proof (*negatief wettelijk bewijsstelsel*) adopted by Indonesian criminal procedure law, judges are given the authority to freely assess the probative strength of evidence, as long as it is based on legally valid evidence and supported by the judge's conviction. Therefore,

the testimony of a de charge witness remains subject to the judge's assessment of its relevance, consistency, and appropriateness with other evidence presented at trial. Supreme Court Decision No. 4050 K/Pid.Sus/2024 serves as a concrete example of how contradictory testimony from a de charge witness is considered in the criminal justice process up to the cassation level. In this ruling, the Supreme Court emphasized that the assessment of a witness's testimony is not determined by their status as a de charge or a charge witness, but rather by their fulfillment of formal and material requirements as valid evidence, as well as their consistency and relevance to the overall facts of the trial. This ruling has important implications for the defendant's defense strategy and the limits of the defendant's rights protection in the criminal evidence process.

Based on this description, this research is crucial to conduct in-depth legal examination

of the contradictory legal aspects of a de charge witness testimony that materially incriminates the defendant, through an analysis of Supreme Court Decision Number 4050 K/Pid.Sus/2024. This research aims to understand the legal status and implications of a de charge witness testimony in

the criminal evidence system, examine the judge's legal reasoning patterns in evaluating contradictory witness testimony, and assess the suitability of these considerations to the principles of fair trial and the protection of the defendant's human rights.

## II. RESEARCH METHODS

This research uses a normative legal research method with a literature study approach, which focuses on the legal analysis of the contradictions in the testimony of a de charge witnesses that actually incriminate the defendant. This study was conducted by examining positive legal norms, doctrines, and court decisions, specifically Supreme Court Decision Number 4050 K/Pid.Sus/2024 as the main object of the research. The legal materials used consist of primary legal materials in the form of laws and regulations in the field of criminal procedure law and relevant court decisions, secondary legal materials in the form of books, journal articles, and opinions of legal experts, and tertiary legal materials in the form of legal dictionaries and encyclopedias. The collection of legal materials was carried out through literature searches and court decision databases, which were then analyzed qualitatively with normative and prescriptive approaches to assess the judge's consideration patterns and the legal implications of the contradictions in the testimony of a de charge witnesses on the principle of a fair trial and the protection of the defendant's rights.

## III. RESULTS AND DISCUSSION

### A. Contradictions in the Testimony of a Witness A De Charge as a Legal Issue

In the Indonesian criminal procedural law system, a witness a de charge occupies a strategic position as a means of defending

the accused. Normatively, the Criminal Procedure Code (KUHAP) does not differentiate the evidentiary value of witnesses based on who presents them, but rather on whether the testimony meets the formal and material requirements. Article 184 paragraph (1) of the KUHAP states that witness testimony is valid evidence, regardless of whether the witness is presented by the public prosecutor or the accused. Therefore, legally, a witness's status as a de charge does not automatically place them as a mitigating witness, but rather as a witness expected by the accused to provide testimony favorable to them.

In this context, the presence of a witness a de charge is more accurately understood as a manifestation of the accused's right to actively defend themselves, not as a guarantee that the testimony provided will always be exculpatory. The essence of criminal evidence remains directed at the search for material truth, so every witness's testimony, including that of a witness a de charge, must be objectively examined by the judge. Thus, if the testimony of a witness a de charge actually strengthens the facts incriminating the defendant, such testimony can still be used as valid evidence.

Contradictory witness testimony is an integral part of criminal justice practice. Contradictions can occur in various forms, including differences in testimony between one witness and another, as well as inconsistencies in the testimony of the same witness across the investigation, prosecution, and trial stages. In the context of a witness a de charge, contradictions become a significant legal issue when the testimony provided is inconsistent with the defendant's defense and even strengthens the prosecutor's charges.

Legally, contradictory testimony from a witness a de charge does not necessarily negate its evidentiary value. The Criminal Procedure Code (KUHAP) does not recognize an exclusionary rule regarding contradictory witness testimony, but rather leaves the assessment of such contradictions to the judge. The judge has the authority to assess whether the contradiction is substantial or merely concerns minor aspects that do not affect

the main points of the case. Therefore, contradictions are part of the process of evaluating evidence, which demands the judge's accuracy, caution, and rationality in drawing legal conclusions.

In practice, contradictory testimony from witnesses a de charge often arises due to a lack of preparedness, the emotional connection between the witness and the defendant, or the witness's limited knowledge of the actual criminal events.

This situation emphasizes the importance of a well-thought-out defense strategy when presenting witnesses, as any testimony given under oath carries serious legal consequences.

#### **B. Analysis of Legal Considerations in Supreme Court Decision Number 4050 K/Pid.Sus/2024 and Legal Implications for the Protection of the Defendant's Rights**

One of the fundamental principles of Indonesian criminal procedure law is the freedom of judges in assessing evidence (*vrij bewijswaardering*). This principle grants judges the authority to independently assess the weight and probative value of evidence, as long as such assessment remains based on statutory provisions and is supported by the judge's rational and accountable convictions. In a negative system of evidence based on the law (*negatief wettelijk bewijsstelsel*), judges are not only bound by the quantity and type of evidence, but also by its quality, relevance, and connection to the facts revealed at trial.

In the context of a de charge witness testimony, the principle of freedom of judges in assessing evidence means that judges are not bound to immediately consider the witness's testimony as mitigating simply because of their status as defense witnesses. Rather, judges are obligated to assess whether the testimony provided is consistent, logical, and aligned with the other evidence presented. If the testimony of a witness a de charge actually strengthens the elements of the crime charged, then the judge is legally justified

in considering it as part of the considerations against the defendant.

This view aligns with the opinion of Wahyuni and Khairo (2022), who assert that judges have full authority to objectively assess the testimony of a witness a de charge, regardless of the witness's status. In their study of corruption cases, they found that testimony by a witness a de charge can still incriminate the defendant if it confirms the facts supporting the prosecutor's charges. Therefore, testimony by a witness a de charge must be assessed based on its consistency, relevance, and consistency with other evidence presented at trial.

Supreme Court Decision Number 4050 K/Pid.Sus/2024 provides a concrete illustration of the application of this principle in criminal justice practice. In this decision, the Supreme Court emphasized that a witness's status as a witness a de charge does not determine the direction of the assessment of their testimony. The judge's assessment focuses on the substance of the witness's testimony, its consistency with the legal facts revealed at trial, and its relationship to other valid evidence.

In its deliberations, the Supreme Court concluded that the testimony of the a de charge witness presented by the defendant actually demonstrated an indirect admission to the criminal incident charged. The contradiction between the initial objective of the defense and the substance of the witness's testimony was one of the factors that strengthened the judge's conviction of the defendant's guilt. Therefore, the Supreme Court declared that there was no error in the application of law by the *judex facti* in considering the a de charge witness's testimony as part of the evidence against the defendant.

This decision demonstrates that the Supreme Court places the search for material truth above the formal interests of the party presenting the witness. As long as the witness's testimony is obtained legally, given under oath, and relevant to the case being examined, it retains evidentiary force, regardless of whether it benefits or harms the defendant.

Furthermore, Supreme Court Decision No. 4050 K/Pid.Sus/2024 has significant legal implications for the protection of the defendant's rights. On the one hand, this decision confirms that the defendant's right to present an a de charge witness remains respected and is not normatively restricted. However, on the other hand, this ruling emphasizes that this right is not absolute and is not free from legal consequences regarding the substance of the testimony provided.

The most prominent legal implication is the need for caution in presenting witnesses a de charge. Defendants and their legal counsel are required to ensure that the witnesses presented have an adequate understanding of the criminal incident and are able to provide consistent and relevant testimony. Failure to do so could potentially lead to contradictory testimony, which would weaken the defendant's position in court. Furthermore, this ruling emphasizes the judge's role as a balance between protecting the defendant's rights and the interests of law enforcement. Judges are not required to be formalistic in assessing the status of witnesses, but must instead explore the substance of the testimony to achieve substantive justice. More broadly, Supreme Court Decision No. 4050 K/Pid.Sus/2024 holds significant significance for criminal justice practice in Indonesia, as it can serve as a reference in assessing contradictory testimony from witnesses a de charger.

### **C. Contradictions in the Testimony of the A De Charge Witness from the Perspective of the Principle of Fair Trial**

Contradictions in the testimony of the a de charge witness that resulted in the defendant's conviction need to be analyzed from the perspective of the principle of fair trial, a universal principle in criminal justice. The principle of fair trial requires that every defendant be given an equal opportunity to defend themselves, including through the presentation of mitigating witnesses. However, this principle cannot be interpreted simplistically as a guarantee that all defense efforts will result in a favorable verdict for the defendant. The principle of

fair trial emphasizes the fulfillment of procedural justice, namely the guarantee that the defendant's rights are respected and enforced formally and substantively throughout the trial process.

In Supreme Court Decision Number 4050 K/Pid.Sus/2024, the Supreme Court did not eliminate the defendant's right to present a de charge witness, but rather placed this right within the framework of objectivity of evidence. The defendant's rights are deemed fulfilled when the witnesses presented are legally examined in court, testify under oath, and their testimony is explicitly considered in the judge's legal deliberations. Therefore, even if the final verdict is incriminating against the defendant, this situation cannot necessarily be considered a violation of the principle of fair trial, as long as the evidentiary process is transparent, non-discriminatory, and based on the judge's rational and accountable judgment.

One crucial issue in this case is the discrepancy between the subjective objectives of the defendant's defense and the judge's objective assessment. From the perspective of the defendant and his legal counsel, the witness a de charge is presented with the hope of refuting the charges or at least weakening the prosecutor's evidentiary structure. However, this subjective objective is not binding on the judge. In Supreme Court Decision Number 4050 K/Pid.Sus/2024, the judge assesses the substance of the witness's testimony based on its consistency with the legal facts and other evidence revealed at trial. When the testimony of the witness a de charge contradicts the defense narrative and strengthens the elements of the crime, the judge has the authority to set aside the defense objectives and prioritize the search for material truth.

This confirms that the primary function of witnesses in criminal procedural law is to assist the judge in determining the material truth, not merely as a strategic instrument for one of the parties. Therefore, not every testimony by a witness ad-charge that incriminates the defendant should be viewed as a form of injustice. Rather, this situation reflects the judge's independence and professionalism

in carrying out their judicial function.

Contradictory witness testimony is a common phenomenon in criminal justice practice, both in the form of differences in testimony between witnesses and inconsistencies in the testimony of the same witness at different stages of the examination. In the context of a witness ad-charge, contradictions become a serious problem when the testimony provided weakens the defendant's defense and strengthens the charges. Moy et al. (2025) emphasize that contradictory testimony by a witness ad-charge does not automatically eliminate the evidentiary value of the testimony. The judge retains the authority to assess the witness's testimony contextually and relate it to the overall legal facts revealed during the trial. Therefore, contradictory witness testimony can be part of the process of determining the material truth, as long as it is assessed carefully and rationally.

Although judges have the freedom to assess evidence, this freedom is not absolute. The assessment of a witness's testimony against the defendant must remain within the bounds of the law and the principles of criminal justice. The judge is obliged to provide clear, logical, and accountable legal considerations and not to use the witness's testimony as a stand-alone basis for incrimination without supporting evidence.

In Supreme Court Decision Number 4050 K/Pid.Sus/2024, the Supreme Court determined that contradictory testimony against a witness against the defendant should not be used in isolation, but rather in conjunction with other evidence that meets the minimum requirements for proof (bewijsminimum). This demonstrates judicial caution in using witness testimony that could potentially prejudice the defendant and also provides guidance that the testimony of a witness against the defendant must be placed within a comprehensive and mutually reinforcing evidentiary framework.

This discussion has direct implications for the practice of defense in criminal cases. Supreme Court Decision Number 4050 K/Pid.Sus/2024 provides an important lesson for legal counsel that the

presentation of a witness against the defendant should not be done merely as a formality or based on.

#### **IV. CONCLUSIONS AND RECOMMENDATIONS**

Based on the results of the legal analysis of the contradictions in the testimony of a de charge witnesses in Supreme Court Decision Number 4050 K/Pid.Sus/2024, it can be concluded that Indonesian criminal procedure law does not provide special treatment for the evidentiary value of witnesses based on their status as mitigating or incriminating witnesses. The Criminal Procedure Code (KUHAP) positions all witness testimony as evidence that must be assessed objectively based on the fulfillment of formal and material requirements, as well as its conformity with other evidence revealed in court.

#

Therefore, testimony from a de charge witnesses that substantially contains contradictions and actually strengthens the elements of the crime charged still has evidentiary force and can legally incriminate the defendant. Supreme Court Decision Number 4050 K/Pid.Sus/2024 affirms the application of the principle of judicial independence in assessing evidence (vrij bewijswaardering) within the framework of the statutory evidentiary system negatively.

The Supreme Court considers that the assessment of witness testimony must be based on the substance and relevance of the testimony to the legal facts, not on the subjective goals of the party presenting it. Thus, the contradiction of the testimony of a de charge witness is not considered a violation of the principle of fair trial as long as the defendant's right to present witnesses is still granted, the witnesses are examined legally, and their statements are considered rationally and proportionally by the judge.

The legal implications of this decision indicate that the protection of the defendant's rights in the evidentiary process is not an absolute right without legal consequences. The defendant and legal counsel are required to be careful and

responsible in presenting a de charge witness, because every statement given under oath has the potential to influence the judge's conviction. Academically and practically, this decision strengthens the doctrine that the primary purpose of evidence in criminal cases is the search for material truth, and emphasizes that the dichotomy between mitigating and incriminating witnesses must be understood functionally within the framework of substantive justice.

## REFERENCE LISTAN

Hamzah, Andi. (2008). Indonesian Criminal Procedure Code. Jakarta: Sinar Grafika.

Harahap, Yahya M. (2000). Discussion of Problems and Application of the Criminal Procedure Code (Investigation and Prosecution). Jakarta: Sinar Grafika.

Mertokusumo, Sudikno. (2009). Indonesian Civil Procedure Code. Yogyakarta: Liberty (Important to deepen the theory of *vrij bewijswaardering* or the freedom of judges in assessing evidence).

Moy, J., Sasa, L., Nome, M., Romelus, L., & Dethan, J. (2025). Normative Review of Witnesses and Charges in Judges' Decisions. *Edukreatif: Journal of Creativity in Education*, 6(1).

Putra, M. J. A., Busroh, F. F., & Utoyo, M. (2023). Legal Analysis of the Implementation of Constitutional Court Decision Number 65/PUU-VIII/2010 Regarding the Validity of Testimonium De Auditu Witness Evidence in Criminal Cases and the Criminal Procedure Code. *Lex Stricta: Journal of Legal Studies*, 1(3), 135-152.

Rahmi, A., (2018), "The Urgency of Protection for Victims of Sexual Violence in an Integrated Gender-Equitable Criminal Justice System," *Mercatoria*, 11(1): 37-60.

Ramadhan, M. Z. Y. (2021). Investigators' Obligations in Summoning and Examining Witnesses in Charge. *Indonesian Law Enforcement Journal*, 2(2), 247-269.

Sitoresmi, P. D. The Defendant's Right to Present a Mitigating Witness (A De Charge) in Assault Trials (Case Study of Decision Number: 71/Pid. B/2015/PN. BAU). *Verstek*, 6(3).

Sofyanto, Edi. (2023). "The Principle of Fair Trial in the Indonesian Criminal Justice System." *Jurnal Justitia Hukum*. (Relevant to support your analysis in Part III, Point 3, on Fair Trial).

Suliastini, R. Review of the Use of the Right to Refute and A De Charge Witnesses in Criminal Procedure Law (Case Study of Decision Number:

152/PID. B/2011/PN. P BKN). *Verstek*, 1(2).

Wahyuni, L., & Khairo, F. (2022). A De Charge Witnesses in Corruption Trials. *Lex Stricta: Journal of Legal Studies*, 1(1), 29-40.

Law Number 8 of 1981 concerning Criminal Procedure (State Gazette of the Republic of Indonesia Number 76 of 1981, Supplement to the State Gazette of the Republic of Indonesia Number 3209).

Supreme Court Decision Number 4050 K/Pid.Sus/2024.

Constitutional Court Decision Number 65/PUU-VIII/2010 concerning the Expansion of the Definition of Witness

Supreme Court of the Republic of Indonesia. (2024). Directory of Supreme Court Decision Number 4050 K/Pid.Sus/2024.

JDIH Prosecutor's Office/Ministry of Law and Human Rights. Full text of Criminal Procedure Code Article 65, Article 116 paragraph (3), and Article 184 paragraph (1)