

Research Article

# Criminal Liability of Bounced Check Fraud Perpetrators in Criminal Law Perspective: A Case Study of Decision Number 1698/Pid.B/2022/PN Sby

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**Abstract:** This research aims to analyze the criminal liability of perpetrators of fraud through bounced checks and the legal protection provided to victims. The study focuses on Decision Number 1698/Pid.B/2022/PN Sby, in which the defendant was found guilty of fraud under Article 378 of the Indonesian Criminal Code (KUHP). Using a normative juridical approach through literature study with statutory and conceptual approaches, the findings demonstrate that the panel of judges correctly applied the elements of fraud, including malicious intent (*mens rea*), the use of deception or a series of lies, and actual loss suffered by the victim. The judge's legal considerations have reflected the principles of legality, justice, and legal certainty in criminal law. Legal protection for victims can be pursued through both criminal and civil legal remedies, where victims may report to police for criminal prosecution under Article 378 KUHP and claim compensation through civil breach of contract lawsuits. Law enforcement against perpetrators is carried out through repressive and preventive criminal sanctions. This decision confirms that bounced check fraud is not merely a civil breach of contract but can be classified as a criminal offense when accompanied by malicious intent to deceive others.

**Keywords:** Bounced Check; Court Decision; Criminal Liability; Fraud; Legal Protection

## 1. Introduction

Criminal offenses frequently appear in mass media, both print and electronic, in various forms, backgrounds, and modus operandi. This includes fraud offenses using bounced checks as the instrument of crime. A check is a payment instrument containing an order from the account holder to the bank to pay a certain amount of money to the check bearer or the party whose name appears on the check (Hasyim, 2009). In practice, checks can also be misused as a means of crime, such as in fraud offenses. Fraud itself constitutes an act containing elements of engineered lies or deception deliberately committed by the perpetrator to obtain personal benefit, typically causing the victim to suffer losses because they have given or surrendered something to the perpetrator as a result of such deception.

One of the main motives of criminal perpetrators is the desire to obtain money or valuable goods as a result of unlawful acts. The pressure of increasingly complex life necessities encourages some individuals to take shortcuts by committing crimes to gain quick benefits, even though such actions clearly contradict social norms and applicable legal provisions (Hasan, 2019). Check payment is considered valid if the amount stated on the check can be fully paid by the bank. Conversely, a check payment becomes invalid if the bank cannot fulfill its obligation to pay the amount stated in the check. There are legal rules governing the use of checks, emphasizing that check payments cannot be conducted arbitrarily (Warassih, 2015).

According to Bank Indonesia Circular Letter Number 2/10/DASP of 2000 regarding procedures for drawing bounced checks and giro, a bounced check refers to a check submitted for encashment but rejected by the drawee bank because insufficient funds are

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available in the drawer's account, or because the account has been closed. This rejection occurs within the period during which the drawer still has an obligation to provide funds (Bahsan, 2005). Historically, Law Number 17 of 1964 concerning the Prohibition of Drawing Bounced Checks regulated this offense with severe penalties, including the death penalty, life imprisonment, or temporary imprisonment up to twenty years. However, this law was revoked by Government Regulation instead of Law Number 1 of 1971, so currently perpetrators can only be charged under the fraud provisions in the Criminal Code.

Such actions can be subject to criminal penalties according to the provisions of the Criminal Code. Article 378 KUHP states that whoever, with the intent to benefit themselves or others unlawfully, using false names or false dignity, through deception or a series of lies, induces another person to surrender something to them, or to give debt or write off receivables, is threatened with fraud with imprisonment of a maximum of four years. Currently, bounced checks without funds are often used as instruments for committing fraud, with the intention of avoiding payment for various reasons. This research aims to analyze the judge's legal decision in Decision Number 1698/Pid.B/2022/PN Sby and examine legal protection for bounced check fraud victims as well as law enforcement against perpetrators.

## **2. Literature Review**

### **Criminal Offense and Fraud in Criminal Law**

A criminal offense or delict is an act prohibited by law and punishable for anyone who violates it. According to Moeljatno (2012), a criminal offense is an act prohibited by law and can be subject to criminal punishment if committed. Criminal offense itself constitutes part of criminal law that regulates acts that can be subject to criminal sanctions. The criminal offense is a fundamental concept in criminal law that forms the basis for determining whether an act can be prosecuted and punished.

Fraud in criminal law is a criminal act committed with the aim of obtaining personal benefit or for others unlawfully by using deception. Article 378 of the Criminal Code states that whoever, to benefit themselves or others unlawfully, using false names or dignity, through deception or a series of lies, persuades others to surrender goods, give debt, or write off receivables, can be punished with imprisonment of a maximum of four years. The elements of fraud in this article include: intent to benefit oneself or others unlawfully, using deception or lies, and causing the victim to surrender an object or right (Syahputra Alam et al., 2025).

### **Definition and Function of Checks in Commercial Law**

A check is a negotiable instrument used as a payment tool. According to the Commercial Code (KUHD) and Bank Indonesia Circular Letter No. 2/10/DASP of 2000, a check is an unconditional order from a customer to the bank to pay a certain amount of money to the party stated in the check (Agung, 1981). Article 178 KUHD stipulates that every check must contain: the name "check" included in the text itself expressed in the language in which the check is written; an unconditional order to pay a certain amount of money; the name of the person who must pay (drawee); designation of the place where payment must be made; date and place where the check is drawn; and signature of the person issuing the check (drawer).

The main functions of checks include serving as a non-cash payment instrument, serving as a transaction guarantee in business activities, and serving as a trust instrument in business relationships. However, misuse of checks, especially those without available funds, creates legal problems such as fraud offenses using bounced checks. A bounced check refers to a check that cannot be encashed because the balance in the drawer's account is insufficient. This action causes loss to the recipient and can be categorized as a fraud offense (Marcela I. Dapu, 2020).

### **Bounced Checks as Instruments of Fraud**

In practice, someone who knows that their account balance is insufficient but still issues a check can be considered to have committed premeditated deception or lies to deceive others. The emergence of bounced checks in daily life results from carelessness and trust of the party receiving the check without first requesting information from the drawee or the check issuer themselves. Consequently, if there are no funds, it will reduce the existence and operational effectiveness of checks in the commercial world. Regarding bounced checks, this generally results from the carelessness of parties in conducting legal relationships using checks as payment instruments (Made et al., 2020).

The issuing party is the party directly responsible for the existence of the written and signed check. Meanwhile, the bank can also be held responsible, but only limited to formal requirements, namely, requirements for the formation of check blanks. Therefore, if bounced checks occur among check-using communities, the resolution must be distinguished based on the burden of responsibility imposed on the parties involved in check issuance. If the term bounced check relates to violation of formal requirements as contained in Article 178 KUHD, then the burden lies with the bank, but if the error in check issuance causing the check to be empty relates to material requirements, then the responsible party is the issuer, for example relating to whether or not funds have been deposited at the bank (Tiwow et al., 2025).

### **Legal Protection for Victims**

The use of bounced checks in banking and commercial practices can cause significant losses to recipients. Therefore, the need for legal protection becomes very urgent. Marcela I. Dapu (2020) emphasizes that, according to KUHD, bounced check issuers are obligated to ensure their funds are available on the encashment day. If not fulfilled, the recipient has the right of recourse, namely the right to sue directly against the issuer, including through lawsuits to the district court. This model provides legal protection in the form of payment guarantees, which becomes a *locus litis* instrument for check holders in resolving disputes.

Made et al. (2020) analyzed the juridical elements of fraud related to bounced checks, including the issuer's intent and the recipient's loss. They found that although KUHP (Article 378) and Banking Law have provided legal bases for prosecuting perpetrators, implementation obstacles in law enforcement practices remain significant. Tiwow et al. (2025) explained the legal consequences of bounced check issuance and stated that recipients can sue through both criminal and civil frameworks. This approach shows that victims have access to two paths - criminal for restoring justice, and civil for seeking compensation.

### **3. Research Methods**

This research is normative juridical in nature, meaning legal research is conducted by studying primary and secondary legal materials to understand law as norms applicable in society. This approach is used to view law as a system of norms that lives and is applied in community life. The research employs a statutory approach and a conceptual approach. The statutory approach is conducted by examining various legal regulations governing fraud offenses and the use of checks in criminal and commercial law, such as KUHP, KUHD, and other related regulations. Meanwhile, the conceptual approach is used to understand the concepts of fraud, bounced checks, and principles of criminal law enforcement in business transactions.

Primary legal materials include the 1945 Constitution of the Republic of Indonesia, Criminal Code (KUHP), Criminal Procedure Code (KUHAP), Law Number 17 of 1964 concerning Prohibition of Drawing Bounced Checks, and Court Decision Number 1698/Pid.B/2022/PN Sby. Secondary legal materials comprise literature in the form of books, scientific journals, legal articles, and expert opinions relevant to the discussion of fraud offenses and the use of bounced checks according to criminal law. Tertiary legal materials include supporting materials that help in understanding primary and secondary legal materials, such as legal dictionaries and legal encyclopedias. Data analysis is conducted through

normative-qualitative analysis, meaning processing legal materials through legal interpretation and logical arguments, as well as deductive analysis, drawing conclusions from general legal principles to the concrete case being studied.

#### **4. Results and Discussion**

##### **Case Analysis of Decision Number 1698/Pid.B/2022/PN Sby**

Decision Number 1698/Pid.B/2022/PN Sby of the Surabaya District Court constitutes a concrete example of fraud offenses committed using bounced checks as the main instrument of crime. In this case, the defendant was charged with surrendering or providing a check to the victim, which, in reality, had insufficient funds or could not be encashed at all. This act caused material loss to the victim and resulted in serious legal consequences for the defendant. Based on the indictment filed by the Public Prosecutor, the defendant consciously and deliberately used a bounced check as a form of payment in a transaction with the intent to obtain goods or services without any genuine intention to pay. This act was qualified as fraud as regulated in Article 378 of the Criminal Code.

The modus operandi used by the defendant falls under non-physical document-based fraud. In this context, although there is no physical coercion, there is an element of trust manipulation that misleads other parties to surrender their rights or property. The use of bounced checks indicates the existence of deception or at least a series of lies consciously constructed by the perpetrator to influence the victim's will. Facts revealed at trial showed that the defendant had surrendered checks to the victim as a form of payment in a commercial transaction. However, when the victim tried to encash the check at the bank, it turned out that the available funds were insufficient, or the account underlying the check withdrawal was no longer active or empty (Dirgantoro et al., 2024).

Criminal offenses with such a modus not only harm victims materially but also damage the trust system in the commercial and banking world. Checks that should serve as legitimate and trustworthy payment instruments become manipulation tools, harming many parties. Therefore, law enforcement against such cases has important value not only in the context of protecting individual victims but also in efforts to maintain legal order and the broader community economy. The panel of judges in this case accepted all indictments filed by the Public Prosecutor and decided that the defendant was proven legally and convincingly to have committed fraud as regulated in Article 378 KUHP with a sentence of one year and six months imprisonment (Laras Ayu Wulandari, 2019).

##### **Juridical Analysis of the Judge's Decision**

Juridical analysis of Decision Number 1698/Pid.B/2022/PN Sby is conducted to understand how judges apply criminal law norms, particularly Article 378 KUHP, to fraud offenses through the use of bounced checks. The panel of judges juridically analyzed and assessed that the elements contained in Article 378 KUHP have been completely fulfilled. First, regarding the element of intent to benefit oneself or others unlawfully, the defendant consciously surrendered bounced checks to the victim as payment for transactions that had been conducted. This act was clearly committed to obtain benefits in the form of goods or services without any desire or ability to pay legitimately and correctly. The judge viewed that the intent to benefit oneself unlawfully was evident from the defendant's attitude, who, from the beginning, knew that the check had no funds but still surrendered it to complete the transaction (Hidayat et al., 2023).

Second, regarding the element of using deception or a series of lies, this element constitutes the core of fraud offenses (Syahputra Alam et al., 2025). In this case, deception was conducted in the form of surrendering checks that outwardly appeared valid and encashable, but in reality could not be converted to cash because insufficient funds were available. The check was factually used to deceive the victim, as if the defendant had good faith and sufficient funds. In fact, the defendant knew that funds were unavailable and had

no intention to replace them. Third, regarding the element of inducing others to surrender goods, give debt, or write off receivables, the judge stated that this element was fulfilled because the victim had surrendered goods/services based on trust in the check given by the defendant. The defendant's actions had induced the victim's will to surrender something (transaction object) that should only be done if legitimate payment had been received (Timothy Benaya & Firmansyah, 2024).

From a criminal law perspective, criminal liability of a crime perpetrator requires three main requirements: acts prohibited by criminal law (*actus reus*), fault or mental attitude of the perpetrator (*mens rea*), and the capability to be responsible (*toerekeningsvatbaarheid*). In this decision, the judge assessed that the defendant committed a real criminal act, namely fraud using bounced checks; faulted the form of *dolus* (intent), because aware of the check's condition without funds but still surrendered it; and there were no criminal exemption grounds, either justification grounds or excuse grounds. Based on the fulfillment of these three elements, the judge stated that the defendant could be held fully criminally liable for their actions (Ferry Agus Sianipar & Syaifullah, 2022).

### **Legal Protection for Bounced Check Fraud Victims**

Legal protection for bounced check fraud victims can be pursued through two channels, namely criminal and civil. From the case, it is evident that the defendant's act of issuing bounced checks fulfills the elements of fraud: the existence of intent to benefit oneself or others, where the defendant deliberately issued checks without sufficient funds, showing intent to obtain benefits or avoid payment obligations unlawfully; the use of deception or series of lies, where the issued check gave the impression that payment would be made, but in fact there were no funds available in the account, constituting a form of lie used to deceive the recipient; and inducing others to surrender goods or give debt (Hafidi, 2017).

Victims receiving bounced checks can report this action to the police for further investigation and inquiry. If proven that the perpetrator deliberately issued bounced checks with the intent to deceive, the perpetrator can be subject to criminal sanctions according to Article 378 KUHP provisions. This criminal legal process aims to provide a deterrent effect to perpetrators and provide justice to victims. Perpetrators proven guilty in bounced check fraud cases can be sentenced to imprisonment according to Article 378 KUHP provisions. Additionally, perpetrators can also be subject to fines as part of criminal punishment. This punishment aims to provide a deterrent effect and prevent perpetrators from committing similar crimes in the future (Setiawati & Ruslie, 2024).

In the civil law domain, bounced check recipients can claim compensation based on breach of contract. Article 1243 of the Civil Code states that replacement of costs, losses, and interest due to non-fulfillment of an engagement only becomes obligatory if the debtor, after being declared in default of fulfilling their engagement, continues to neglect it. Bounced check recipients can file civil lawsuits on grounds of breach of contract, where the bounced check issuer has failed to fulfill their obligation to provide sufficient funds in the account, and losses suffered where the bounced check recipient experiences losses because the check cannot be encashed. Thus, victims have access to two paths - criminal for restoring justice and civil for seeking compensation (Made et al., 2020).

### **Law Enforcement Against Bounced Check Fraud Perpetrators**

Application of sanctions against bounced check fraud perpetrators must be firmly enforced to provide a deterrent effect and protect the community from similar criminal acts in the future. From the criminal aspect, criminal law enforcement against bounced check fraud perpetrators must be conducted firmly according to Article 378 KUHP provisions. This criminal legal process aims to provide justice to victims and prevent perpetrators from committing similar crimes in the future. From the civil aspect, bounced check fraud victims must also be allowed to claim compensation through civil channels. Courts must ensure that

victims receive fair financial compensation for losses suffered. This civil lawsuit can also serve as a means for victims to obtain justice and financial recovery (Tiwow et al., 2025).

Bank Indonesia has an important role in supervising and regulating bounced checks and giro issuance through the National Blacklist (DHN) mechanism. DHN constitutes an instrument managed by Bank Indonesia to record individuals or entities that frequently issue bounced checks and giros. The government and related institutions need to improve community education and awareness about the risks of receiving bounced checks. The community must be given an understanding of how to check the validity of checks or Giros before accepting them as payment instruments. This step can help reduce fraud risk and protect the community from financial losses (Hidayat et al., 2023).

The defendant's liability for fraud offenses, as regulated in Article 378 KUHP juncto Article 64 Paragraph (1) KUHP, results from a comprehensive evaluation of their actions. In this case, the defendant deliberately and without right surrendered bounced checks known to have insufficient funds to other parties. This action clearly constitutes a form of deception used to mislead or deceive the recipient, to obtain benefits or harm others. Furthermore, in determining the defendant's liability, the Court must also consider justice aspects, including the protection of victims harmed by the fraud. Judges must ensure that decisions taken not only comply with applicable law but also recognize victims' rights to obtain justice and recovery for losses suffered. This decision clarifies that the use of bounced checks is not merely a breach of contract or administrative negligence, but constitutes a form of fraud if there is deliberate malicious intent (Timothy Benaya & Firmansyah, 2024).

## 5. Conclusion

Based on the analysis of Decision Number 1698/Pid.B/2022/PN Sby and discussion regarding legal protection for victims and law enforcement against bounced check fraud perpetrators, the following conclusions are obtained. First, analysis of the judge's decision shows that the Panel of Judges correctly applied Article 378 KUHP. The judge assessed that elements of a fraud offense, such as the existence of malicious intent, use of deception, and loss to the victim, have been proven legally and convincingly. The legal considerations used have reflected the principles of legality, justice, and legal certainty in criminal law. The decision clarifies that bounced check use is not merely a breach of contract or administrative negligence, but constitutes fraud if accompanied by deliberate malicious intent.

Second, legal protection for bounced check fraud victims is provided through two channels, namely criminal and civil. Victims can report to the police for perpetrator prosecution based on Article 378 KUHP, and claim compensation through breach of contract lawsuits in civil law. Meanwhile, law enforcement against perpetrators is conducted through criminal punishment as a form of deterrent effect, accompanied by the possibility of compensation liability to provide comprehensive justice to victims. Criminal sanctions in the form of imprisonment and fines aim to provide a deterrent effect and prevent perpetrators from committing similar crimes in the future, while civil sanctions in the form of compensation obligations aim to restore victims to their position before the criminal act occurred.

This research recommends several matters. First, for law enforcement officers, there is a need to firmly enforce criminal law against bounced check fraud perpetrators to provide a deterrent effect and real legal protection for victims. Second, for the community, there is a need to increase vigilance regarding the use of checks as payment instruments, including verifying funds before accepting checks as transaction guarantees. Third, for legislators, it is time to consider special regulations regarding bounced check criminal offenses in KUHP or separate laws, so they are not always categorized as general fraud, considering the high complexity and impact of losses caused. Fourth, Bank Indonesia should strengthen supervision through the National Blacklist mechanism and improve community education about risks related to bounced checks.

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