

THE ANALYSIS OF THE VERDICT AGAINST PERPETRATORS OF CRIMINAL ACTS OF NARCOTICS IN THE STATE COURT SUNGGUMINASA

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Abstract

Drug crime is a serious threat with far-reaching repercussions, mainly due to its transnational nature. Indonesia, including one of the countries famous for the circulation of narcotics, is not only a target but also a transit area for perpetrators of this crime before reaching the final destination. Narcotic abuse is not a legitimate and often uncontrollable behavior, but rather is carried out in order to obtain disordered psychotropic effects. As a result, it not only damages physical and mental health, but also has serious social repercussions. Therefore, the handling of drug crime is an important priority in order to maintain the safety and welfare of the community.

Keywords: Drugs; Criminal; Court.

Abstrak

Kejahatan narkoba merupakan ancaman serius dengan dampak yang luas, terutama karena sifatnya yang transnasional. Indonesia, termasuk salah satu negara yang terkenal dengan peredaran narkoba, tidak hanya menjadi tempat sasaran tetapi juga daerah transit bagi pelaku kejahatan ini sebelum mencapai tujuan akhir. Penyalahgunaan narkoba bukanlah perilaku yang sah dan seringkali tidak terkendali, melainkan dilakukan untuk mendapatkan efek psikotropika yang tidak teratur. Akibatnya, tidak hanya merusak kesehatan fisik dan mental, tetapi juga menimbulkan dampak sosial yang serius. Oleh karena itu, penanganan kejahatan narkoba menjadi prioritas penting dalam rangka menjaga keamanan dan kesejahteraan masyarakat.

Kata Kunci: Narkoba; Kriminal; Pengadilan.

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INTRODUCTION

Indonesia is a country based on law. Therefore, all public behavior is bound by applicable law. Legal norms are made firmly and written by authorized institutions so that if there are individuals who violate these rules, they will be sanctioned with fines and physical sanctions in the form of imprisonment or the death penalty. One of the purposes of law is to organize the activities of human life in all aspects in order to be orderly. The rule of law that is able to accommodate the interests of society is a manifestation of the legal feelings of people who live and develop in society (living law). But sometimes criminal law does not go hand in hand with the legal norms that apply in society. If an act according to the measure prevailing in 2 societies is seen as an act that violates legal norms, the act must be punished. But according to the criminal law is not seen as an act that violates the law (criminal law rules). Or vice versa, an act that is seen as an act that does not violate the norms applicable in society, but is seen as an unlawful act, according to criminal law.

A criminal act is an act prohibited by criminal law and threatened by a criminal witness, and is also called a criminal act. If the act is prohibited in Article 1 Paragraph 1 of the Criminal Law (KUHP) or provisions called the principle of legality, the act is called a criminal act and can be subject to sanctions one of the crimes is drugs.¹ Drugs is a word that is familiar to the people of Indonesia, because almost every role always appears news about drugs. Starting from raids, arrests, confiscations to legal proceedings for drug offenders. Narcotics abuse no longer looks at age, ranging from children, adolescents, adults to the elderly even though they do not escape the bondage of this narcotics abuse

Drugs are indeed very much needed in the medical world, especially science and especially narcotics. In the medical world narcotics are used as a reduction of pain or pain, in use as a sedative and others. Although it has many positive functions in the medical world, but it reduces the negative threat to the general public, especially the younger generation. So strict supervision in drug use is necessary. If only the government and law enforcement officials carry out supervision, but require the participation of all levels of society to play an active role in preventing and Combating Drug Abuse and trafficking, such supervision is not enough.²

Although many perpetrators have received a judge's decision and have been sanctioned by various sanctions, the decision does not preclude the trend of drug cases that continue. enhances the effect of fear. When the state criminalizes drug users permanently, it does not pay attention to the rights of victims of narcotics. Therefore, the state is obliged to provide legal protection for narcotics users, such as the right to development and rehabilitation. To clarify the legal status and rights of drug victims, it is necessary to provide rehabilitation services for drug abusers.

¹Rahman Syamsuddin, "*Merajut Hukum Di Indonesia*", (Jakarta: Mita Wacana Media, 2014), h.60.

²Muhammad Asrul, Fadli Andi Natsif, "*EFEKTIVITAS TUGAS DAN FUNGSI PETUGAS LEMBAGA PEMASYARAKATAN TERHADAP PENCEGAHAAN PEREDARAN NARKOTIKA*", Alauddin Law Development Journal, vol. 2 no. 3 (November 2020), h. 276.

Narcotics abuse no longer looks at age, ranging from children, adolescents, adults to the elderly even though they do not escape the bondage of this narcotics abuse. It is estimated that about 1.5 percent of the total population of Indonesia is the victim of drug abuse.³

Which is an obstacle in the process of law enforcement against drug cases is considered very mild, especially for users. And many of those who are caught using drugs are even granted to undergo rehabilitation so that they escape from criminal bondage. Even those who have been caught are still free to run their illegal business in prison. Not to mention the bookie who played in the legal process that happened to him by bribing the relevant parties in the enforcement process.

Not only does it prohibit the use of drugs, but it also leads to undesirable consequences, which can harm the body and mind, and other consequences. Therefore, Islamic law prohibits the use of such goods, both in small quantities and in large quantities.

The impact of the consequences of consuming drugs and illegal drugs, that is, when a drug addict runs out of money and wants to use drugs (marijuana), he will steal (including parents and other people). And also have an impact on health, that is, the ability of the human body to withstand the invasion of diseases is reduced, resulting in fear (paranoid) is very high, and the worst result is contracting various diseases, including AIDS and other physical diseases.

The nature of Khamar is intoxicating, narcotics and drugs also have the same efficacy as Khamar, so the law is the same as the law of Khamar (i.e. Haram). The object contains ugliness towards religion, reason, morality, and morals. Intoxicating objects also spoil the character of people, make people unreasonable, humble and other moral diseases. On the other hand, legal experts agree that the punishment of drug users is mandatory, and the law is in the form of whipping. Clerics differ only in the number of whips. Adherents of the Hanafi and Maliki schools say 80 dera, while Imam Shafii says 40 dera.

The death penalty should be given to drug addicts / dealers. Perhaps under such severe punishment, the trend of drug abuse in society may gradually decline. Drugs are the root of all evil. When a person uses drugs and then gets drunk, it will cause the perpetrator to commit other crimes, such as murder, theft and rape.

Law No. 35 of 2009 is no longer based on punishment for drug abusers who are considered ineffective in combating or reducing drug crime. Law No. 35 of 2009 also maximizes the role of the National Narcotics Agency (BNN) in the prevention and eradication of narcotics abuse. It has also been authorized to conduct drug investigations and investigations. Given the duties and obligations of law enforcement, namely the judge is to uphold the law and the truth, the judge must behave as fairly as possible to the perpetrators in committing criminal acts.

The author is interested to examine the case of narcotics in the decision of Case Number 434 / Pid.Sus/2018/PN Sgm at Sungguminasa District Court. Where in the decision of Case Number 434 / Pid.Sus / 2018 / PN Sgm regarding narcotics crime that the defendant stores and owns Narcotics of Group 1 type of methamphetamine without the permission of the authorities. And what the author wants

³A.Muh. Nur. Khaidir, Ahkam Jayadi, Fadli Andi Natsir “*Perlindungan Hukum Terhadap Anak Dibawah Umur Yang Menjadi Kurir Narkoba*”. *Alauddin Law Development (ALDEV)* 1, no.1 (2019)

to discuss is how the application of criminal witnesses against perpetrators of narcotics crimes in the Sungguminasa District Court and how the consideration of judges in making decisions against perpetrators of narcotics crimes in the Sungguminasa District Court.

Based on the description, the authors are interested in conducting more in-depth research and compilation in the form of papers entitled: Analysis of the decision on the perpetrators of narcotics crimes by the District Court Sungguminasa

METHOD

The research approach used is a qualitative approach. Qualitative research is a field research method to provide research with a complex picture, because this research is part of the discourse of legal sociology research. The qualitative approach focuses on extracting the required information through participatory observation techniques and in-depth interviews with relevant parties, in this case judges, jurists, and community leaders. The approach used in this study is the “case approach”, which is done by reviewing cases related to legal issues faced (in the investigation). The case under review is a case that has received a court decision and therefore has permanent legal consequences.

RESULT AND DISCUSSION

1. Application of criminal sanctions against perpetrators of narcotics in the District Court Sungguminasa

To understand the criminal sanctions imposed by the Sungguminasa District Court to perpetrators of narcotics abuse, first analyze the decision of the panel of judges based on decision number: 434/Pid.Sus/2018/PN Sgm, as follows:

The Visum et repertum is defined as a report at the request of the competent authority, written for the benefit of the judiciary (pro justisia), written by the doctor under oath at the time, based on all the contents found at the time of the examination of the evidence.

According to the minutes of criminal laboratory examination LAB number: 3412/NNF/IX / 2018 dated September 10, 2018 made and signed by I Gede Suarhawan, S.Si.,M.Si in the name of loyalty, A.Md., and Hasura Mulyani, A.md. it was concluded that : 1 (one) clear plastic sachet containing clear crystals after weighing the weight of ± 0.1852 grams, 1 (one) glass pipette Rod/ Pirex, 1 (one) used glass pirex Rod; 4 (four) white pipettes, 1 (one) clear plastic pipette, 1 (one) clear plastic hose, and 1 (one) used clear plastic sachet, and evidence that is not recognized as belonging to the defendant in the form of: 13 (thirteen) clear plastic sachets containing clear crystals which are all weighed weighing ± 0.5508 grams, positively containing methamphetamine registered in class I serial number 61 of the regulation of the Minister of health of the Republic of Indonesia number 7 of 2018 concerning changes in the classification of narcotics in the appendix to the law of the Republic of Indonesia number 35 of 2009 concerning narcotics. The actions of the defendant as regulated and criminalized in accordance with Article 112 paragraph (1) and Article 127 paragraph (1) of Law No. 35 of 2009 on narcotics.

Based on the facts revealed at the trial it has been clear and proven that MUHAMMAD TAPA PETER (the accused) was caught carrying, controlling, storing or even having a nakotika type of methamphetamine. However, is it appropriate that the provisions in psal 112 paragraph (1) of Law No. 35 of 2009 on narcotics, as alleged in the primary indictment above, are applied to the actions of the defendant.

That if looking at the weight of narcotics types of meth found in the defendant's home less than 1 (one) gram and also found tools that use as a means to use methamphetamine and there is no fact if the defendant's control of narcotics types of meth is for sale and purchase, then the panel of judges by looking at the Supreme Court Circular, conclude if the application of Article 112 paragraph (1) of Law No. 35 of 2009 on narcotics is not appropriately applied to the defendant so that the facts and considerations above the panel of judges judge that the second element "without the right or against the law to have, Store, control, or provide Narcotics Group I is not a plant" is not fulfilled by the;

Based on the description above and the facts revealed in the trial, the authors concluded that one of the elements of the second 2 elements above, namely the element "without the right to know against the law to have, Store, control, or provide Narcotics Group L is not a plant" is not met, where it is clear and proven that the defendant was found carrying and storing or controlling or even having narcotics of methamphetamine type, but the weight of the Narcotics of methamphetamine type found in the defendant's House is less than 1 (one) gram. Then the panel of judges by observing the Supreme Court Circular No. 4 of 2010 and the results of an expert examination of the defendant concluded that the application of Article 112 paragraph (1) of Law No. 35 of 2009 tertang narcotics inappropriately applied to the defendant.

2. Consideration of the judge in passing a verdict against the perpetrators of narcotics crimes in the District Court Sungguminasa

The judge's decision is the climax of the case being reviewed and judged by the judge. Of course, the judge must pay attention to everything, both formal and material. If positive things happen or prevent negative things, they are certainly expected to grow, and develop the attitude or nature of the judge's moral satisfaction, and the verdict can be used as a benchmark in the same case. Or it is generally used as a reference for theorists and practitioners if a judgment is reinforced and not overturned by a higher court, it is in line with the law and the satisfaction of conscience.

Based on the author's interview with Hj. Nur Afiah, S.H.,M.H. as a judge member of the District Court Sungguminasa, are as follows:

"The perpetrator of the narcotics crime is proven to be wearing, but the punishment given is rehabilitation, on the grounds that the public prosecutor presents an expert witness. According to expert witnesses that the defendant was addicted to using narcotics, he was finally advised to be rehabilitated with evidence found to be 1 gram, which according to SEMA, evidence below 1 gram could be considered narcotics abuse."

In examining and adjudicating a case the judge first considers various matters, namely, the prosecutor's demands, witness statements, expert statements, the defendant's statements, evidence, the prosecutor's allegations and matters that relieve and incriminate the defendant. In addition, "the judge has the right and authority to call and request an expert in criminal justice if the judge considers the testimony of an expert witness to be indispensable and needed for the smooth passage of judicial hearings."

In addition to what the author explains above, what the judge must do is be able to criminalize the accused taking into account the elements established by law, such as: Article 127 paragraph (1) letter a of the law of the Republic of Indonesia of 2009 on narcotics:

a. Elements Of Each Person;

The element "everyone" in the provisions of Article 127, paragraph 1 (a), is the same as the element in one of Article 112 (1) of the primary charges referred to above, and the panel of judges has examined the element "everyone", so that for the consideration of the element "everyone" in this subsidiary charge the panel of judges only takes over the same consideration by considering the previous primary charge, where the element "everyone" in the primary charge has been fulfilled, therefore, for the element "everyone" in this subsidiary charge it has also been fulfilled in accordance with the law;

b. Elements of "abusing narcotics Group I for yourself";

Elements of narcotics abuse here means the use of narcotics committed without the right to know against the law, and true MUHAMMAD TAPA PETER (defendant) was arrested by members of the Gowa police at the defendant's home on Jalan Hamzah Dg. Tompo 57, Bontomanai Village, bontomarannu district, Gowa regency.

Based on the results of the assessment and the opinions of experts heard at the trial, the principal agrees with the expert opinion that the defendant can be carried out a rehabilitation process in order to cure the defendant's dependence on substances contained in narcotics.

Seen from the point of view of the occurrence of actions and the ability to take responsibility, a person will be responsible for their actions and actions and there are no grounds for justification / forgiveness or lies of a legal nature for the crime they committed.

Based on the above information and the results of interviews with various authorities in this regard, the author concludes that the judge's legal considerations in making this decision have been consistent with the applicable provisions based on all the facts and evidence revealed at the trial.

CONCLUSION

The application of criminal sanctions against narcotics abusers in the Sungguminasa District Court has been in line with the violations committed in Law Number 35 of 2009, namely, punishing the defendant with a prison sentence of 9 (nine) months; and rehabilitated for 6 (six) months in the Rehabilitation Center of the National Children's care institution (LPAB).

Factors taken into consideration by the judge when delivering a decision at the Sungguminasa District Court with decision number: 434 / Pid.Sus/2018 / PN Sgm is based on witness statements, expert Statements, Statements and evidence of the defendant, as well as things that are heavy and light for the defendant.

REFERENCES

- A.Rayhan. *Undang-Undang KUHP dan KUHP*. Jakarta;: Citra Media Wacana, 2008.
- Aima, Nur, Andi Safriani, Abd Rais Asmar, "Peranan Dinas Sosial Kabupaten Bulukumba Terhadap Rehabilitasi Mantan Pengguna Narkoba". vol. 1, no.2 (2019)
- Alang, Ayyub Rijali, Eman Solaiman, "Analisis Putusan Hakim Dan Pembuktian Tindak Pidana Kekerasan Dalam Rumah Tangga (KDRT)". Vol.3, no.1 (2021)
- Ali, Akhmad. *Menguak Realitas Hukum Rampai Kolom dan Artikel Pilihan dalam Bidang Hukum*. Jakarta: Kencana Prenada Media Group, 2008.

- Al-Qadri, Sahrifal, Hamsir, “*Kekuatan Alat Bukti Keterangan Ahli Kedokteran Jiwa Dalam Peradilan Pidana*”, Alauddin Law Development (ALDEV). 2020. h. 70.
- Ambarsari, Rosalina. *Penjatuhan Putusan Bebas dalam Tindak Pidana Narkotika Golongan I (Ganja)*. Jember : Universitas Jember. 2015
- Ansori, sabuan,dkk.*Hukum Acara Pidana*. Bandung: Angkasa, 1990.
- Asrul, Muhammad, Fadli Andi Natsif, “Efektivitas Tugas Dan Fungsi Petugas Lembaga Pemasarakatan Terhadap Pencegahaan Peredaran Narkotika”. Alauddin Law Development (ALDEV), vol. 2, no. 2. 2020.
- Badan Narkotika Nasional. *Pencegahan Penyalahgunaan Narkoba Sejak Dini*. Jakarta: BNN, 2009.
- Hamzah, Andi. *Asas-asas Hukum Pidana*. Jakarta: Rineka Cipta,1994.
- Hasan, hamzah. “*Ancaman Pidana Islam terhadap Penyalahgunaan Narkoba*”. Makassar : UIN ALAUDDIN MAKASSAR. 2012
- Hiariej, Eddy,O.S.H. *Teori dan Hukum Pembuktian*. Jakarta : Erlangga, 2012
- Jayadi, Ahkam, “*Problematika Penegakan Hukum dan Solusinya*”, Al Risalah. 2015.
- Khaidir, A.Muh. Nur, Ahkam Jayadi, Fadli Andi Natsif, “Perlindungan Hukum Terhadap Anak Dibawah Umur Yang Menjadi Kurir Narkoba”. Alauddin Law Development (ALDEV). no. 1 (2019)
- Lamintang. *Dasar-dasar Hukum Pidana Indonesia*. Citra Aditya Bakti,Bandung: 1997.
- Maryam, Hannat Waladat, Ashabul Kahpi, “Analisis Relapse Terhadap Penyalahgunaan Narkotika Di Badan Narkotika Nasional Provinsi Sulawesi Selatan”, Alauddin Law Development (ALDEV). Vol. 2, no.3, 2020.
- Moeljatno. *Asas-asas Hukum Pidana*. Jakarta : Rineka Cipta, 2009
- Nur Aulia Sari. *Analisis Pertimbangan Hakim Dalam Menjatuhkan Sanksi Pidana Pada Kejahatan Narkotika*. Makassar : Uin Alauddin Makassar. 2017.
- Prakoso, Djoko. *Masalah Pidana Mati*. Jakarta: Bina Aksara, 1987.
- Prasetyo,Teguh. *Hukum Pidana*, Jakarta: Rajawali Pers, 2010.
- Syamsuddin, R., & Fuady, M. I. N. (2020). Upaya Penguatan Badan Penelitian dan Pengembangan serta Inovasi Daerah di Kota Palopo. *Jurnal Wawasan Yuridika*, 4(1), 63-79.
- Syamsuddin, Rahman, et al. "The Effect of the Covid-19 Pandemic on the Crime of Theft." *International Journal of Criminology and Sociology* 10 (2021): 305-312.
- Syamsuddin, Rahman, Merajut Hukum Di Indonesia. Jakarta : Mitra wacana Media, 2014.
- Syamsuddin, Rahman, Muhammad Taufik, “PEMusnahan Barang Bukti Tindak Penyalahgunaan Narkotika Di Kejaksaan Negeri Makassar”, Alauddin law Development (ALDEV). Vol. 3, no. 2, 2020
- Syamsuddin, Rahman. "Peranan Visum et Repertum di pengadilan." *Jurnal Al Risalah* 11.1 (2011).
- Thalib, Hambali. *Sanksi Pidana dalam Konflik Pertanahan*, Jakarta: Kencana, 2009.
- Widnyana, Made. *Asas- Asas Hukum Pidana*. Jakarta: Fikahati Aneska, 2010.
- Wijaya, Rahmat. *Tinjauan Hukum Terhadap Tindak Pidana Narkotika Yang Dilakukan Oleh Seorang Pegawai Sipil*. Makassar : Universitas Hasanuddin. 2015
- Zaidan, M. Ali. *Kebijakan Kriminal*. Jakarta: Sinar Grafika, Bandung : Mandar Maju, 2003.