Analysis of Judgment Conditions in Making a Decision for Rehabilitation of Persons of Criminal Actions Based on Narcotics ABUSE Decision Number: 302/PID.SUS/2022/PN. TJK and Decision Number 217/PID.SUS/2022/PN.KLA

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ABSTRACT

Background. Problems in handling cases of criminal acts of narcotics abuse, namely the emergence of criminal disparities in terms of sentencing, such as in cases of criminal acts of narcotics abuse in Decision Number: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla.

Purpose. What are the factors that cause differences in judges' legal considerations in imposing decisions on rehabilitation of perpetrators of narcotics abuse based on Decision Number: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla. What are the legal considerations of judges in making decisions on rehabilitation of perpetrators of narcotics abuse based on Decision Number: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla.

Method. The research was carried out using a normative juridical approach and an empirical approach. The data used in this study were secondary data obtained from library materials, and field research was carried out by observation and interviews (interviews). The data obtained were analyzed qualitatively and juridically and deductively concluded.

Results. the factors that cause differences in judges' considerations in imposing decisions are sourced from the legal system and sentencing philosophy, sourced from judges, and sourced from defendants. The occurrence of disparity is also due to the factor that the Panel of Supreme Court Justices has different legal considerations and the principle of judging themselves so that there is a different application of Articles from Court Decisions of first level and appellate level.: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla.

Conclusion. Suggestions in this study are that the Panel of Judges in cases of criminal acts of narcotics abuse should minimize criminal disparities to prevent the development of a negative perspective of society towards the criminal system in judicial institutions.

KEYWORDS

Comparison, Rehabilitation, Narcotics Abuse

INTRODUCTION

The In the context of regional development in Lampung Province in various socio-economic fields,

people's aspirations to eradicate Narcotics are increasing (Kampf dkk., 2020), because in The In the context of regional development in Lampung Province in various socio-economic fields, people's aspirations to eradicate Narcotics are increasing, because in reality acts of Narcotics abuse have had negative impacts in various fields (Zhou dkk., 2019). Narcotics abuse crime is a special offense that is regulated separately outside the Criminal Code. Efforts to eradicate criminal acts of narcotics abuse are carried out thoroughly by law enforcement officials. In the current era, there are still many cases of criminal acts of narcotics abuse, so it is necessary to optimize law enforcement within the scope of this field (Cheng dkk., 2020). One example of a case that occurred was the criminal act of drug dealers of the methamphetamine type which occurred in the jurisdiction of the Lampung Police Narcotics Investigation Directorate (Walsh dkk., 2020). The elderly suspect, Maryanto Bin Joyo Pawiro (Alm), has been legally and convincingly proven guilty of committing the crime of selling methamphetamine-type Narcotics according to Decision Number 302/Pid.Sus/2021/PN. Tjk.

The Panel of Judges who examined and tried the case at the first level has sentenced Maryanto Bin Joyo Pawiro to imprisonment for 2 (two) years because he was legally and convincingly proven guilty of committing the crime of abusing Narcotics Category I type of methamphetamine for himself as stipulated in Article 127 paragraph (1) letter a Law Number 35 of 2009 concerning Narcotics with evidence of 2 (two) packs of methamphetamine weighing 0.14 grams.

Legal facts as a social problem that occurs in another case in Decision Number 217/Pid.Sus/2022/PN.Kla (Z. Wang dkk., 2019). In the Decision that the Panel of Judges had different considerations and there was a different application of Articles from the Class I A Tanjung Karang District Court Decision (Zhang dkk., 2020). The Panel of Judges stated that the Defendant Rama Diansyah Bin Zainal Arifin was legally and convincingly guilty of committing the crime "without rights or against the law of possessing, storing, controlling, or providing Narcotics Category I not plants" as stipulated in Article 127 Paragraph (1) Letter a jo Article 54 Law Number 35 of 2009 concerning Narcotics. Furthermore, the Panel of Judges ordered the Defendant to continue rehabilitation on an outpatient basis at the Lampung BNNP Clinic until the entire rehabilitation period he underwent had reached 4 (four) months.

Based on the background that has been described, the importance of a Judge's legal considerations in imposing medical rehabilitation and social rehabilitation sanctions for perpetrators of Narcotics abuse, it is necessary to take serious action and commitment to study in depth and thoroughly. (Ali dkk., 2019) Therefore the author will conduct research in the form of a thesis entitled "Analysis of Judge Considerations in Imposing Rehabilitation Decisions Against Narcotics Abuse Offenders Based on Decision Number: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla (Study at Kalianda District Court)

RESEARCH METHODOLOGY
1. What are the factors that cause differences in the judge's legal considerations in making a rehabilitation decision for the perpetrators of the crime of narcotics abuse based on Decision Number: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla?
2. What are the legal considerations of judges in making decisions on rehabilitation of perpetrators of narcotics abuse based on Decision Number: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla?

RESULT AND DISCUSSION

Understanding of Criminal Acts and Crime Classification

Criminal acts according to Wirjono Prodjodikuro are acts or a series of actions in which criminal sanctions are placed (Norris & Inglehart, 2019). Thus seen from the term, only the characteristics of actions that include a criminal act while the characteristics of the person who commits a crime are part of another problem, namely criminal liability (Parisi dkk., 2019). There is a separation between criminal liability and criminal acts, known as dualism, which separates elements from actions and elements inherent in criminal acts. 1

According to Barda Nawawi Arief, criminal law divides criminal acts into two properties, namely:

1. formal offense, is an offense that is deemed to have been completed by the conduct of prohibited acts and threatened with punishment by law.
2. material offense, is an offense that is deemed to have been completed with the result of being banned and threatened with punishment by law.2

Overview of Criminal Responsibility and Criminal Actors

According to Theory, Roeslan Saleh explained that for an error that resulted in the conviction of the defendant, the defendant must meet the criteria, namely:

1. fight criminal acts;
2. able to take responsibility;
3. intentionally or negligently, and
4. there is no forgiving reason.3

Definition of Criminalization and Purpose of Penalty

The purpose of punishment theory and punishment guidelines as stated by R. Sudarto, then in the effort to renew criminal law in Indonesia, criminal is one of the urgent problems to be renewed. Therefore, in the renewal of criminal law, criminal types and criminal regulations undergo significant total overhaul and prioritize social aspects of humanity and human rights (Phillips dkk., 2020). Some developments regarding criminal and criminal penalties in the renewal of criminal law include the following:

Theory of Purpose of Penalty

The purpose of punishment is to prevent criminal acts by upholding legal norms for the protection of society, resolving conflicts caused by criminal acts, restoring balance, bringing about peace in society, socializing convicts by providing guidance so that they become good and useful people, and freeing guilt convicted person.

Criminal Guidance Theory

Criminal guidelines that can be used as a reference for judges in granting criminal (Cai & Vasconcelos, 2021). The criminal guideline is that the judge must pay attention to the wrongdoing of the offender, the motive and purpose of committing a crime (Carleo dkk., 2019), how to commit a criminal act, the offender's attitude, curriculum vitae and the socio-economic condition of the offender, the attitudes and actions of the offender criminal acts against the future of a criminal

offender, the public's view of a criminal act committed, the effect of a criminal act on the victim or the family of the victim, whether a crime is committed by planning.4

Definition of Legal Effectiveness

The study of legal effectiveness according to Rizani Puspawidjaja is an activity that shows a general problem formulation strategy, namely a realistic comparison of the law with the ideal of law . Specifically, the level of law in action is seen with law in theory (law in theory) (Abuhassna dkk., 2020). Or in other words this activity will show the link between law in book and law in action.

Criminal Law Enforcement and Factors Affecting Law Enforcement

According to Barda Nawawi Arif, in general, in terms of functionalization, operation and enforcement of criminal sanctions in a statutory regulation so that it can actually be realized must go through several stages, namely:

1. Stage of formulation, namely the stage of formulation or criminal stipulation by legislators (as a legislative policy).
2. The application stage, namely the stage of granting criminal law enforcement (as a judicial policy).
3. The execution phase, which is the stage of the execution of the criminal by the authorized agency (as executive policy).

Legal Basis for the Crime of Narcotics Abuse

The provisions in Article 1 paragraph (1) of the Narcotics Law Number 35 of 2009 states that Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which are divided into groups as attached to this Law (Glare dkk., 2019). Regulations regarding Narcotics abusers are contained in Article 127 paragraphs (1), (2), and (3) of Law Number 35 of 2009 concerning Narcotics, while regulations regarding reporting of Narcotics abusers are regulated in Article 128 of Law Number 35 of 2009 about Narcotics.

In Law Number 35 of 2009 concerning Narcotics, it provides a threat of criminal punishment (6 months in prison) for parents who deliberately do not report their children who use narcotics to get rehabilitation. Although the element of intentional not reporting (Lisio dkk., 2019), it must be proven first, this element does not exclude parents who do not know that the substance consumed by their child is Narcotics.

Factors causing the difference in the judge's legal considerations in making a decision on rehabilitation of the perpetrators of the crime of narcotics abuse based on Decision Number: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla

Factors causing the difference in the judge's legal considerations in making a decision on rehabilitation of the perpetrators of the crime of narcotics abuse based on Decision Number: 302/Pid.Sus/2022/PN (Yatabe dkk., 2019). Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla, which originate from the legal system and sentencing philosophy, consideration factors originate from judges, and circumstance factors originate from the defendant. Apart from that, the disparity towards the perpetrators of the crime of narcotics abuse is also due to the factor that the Panel of Judges has different legal considerations and the principle of judging themselves so that there is a different application of Articles from Decision Number: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla.

The judge's legal considerations in making a rehabilitation decision for the perpetrators of the crime of narcotics abuse are based on Decision Number: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla

The judge's legal considerations in making a rehabilitation decision for the perpetrators of the crime of narcotics abuse are based on Decision Number: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla include (Yatabe dkk., 2019): the Prosecutor's indictment, mitigating and aggravating circumstances, the motive for the crime (Adegbeye dkk., 2020), the attitude of the perpetrator after committing the crime, the consequences (Zong dkk., 2019). The Panel of Judges has different legal considerations and the principle of adjudicating alone as well as considerations in terms of legal certainty, expediency and legal justice.

Tips:
1. State the Major Findings of the Study;
2. Explain the Meaning of the Findings and Why the Findings Are Important;
3. Support the answers with the results. Explain how your results relate to expectations and to the literature, clearly stating why they are acceptable and how they are consistent or fit in with previously published knowledge on the topic;
4. Relate the Findings to Those of Similar Studies;
5. Consider Alternative Explanations of the Findings;
6. Implications of the study;

Acknowledge the Study's Limitations

It is easy to inflate the interpretation of the results (Van Trotsenburg dkk., 2021). Be careful that your interpretation of the results does not go beyond what is supported by the data. The data are the data: nothing more, nothing less (Johdi & Sukor, 2020). Please avoid and makeover interpretation of the results, unwarranted speculation, inflating the importance of the findings, tangential issues or over-emphasize the impact of your research.

Work with Graphic:

Figures and tables are the most effective way to present results (Zemek dkk., 2019). Captions should be able to stand alone, such that the figures and tables are understandable without the need to read the entire manuscript (Y. Wang dkk., 2020). Besides that, the data represented should be easy to interpret.

CONCLUSION

The factors that cause differences in judges' considerations in imposing decisions are sourced from the legal system and sentencing philosophy, sourced from judges, and sourced from defendants. The occurrence of disparity is also due to the factor that the Panel of Supreme Court Justices has different legal considerations and the principle of judging themselves so that there is a different application of Articles from Court Decisions of first level and appellate level.

The basis for the judge's considerations includes: the prosecutor's indictment, mitigating and aggravating matters and the provisions of Article 182 paragraph (6) of the Criminal Procedure Code, the Panel of Judges has different legal considerations in Decision Number: 302/Pid.Sus/2022/PN. Tjk and Decision Number 217/Pid.Sus/2022/PN.Kla.

AUTHORS' CONTRIBUTION

Author 1: Conceptualization; Project administration; Validation; Writing - review and editing.
Author 2: Conceptualization; Data curation; In-vestigation.
Author 3: Data curation; Investigation.

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