

Criminal Responsibility for Self-Use of Narcotics (Study of Case Decision Number: 309/PID.SUS/2017/PT.DKI)

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This study discusses the application of criminal law in drug abuse cases analyzed through a study of the decision of case number: 309/PID.SUS/2017/PT.DKI. The main focus of the study is how the indictment, demands, and legal considerations by the judge reflect the values of substantive and procedural justice, as well as how criminal law and the theory of justice are implemented in judicial practice. In this case, the defendant was charged with violating Article 112 paragraph (1) and Article 127 paragraph (1) letter a of Law No. 35 of 2009 concerning Narcotics. The judge sentenced him to imprisonment accompanied by medical and social rehabilitation, reflecting proportional efforts in imposing sanctions. This study also highlights how inequality in legal treatment of drug users still occurs, as well as the importance of reforming drug law policies to be more oriented towards restorative justice. The study emphasizes that true justice in drug cases must emphasize imprisonment to provide a deterrent effect rather than paying attention to the rehabilitation dimension.

Keywords: Narcotics, Abuse, Rehabilitation, Justice.

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1. Introduction

Drug abuse is the non-medical or illegal use of illicit substances called narcotics and addictive drugs that can damage the health and productivity of users. Drug abuse can lead to dependence, and if stopped, the user will experience withdrawal symptoms. Medically, drug abuse can poison the nervous system and memory, reduce thinking skills, and damage various vital organs. Drug abuse in Indonesia has reached a very alarming level. The number of addicts and abusers continues to increase year after year. In the Narcotics Law, the definition of drug abuse is explained in Article 1 number 15, namely, "a drug abuser is a person who uses narcotics without rights or against the law. While dependence itself is explained in Article 1 number 14 of the Narcotics Law, namely "drug dependence is a condition characterized by the urge to use narcotics continuously with increasing doses to produce the same effect and if its use is reduced and/or stopped suddenly, it causes typical physical and psychological symptoms. [1].

All kinds of drug abuse have been regulated in the Narcotics Law. The formation of this law is a reflection of the State's aggressiveness in eradicating criminal acts, especially in terms of criminalization of drug abusers. Facing the problem of drug abuse and illicit trafficking requires the government to think about how to overcome this problem, finally the government issued Law Number 5 of 1997 concerning Psychotropics and Law Number 35 of 2009 concerning Narcotics. Thus, this law is expected to be able to suppress as little as possible the crime of drug abuse and illicit trafficking in Indonesia, because of that in the provisions of these laws and regulations, criminal sanctions are very severe compared to sanctions in other criminal laws.[2].

Rehabilitation for drug addicts is a form of social protection that integrates drug addicts into social order so that they no longer abuse drugs. This is in line with the case example given by the author in this thesis research, namely the case of abuse of Class I Narcotics for oneself, the case of which has been

decided by the West Jakarta High Court with its decision Number: 309 / PID.SUS / 2017 / PT.DKI In this case, the defendant was accused of having committed the act of abusing class I narcotics for himself by smoking marijuana, so the defendant was charged and threatened with violating Article 127 paragraph (1) of Law Number 35 of 2009 concerning Narcotics in conjunction with Article 55 paragraph 1 point 1 of the Criminal Code. Based on the evidence and facts revealed in the trial, finally the panel of judges of the West Jakarta High Court with its decision Number: 309/PID.SUS/2017/PT.DKI stated that the Defendant and witnesses on Saturday, March 25, 2017 at approximately 04.00 WIB or at least at another time in March 2017 in front of the Lobby of the Ibis Budget Hotel, Jl. Daan Mogot Tanjung Duren, West Jakarta, or at least at another place that is still within the jurisdiction of the West Jakarta District Court which has the authority to examine and try this case, who committed, who ordered to be committed or who participated in committing the act of abusing Class I Narcotics for themselves[3].

That in the case of an attempt or conspiracy to commit a criminal act without the right or against the law to possess, control or provide Class I Narcotics which are not plants, the defendant does not have permission from the authorities and has no connection with the defendant's work.

2. Literature Review And Problem Statement

According to the Republic of Indonesia Law Number 22 of 1997 concerning narcotics in Article 1 Paragraph 1 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 feeling, reduce to eliminate pain, and can cause dependence, which are divided into groups as attached to this Law or which are then determined by the Decree of the Minister of Health. The definition of abuse regulated in Law No. 35 of 2009 concerning Narcotics Article 1 number 15, then systematically it can be known about the definition of narcotic abuse, namely the use of narcotics without the knowledge and supervision of a doctor.[4].

The dangers of drug use have a very big impact on the country. If large-scale drug use occurs in society, the Indonesian nation will become a sick nation. If this happens, the country will be fragile from within because national resilience will decline [5]. The legal basis and development of narcotics regulations in Indonesia (Presidential Instruction 1971, Law No. 9/1976, Law No. 22/1997, Law No. 35/2009) are presented, including the expansion of the scope of material and strengthening of sanctions in the 2009 Law and the role of Supreme Court Circular Letter No. 04/2010 concerning the rehabilitation/placement of addicts. Furthermore, this literature review presents the theory of criminal responsibility, law enforcement theory, and justice theory as the basis for analyzing the decision in case No. 309PID.SUS2017PT.DKI. This description emphasizes that judges must carefully consider both legal and non-legal aspects so that the decision rendered reflects legal certainty, benefit, and justice.

3. Method

The research method used in this article can be described as a normative juridical method, namely a legal research method that examines norms, principles, and laws related to the legal problem being studied. Normative legal research, also known as doctrinal legal research, or dogmatic legal research, or legislative research, which is referred to as legal research in Anglo-American literature, is internal research within the legal discipline [6]. This approach is used to analyze criminal liability for self-inflicted drug abuse based on applicable legal provisions, particularly Law Number 35 of 2009 concerning Narcotics and the decision in case Number 309PID.SUS2017PT.DKI.

In its application, normative legal research focuses on primary, secondary, and tertiary legal materials, such as laws and regulations, court decisions, books, journals, and relevant legal documents. Thus, researchers do not emphasize field data collection, but rather systematically examine the content of

legal norms to draw in-depth conclusions regarding criminal liability, the application of rehabilitation, and the principles of justice in the case.

4. Results And Discussion

Based on the results of the study of the decision in case No. 309PID.SUS2017PT.DKI, it can be seen that narcotics abuse for personal use remains a serious problem in law enforcement in Indonesia. The decision in case No. 309PID.SUS2017PT.DKI is an important example in the study of narcotics criminal law, particularly regarding narcotics abuse for personal use. This case shows that narcotics abusers cannot be understood only as perpetrators of criminal acts, but also as legal subjects who are in a state of dependence and require a proportional treatment approach. Based on the legal construction contained in Law No. 35 of 2009 concerning Narcotics, the abuse of class I narcotics for personal use is qualified as an unlawful act and can be subject to criminal liability. However, the law also provides space for the implementation of medical rehabilitation and social rehabilitation as part of the recovery efforts for addicts and victims of narcotics abuse. This case shows that narcotics users are not only positioned as perpetrators of criminal acts, but also as parties who need protection and recovery through rehabilitation mechanisms. This aligns with Law Number 35 of 2009 concerning Narcotics, which stipulates that drug addicts and victims of abuse are required to undergo medical and social rehabilitation. Therefore, the legal approach to drug abuse should not be solely repressive but should also consider rehabilitation aspects to achieve the goals of punishment more proportionally.

The decision in case No. 309PID.SUS2017 PT.DKI is a significant example in the study of narcotics criminal law, particularly regarding the misuse of narcotics for personal use. This case demonstrates that drug abusers cannot be understood solely as perpetrators of criminal acts, but also as legal subjects in a state of dependence and requiring a proportionate treatment approach. Based on the legal construction contained in Law No. 35 of 2009 concerning Narcotics, the misuse of Class I narcotics for personal use is classified as an unlawful act and subject to criminal liability. However, the law also provides for the implementation of medical and social rehabilitation as part of recovery efforts for both addicts and victims of drug abuse.

From a criminal liability perspective, the judge in this case must still ensure that the elements of the offense charged against the defendant are met. The element of unauthorized or unlawful use of narcotics is the primary basis for determining the existence of a criminal act. However, in narcotics cases, sentencing is not solely aimed at retaliation, but also at achieving broader sentencing objectives, namely prevention, development, and community protection. Therefore, assessing the defendant's status, whether they are simply a drug abuser or have reached the level of dependency, is crucial in determining the direction of the verdict. In this context, Articles 54 and 103 of Law Number 35 of 2009 provide the normative basis for judges to impose rehabilitation measures if they are determined to require treatment and recovery. Furthermore, this decision also demonstrates the relevance of applying the principle of substantive justice in drug law enforcement. Justice cannot be narrowly defined as imposing a harsh sentence, but must consider the specific circumstances of the defendant, the background of the offense, the degree of culpability, and the benefits of the decision for the individual's recovery. In drug cases, an overly repressive approach has the potential to ignore the fact that many abusers are victims of addiction who require medical and social intervention. Therefore, judges are required to apply legal and non-legal considerations in a balanced manner so that the decisions rendered are not only legally valid but also reflect a sense of justice in society.

Practically, the implementation of rehabilitation in drug abuse cases still faces various obstacles, including limited facilities, suboptimal family support, and a lack of uniform understanding among law enforcement officials regarding the role of abusers as both victims and perpetrators. This situation

demonstrates that the drug law enforcement system still requires harmonization between penal and non-penal approaches. Thus, the decision in case No. 309PID.SUS2017PT.DKI can be understood as part of a law enforcement effort that focuses not only on punishment but also on rehabilitation, development, and social reintegration. This approach is more in line with the goals of modern criminal law, namely to simultaneously achieve legal certainty, benefit, and justice.

The results of this discussion confirm that handling drug abuse cases requires a comprehensive approach, prioritizing a balance between legal and non-legal aspects. Environmental, family, and drug dependency factors are crucial factors that must be considered in determining the appropriate form of sanction. With this approach, law enforcement against drug abusers can be more effective in achieving legal certainty, justice, and community benefit.

5. Conclusion

Criminal Responsibility for Self-Use of Narcotics Case Decision Study Number: 309/PID.SUS/2017/ PT.DKI, namely criminal responsibility for narcotics abuse cases is realized in the form of punishment, in this case, has violated Article 112 paragraph (1) of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics, and Article 127 paragraph (1) letter a of Law of the Republic of Indonesia Number 35 of 2009 concerning narcotics shows that the defendant was proven to have legally abused Class 1 narcotics for himself. In this case, the public prosecutor presented evidence in the form of 1 (one) clip package containing white crystals with a net weight of 0.5090 grams, 1 pipe suspected of containing narcotics residues is true containing Methamphetamine, registered in class I (one) serial number 61 of the Attachment to Law of the Republic of Indonesia No. 35 of 2009 concerning Narcotics, based on testimony from witnesses Muhammad Sofyan Ian bin Jamal Abdullah, Dian Aksara, Rachmat Marzuki Delimunthe, and Winas Wijaya Kusuma. The various pieces of evidence presented by the Public Prosecutor should have served as the judge's consideration in declaring the defendant guilty and sentenced him to 10 months in prison and required to undergo medical and social rehabilitation for 6 months and 10 days at the Cibubur Drug Addiction Hospital (RSKO), with the rehabilitation period calculated as part of the sentence. The application of the principle of justice in the study of decision Number 309/PID.SUS/2017/PT.DKI has not achieved the goal of legal justice. This is because it can be concluded that the law enforcement process for narcotics abuse crimes still faces serious challenges in reflecting the values of true justice. Although the judge has issued a verdict that takes rehabilitation into account, this is in line with Article 127 paragraph (1) and Article 54 of the Narcotics Law. With imprisonment, the state demonstrates its firmness that drug abuse is a serious crime that cannot be tolerated. Thus, imprisonment is not merely a punishment, but also has educational, preventive, and repressive values. The resulting deterrent effect is expected to be able to reduce the number of drug abuse cases and make society more cautious.

6. Referensi

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