

Juridical Analysis Of Sanctions On The Criminal Action Of Narcotics Abuse Goal I According To Law No. 35 Of 2009

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Abstract

Research objectives to find out and analyze; Determination of criminal sanctions against the main perpetrators of class 1 narcotics abuse. Judges' considerations in imposing criminal penalties on class 1 narcotics abuse based on decisions (No2166/pid.sus/2018/PN. Research method; with a descriptive qualitative approach that describes phenomena and incidents in the field at the research location. Data collection techniques: Through field research, library research, and interviews with parties handling cases such as prosecutors, judges, lawyers, and suspects. Conclusion: Application of criminal sanctions against the main perpetrators of class narcotics abuse 1. Application of sanctions to the abuse of narcotics class I committed by Defendant Kurniawan in Decision Number 2166/2018/PN.Tng, the authors conclude that the application of sanctions, in this case, was the wrong target or the wrong person. The Judge's considerations in imposing a criminal offense against narcotics abuse class 1 based on the decision (No 2166/2018/PN.Tng). It is legal and convincing that the decision is correct.

Keywords: Sanki, Crime, Narcotics

A. Introduction

Narcotics abuse from year to year has increased, which ultimately harms the nation's future cadres. Abuse of narcotics encourages illicit traffic that is increasingly widespread and has an international dimension. Therefore, efforts to prevent and control narcotics are needed, as efforts to eradicate the illegal trafficking of drugs have given progress in the development of communication, information, and transportation in the current era of globalization. In the association of society, every day, there is a relationship between community members and one another. This social change creates various events or incidents that can move legal affairs.

An example of this case is the increasingly worrying use of narcotics. Transnational narcotics crimes are carried out using modern modus operandi and sophisticated technology,

including safeguarding the proceeds of narcotics crimes. National development cannot be separated from human life as the main driving force. Human resources are the main thing in effect because a story will only work with quality human beings. Therefore the development of human resources is a top priority that must be performed because of the increasing quality of Indonesia's human resources, which makes it a very important capital to compete in the current era of globalization.

We can find out about Narcotics in Article 1 point 1 of Law Number 35 of 2009 concerning Narcotics. The term narcotics is no longer foreign to the public, considering there is so much news from both print and electronic media that reports about narcotics abuse from year to year, growing rapidly even though there are already regulations governing narcotics and narcotic precursors. However, not many people know what narcotics are and the signs of narcotic addiction. This is understandable, considering that narcotics are prohibited from circulating in society.

B. Research methods

This research uses a normative qualitative approach in two ways, namely field research and library research, as below: (Sugiyono., 2018).

- a. Research Library Research by using legal materials by examining theories and concepts on legal principles, laws and regulations, books, literature, law journals, and scientific works related to the research focus.
- b. Field research or field research is conducted by going directly to the field by observing to obtain accurate and valid data.

1. Data source

In obtaining the data to be used from the source through primary data and secondary data, including the following:

- a. Secondary Data is obtained from a source another party has collected through (1). Primary legal materials and Legislation (2). Secondary legal materials such as literature and research results (3). Tertiary legal materials such as legal dictionaries and legal encyclopedias
- b. Primary data is the primary data in legal research due to the tendency of the descriptive nature of legal analysis. In this case, this preliminary data is obtained directly from the source through informants in the form of interviews and court decisions.

2. Data collection technique

- a. Primary data is done by: (1). Observation (2). Interviews through question and answer with related parties, prosecutors, judges, and lawyers
- b. Secondary Data Is data obtained by researchers indirectly through the results of other people, such as documents, books, scientific papers, legal dictionaries, electronic media, and the internet, which are appropriate for the research focus.

C. Results and Discussion

1. Application of Criminal Sanctions with Decisions (No 2166/2018/PN.Tng)

How is the application of criminal sanctions against the main perpetrators in the abuse of narcotics class 1 verdict (No 2166/2018/PN.Tng). In the process of issuing the indictments issued by the Public Prosecutor, when viewed from the verdict in the case, the public prosecutor charged Defendant Kurniawan, namely Article 112 paragraph (1), Article 114 (1) in conjunction with Article 132 (1). When viewed from the statement and storyline explained by Defendant Kurniawan, the public prosecutor's provisions were incorrect because they did not refer to the conditions that should have been.

In the author's opinion, the application of sanctions for narcotics crimes, as in this case, is not appropriate because of a mistake against someone designated as the Defendant. Based on the existing decision where Kurniawan Als Wawan was selected as the Defendant in the crime event where Kurniawan should not have been the real Defendant or the main actor in the abuse of Narcotics Group 1.

Narcotics class 1 may be used for the benefit of scientific and technological development and in limited quantities and through strict supervision by the Food and Drug Supervisory Agency (BPOM) as explained in Article 12 of Law Number 35 of 2009 concerning Narcotics, where the user must go through a difficult permit process and not just anyone owns and uses it.

So Narcotics Category 1 is prohibited from circulating freely in Indonesia. As for the contents of Article 12 of the Law on Narcotics states that:

- a. Narcotics Category 1 is prohibited from being produced and used in production, except in very limited quantities, for the benefit of science and technology development.
- b. Supervision of the production of Narcotics Group 1 for the benefit of developing science and technology, as referred to in paragraph (1), is carried out strictly by the Food and Drug Supervisory Agency.
- c. Further provisions regarding the procedure for organizing production and use in production with very limited quantities for the benefit of science and technology development, as referred to in paragraph (1), shall be regulated by a Ministerial Regulation.

Then, Defendant agreed and consciously delivered the Narcotics to Desi at the place they had previously agreed to. And Defendant was paid fifty thousand rupiahs (Rp. 50,000.00) as a thank-you reward for delivering the goods.

Kurniawan should not be the accused. The defendant should have been Mr. Sahrul because he was the seller and dealer of Narcotics Group 1, and Ms. Desi was the buyer. Kurniawan is only a courier who delivers where. Kurniawan should only be subject to punishment as an intermediary for providing the Narcotics to Ms. Desi, namely subject to Article 115, paragraph 1 of Law Number 35 of 2009 concerning Narcotics, which reads:

"Anyone without rights or against the law brings, sends, transports, or transits narcotics class I shall be imprisoned for a minimum of 4 years and a maximum of 12 years and a fine of at least Rp. 800,000,000.00 (eight hundred million rupiahs)) and a maximum of IDR 8,000,000,000.00 (eight billion rupiahs)."

Suppose the Defendant is still imposed or forced to use one of the articles of the public prosecutor's indictment, namely article 114 paragraph (1), in the author's opinion. In that case, this provision is not appropriate and correct because that article has not been applied to the Defendant, which in the explanation of the Defendant, who has been sworn in regarding the veracity of his statement, I, as the writer, see that the Defendant was not a seller of these illicit goods.

One of the provisions used by the public prosecutor in the indictment against Defendant Kurniawan, namely Article 132 (1) of Law Number 35 of 2009 concerning Narcotics. According to the author, using these provisions is correct because when viewed from the information in the decision, the author sees that there is a consensus on a crime because of the intention or planning of a crime.

Based on Article 112 paragraph (1) of Law Number 35 of 2009 that the other Defendant in a separate file, namely Mr. Sahrul, had violated the provisions of that article because he knowingly violated the law of possessing, storing, controlling or providing Narcotics Category 1, not plant-type Methamphetamine (shabu).) with a net weight of 0.5022 grams.

So the author's view of the legal provisions in the process of applying sanctions that should be given to the Defendant by the public prosecutor and the panel of judges is the provisions of Article 115 paragraph (1) in conjunction with Article 132 paragraph (1) because of the role and actions taken by the Defendant Kurniawan.

2. Judge's Considerations in Imposing Sentences Decisions (No 2166/2018/PN.Tng)

The Judge's considerations in imposing a criminal sentence on the abuse of narcotics class 1 based on the decision (No 2166/2018/PN.Tng). Based on the Judge's considerations in imposing a criminal sentence on the abuse of Narcotics Category 1 based on the demands and charges submitted by the Public Prosecutor (JPU) in the form of alternative payments, the Judge chose the first charge, namely Article 112 paragraph (1) in conjunction with Article 132 paragraph 1 of the Law Number 35 of 2009 concerning Narcotics.

Based on the evidence available at the trial, the Judge considered that the elements charged in Article 112 paragraph 1 had been fulfilled; the Judge also found reasons for justification and reasoning for forgiving the Defendant's actions. Therefore, based on the Judge's considerations, he has sufficient confidence that the Defendant must be found guilty and proven convincingly to have committed the crime as charged in the alternative indictment.

According to the author of article 112, paragraph 1, this decision is not based on his income because their income is below 800 million. According to Law 35 of 2009 Article 112 section (1), the accused shall be imprisoned for a minimum of 4 years, 12 (twelve) years, and a minimum fine of Rp. 800,000,000 and a maximum of Rp. 8,000,000,000, in cases. The Judge sentenced the Defendant to 5 years and six months in prison.

In the opinion of the author, the public prosecutor initially sentenced Defendant Kurniawan to imprisonment for five years and six months minus, while Defendant was in temporary detention by order for Defendant to remain in custody and a fine of Rp. Eight hundred million provided that if the fine is not paid, it is replaced by imprisonment for two months. Meanwhile, the Judge stated that Defendant Kurniawan had been proven legally and convincingly guilty of committing a crime.

D. Conclusion Suggestion

1. Conclusion

Based on the findings in the field and the discussion above, I, as a researcher, can draw conclusions, which include the following:

- a. Application of criminal sanctions against the main perpetrators of class 1 narcotics abuse. Application of sanctions to perpetrators, of course, narcotics abuse committed by Defendant Kurniawan alias Wawan in Decision Number 2166/2018/PN.Tng, the authors conclude that the application of sanctions, in this case, is the wrong target or the wrong person.
- b. The Judge's considerations in imposing a criminal sentence on class 1 narcotics abuse based on the decision (No 2166/2018/PN.Tng). Based on the reviews of the Judge handling the narcotics case, based on the demands and charges submitted by the public prosecutor in the form of an alternative indictment, the Judge chose the first charge, namely Article 112 paragraph 1 in conjunction with Article 132 paragraph 1 Law No. 35 RI of 2009 concerning narcotics. Based on the evidence available at the trial, the Judge considered that the elements charged in Article 112 paragraph 1 had been fulfilled. (a). Defendant's actions were contrary to the government's program, which was active in distributing narcotics and mitigating circumstances (b). Defendant regretted his actions; Defendant did not get complicated and confessed frankly that it

helped smooth the trial process (c). The Defendant has never been convicted. In addition, the panel of judges found no justification or excuse for the Defendant's actions.

2. Suggestion

As for suggestions that the author can give in research in research including the following:

- a. That is the public prosecutor's decision in the Narcotics case (No 2166/2018/PN.Tng). Applying the process of imposing sanctions looks at the role of the perpetrator and refers to the provisions of the actions taken by the perpetrators of criminal acts.
- b. For judges in the Judge's consideration in imposing a sentence for the crime of abuse of narcotics class 1 based on the decision (No 2166/2018/PN.Tng).
- c. For law enforcers and practitioners In the deliberation process carried out by judges in deciding a case, judges must be more discerning in considering an indictment filed by a public prosecutor, and judges also look at the roles and provisions that should be appropriate for perpetrators of criminal acts.

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