

Legal Review Of The Judge's Decision On Perpetrators Of Narcotic Crimes Of The Meth Type Below The Minimum Limit Of Criminal Sentence (Study Of Supreme Court Decision Number 3061k/Pid.Sus/2024)

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ABSTRACT

The imposition of sentences below the minimum sentence limit in narcotics cases is a serious problem in criminal law enforcement in Indonesia. This study aims to analyze the causes of disparities in judges' decisions in narcotics cases, examine the provisions for imposing sentences below the minimum sentence limit, and explore the basis for judges' considerations in Supreme Court Decision Number 3061K/Pid.Sus/2024. This study uses a normative juridical approach with decision analysis as a case study. The results show that judges' freedom to interpret the law can result in decisions that deviate from the minimum sentence stipulated by law, which ultimately can create legal uncertainty and reduce the deterrent effect in narcotics law enforcement.

Keywords: Narcotics Crimes, Disparity in Sentences, Minimum Sentences, Judges.

INTRODUCTION

Indonesia is a country based on law, as expressly stated in Article 1 Paragraph 3 of the 1945 Constitution of the Republic of Indonesia. A state based on law means that government is run based on applicable legal rules. In general, law is a series of regulations or norms that regulate communal life in society, and its implementation can be enforced through the imposition of sanctions on anyone who violates it. In the Indonesian criminal law system, there is a classification of criminal law. This classification consists of general criminal law and special criminal law, or can also be referred to as general criminal legislation and special criminal legislation. The special criminal laws can be categorized as:

- a. Uncodified laws;
- b. Provisions in administrative law that contain the threat of criminal sanctions; and
- c. Laws containing special criminal law provisions (*ius singular* or *ius speciale*) which specifically regulate criminal acts relating to certain groups or certain types of acts.

The state as the authority in enforcing the law has the right to impose criminal sanctions and it is the state's right to punish parties who commit criminal acts (*Ius puniendi*).⁵ The state's authority to criminalize narcotics is categorized as an extraordinary crime because of its widespread impact and damage to the social, economic, and legal order. The Republic of Indonesia Law Number 35 of 2009 concerning Narcotics expressly stipulates minimum criminal sanctions for perpetrators, such as in Article 112 paragraph (1) with a minimum threat of 4 years in prison. However, in judicial practice, decisions have been found that impose sentences below these provisions, such as Supreme Court Decision No. 3061K/Pid.Sus/2024.

This research focuses on three main issues, namely the causes of disparities in judges' decisions in narcotics crimes, legal provisions regarding the imposition of sentences below the minimum limit, and the basis for judges' considerations in issuing decisions below the minimum

limit in these cases.

METHODS

This research is a normative legal study using a statutory and case approach. Data were collected through a literature review, consisting of primary legal materials (statutes, decisions), secondary (doctrines, journals, books), and tertiary (dictionaries and encyclopedias). Data analysis was conducted qualitatively and descriptively using the deductive method.

RESULT AND DISCUSSION

Disparity in Sentencing in Narcotics Crimes

Disparity occurs when there is a striking difference between judges' decisions on cases with relatively similar legal elements. The contributing factors include:

- a. Freedom and independence of judges (theory of judicial freedom);
- b. There are no standard guidelines for imposing minimum sentences; and
- c. Differences in judges' understanding of evidence and means of proof

Legal Provisions Regarding Minimum Criminal Sentences

Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics explicitly regulates the threat of minimum criminal penalties that have a deterrent effect and prevent the illicit trafficking of narcotics. However, Circular Letter of the Supreme Court of the Republic of Indonesia Number 3 of 2015 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2015 as a Guideline for the Implementation of Duties for the Court provides room for judges to impose sentences below the minimum specifically under certain conditions, such as small amounts of narcotics or the defendant is a personal user.

Analysis of Supreme Court Decision No. 3061K/Pid.Sus/2024

The state as the authority in enforcing the law has the right to impose criminal sanctions and it is the state's right to punish parties who commit criminal acts (*Ius puniendi*). The state's authority to impose criminal sanctions is then delegated to law enforcers who work in what is known as the Criminal Justice System.⁶ The elements that synergize with each other in the criminal justice system include legal institutions such as the Police, Prosecutors, Courts and Correctional Institutions.

The main function of a judge has been regulated in the Republic of Indonesia Law Number 48 of 2009 concerning Judicial Power, namely to examine, try and decide every case submitted to the court.⁷ This system is in line with the principle of the independence of judges in examining cases, which aims to provide judges with the freedom to impose criminal sanctions based on their own considerations and the facts revealed during the trial process.

According to legal expert Sudikno Martokusumo, when resolving a case through case-by-case analysis, a judge is always faced with three main principles: legal certainty, justice, and expediency. These three principles must be applied in a balanced and proportional manner through a compromise approach so that the decision rendered fairly reflects all three.⁸ The essence of justice is a form of assessment that a person gives to another person, which is

generally seen from the perspective of the party receiving the treatment.

Judges, as part of the law enforcement apparatus, play a primary role in rendering decisions for the parties involved in a case in court. To successfully resolve the cases before them, judges must be independent and free from the influence of any party. In rendering their decisions, judges rely solely on the evidence presented during the trial to establish their convictions, and refer to the legal norms that serve as the legal basis for their decision-making.⁹ Through the freedom they have, judges are expected to be able to make decisions that are not only in accordance with applicable legal provisions, but are also based on the fairest beliefs and are able to provide benefits to society.

This decision sentenced the defendant Zainal Abidin Sinaga to 1 year and 6 months for possession of crystal methamphetamine, under the provisions of Article 112 paragraph (1) which stipulates a minimum of 4 years. This has given rise to legal controversy because:

- a. Contrary to minimum criminal norms;
- b. Potential weakening of the principle of legal certainty; and
- c. Strengthening the judge's discretionary power in decisions without adequate reference.

CONCLUSION

Sentences below the minimum threshold in narcotics cases demonstrate the judge's freedom to interpret the law, but they can create legal uncertainty and injustice if not balanced with comprehensive legal considerations and adherence to the principle of legality. Therefore, the establishment of binding national sentencing guidelines and the enforcement of clear and consistent legal norms are necessary to ensure legal equality and a deterrent effect in narcotics law enforcement.

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