

# ANAYASA

(Journal of Legal Studies)

E-ISSN: 2987-9965

Vol.1, No. 2, January 2024

## ANALYSIS OF JUDGES' CONSIDERATIONS IN DECIDING CRIMINAL SANCTIONS AGAINST PEOPLE OF NARCOTICS ABUSE CRIMES IN MEDAN STATE COURT

<sup>\*1</sup>Rasina Padeni Nasution, <sup>2</sup>Sekar Ayu Diningrum, <sup>3</sup>Rahmat Insani Siregar,  
<sup>4</sup>Heny Aprilla Saragih, <sup>5</sup>Roy Andika Wiwara Matondang

<sup>\*1,2,3,4,5</sup>UIN Sumatera Utara Medan, Indonesia

Email: <sup>\*1,2,3,4,5</sup>sekarayu2513@gmail.com

### Abstract

This study aims to determine and analyze the basic considerations of judges in the criminal verdict against drug criminals in the Medan District Court, knowing the factors that influence the judge's ruling against the perpetrators of particular crimes in violation of Article 127 Paragraph (1) and 112 Paragraph (2) of Law No. 35 of 2009 on narcotics. The data used is secondary data from the judge's decision. The analytical approach used is the approach and the concept of criminal law cases. These results indicate that the judge decided the case using the consideration of evidence as mentioned in the Criminal Code. The factors that influence the judge's decision cover three things, namely: the law of its own factor, the perpetrators factor, and the judge's concerned actors.

**Keywords:** Judge, narcotics, crime, medan district court

### Abstrak

*Penelitian ini bertujuan untuk mengetahui dan menganalisis dasar pertimbangan hakim dalam memutuskan sanksi pidana terhadap pelaku tindak pidana penyalahgunaan narkotika di Pengadilan Negeri Medan. Penelitian ini juga untuk mengetahui faktor-faktor yang mempengaruhi putusan hakim terhadap pelaku tindak pidana khususnya yang melanggar Pasal 127 Ayat (1) dan 112 Ayat (2) Undang-Undang Nomor 35 Tahun 2009 tentang narkotika. Data yang digunakan adalah data sekunder berupa putusan hakim. Pendekatan analisis yang digunakan adalah pendekatan kasus dan konsep hukum pidana. Hasil penelitian ini menunjukkan bahwa dalam memutus perkara hakim menggunakan pertimbangan alat bukti sebagaimana disebutkan dalam KUHP. Adapun faktor-faktor yang mempengaruhi putusan hakim tersebut mencakup tiga hal, yakni: faktor hukumnya sendiri, faktor pelaku dan hakim yang bersangkutan.*

**Kata kunci:** Hakim, narkotika, pidana, pengadilan negeri medan

### INTRODUCTION

The judge's considerations are one of the important aspects in determining the realization of the value of the judge's decision, which contains justice (*ex aequo et bono*) and also contains legal certainty. Apart from that, they also contain benefits for the parties concerned, so the judge's considerations must be addressed carefully. If the

judge's considerations are not thorough, good, and careful, then the judge's decision originating from the judge's considerations will be canceled by the High Court or Supreme Court (Afrian, 2015).

According to Akbar & Harahap (2022), the judge's basic considerations in making decisions can be used as material for analysis of the judge's orientation in making decisions. This is important because it is to see how the decisions made are related to the criminal objectives being decided. In general, it can be said that a judge's decision that is not based on the right orientation, or can be said to be not in accordance with the objectives of the criminal sanctions that have been determined, will have a negative influence on the process of dealing with narcotics crimes and will not even have a deterrent effect or benefits for the convict. When examining a case, the judge requires evidence. The results of the evidence are used as consideration in deciding a case. Evidence is a very important stage in the examination process at trial. Proof aims to provide certainty that the case being submitted actually occurred, so that it can be seen whether or not there is a legal relationship between the parties.

Judges in deciding a case in court are based on theory and research results, which are related so that maximum and balanced research results are obtained at the theoretical and practical levels. One effort to achieve judicial legal certainty is that judges are law enforcement officers, so through their decisions they can become a benchmark for achieving legal certainty. Narcotics abuse is one of the crimes that is very widespread. The number of narcotics crimes continues to increase. The perpetrators of narcotics crimes are not only users but also dealers and even dealers. (Aulia, 2023).

Emmanuel Romario (2020) explains that narcotics are substances or drugs derived from plants or non-plants that can cause a decrease or even change in consciousness, loss of a sense of empathy within oneself, eliminate pain, and even make the user dependent. Narcotics abuse is a reality that we can encounter in society nationally and even internationally. The spread of narcotics abuse (in this case, as users) is not only carried out by adults, but also by children who are still studying from elementary school to university, who are also involved in this crime.

In the world of medicine, narcotics are a drug or ingredient for making medicines that are useful for curing several diseases, but the use of narcotics without supervision from a doctor or other health professional can cause dependence and damage to the body, thus having a negative impact on the user. (Islamianiati & Hartanto, 2020) Therefore, there must be strict and appropriate sanctions for perpetrators of narcotics crimes. In making decisions on criminal sanctions for perpetrators of narcotics abuse, the judge aims to provide a deterrent effect, but up to now, there are still many narcotics users who are not deterred from committing these criminal acts and have even turned users into dealers.

Based on the background above, the problem can be formulated as follows: (1). What is the basis for the judge's considerations in deciding criminal sanctions against perpetrators of criminal acts of narcotics abuse at the Medan District Court? (2). What factors influence the judge's decision on perpetrators of criminal acts, especially those

who violate Article 127 Paragraph (1) and 112 Paragraph (2) of Law Number 35 of 2009 concerning Narcotics at the Medan District Court?.

## **METHOD**

Legal research is basically a scientific activity based on certain methods, systematics, and thinking that aims to study one or several specific legal phenomena by means of analysis, as well as conduct an in-depth examination of legal facts and then seek a solution to the problems that arise. from the symptom in question (A. Muri, 2016). In this study, the judge's decision is seen as the final word in the criminal justice system. This is why judges' decisions aren't always the same, especially when it comes to how to apply the parts of Article 127 Paragraph (1) and 112 Paragraph (2) of Law Number 35 of 2009 concerning Narcotics. The type of research used in this research is normative legal research, namely a scientific research procedure to find the truth based on the logic of legal science from a normative perspective.

It is mandatory for every normative research to use a statutory approach *because* what will be researched are various legal regulations, which are the focus of research in a *comprehensive, all-inclusive, and systematic manner*. The approach to statutory regulations allows researchers to evaluate legal rules (legislative regulations) by comparing the suitability of one legal rule with other legal rules or with legal principles recognized in existing legal practice. The regulations referred to in this research are Law Number 35 of 2009 concerning Narcotics, Law Number 48 of 2009 concerning Judicial Power, and the Criminal Procedure Code (KUHAP).

Apart from that, researchers also use an analytical approach *to* analyzing legal materials in order to conceptually understand the meaning used in legislation as well as analyze its application in practice and legal decisions. Data Collection Techniques: In this research, researchers used two main techniques: document study, observation, and interviews. The documentation study was carried out by searching through the research library for: (a). Primary legal materials (*primary sources or authorities*), namely binding legal materials, consist of: Basic Regulations: Body of the 1945 Constitution of the Republic of Indonesia; Legislation, namely Law Number 35 of 2009 concerning Narcotics; (b). Secondary legal materials (*secondary sources or authorities*), which provide explanations of primary legal materials, namely the Draft Criminal Code, the results of scientific work from legal circles, and the results of previous research on narcotics abuse; (c). Tertiary legal materials (*tertiary sources or authorities*) are materials supporting primary and secondary legal materials, such as dictionaries, indexes, and encyclopedias.

Other data collection methods used are observation and interviews. In this research, the researcher carried out observations by following the trial of a criminal case of narcotics abuse with case number : 2706 / Pid.Sus / 2022 / PN.Mdn. Apart from that, the researcher also conducted in-depth interviews, *which* were designed to arouse statements freely, sincerely, and frankly. With this model, it is hoped that researchers can reveal important aspects of a judge's psychological situation in deciding cases,

especially those related to criminal acts of narcotic abuse. To obtain primary data, researchers conducted interviews and observations at the Medan District Court.

The final step in conducting research is data analysis. Analysis can be formulated as a process of systematically and consistently analyzing certain symptoms. A systematic analysis of symptoms or data that has been obtained through both a literature approach and a historical, comparative, and case approach is presented descriptively and using qualitative analysis with descriptive analysis and prescriptive analysis, combined with juridical and conceptual analysis.

## **RESULTS AND DISCUSSION**

### **1. The Judge's Basic Considerations in Deciding Criminal Sanctions Against Perpetrators of Crimes of Narcotics Abuse**

Judges have the freedom to consider the severity or lightness of imprisonment or other punishment for a case they are handling. The judge's consideration in handing down a decision must be based on a sense of justice, not only based on legal considerations but also in accordance with the facts obtained during the trial process. Legal facts include the defendant's statement, witness statements and the evidence found, only then can we know what the defendant's motive was for committing the crime, how the defendant committed the crime, and what consequences resulted from the crime the defendant committed. The judge's freedom to determine the severity or lightness of a criminal sanction decision must also be guided by the minimum and maximum limits of a sense of freedom based on a sense of justice both towards the defendant, society, and also towards God Almighty. (Adhar et al., 2021).

Sembiring (2018) explains that the judge's considerations in deciding on imprisonment or other punishment for perpetrators of narcotics crimes must also take into account the defendant's motives in committing the act and what impact the defendant has had from his actions of using narcotic drugs without supervision from the staff. health. If the defendant commits this act intentionally without having an illness that must be cured with the narcotic drug, then this could be a reason for the judge to increase the prison sentence at the decision to be made, but if the defendant uses the narcotic to cure a disease that is in his body, However, if the dose is wrong, this can be a consideration for the judge to give a light criminal sanction. To decide on criminal sanctions for perpetrators of narcotics crime number 2706, Pid.Sus, 2022, and PN.Mdn, which researchers witnessed and studied at the Medan District Court, the judge used more normative considerations without neglecting juridical or empirical considerations.

According to Pirause (2022), judicial considerations are considerations from the judge that are based on factors revealed in the trial and that have been determined by law as matters that must be included in the decision. Juridical considerations, namely:

#### **A. Public Prosecutor's Indictment**

Criminal acts of narcotics use are regulated in Article 127 of Law of the Republic of Indonesia Number 35 of 2009, which regulates the imposition of sanctions for perpetrators of criminal acts of narcotics abuse. In general, an indictment is interpreted

by legal experts in the form of a deed containing the formulation of the criminal act that the defendant is accused of; the formulation is concluded from the results of the examination in the investigation process and then connected to the article of the criminal offense that was violated and charged against the defendant; and the indictment is the basis of the examination by the judge during the trial. According to the regulations, judges may not examine, try, or decide criminal cases other than those stated in the indictment. Thus, it can be concluded that the indictment serves as the center of examination in court trials in criminal cases. Therefore, if the public prosecutor makes a mistake in drafting the indictment, the consequence is that the defendant can be acquitted by the court even though the person is proven guilty of committing a criminal act.

## B. Witness Statement

Witness testimony, as evidence according to Article 185, paragraph (1) of the Criminal Procedure Code, is what the witness stated and said during the trial. Statements from several witnesses about an event or situation can be used as valid evidence if the witnesses' statements are related to one another in such a way that they can confirm the existence of the event. Based on case number: 2706; Pid.Sus; 2022; PN.Mdn. The public prosecutor presented witnesses consisting of three witnesses, namely, Supriadi, Dedek SS Harahap, and Martin Sihombing.

### 1. Defendant's statement

The defendant's statement, according to Article 189, paragraph (1) of the Criminal Procedure Code, is what the defendant stated in court regarding the actions he committed, that he knew about, or that he personally experienced. Based on the trial in Case Number: 2706/Pid.Sus/2022/ 2022 / PN.Mdn, those who looked carefully in the courtroom on behalf of the defendant, Dedi Syahputra Alis Krewol, admitted that he used the prohibited narcotic drug on purpose, not because there was a disease in his body that had to be cured with the drug. Based on the defendant's statement, the defendant got the methamphetamine-type narcotics from a friend who sold them to him. Initially, the defendant was given them for free by his friend, but after the defendant became addicted to the methamphetamine narcotics, his friend sold the narcotics to the defendant. According to the defendant's statement, he had also been using this type of narcotic methamphetamine for three (three) years but was only discovered because the defendant had sold a lot of items in his house to buy the methamphetamine, so his wife complained to her in-laws, and then her in-laws made a report to the police that the defendant was using narcotics and had harmed other parties, so he was caught by the police at his hangout place on Jalan Ahmad Yani Medan.

### 2. Evidence

In trial number 2706 (Pid.Sus), 2022 (PN.Mdn), researchers witnessed in the trial room that the evidence found by law enforcement officers and presented at trial was methamphetamine narcotics weighing 15 grams.

- a) The articles charged in this case are:
- b) Article 127 Paragraph 1 of Law of the Republic of Indonesia Number 35 of 2009 reads: "People who use drugs are imprisoned for 1 to 4 years."
- c) Article 112 Paragraphs 1 and 2 of Law of the Republic of Indonesia Number 35 of 2009, which reads: "People who possess drugs such as inx, ecstasy, methamphetamine, putau, heroin, and cocaine are imprisoned for 4 to 12 years. Meanwhile, if you have more than 5 grams, you will be imprisoned for 5 to 20 years."

From the results of the researcher's analysis of the criminal case number 2706/Pid.Sus/2022/ 2022 / PN.Mdn whose trial the researcher saw, there are several normative considerations, namely:

#### 1. Criminal Acts

According to Moeljatno, a criminal act is an act that is prohibited and is punishable by anyone who violates this prohibition. Actions can be committed as criminal acts if they fulfill the following elements:

- a) Actions carried out by legal subjects, namely humans
- b) This act is prohibited or threatened by law.
- c) This action is contrary to applicable law.
- d) Actions carried out by someone who can be held responsible (not crazy or disabled)

Based on the elements above, the actions carried out by the defendant, Dedi Syahputra alias Krewol, with Case Numbers: 2706, Pid.Sus, 2022, and PN.Mdn, are included in the criminal act. Elements of Criminal Error Muladi and Dwidja Priyatno said that mistakes contain an element of condemnation for someone who has committed a criminal act. This means that if someone is guilty of committing an act and the act can be blamed on him, then it can be said that guilt is the basis for criminal liability. A person can be said to be guilty if his actions fulfill the elements of the article that regulate his actions. Based on the author's analysis of case Number: 2706 / Pid.Sus / 2022 / PN.Mdn, the trial process of which the author witnessed directly at the Medan District Court, the defendant will be declared guilty because he has fulfilled the elements in Article 127 Paragraph (1) of the Law Republic of Indonesia Number 35 of 2009 and Article 112 Paragraph (2) of the Republic of Indonesia Number 35 of 2009.

#### 2. Motive and the Purpose of the Crime

In every criminal case, each perpetrator must have different motives and objectives for the criminal act. Based on research conducted by researchers in criminal case number 2706/Pid.Sus/2022/ 2022 / PN.Mdn, the defendant committed the crime of narcotics abuse because he felt stressed with his life and was experiencing too many problems, so he found peace by using methamphetamine-type narcotics.

#### 3. Consequences Arising From Criminal Acts

The criminal act of narcotics abuse has various impacts; it can affect individuals or groups of society. The individual loss is that the body of the person who abuses narcotics will feel pain due to the effects of the narcotics, and it can also affect their mental health. The impact on community groups is that the perpetrator will do everything they can to buy the narcotics, such as stealing, killing, and other things, so that the perpetrator gets money that can be used to buy the narcotics. This can make people worry about the presence of narcotics users in the surrounding environment.

## **2. Factors That Influence Judges' Decisions Against Criminal Perpetrators**

Factors that influence the judge's decision on perpetrators of criminal acts, especially those who violate Article 127 Paragraph (1) and 112 Paragraph (2) of Law Number 35 of 2009 at the Medan District Court. If you look closely, the law that regulates drugs is Law no. 35 of 2009 concerning Narcotics strictly regulates the threat of punishment for perpetrators of drug crimes. The existence of a maximum and minimum limit gives the judge freedom to impose a crime. This is what gives rise to differences in punishment or what causes disparities in criminal sentences. One of the causes of disparity in criminal sentences basically starts from the law itself, where the law opens up opportunities for crimes to occur because there are minimum and maximum limits for giving sentences, so that judges are free to move to decide on criminal sanctions that they think are appropriate.

The imposition of prison sanctions on defendants is not to repay their actions but rather to guide them so that the defendants do not repeat them. According to them, the judge can actually impose a sentence that is lower than that specified (minimum limit) by law. However, if this is done, the Public Prosecutor will definitely take legal action to appeal to the High Court so that this case will continue until the cassation level at the Supreme Court. In the criminal justice system, law enforcement officers are a very important pillar in upholding the supremacy of the law. So it is hoped that law enforcement officers in carrying out their duties must be truly professional and always uphold the law and the values of justice. (Kumaedi et al., 2022) .

There are still many law enforcement officers who misuse existing legal norms, whether intentionally or not. According to Siregar, ( 2022) For judges as decision makers, it is very possible for them to take advantage of the opportunities provided by law. So it will be very easy for judges to play with the law. But it may also be caused by the judge's lack of resources in understanding and comprehending the meaning of the legal content contained in the law.

In order to create independence in the administration of judicial power, the Supreme Court in its instruction No.KMA/015/INST/VI/1998 dated 01 June 1998 instructed judges to strengthen professionalism in realizing quality justice by producing judge decisions that are executable, contain *ethos* (integrity), *pathos* (main juridical considerations), *philosophical* (consisting of a sense of justice and truth), *sociological* (in accordance with the values that apply in society), and *logos* (acceptable by common sense), in order to create independence for administrators of judicial power

In the trial, the judge before imposing a crime on the defendant to determine whether the sentence will be serious or light must be based on looking at and assessing the circumstances of the defendant, whether the defendant has been convicted before or not, whether the defendant was polite or not in the trial, admitted and regretted his actions or not. Consideration is also made regarding the role and position of the defendant as well as the amount of evidence presented at trial which also influences the severity or lightness of the sentence imposed on a defendant .

## **CONCLUSION**

Based on the description that the author has presented above, it can be concluded that the judge's decision to impose criminal sanctions against perpetrators of criminal acts of narcotics abuse is based on several considerations, namely:

- a. Juridical and empirical considerations, namely the judge's considerations originating from the facts revealed during the trial process and by law, have been determined as matters that must be included in a decision. Juridical considerations, namely:
  - a. Public Prosecutor's Indictment
  - b. Witness Statement
  - c. Defendant's statement
  - d. Evidence
  - e. The articles contained in Law of the Republic of Indonesia Number 35 of 2009 are Article 127 Paragraph (1) and Article 112 Paragraph (2).
- b. Normative Considerations, namely:
  - a. Criminal Acts
  - b. Elements of a Criminal Mistake
  - c. Motives and Objectives of Criminal Acts
  - d. Consequences arising from criminal acts

Furthermore, the judge decided on criminal sanctions against perpetrators of criminal acts of narcotics abuse based on several considerations with reasons that could mitigate and also aggravate the decision, namely:

- a. Aggravating Matters
  - 1) Harmful to Children and Wife
  - 2) The defendant has also been convicted in the same case.
  - 3) The defendant's actions can also cause unrest in society.
- b. Lightening Matters
  - 1) The defendant behaved politely throughout the trial.
  - 2) The defendant was also honest when answering questions during the trial process.
  - 3) Do not cause difficulties for law enforcement officials in the investigation process.



## BIBLIOGRAPHY

A. Muri, Y. (2016). *Quantitative, Qualitative & Combined Research Methods* . Prenada Media.

Adhar, S., Marlina, M., & Affan, I. (2021). ENFORCEMENT OF LAW AGAINST NARCOTICS ADDICTS AND ABUSERS ACCORDING TO LAW NUMBER 35 OF 2009 CONCERNING NARCOTICS (Study of Kisaran District Court Decision Number 296/Pid.Sus/2021/PN.Kis). *METADATA Scientific Journal* , 3 (3), Article 3. <https://doi.org/10.47652/metadata.v3i3.88>

Afriani, M. (2015). *Judges' Considerations in Imposing Sentences for Perpetrators of Class I Non-Plant Narcotics Crimes (Case Study of Medan District Court Decision No. 1774/Pid.B/2014/PN.Mdn)* [Thesis, Medan Area University]. <https://repository.uma.ac.id/handle/123456789/476>

Akbar, M., & Harahap, S. Bakti. (2022). Judge's Considerations in Deciding on Class 1 Narcotics Abuse Crime Cases for Yourself. *Smart Law Journal (JSH)* , 1 (1), Article 1. <https://doi.org/10.55299/jsh.v1i1.154>

Aulia, R. (2023). *Legal Analysis of Criminal Acts of Narcotics Abuse that Cause Traffic Accidents (Study of Medan District Court Decision Number: 905/Pid.B/2022/Pn.Mdn)* . <https://repository.uma.ac.id/handle/123456789/21380>

Emmanuel Romario, P. (2020). *JURIDICAL REVIEW OF THE JUDGE'S RULING ON THE IMPLEMENTATION OF SANCTIONS FOR CRIMINAL ACTIONS OF NARCOTICS ABUSE BASED ON THE ANALYSIS OF RULING NUMBER 2420/PID.SUS/2016 MEDAN STATE COURT* [Diploma, IBLAM College of Law]. <http://digilib.iblam.ac.id/id/eprint/251/>

Islamianiati, AA, & Hartanto, SH (2020). *Basic Analysis of Judges' Considerations in Imposing Criminal Decisions on Imprisonment or Rehabilitation for Children Perpetrating Narcotics Abusers (Case Study at the Pekalongan City District Court)* [S1, Surakarta Muhammadiyah University]. <https://eprints.ums.ac.id/86303/>

Kumaedi, Syahrin, A., Mulyadi, M., & Ekaputra, M. (2022). Enforcement of Criminal Law by Judges in Information and Electronic Transaction Crimes: Study of Medan District Court Decision Number 3563/Pid.Sus/2019/PN.Mdn. *Locus: Journal of Legal Science Concepts* , 2 (1), Article 1.

Pirause, B. (2022). *REHABILITATION AS A FORM OF LEGAL PROTECTION AGAINST NARCOTICS ABUSERS (ANALYSIS OF MEDAN STATE COURT DECISION NUMBER 594/PID.SUS/2021/PN MDN AND RULING NUMBER 392/PID.SUS/2021/PN MDN)* [Other, Legal Sciences]. <https://repository.unja.ac.id/39550/>

Sembiring, WP (2018). *Basic Considerations for Judges in Imposing Prison Sentences to Narcotics Abusers (Study of Binjai District Court Decision Number 120/Pid.Sus/2017/PN.Bnj)* . <https://repository.uma.ac.id/handle/123456789/9657>

Siregar, W. (2022). *JURIDICAL ANALYSIS OF THE CRIME OF THEFT WITH INCREASING* (Study of Medan District Court Decision Number 3788/Pid.B/2019/PN.Mdn) [Thesis, Faculty of Law, Islamic University of North Sumatra]. <http://repository.uisu.ac.id/handle/123456789/1409>