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Research Article

Juridicial Review Of The Implimentation Of Rehabilitated Criminal Punishments For Criminal Abuses Of Narcoticts Group I (Sabu) (Case Study Of Central Jakarta District Court Decision Number: 66/Pid.Sus/2018/Pn.Jkt.Pst, Date 8 March 2018)

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Abstract

Narcotics crime is increasingly prevalent and has spread in all circles ranging from children, adolescents, and adults. Most of them are victims of narcotics abuse or narcotics abusers, so it is necessary to rehabilitate them. In the Narcotics Law No. 35 of 2009 concerning Narcotics every Victim of Abusers or Abusers and Addicts must be rehabilitated both medical and social. As for the problems in the research based on case number 66 / Pid.Sus / 2018 / PN.JKT.PST is how the legal arrangements regarding rehabilitation for abusers class I narcotics and whether the application of punishment regarding rehabilitation in the decision of the Central Jakarta District Court Number 66 / Pid.Sus / 2018 / PN.JKT.PST is appropriate according to law. Judge's consideration in imposing a crime on case Number 66 / Pid.Sus / 2018 / PN.JKT.PST to Siska Ariani Intan committing a crime of misuse of class I narcotics for themselves by referring to the Supreme Court Circular Letter (SEMA) No. 4 of 2010 applied so that the defendant undergoes medical rehabilitation which is intended so that the defendant can recover as before. Based on the Supreme Court Circular No. 4 of 2010 concerning the Placement of Abuse, Victims of Abuse and Narcotics Addicts into the Institute for Medical Rehabilitation and Social Rehabilitation if when caught the evidence of Sabu group usage is 1 (one) gram. Meanwhile, the evidence found from the defendant's hand was 0.0273 grams. Is it according to law? And whether the verdict is appropriate and appropriate based on SEMA Regulation Number 4 of 2010?

Keywords

Indicative speech, application of regulations, narcotics abuse

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Preliminary

Background

Narcotics crime is no longer clandestine, but it is openly carried out by the users and dealers in carrying out dangerous goods. Narcotics is like a double-edged sword, on the one hand it is needed in the world of medicine and science, and on the other hand its misuse is very dangerous to the future of the younger generation, the peace of society and threatens the existence of national defense of a nation, so that it takes rules in the form of laws that can suppress the amount abuse and distribution of narcotics, especially in Indonesia. Tackling narcotics abuse is not an easy thing to do but the State has determined to eradicate it. Narcotics abuse covers all levels of society whether poor, rich, old, young, and even children. Narcotics abuse from year to year has increased which ultimately harming the nation's future cadres. One of the efforts made by the Government to tackle the narcotics problem is through improvements in the regulation in the field of law. Improvement is very necessary because the influence of narcotics is very large on the survival of a nation. For the sake of perfection in the field of law that specifically regulates narcotics, the Government promulgates Law Number 35 Year 2009 regarding narcotics to replace the existing legislation that is already there namely Law Number 22 Year 1997 concerning narcotics. The government has shown its seriousness in preventing and combating narcotics abuse by forming the National Narcotics Agency (BNN).The importance of narcotics distribution is closely monitored (Deputy Directorate of Legal Affairs for the Legal and Collaborative Affairs of BNN, Association of Regulations on Narcotics and Other Regulations, 2016). Currently there are many uses for negative things, and through the development of information and communication technology and the spread of narcotics which has also reached almost all regions in Indonesia

Continuous and continued use will cause dependency or dependency which is also called addiction, the level of abuse is usually as follows: try, have fun, use at certain times, abuse and dependency (Hendra Akhdhiat, 2011: p. 54).

The first law regulating Narcotics is Law No. 22 of 1997 concerning Narcotics. After the narcotics law ran for almost 12 years, in 2009 the Supreme Court issued a circular number 07 of 2009 addressed to district courts and high courts throughout Indonesia to place drug addicts in rehabilitation centers and most recently by issuing Circular Supreme Court Number 04 of 2010 concerning the placement of abuse, victims of abuse and narcotics addicts into the Institute for Medical Rehabilitation and Social Rehabilitation which is a revision of the Supreme Court Circular Letter number 07 of 2009. Certainly the Supreme Court Circular Letter Number 04 of 2010 is a step forward in building a cessation of criminalization and decriminalization of narcotics addicts.

Decriminalization is the process of changing the assessment of a number of acts that are threatened with criminal acts to be deemed as not a crime that needs to be convicted (Djoko Prakoso, Renewing Criminal Law (1987): p. 175). The stage of decision making is one of the stages that attracts attention, in this stage the judge makes consideration to give the decision after previously understanding the facts revealed in the trial. The verdict is a determination of the fate of someone suspected of committing a crime. If the perpetrators are proven legally and convincingly, then in the decision will contain a sentence that has been previously considered by the panel of judges. In connection with the narcotics crime the Supreme Court on April 7, 2010 issued a Supreme Court Circular Letter (SEMA) No. 4 of 2010 concerning Placement of Abuse, Abuse and Narcotics Addicts Victims into the Medical Rehabilitation and Social Rehabilitation Institute. The issuance of the SEMA makes it possible for the court to decide on a narcotic crime case in the form of a sentence for rehabilitation, where the places for the rehabilitation have been determined, but to get a defendant to be sentenced this must meet several requirements contained in the SEMA (*Circular Supreme Court*) Number 4 of 2010.

Therefore, based on the description above, the writer feels interested to examine in a juridical normative manner regarding a decision in the Central Jakarta District Court. There was a case regarding Narcotics Abuse Group 1 for oneself, where the Judge decided the defendant with two years imprisonment because the defendant was legally proven and convincingly guilty of

committing Narcotics Abuse Type I For Himself, while the defendant's evidence was under the provisions of the rules Supreme Court Circular Letter Number 04 of 2010.

Writing Purpose

1) To find out the legal rules regarding medical and social rehabilitation for convicted drug users of Class I (sabu-sabu).
2) To find out the application of punishment regarding rehabilitation in the decision of the District Court Number: 66 / Pid.Sus / 2018 / PN.Jkt.Pst. March 8, 2018.

The Benefits of Writing

The benefits of this research are as follows:

1. as a condition for obtaining a law degree (S1) at the law faculty of Esa Unggul University, Jakarta.
2. It is expected to be able to provide an overview of the legal arrangements concerning rehabilitation of narcotics abuse class I (methamphetamine).
3. It is hoped that the judge will make a fairer decision in making decisions about victims of narcotics abuse.
4. The benefit of this research is to be able to add insight and knowledge as well as understanding which useful input become in an effort to make the State of Indonesia free from narcotics.

Review

Definition of Criminal Acts

The term criminal act is used as a substitute for "*strafbaar feit*". In the legislation of our country, we can find other terms which also mean "*strafbaar feit*" for example:

a. Criminal events (1950 Provisional Constitution, Article 14 paragraph 1).
b. Criminal deeds (Law No. 1 of 1951 concerning Temporary Actions for Organizing the Unity of Composition, Power and Procedure of Civil Courts, Article 5 paragraph 3b.
c. Acts that can be punished (Emergency Law no. 2 of 1951 Concerning Amendments to the Law of the Republic of Indonesia No. 8 of 1948 Article 3.
d. Things that are threatened by law and actions that can be subject to punishment (Emergency Law No. 16 of 1951, Concerning Settlement of Labor Disputes, Article 19,21,22).
e. Criminal Act (Emergency Law No. 7 of 1953 concerning General Elections, Article 129).
f. Criminal Act (Emergency Law No. 7 of 1955 Concerning Investigation, Prosecution and Judicial Economic Crimes, Article 1).
Lawmakers have used the term "strafbaar feit" to refer to what is referred to as "criminal acts" in the Criminal Code without providing an explanation of what is called "strafbaar feit". Therefore, there arose several doctrines about opinions about the meaning of the term "strafbaar feit".

Understanding and Elements of Criminal Acts

Crime is a basic understanding in criminal law. Crime is a juridical understanding, different from "evil" or "crime" (crime or verbrechen or misdaad) which can be interpreted legally (law) or criminologically. According to Prof. Muljatno, professor of Criminal Law at Gadjah Mada University in his speech at the University's anniversary anniversary, entitled "Criminal Acts and Responsibility in Criminal Law". He distinguished "the conviction could be done" (de strafbaarheid van het feit or

het verboden zijr van het feit) and "the conviction of people" (strafbaarheid van den persoon), and in line with this he separates the notions of "Criminal Acts" (criminal act) and "criminal liability" (criminal responsibility or criminal liability).Lamintang also explains the subjective elements and objective elements as follows:

a. Subjective elements are elements that are inherent in the offender or related to the offender, and are included in that is everything contained in his heart;
b. Objective elements, namely elements that have to do with circumstances, that is, in situations where the actions of the perpetrator must be carried out. Belik is listed in the Big Indonesian Dictionary as follows: "Delik is an act that can be punished because constitutes a violation of criminal law "

Criminal Formulation

It is known that there are written and criminal sources. So that people can know how the law is about an issue, then the rule of law must be formulated. The same is the case in Criminal Law, the formulation of written Criminal Law rules is contained in the Criminal Code and in other statutory regulations.The first requirement to allow for criminal prosecution is the existence of (human) acts which fulfill the offense formulation in the law. This is a consequence of the principle of legality. The formulation of this offense is very important as a principle of certainty, because the criminal law must be certain. In it must be known with certainty what is prohibited or what is ordered.
The meaning of "Actions that Fulfill or Match the Formulation of the Article of Criminal Law", the concrete actions of the maker must have the characteristics or characteristics of the offense as abstractly stated in the law. The act must "enter" in the offense formula.
In this formulation the law describes the intended action schematically, not concretely. An example is Article 338 of the Criminal Code. schematically describe the conditions that must exist in an act in order to be convicted based on the article (murder). Understanding the elements here is used in a narrow sense, is the element contained in the formulation of the law. The formulation in this law is not bound by place and time. Not so with the intended action. This is a concrete act, which takes place in a place and at a time and which can be captured by the five senses. The formulation of an act that can be criminal is in the form of a prohibition or an order to do or not to do something. The order or prohibition can be called the norm or violation of the norm and the maker can be subject to sanctions called criminal. In the Criminal Code the formulation of the offense usually starts with "Whoever" and then contains paintings that are prohibited or unwanted or ordered by law.

Types of Criminal Acts

The division of types of criminal acts in theory and practice of legislation is as follows:

a. Crimes and violations;
b. Formal offense and material offense;
c. Dolus delik and culpa delik;
d. Commisissionis offense, Ommissionis offense, and Commissionis peris commissionis offense;
e. Single offense and multiple offenses;
f. Offenses that go on and on offenses that don't go on;
g. Complaints and offenses are normal or not complaints;
h. Economic offense and not economic offense;
i. Simple offenses and offenses that have weights;
j. Minor crime.

Criminal Subjects

Basically, those who can commit crimes are human (natuurlijke personen). Which can be concluded based on the following matters:

a. Formulation of offenses in the law usually starts with the words "whoever". The word "whosoever" cannot be interpreted other than "people".
b. In Article 10 of the Criminal Code the types of crimes that can be imposed on a criminal offense are explained, namely:

1) Principal Criminal:
a. Criminal Death
b. Criminal Prison
c. Criminal Cage: V
d. Criminal Fines, which can be replaced with imprisonment.
2) Additional Crimes
a. Revocation of certain rights
b. Confiscation of certain items
c. Announcement of judge's decision
The nature of the crime is such that basically it can only be imposed on humans.
d. In examining cases and also the nature of criminal law, which is seen whether or not there is an error in the defendant, it gives a clue that those who can be accounted for are human beings.

In addition to the criminal offenses listed in the Criminal Code there are several types of criminal acts whose arrangements are outside the Criminal Code or are called "Special Crimes". The types of criminal acts outside the Criminal Code include:

a. Immigration Acts;
b. Economic Crimes;
c. Narcotics Crimes;

Law Number 35 of 2009 concerning Narcotics is a form of law regulating criminal acts outside the Criminal Code. Law Number 35 of 2009 concerning Narcotics is a special provision of the general provisions (KUHP) as an embodiment of the lex specialis derogate lex generalis principle. Therefore, for incidents involving narcotic crime, the provisions of criminal acts must be applied in the law, except for matters that have not been regulated therein.

Legal against Nature

One element of a criminal offense is an element against the law. This element is an objective assessment of the action, and not of the maker. When an action is said to be against the law, people will answer "if the act is included in the formulation of offense as formulated in the law". Or it can be called Tatbestand.Tatbestand in the strict sense, is the whole element of offense as formulated in criminal regulations. Tatbestand consists of male brand tatbestand which means that each element of the offense formula. (Soedarto, Criminal Law I (2007): p. 128). Actions that fulfill the offense formula (tatbestands-maszig) are not always against the law, because there may be something that removes the illegal behavior. The nature of breaking the law is divided into two, namely the nature against the formal law and the nature against the material law.

a. The formal unlawful nature of an act is unlawful, if the act is threatened with criminal offense and formulated as an offense in the law. Being against the law can be removed, only based on a statutory provision. So according to this teaching, against the law is the same as

against or against the law (written law);
b. The nature of violating material law, an act that is against the law or not, is not only contained in the law (*written*) only. However, it must be seen that the principles of law are not written down. The unlawful nature of acts which are clearly included in the formulation of the offense can be removed based on the provisions of the law and also based on unwritten rules (*uber gesetzlich*).
If an action fulfills the offense formula, then it is a sign / indication that the act is against the law. However, the trait is erased if it is breached by justification (*rechtvaardigingsgrond*).
The nature of being against the law is an objective evaluation of the act, while error *(criminal liability*) is a matter that concerns the person (*the maker*). Because the conditions of punishment are objective and subjective elements.

Definition of Narcotics

Narcotics is basically an abbreviation for narcotics, psychotropic substances and other substances (*addictive substances*). In terminology in the Big Indonesian dictionary, drugs are drugs that can calm nerves, relieve pain, cause drowsiness or stimulate feelings.Narcotics has the same meaning as narcosis which means to anesthetize. Sudarto said that the word narcotics comes from the Greek "nare" which means anesthetized so that it can not feel anything. (Soedarto, Capita Selekta Criminal Law (1981) p. 36). Juridical definition of narcotics is regulated in Article 1 point 1 of Law Number 35 Year 2009 concerning Narcotics which states that: loss of feeling, reduce to eliminate pain and can cause dependence that is divided into groups as attached in this law ".In addition there are those who argue that the word narcotics comes from the word narcissus a type of plants that have flowers that can make people become unconscious. (Sasangka Day, Narcotics and Psychotropics in Criminal Law (2003) p. 35).
Rachman Hermawan, defines narcotics, namely:

Substances that are eaten, drunk, or inserted (injected) into the human body, can change one or more functions of the human body. (Rachman Hermawan S., Abuse of Narcotics by Teens (1987) pp. 10-11).

Narcotics History

Since long time ago we have known opium as one type of narcotics that exists and is used by a small part of the community. The habit of smoking opium that is characteristic in the Far East region was not known until the discovery of the Americas by Colombus in 1492, because smoking was also unknown to the inhabitants of the Old World on the Mainland of Asia and Africa. The preference for smoking opium has become a major problem in China after China has become the main target of opium trade by British airlines, the British East India Company / BEIC and the Netherlands. Opium is thought to originate from the eastern Mediterranean Mountains. The opium is made from the fruit of the Papaver Somniferum L. plant, a type of wild herbaceous plant that thrives in the mountainous area. At first the seeds were taken from the plant to be used as a mixture of tea drinks. The history of opium in China began with the use of opium for medicinal purposes during the 7th century. In the 17th century the practice of mixing opium with tobacco to smoke spread from Southeast Asia, creating a much greater demand. Opium imports to China numbered 200 chests each year in 1729, when the anti-opium decree was first announced. By the time the Chinese authorities reissued the ban in sharper terms in 1799, the figure had jumped; 4,500 crates were imported in 1800.The decade of the 1830s saw a rapid increase in the opium trade, and by 1838, just before the First Opium War, it had risen to 40,000 chests. The increase continued after the Treaty of Nanking (1842) which ended the war. In 1858, annual imports increased to 70,000 crates (4,480 tons in length (4,550 t)), roughly equivalent to global opium production for the decade around 2000.

After becoming VOC merchandise, opium in Java increased, especially after the VOC held a monopoly on imports to the kingdom of Mataram in 1696, the Cirebon Sultanate in 1678, and then to the Sultanate of Banten. With technological advances, opium derived from the fruit of Papaver Somniferum L. can be processed to produce morphine and heroina. Meanwhile, coca plants can be processed to produce cocaine. Which nation first brought opium to Indonesia could not be known with certainty. However, it was allegedly introduced by Indians, Arabs, and Chinese individually. In addition to these plants, marijuana that thrives in our country is also one of the types of narcotics that are prohibited by the Government of the Republic of Indonesia. Nowadays, opium, morphine, heroina, cocaine, and cannabis are known in statutory provisions as narcotics.

Narcotics Settings

In the history of legislation governing narcotics, it can be divided into 5 (five) stages which are described as follows:

The validity period of the Ordinantie Regies.
At this time narcotics regulation was not uniform. Each region has its own regie ordinances. Of the various regie ordonantie, the oldest is the Bali Regie Ordonantie which is contained in Stbl 1872 No. 76. In addition, narcotics problems are also regulated in:

1) Morphine Regie Ordonantie (Stbl 1911No. 373, Stbl 1911 No. 484, In case the victim of a criminal offense is a child, then Indonesia already has a law and Stbl 1911 No. 485);
2) Ooskust Regie Ordonantie (Stbl 1911 No. 494 and 644, Stbl 1915 No. 255);
3) Westkust Regie Ordonantie (Stbl 1914 No. 562, Stbl 1915 No. 245);
4) Bepalingen Opium Premien (Stbl 1916 No. 630) and so on.

Term of Verdovende Midellen Ordonantie Stbl 1927 No. 278 jo No. 536.

In accordance with the provisions of Article 131 I.S., the regulations on Indie drugs are adjusted to the drug regulations in force in the Netherlands (concordation principle). The Governor-General with the approval of Raad van Indie issued Stbl 1927 No. 278 jo No. 536 concerning Verdovende Midellen Ordonantie which is translated into the Drug Act.With this provision, 44 previous laws have been withdrawn. Thus, the main purpose of the issuance of the drug law is to obtain a legal unification of the provisions regarding opium and other drugs that were previously scattered in various ordinances. The law specifically regulates all forms of protection for children. In the provisions of Article 1 paragraph 1, the age limit of a child is determined, namely "a child is someone who is not yet 18 (eighteen) years old, including children who are still in the womb".
c. The validity period of Law No. 9 of 1976 concerning Narcotics.The background to the replacement of Verdovende Midellen Ordonantie became Law No. 9 of 1967 concerning Narcotics is in connection with the development of traffic and transportation equipment and modern transportation that led to the rapid spread / import of narcotics to Indonesia.Coupled with the progress in the field of drug manufacturing it turned out to be insufficient if it continued to use the provisions in the Verdovende Midellen Ordonantie. In Verdovende Midellen Ordonantie only regulates the trade and use of narcotics. Matters regulated in this law are:

a.) To regulate types of narcotics in more detail;
b.) The criminal is also commensurate with the types of narcotics;
c.) Arranging health services for addicts and their rehabilitation;
d.) Arranging all activities related to narcotics namely planting, compounding, production, trade, transportation and use of narcotics;
e.) The criminal event is special;
f.) Providing premiums for those who have contributed to dismantling narcotics crimes;

g.) Arranging international cooperation in dealing with narcotics;
h.) Many criminal material deviates from the Criminal Code;
i.) Greater criminal threat.
d. The validity period of Law No. 22 of 1997 concerning Narcotics.
This law was enacted on September 1, 1997 and is contained in State Gazette of 1997 No. 67 and Additional State Gazette No. 3698. The background of the promulgation of Law No. 22 of 1997 concerning Narcotics namely the improvement of control and supervision as an effort to prevent and eradicate narcotics abuse and distribution.That is because narcotics crimes are transnational in nature using the modus operandi and sophisticated technology including securing the results of narcotics crimes.
e. The validity period of Law No. 35 of 2009 concerning Narcotics.
At the General Session of the People's Consultative Assembly of the Republic of Indonesia in 2002 through the Decree of the Indonesian People's Consultative Assembly No.VI/ MPR / 2002, it had recommended the People's Representative Council of the Republic of Indonesia and the President of the Republic of Indonesia to make changes to Law No. 22 of 1997 concerning Narcotics.

Types of Narcotics

M. Ridha Ma'roef divides the types of narcotics into 2 (two) types, namely:

a. Natural Narcotics: narcotics in a narrow sense, including various types of opium, morphine, heroin, cannabis, hashish, codeine, cocaine.
b. Synthetic Narcotics: narcotics in a broad sense, including substances (*drugs*) that are classified into three types of drugs namely hallucinogen, depressant, and stimulantIn the Criminal Code (KUHP), the definition of rape is stated in Article 285 which reads " whoever with violence or threat of violence forces a woman who is not his wife to have intercourse with him, threatened with rape with a maximum prison sentence of twelve years. "
The more detailed classification of types of narcotics is regulated in the provisions of Article 6 paragraph (1) of Law Number 35 Year 2009 concerning Narcotics and its Explanation that types of narcotics can be classified into three groups, namely:

Narcotics group I

Group I narcotics are narcotics which can only be used for the purpose of developing science and are not used in therapy, and have very high potential to result in dependency. The types of narcotics group I in the Narcotics Act in Appendix 1 mentioned there are 147 types.

Narcotics group II

Group II narcotics are narcotics which have medicinal properties which are used as a last resort and can be used in therapy as well as being used for scientific development purposes and have high potential to cause dependence. There are 91 types of type II narcotics.

Narcotics group III

Narcotics class III are efficacious for treatment and are widely used in therapy and treatment purposes and are used in the purpose of developing science and have mild potential to cause dependence.

Legal Rules Regarding Narcotics

Countering narcotics abuse is not an easy thing to do but the State has determined to eradicate it. One of the efforts made by the government to tackle the narcotics problem is through improvements in the regulation in the field of law. Improvement is very necessary because the influence of narcotics is very large on the survival of a nation.
For the sake of perfection in the field of law that specifically regulates narcotics, the government has made legal rules related to narcotics.

Criminal Acts of Narcotics Abuse

Law No. 54 number 35 of 2009 concerning Narcotics states that every act that is without right relates directly or indirectly to narcotics is part of a narcotics crime. Basically the use of narcotics should only be used for medical and scientific purposes. If it is known that there is an act outside the interests mentioned above, then the act is qualified as a narcotic crime. This is confirmed by the provisions of Article 7 of Law Number 35 Year 2009 Regarding Narcotics stating that: "Narcotics can only be used for the benefit of health services and / or the development of science and technology".Narcotics crime is regulated in Article 111 to Article 148 of Law Number 35 Year 2009 Regarding Narcotics. In terms of conduct, the criminal provisions governed by the law can be grouped into 9 (Nine), including:

a. Crimes related to narcotics production;
b. Crimes relating to the sale and purchase of narcotics: Rape is an act that has a lot of negative impacts, especially for the victim. Both the physical, mental and impact on personal and social life. Rape victims generally experience a deep trauma that may not be forgotten in their entire lives.
c. Crimes involving the transportation and transportation of narcotics;
d. Crimes related to possession of narcotics;
e. Crimes related to narcotics abuse;
f. Crimes involving not reporting narcotics addicts;
g. Crimes involving narcotics labels and publications
h. Crimes related to the running of narcotics justice;

Crimes involving confiscation and annihilation of narcotics. (Gatot Supramono, Indonesian Narcotics Law (2001) p. 154).

Research Methods

The research method is a basic tool in the development of science and technology. This is because the research aims to reveal the truth systematically, methodologically and consistently. Through the research process analysis and construction of the data that has been collected and processed is held. This study uses normative research because this study outlines the existing problems for further discussion with the study of applicable legal theories and then is associated with applicable laws and regulations in legal practice.

Discussion Result

In this case, the author strongly disagrees with the decision of the Panel of Judges who sentenced him to Siska Ariani Intan to prison for 2 years, for forcing the defendant to be able to eliminate addiction to narcotics without adequate medical and social rehabilitation efforts is a cruel form

of punishment for the defendant because it deliberately causes pain due to dependence on fostered citizens.Placement of the accused in a prison as a form of execution is contrary to the obligation to undergo medical rehabilitation and social rehabilitation for drug addicts and abusers and is not in accordance with the objectives of the Narcotics Law.
So that the Narcotics Misuse Abuse Act should be handed down with a decision on medical rehabilitation and social rehabilitation.

Conclusion

Based on the results of research and discussion in writing this thesis it can be concluded and suggested several things as follows:
1. Regulations on rehabilitation penalties for convicted Narcotics Group I abusers based on the Supreme Court Circular Number 4 of 2010 concerning the placement of abuse, victims of abuse and drug addicts into medical rehabilitation and social rehabilitation institutions, are regulated in point 2 with the following conditions:
a. The accused at the time of arrest by the National Police investigator and the National Narcotics Agency Investigator were caught red-handed;
b. When caught red-handed according to point a above, evidence of one-day usage is found (attached in SEMA);
c. Positive laboratory test letters using narcotics based on the request of the investigator;
d. Need a certificate from a psychiatrist / Government psychiatrist appointed by the Judge; and
e. There is no evidence that he was involved in the illicit trafficking of narcotics.
The government also issued Government Regulation (PP) Number 25 of 2011 concerning the Implementation of the Obligatory Report of Narcotics Addicts to Get Therapy and Rehabilitation Services. The Minister of Health also issued a Ministerial Decree (KEPMENKES) Number HK 02.02 / MENKES / 502/2015, Head of the National Narcotics Agency (BNN) Number 01 / PB / MA / III / 2014, PERBER / 01 / III / 2014 / BNN Regarding the Handling of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions
2. Decision of the Central Jakarta District Court Number 66 / Pid.Sus / 2018 / PN.Jkt.Pst, dated March 8, 2018, which did not impose a criminal sentence in the form of a rehabilitation sentence against a Class Narcotics Abuse Defendant, is incorrect according to law, because it contradicts normatively with the Supreme Court Circular Number 4 of 2010, concerning the Placement of Abusers, Narcotics Abuse Victims into Medical and Social Institutions, where in this case, the evidence found on the defendant did not meet (less) than 1 (one) gram, so it should the defendant was convicted with legal actions of medical rehabilitation and social rehabilitation.

Suggestion

In view of the issuance of the Supreme Court Circular Letter (SEMA) Number 4 of 2009 concerning Placement of Abuse, Narcotics Abuse Victims and Narcotics Addict Victims into the Medical Rehabilitation and Social Rehabilitation Institute and the Circular Letter was addressed to the High and State Courts on April 7, 2010.

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