

ABSTRAK

ANALISIS PUTUSAN KASASI PIDANA MATI TERHADAP PELAKU TINDAK PIDANA NARKOTIKA (Studi Putusan Nomor 5832 K/Pid.Sus/2022)

Oleh

VINCENTIA CATHRINE

Hakim dalam menjatuhkan suatu putusan harus didasarkan pada surat dakwaan dan segala sesuatu yang terbukti dalam pemeriksaan sidang. Harapannya, putusan hakim tersebut dapat memenuhi keadilan substantif, namun masih banyak putusan terhadap pelaku tindak pidana narkotika yang dirasa kurang sesuai dengan undang-undang yang berlaku. Seperti halnya dalam kasus tindak pidana narkotika yang telah diputus bebas pada Pengadilan Negeri Tanjung Karang dengan Nomor Putusan: 13/Pid.Sus/2022/PN Tjk, akan tetapi Penuntut Umum kemudian mengajukan permohonan Kasasi ke Mahkamah Agung. Mahkamah Agung memeriksa perkara *a quo* kemudian membatalkan putusan *Judex Facti* serta mengadili sendiri perkara tersebut. Berdasarkan hal tersebut maka perlu dilakukan penelitian dengan permasalahan: Bagaimanakah dasar pertimbangan hukum Hakim dalam penjatuhan putusan kasasi pidana mati terhadap pelaku tindak pidana narkotika dalam Putusan Nomor 5832 K/Pid.Sus/2022 dan Apakah penyebab disparitas antara putusan Pengadilan Negeri Tanjung Karang Nomor 13/Pid.Sus/2022/PN Tjk dengan Putusan Mahkamah Agung Nomor 5832 K/Pid.Sus/2022.

Pendekatan masalah yang digunakan pada skripsi ini menggunakan pendekatan yuridis normatif dan yuridis empiris. Sumber data yang digunakan yaitu data primer dan sekunder. Narasumber terdiri dari Hakim Pengadilan Negeri Bandar Lampung, Jaksa Kejaksaan Negeri Bandar Lampung, dan Dosen Bagian Hukum Pidana Fakultas Hukum Universitas Lampung.

Hasil penelitian dan pembahasan menunjukkan bahwa pertimbangan hakim dalam menjatuhkan putusan kasasi pidana mati terhadap pelaku tindak pidana narkotika dalam Putusan Nomor 5832 K/Pid.Sus/2022 yaitu karena *Judex Facti* dalam menangani perkara *a quo* telah salah dalam menerapkan hukum terkhusus hukum pembuktian, dimana pencabutan keterangan yang dilakukan oleh saksi di muka

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persidangan dijadikan dasar oleh hakim untuk membebaskan terdakwa tanpa mencari kebenaran materiil pencabutan keterangan tersebut. Kemudian juga terdapat pertimbangan hakim mengenai hal-hal yang memberatkan terdakwa yakni bahwa terdakwa merupakan narapidana, perbuatan terdakwa telah menghambat program pemerintah memberantas penyalahguna narkoba, dan terdakwa terlibat jaringan peredaran gelap. Adapun penyebab disparitas antara Putusan Tingkat Pertama dengan Tingkat Kasasinya yakni Faktor yang bersumber dari hakim dan faktor teori *Ratio Decidendi*.

Adapun saran yang diberikan dalam penelitian skripsi ini ialah Majelis hakim dalam memeriksa suatu perkara tindak pidana khususnya narkoba diharapkan lebih konsisten dalam mengemban amanat memberantas tindak pidana narkoba. Mahkamah Agung diharapkan dapat memberlakukan penerapan dari sistem kamar Mahkamah Agung secara konsisten, agar permasalahan-permasalahan hukum yang terhadapnya belum terdapat kesamaan pendapat, dapat terselesaikan sehingga dapat menjaga kesatuan penerapan hukum, konsistensi putusan, dan mengurangi disparitas putusan.

Kata Kunci: Pertimbangan Hakim, Penjatuan Putusan, Tindak Pidana Narkoba.

ABSTRACT

ANALYSIS OF DEATH PENALTY CASSATION DECISION AGAINST PERPETRATORS OF NARCOTICS CRIME (Study of Court Decision Number 5832 K/Pid.Sus/2022)

By

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The judge in making a decision must be based on the indictment and everything that was proven in the trial examination. The hope is that the judge's decision will fulfill substantive justice, but there are still many decisions against perpetrators of narcotics crimes that are deemed not in accordance with the applicable law. As in the case of a narcotics crime which was acquitted at the Tanjung Karang District Court with Decision Number: 13/Pid.Sus/2022/PN Tjk, however the Public Prosecutor then filed an appeal of cassation to the Supreme Court. The Supreme Court examined the case then overturned the decision of the *Judex Facti* and judge the case itself. Based on this case, it is necessary to conduct a research with problems: How is the basis of the Judge's legal reasoning in the imposition of a death penalty cassation verdict against a narcotics offender in Decision Number 5832 K/Pid.Sus/2022 and what is the cause of the disparity between the decisions of Tanjung Karang District Court Number 13/ Pid.Sus/2022/PN Tjk with Supreme Court Decision Number 5832 K/Pid.Sus/2022.

The problem approach used in this thesis uses a normative juridical and empirical juridical approaches. The data sources used are primary and secondary data. The resource persons consisted of Judge of Bandar Lampung District Court, Prosecutor of Bandar Lampung District Attorney's Office, and Lecturer of Criminal Law Department, Faculty of Law, University of Lampung.

The results of the research and discussion show that the judge's legal reasoning in imposing a death penalty cassation decision against the perpetrator of a narcotics crime in Decision Number 5832 K/Pid.Sus/2022 is because the *Judex Facti* in handling the case *a quo* had been wrong in applying the law, especially the law of evidence, where the revocation of testimony made by witnesses in front of the trial was used as a basis by the judge to acquit the defendant without seeking the material truth of the revocation of the testimony. Then there were also considerations by the judge regarding the matters that aggravated the defendant, namely that the defendant was a convict, the defendant's actions had hampered

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government programs to eradicate narcotics abusers, and the defendant was involved in an illicit trafficking network. The causes of the disparity between the First Level Court Decision and the Cassation Level are factors originating from the judge and the *Ratio Decidendi* theory factor.

The suggestions given in this thesis research are that the panel of judges in examining a criminal case, especially narcotics, is expected to be more consistent in carrying out the mandate to eradicate narcotics crimes. The Supreme Court is expected to be able to apply the application of the Supreme Court chamber system consistently, so that legal issues on which there is no common opinion can be resolved so as to maintain the unity of legal application, consistency of decisions, and reduce disparity of decisions.

Keywords: Judge's Legal Reasoning, Decision Making, Narcotics Crime.