

ABSTRAK

ANALISIS PUTUSAN HAKIM TERHADAP PELAKU TINDAK PIDANA PENYEBARLUASAN INFORMASI ELEKTRONIK YANG BERMUATAN KESUSILAAN SERTA MENGANDUNG ANCAMAN (Studi Putusan Nomor 419/Pid.Sus/2023/PN Tjk)

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Saat ini, marak terjadi kasus penyebaran informasi elektronik yang melanggar kesusilaan, yang diatur dalam Undang-Undang Informasi dan Transaksi Elektronik. Penelitian ini bertujuan untuk menganalisis bagaimana hakim mempertimbangkan aspek-aspek hukum dalam memutuskan perkara terkait penyebaran informasi elektronik yang melanggar norma kesusilaan dan mengandung unsur ancaman, dengan studi kasus Putusan Nomor 419/Pid.Sus/2023/PN Tjk. Hakim menjatuhkan pidana sesuai dengan Pasal 27 ayat (1) Jo Pasal 45 ayat (1) Undang-Undang Informasi dan Transaksi Elektronik (ITE) No. 19 Tahun 2016. Apakah putusan yang dijatuhkan terhadap Pelaku Tindak Pidana penyebaran informasi elektronik yang mengandung asusila serta ancaman telah mencapai keadilan substantif.

Pendekatan masalah pada penelitian ini menggunakan menggunakan pendekatan yuridis normatif dan pendekatan yuridis empiris. Data yang digunakan adalah data primer, data sekunder dan data tersier. Adapun narasumber dalam penelitian ini adalah Hakim dalam perkara Studi Putusan Nomor 419/Pid.Sus/2023/PN Tjk, dan Dosen bagian Pidana FH Unila. Sedangkan pengolahan data yang diperoleh dengan cara Identifikasi data, Klasifikasi data dan Penyusunan data. Analisis data menggunakan analisis kualitatif.

Berdasarkan hasil penelitian dan pembahasan, Setiap putusan hakim harus berdasarkan fakta yang jelas dan fakta memegang peranan penting dalam setiap putusan hakim. Fakta-fakta itu harus dimuat dalam pertimbangan hakim dan secara normatif putusan hakim seharusnya memperhatikan fakta persidangan, baik itu fakta saksi, bukti atau fakta pembelaan.

Hasil penelitian menunjukkan bahwa putusan ini sudah mencapai keadilan substantif dan hakim sudah menjatuhkan hukuman yang seadil-adilnya, tetapi menurut penulis putusan ini belum dapat dikatakan adil sepenuhnya, hukuman yang dijatuhkan masi terlalu ringan dan masi banyak factor-faktor pemberat lain untuk memberatkan hukuman Maka dari itu hakim mengatakan, “Adil bagi satu pihak, belum tentu adil bagi pihak lain”. penulis menjabarkan ada 3 dasar pertimbangan hakim. Pertama, Pertimbangan yuridis, hakim mempertimbangkan ketentuan dalam

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Pasal 27 ayat (1) Jo Pasal 45 ayat (1) Undang-Undang Informasi dan Transaksi Elektronik (ITE) No. 19 Tahun 2016. Kedua, Pertimbangan secara filosofis, hakim menilai dampak perbuatan terdakwa merugikan dan membahayakan masyarakat . Ketiga, Pertimbangan secara sosiologis, Majelis hakim mempertimbangkan pembedaan yang bukan semata-mata sebagai pembalasan atas perbuatan Terdakwa, melainkan bertujuan persuasif agar Terdakwa pada waktu dan setelah menjalani pidananya menyadari kesalahannya.

Kepada hakim hendanya dalam menangani perkara tindak pidana penyebaran informasi elektronik mengandung asusila serta ancaman, agar dapat menjatuhkan pidana tetap secara konsisten mempertimbangkan faktor yuridis, filosofis dan sosiologis, sehingga pidana yang dijatuhkan benar-benar sesuai dengan kesalahan yang dilakukannya. hakim hendanya dalam menjatuhkan putusan, harus menyeimbangkan antara kepastian hukum dan nilai-nilai keadilan yang berkembang di masyarakat, sehingga putusan yang dihasilkan tidak hanya sesuai dengan norma hukum, tetapi juga mencerminkan rasa keadilan yang dapat diterima oleh semua pihak.

Kata Kunci: Informasi Elektronik, Kesusilaan, Ancama

ABSTRACT

ANALYSIS OF THE JUDGE'S DECISION ON THE CRIME OF DISSEMINATION OF ELECTRONIC INFORMATION THAT CONTAINS DECENCY AND CONTAINING THREATS

(Study of Decision Number 419/Pid.Sus/2023/PN Tjk)

By

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Currently, there are many cases of dissemination of electronic information that violates decency, which is regulated in the Electronic Information and Transaction Law (ITE Law). This research aims to analyze how judges consider legal aspects in deciding cases related to the dissemination of electronic information that violates norms of decency and contains elements of threats, with a case study of Decision Number 419/Pid.Sus/2023/PN Tjk. The judge imposed a sentence in accordance with Article 27 paragraph (1) Jo Article 45 paragraph (1) of the Electronic Information and Transaction (ITE) Law No. 19 of 2016. Whether the verdict handed down by the judge against the perpetrator of the crime of disseminating electronic information containing indecency and threats has achieved substantive justice.

The problem approach in this research uses a normative juridical approach and an empirical juridical approach. The data used are primary data, secondary data and tertiary data. The sources in this research are Judges related to the Analysis of Judges' Decisions on the Crime of Disseminating Electronic Information Containing Decency and Threats Study Decision Number 419/Pid.Sus/2023/PN Tjk, and Lecturers in the Criminal Section of FH Unila. While processing the data obtained by identifying data, classifying data and compiling data. Data analysis using qualitative analysis.

Based on the results of research and discussion, every judge's decision must be based on clear facts and facts play an important role in every judge's decision. The facts must be contained in the judge's consideration and normatively the judge's decision should pay attention to the facts of the trial, be it the facts of witnesses, evidence or defense facts. in a criminal case, it is carried out in several stages, namely the judge when analyzing whether the defendant committed an act or not, what is considered primary is the aspect of society, namely the act as stated in the formulation of the criminal rules.

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The results showed that this decision had achieved substantive justice and the judge had imposed the fairest possible sentence, but according to the author this decision could not be said to be fully just. Therefore, the judge said, "Fair for one party, not necessarily fair for the other party." The author describes 3 basic considerations of the judge. First, juridical considerations, the judge considered the provisions in Article 27 paragraph (1) Jo Article 45 paragraph (1) of the Electronic Information and Transactions (ITE) Law No. 19 of 2016. Second, philosophical considerations, the judges assessed the impact of the defendant's actions to harm and endanger the community. Third, sociological considerations, the panel of judges considered that the punishment was not solely a retaliation for the defendant's actions, but had a persuasive purpose so that the defendant at the time and after serving his sentence realized his guilt.

To the judge, in handling cases of criminal acts of disseminating electronic information containing immorality and threats, in order to impose punishment, it is necessary to consistently consider juridical, philosophical and sociological factors, so that the punishment imposed is truly in accordance with the wrongdoing committed. Judges must balance legal certainty and the values of justice that develop in society, so that the resulting decisions are not only in accordance with legal norms, but also reflect a sense of justice that can be accepted by all parties.

Keywords: Electronic Information, Decency, Threat