

ABSTRAK

PEMIDANAAN TERHADAP ANAK PELAKU TINDAK PIDANA PEMAKSAAN BERBUAT CABUL TERHADAP KORBAN ANAK (Studi Putusan Nomor: 7/Pid.Sus-Anak/2024/PN.Gdt)

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Tindak pidana yang dilakukan anak salah satunya adalah pemaksaan berbuat cabul dan korbannya juga masih berusia anak. Oleh karena itu terhadapnya dikenakan sanksi pidana sesuai ketentuan Undang-Undang Sistem Peradilan Pidana Anak. Permasalahan: bagaimanakah pemidanaan terhadap anak pelaku tindak pidana pemaksaan berbuat cabul terhadap korban anak dan apakah penjatuhan pidana terhadap anak pelaku tindak pidana pemaksaan berbuat cabul terhadap korban anak telah sesuai dengan tujuan pemidanaan.

Pendekatan penelitian yang digunakan adalah pendekatan konseptual, perundang-undangan dan studi kasus. Data dilakukan dengan prosedur studi kepustakaan dan studi lapangan. Narasumber penelitian terdiri atas hakim, jaksa dan akademisi hukum pidana. Analisis data dilakukan secara kualitatif.

Hasil penelitian ini menunjukkan bahwa pemidanaan terhadap anak pelaku tindak pidana pemaksaan berbuat cabul terhadap korban anak dengan penjara selama 7 tahun di Lembaga Pembinaan Khusus Anak Kelas II Bandar Lampung dan pelatihan kerja selama 6 bulan di LPKS Insan Berguna Dinas Sosial Provinsi Lampung didasarkan pada pertimbangan yuridis, filosofis dan sosiologis. Pertimbangan yuridis yaitu anak terbukti secara sah dan meyakinkan melakukan tindak pidana sebagai dakwaan alternatif pertama Jaksa Penuntut Umum. Pertimbangan filosofis yaitu pidana yang dijatuhkan sebagai upaya pembinaan. Pertimbangan sosiologis yaitu hakim mempertimbangkan hal-hal yang memberatkan dan meringankan anak. Penjatuhan pidana tersebut sesuai dengan teori gabungan antara teori absolut dan teori relatif. Penjatuhan pidana pada satu sisi sebagai pembalasan atas tindak pidana yang dilakukan anak sehingga sesuai dengan teori absolut. Selain itu penjatuhan pidana memiliki tujuan sebagai upaya koreksi dan rehabilitasi bagi anak agar menyadari kesalahannya dan tidak melakukan tindak pidana di kemudian hari, sehingga sesuai dengan teori relatif. Saran: hendaknya hakim anak dalam menjatuhkan pidana terhadap anak benar-benar mengacu kepada Undang-Undang Sistem Peradilan Pidana Anak. Aparat penegak hukum mulai dari Penyidik Anak, Penuntut Anak dan Hakim Anak hendaknya mengoptimalkan kemampuan dalam melaksanakan tugas dalam peradilan pidana anak.

Kata Kunci: Pemidanaan, Anak, Tindak Pidana, Pemaksaan Berbuat Cabul.

ABSTRACT

CRIMINAL PUNISHMENT FOR CHILD AS PERPETRATORS OF CRIMINAL ACTS OF FORCED INDECENT AGAINST CHILD VICTIMS

(Decision Study Number: 7/Pid.Sus-Anak/2024/PN.Gdt)

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Criminal acts committed by children one of which is becoming perpetrators of criminal acts of forced indecent acts and the victims are also still children. Therefore, they are subject to criminal sanctions in accordance with the provisions of the Child Criminal Justice System Law. Problem: how is the punishment for children who commit criminal acts of forced indecent acts against child victims and whether the imposition of criminal penalties on children who commit criminal acts of forced indecent acts against child victims is in accordance with the purpose of punishment.

The research approach used is a conceptual approach, statutory and case study. Data were collected using literature study and field study procedures. The research sources consisted of judges, prosecutors and criminal law academics. Data analysis was conducted qualitatively.

The results of this study indicate that the punishment of children who commit crimes of forcing indecent acts against child victims with imprisonment for 7 years at the Class II Bandar Lampung Special Child Development Institution and 6 months of job training at the LPKS Insan Berguna of the Lampung Provincial Social Service is based on legal, philosophical and sociological considerations. Legal considerations are that the child is legally and convincingly proven to have committed a crime as the first alternative charge of the Public Prosecutor. Philosophical considerations are that the punishment as an effort to provide guidance. Sociological considerations are that the judge considers the aggravating and mitigating factors for the child in committing the crime. The imposition of the sentence is in accordance with the combined theory of absolute theory and relative theory. The imposition of a sentence on a child on the one hand is in retaliation for the crime committed by the child so that it is in accordance with the absolute theory. In addition, the imposition of a sentence has the aim of being an effort to correct and rehabilitate the child so that they realize their mistakes and do not commit crimes in the future, so that it is in accordance with the relative theory. Suggestion: Juvenile judges in imposing criminal penalties on children in conflict with the law should truly refer to the Juvenile Criminal Justice System Law. Law enforcement officers such as Juvenile Investigators, Juvenile Prosecutors and Juvenile Judges should optimize their capacity and ability in carrying out their respective duties in juvenile criminal justice.

Keywords: Criminalization, Children, Criminal Acts, Forced Indecent Acts.