

ABSTRAK

ANALISIS PERTIMBANGAN HAKIM DALAM MENJATUHKAN PIDANA PERCOBAAN TERHADAP PELAKU TINDAK PIDANA PEMBERIAN KETERANGAN PALSU DI ATAS SUMPAH (Studi Putusan Nomor: 1353/Pid.B/2017/PN.Tjk dan 23/Pid/2018/PT.Tjk)

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Salah satu tindak pidana dalam kehidupan masyarakat adalah pemberian keterangan palsu di atas sumpah, sehingga pelakunya dapat dijatuhi pidana penjara, namun hakim menjatuhkan pidana percobaan. Permasalahan: bagaimanakah pertimbangan hakim dalam menjatuhkan pidana percobaan terhadap pelaku tindak pidana pemberian keterangan palsu di atas sumpah dan apakah penjatuhan pidana percobaan tersebut sesuai dengan tujuan pemidanaan.

Jenis penelitian ini adalah penelitian normatif dengan pendekatan perundang undangan dan pendekatan konseptual. Data yang digunakan adalah data sekunder yang dikumpulkan melalui studi kepustakaan. Pengolahan data dilakukan dengan tahapan seleksi data, klasifikasi data dan sistematisasi data. Selanjutnya data yang diperoleh dianalisis secara deskriptif kualitatif.

Hasil penelitian ini menunjukkan bahwa dasar pertimbangan hakim dalam menjatuhkan pidana percobaan terhadap pelaku tindak pidana pemberian keterangan palsu di atas sumpah dalam Putusan Nomor: 1353/Pid.B/2017/PN.Tjk dan 23/Pid/2018/PT.Tjk secara yuridis yaitu perbuatan terdakwa terbukti secara sah dan meyakinkan melanggar Pasal 242 Ayat (1) KUHP. Pertimbangan filosofis yaitu pidana percobaan yang dijatuhkan dimaksudkan sebagai upaya membina terdakwa agar terdakwa tidak mengulangi tindak pidana. Pertimbangan sosiologis yaitu hakim mempertimbangkan hal-hal yang memberatkan dan meringankan terdakwa. Penjatuhan pidana percobaan tersebut sesuai dengan tujuan pemidanaan, mengingat terdakwa telah berusia lanjut yaitu 68 tahun dan sesuai teori relatif bahwa penjatuhan pidana tidak dimaksudkan sebagai pembalasan untuk membuat pelaku tindak pidana menderita melalui kurungan badan, tetapi bertujuan untuk pembelajaran bagi terdakwa.

Saran kepada majelis hakim hendaknya terus konsisten dalam memutus suatu perkara berdasarkan pertimbangan yuridis, filosofis dan sosiologis secara lengkap, sehingga putusan yang dihasilkan diharapkan dapat memberikan keadilan dan kemanfaatan hukum. Masyarakat agar berhati-hati dalam memberikan kesaksian di atas sumpah, dengan cara memberikan kesaksian yang benar benar berdasarkan pada fakta.

Kata Kunci: Pertimbangan Hakim, Pidana Percobaan, Keterangan Palsu

ABSTRACT

**ANALYSIS OF JUDICIAL CONSIDERATIONS IN IMPOSING A SUSPENDED
SENTENCE UPON THE PERPETRATOR OF THE CRIMINAL ACT OF
GIVING FALSE TESTIMONY UNDER OATH
(A Study of Decisions Number: 1353/Pid.B/2017/PN.Tjk and 23/Pid/2018/PT.Tjk)**

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One of the criminal acts that frequently occurs in society is the act of giving false testimony under oath, which is punishable by imprisonment. However, in this case, the judge imposed a suspended sentence (probation). The problems examined are: what are the judicial considerations in imposing a suspended sentence upon the perpetrator of the criminal act of giving false testimony under oath, and whether such imposition is consistent with the objectives of criminal punishment.

This type of research is normative legal research using a statutory approach and a conceptual approach. The data used are secondary data collected through a literature study. The data processing is carried out through stages of data selection, data classification, and data systematization. Furthermore, the data obtained are analyzed using a qualitative descriptive method.

The results of this research show that the judicial basis for imposing a suspended sentence upon the perpetrator of the criminal act of giving false testimony under oath in Decision Number 1353/Pid.B/2017/PN.Tjk and Decision Number 23/Pid/2018/PT.Tjk lies in the fact that the defendant was proven lawfully and convincingly to have violated Article 242 paragraph (1) of the Indonesian Penal Code (KUHP). The philosophical consideration is that the suspended sentence was intended as a means of rehabilitating and guiding the defendant so as not to repeat the criminal act. The sociological consideration is that the judge took into account both aggravating and mitigating factors concerning the defendant. The imposition of the suspended sentence is consistent with the objectives of criminal punishment, considering that the defendant was of advanced age (68 years old), and in accordance with the relative theory of punishment, which holds that punishment is not aimed at retaliation or causing suffering through imprisonment, but rather at providing a corrective and educational effect upon the offender.

It is recommended that the panel of judges remain consistent in deciding cases based on comprehensive juridical, philosophical, and sociological considerations, so that judicial decisions may deliver justice and legal benefit. The public is also advised to exercise caution when giving testimony under oath, ensuring that such testimony is genuinely based on factual truth.

Keywords: Judicial Considerations, Suspended Sentence, False Testimony