

## **ABSTRAK**

### **PENJATUHAN PIDANA BERSYARAT TERHADAP PELAKU TINDAK PIDANA MENYERANG NAMA BAIK MELALUI INFORMASI ELEKTRONIK**

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Pelaku tindak pidana menyerang nama baik melalui informasi elektronik idealnya dijatuhi pidana penjara dan denda sebagaimana diatur dalam Pasal 45 ayat (4) jo. Pasal 27 A UU ITE 2024, tetapi pada kenyataannya hakim menjatuhkan pidana percobaan. Permasalahan: bagaimanakah dasar pertimbangan hakim dalam menjatuhkan pidana bersyarat terhadap pelaku tindak pidana menyerang nama baik melalui informasi elektronik dan apakah penjatuhan pidana bersyarat tersebut telah sesuai dengan tujuan hukum (keadilan, kepastian dan kemanfaatan).

Penelitian ini adalah penelitian normatif dengan pendekatan pendekatan konseptual, perundang-undangan dan studi kasus. Data yang digunakan adalah data sekunder. Pengolahan data dilakukan dengan tahap seleksi, klasifikasi dan sistematisasi data. Analisis data dengan metode penafsiran hukum.

Hasil penelitian ini menunjukkan bahwa dasar pertimbangan hakim dalam menjatuhkan pidana bersyarat terhadap pelaku tindak pidana menyerang nama baik melalui informasi elektronik berdasarkan putusan pengadilan yang dibahas memiliki kesamaan pada aspek pertimbangan yuridis, filosofis dan sosiologis. Pertimbangan yuridis yaitu perbuatan terdakwa terbukti secara sah dan meyakinkan melanggar ketentuan UU ITE 2024, khususnya Pasal 45 ayat (4) jo. Pasal 27A. Pertimbangan filosofis yaitu hakim menilai bahwa pemidanaan tidak hanya bertujuan untuk membalas kesalahan tetapi sebagai upaya pemidanaan terhadap terdakwa agar terdakwa tidak mengulangi tindak pidana. Pertimbangan sosiologis yaitu hakim mempertimbangkan hal-hal yang memberatkan dan meringankan pidana bagi terdakwa. Penjatuhan pidana bersyarat tersebut telah cukup sesuai dengan tujuan hukum. Aspek keadilan telah terpenuhi karena pidana bersyarat bagi pelaku telah cukup adil. Aspek kepastian terpenuhi karena penjatuhan pidana bersyarat tersebut memiliki dasar hukum di dalam KUHP. Aspek kemanfaatan terpenuhi yaitu pidana bersyarat sebagai efek jera bagi pelaku agar menyadari kesalahannya dan tidak mengulangi tindak pidana pada masa yang akan datang. Bagi masyarakat bermanfaat sebagai pembelajaran agar masyarakat tidak melakukan tindak pidana serupa.

**Kata Kunci: Pidana Bersyarat, Menyerang Nama Baik, Informasi Elektronik**

**ABSTRACT****THE IMPOSITION OF A SUSPENDED SENTENCE ON PERPETRATORS  
OF THE CRIMINAL OFFENSE OF DEFAMATION THROUGH  
ELECTRONIC INFORMATION**

**By**  
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*Perpetrators of the criminal offense of defamation committed through electronic information should, in principle, be sentenced to imprisonment and fines as stipulated in Article 45 paragraph (4) in conjunction with Article 27A of the 2024 Electronic Information and Transactions Law (ITE Law). However, in practice, judges often impose a suspended sentence. The problems examined in this study are: what constitutes the basis of judicial consideration in imposing a suspended sentence on perpetrators of the criminal offense of defamation through electronic information, and whether such imposition of a suspended sentence is consistent with the objectives of law—namely justice, legal certainty, and utility.*

*This research constitutes a normative legal study employing conceptual, statutory, and case approaches. The data used consist of secondary data. Data processing was carried out through stages of selection, classification, and systematization. Data analysis was conducted using methods of legal interpretation.*

*The results of this research show that the judges' considerations in imposing a suspended sentence on perpetrators of the criminal offense of defamation through electronic information—as reflected in the court decision analyzed—share similarities in terms of juridical, philosophical, and sociological considerations. The juridical consideration lies in the fact that the defendant's actions were proven lawfully and convincingly to have violated the provisions of the 2024 ITE Law, particularly Article 45 paragraph (4) in conjunction with Article 27A. The philosophical consideration lies in the judge's assessment that punishment is not merely intended as retribution but as a means of ensuring that the defendant does not repeat the criminal act. The sociological consideration lies in the judge's assessment of both aggravating and mitigating circumstances for the defendant. The imposition of a suspended sentence is sufficiently consistent with the objectives of law. The aspect of justice is fulfilled because the suspended sentence is considered fair for the perpetrator. The aspect of legal certainty is fulfilled because the imposition of a suspended sentence has a legal basis in the Criminal Code. The aspect of utility is fulfilled because the suspended sentence serves as a deterrent for the perpetrator, enabling the perpetrator to recognize the wrongdoing and refrain from repeating the offense in the future. For society, it serves as an important lesson to avoid committing similar criminal acts.*

**Keywords:** *Suspended Sentence, Defamation, Electronic Information.*