

ABSTRAK

ANALISIS DISPARITAS PEMIDANAAN TERHADAP PELAKU KEKERASAN DALAM RUMAH TANGGA PENGIDAP GANGGUAN KEJIWAAN

**(Studi Perbandingan Putusan Nomor 105/Pid.B/2023/PN Gdt dan
Putusan Nomor 414/Pid.Sus/2024/PN MJK)**

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Pelaku kekerasan dalam rumah tangga pengidap gangguan kejiwaan tidak dapat dipidana berdasarkan Pasal 44 ayat (1) KUHP. Namun, dalam praktiknya terdapat disparitas pemidanaan terhadap pelaku kekerasan dalam rumah tangga pengidap gangguan kejiwaan, hal ini sebagaimana terdapat dalam Putusan Nomor 105/Pid.B/2023/PN Gdt dan Putusan Nomor 414/Pid.Sus/2024/PN MJK. Pelaku pada Putusan Nomor 105/Pid.B/2023/PN Gdt tidak dipidana, melainkan dimasukkan ke Rumah Sakit Jiwa selama 1 (satu) tahun, sedangkan pelaku pada Putusan Nomor 414/Pid.Sus/2024/PN MJK dijatuhi pidana selama 4 (empat) tahun. Permasalahan dalam penelitian ini adalah bagaimana disparitas putusan hakim terhadap pelaku kekerasan dalam rumah tangga pengidap gangguan kejiwaan dan mengapa terjadi disparitas pemidanaan terhadap pelaku kekerasan dalam rumah tangga pengidap gangguan kejiwaan.

Metode penelitian yang digunakan adalah metode penelitian normatif. Penelitian normatif berkaitan erat dengan kajian kepustakaan sehingga data utama yang digunakan adalah data skunder. Dalam penelitian ini digunakan pula data primer sebagai bahan pendukung data skunder yang diperoleh melalui metode wawancara dengan narasumber Dosen Bagian Hukum Pidana Fakultas Hukum Universitas Lampung, Hakim pada Pengadilan Negeri Gedong Tataan, dan Jaksa pada Kejaksaan Negeri Pesawaran. Data yang diperoleh kemudian di analisis dengan metode deskriptif kualitatif.

Berdasarkan hasil penelitian, disparitas putusan hakim terhadap pelaku kekerasan dalam rumah tangga pengidap gangguan kejiwaan terletak pada perbedaan tuntutan yang diajukan dan dasar pertimbangan hakim dalam menjatuhkan pidana. Perbedaan tuntutan yang diajukan membawa konsekuensi pertimbangan yuridis yang berbeda pula. Berdasarkan pembuktian di persidangan pada Putusan Nomor 105/Pid.B/2023/PN Gdt, Terdakwa terbukti mengidap gangguan jiwa berat sehingga tuntutan yang diajukan menerapkan ketentuan Pasal 44 ayat (1) KUHP,

Attalah Justitio Khadavi

Majelis Hakim menilai bahwa Terdakwa memenuhi kualifikasi sebagai orang yang tidak mampu bertanggungjawab sehingga dimasukkan ke Rumah Sakit Jiwa selama 1 tahun. Sedangkan, berdasarkan pembuktian di persidangan pada Putusan Nomor 414/Pid.Sus/2024/PN Mjk, Terdakwa terbukti mengidap gangguan jiwa ringan sehingga tuntutan yang diajukan tidak menerapkan ketentuan Pasal 44 ayat (1) KUHP, Majelis Hakim dalam pertimbangannya tidak menilai bahwa Terdakwa termasuk ke dalam kualifikasi Pasal 44 ayat (1) KUHP sehingga Terdakwa dianggap mampu bertanggungjawab dan tetap dijatuhi pidana penjara selama 4 tahun. Terjadinya disparitas pemidanaan terhadap pelaku kekerasan dalam rumah tangga pengidap gangguan kejiwaan pada Putusan Nomor 105/Pid.B/2023/PN Gdt dan Putusan Nomor 414/Pid.Sus/2024/PN MJK disebabkan karena faktor undang-undang dan penegak hukum. Tidak terdapat aturan pedoman dalam penerapan Pasal 44 ayat (1) KUHP tentang ketidakmampuan bertanggungjawab sehingga penegak hukum terutama hakim memiliki kebebasan untuk menilai dan menerapkan ketentuan ini berdasarkan penilaian terhadap berat ringannya kondisi penyakit kejiwaan yang diderita pelaku.

Saran yang dapat diberikan yakni, sebaiknya pemidanaan terhadap pelaku kekerasan dalam rumah pengidap gangguan jiwa dilakukan melalui pendekatan tujuan pemidanaan agar dapat menjamin keadilan dan kepastian hukum bagi korban, pelaku, dan masyarakat. Selain itu, diperlukan aturan pedoman pemidanaan terhadap pelaku tindak pidana pengidap gangguan jiwa agar dalam praktiknya tidak terdapat disparitas tanpa alasan dan dasar yang jelas.

Kata Kunci: Disparitas Pemidanaan, Kekerasan Dalam Rumah Tangga, Pengidap Gangguan Kejiwaan

ABSTRACT

ANALYSIS OF DISPARITIES IN THE PUNISHMENT OF PERPETRATORS OF DOMESTIC VIOLENCE SUFFERING FROM MENTAL DISORDERS (Comparative Study of Decision Number 105/Pid.B/2023/PN Gdt and Decision Number 414/Pid.Sus/2024/PN MJK)

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Perpetrators of domestic violence who suffer from mental disorders cannot be prosecuted under Article 44 paragraph (1) of the Criminal Code. However, in practice, there are disparities in the punishment of perpetrators of domestic violence who suffer from mental disorders, as seen in Decision Number 105/Pid.B/2023/PN Gdt and Decision Number 414/Pid.Sus/2024/PN MJK. The perpetrator in Decision Number 105/Pid.B/2023/PN Gdt was not punished, but was admitted to a mental hospital for 1 (one) year, while the perpetrator in Decision Number 414/Pid.Sus/2024/PN MJK was sentenced to 4 (four) years in prison. The issues in this study are how there is disparity in judges' decisions regarding perpetrators of domestic violence who suffer from mental disorders and why there is disparity in the punishment of perpetrators of domestic violence who suffer from mental disorders.

The research method used is a normative research method. Normative research is closely related to literature review, so the main data used is secondary data. Primary data was also used in this study as supporting material for the secondary data obtained through interviews with sources, namely lecturers from the Criminal Law Department of the Faculty of Law at the University of Lampung, judges at the Gedong Tataan District Court, and prosecutors at the Pesawaran District Attorney's Office. The data obtained was then analyzed using qualitative descriptive methods.

Based on the results of the study, the disparity in judges' decisions regarding perpetrators of domestic violence who suffer from mental disorders lies in the differences in the charges brought and the basis for the judges' considerations in imposing penalties. Differences in the charges brought lead to different legal considerations. Based on the evidence presented at the trial in Decision Number 105/Pid.B/2023/PN Gdt, the defendant was proven to have a severe mental disorder, so the charges filed applied the provisions of Article 44 paragraph (1) of the Criminal Code. The panel of judges considered that the defendant met the

Attalah Justitio Khadavi

qualifications as a person who was not capable of being held responsible, so he was admitted to a mental hospital for one year. Meanwhile, based on the evidence presented at the trial in Decision Number 414/Pid.Sus/2024/PN Mjk, the Defendant was proven to suffer from a mild mental disorder, so the charges filed did not apply the provisions of Article 44(1) of the Criminal Code. In its deliberations, the Panel of Judges did not consider the Defendant to fall under the qualifications of Article 44(1) of the Criminal Code, so the Defendant was deemed capable of being held responsible and was sentenced to 4 years in prison. The mental illness suffered by the perpetrator. The disparity in sentencing for perpetrators of domestic violence who suffer from mental disorders in Decision Number 105/Pid.B/2023/PN Gdt and Decision Number 414/Pid.Sus/2024/PN MJK is due to factors related to legislation and law enforcement. There are no guidelines for the application of Article 44 paragraph (1) of the Criminal Code regarding incapacity to be held responsible, so law enforcement officials, especially judges, have the freedom to assess and apply this provision based on their assessment of the severity of the mental illness suffered by the perpetrator.

The advice that can be given is that the punishment of perpetrators of domestic violence who suffer from mental disorders should be carried out through a punitive approach in order to ensure justice and legal certainty for the victims, perpetrators, and the community. In addition, guidelines are needed for the punishment of perpetrators of criminal acts who suffer from mental disorders so that in practice there is no disparity without clear reasons and grounds.

Keywords: Disparity in Punishment, Domestic Violence, Persons with Mental Disorders