



Legal Review Of Narcotics Criminal Cases (Serang District Court Case Study Number 106/Pid.Sus/2025/PN SRG)

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ABSTRACT

The issue of drug abuse is crucial given that narcotics have physical and mental effects. When used in appropriate doses and under the supervision of a doctor or psychiatrist, they can be used for medical or research purposes. This study aims to analyze the application of substantive criminal law and the public prosecutor's considerations in seeking punishment for Class I narcotics abuse, as outlined in District Court Decision No. 188/Pid.Sus/2022/PN Rkb. This study employed normative legal methods with a case study approach. The research results indicate shortcomings by the Public Prosecutor in the application of sanctions and determination of the defendant's status, where the defendant was sentenced to seven years in prison and declared a Class I narcotics abuse offender. This research concludes that the sanctions and defendant's status were not commensurate with the weight of the evidence. The prosecution should have considered applicable legal provisions and mitigating factors. This indicates that the application of the law does not fully reflect the principle of justice. Therefore, greater precision and proportional consideration are required in the prosecution process of narcotics cases.

Keywords: Drug abuse, material criminal law, and legal considerations

ABSTRAK

Masalah penyalahgunaan narkoba ini menjadi begitu penting mengingat bahwa obat-obat narkoba mempunyai pengaruh terhadap fisik dan mental, dan apabila digunakan dengan dosis yang tepat dan di bawah pengawasan dokter atau psikiater dapat digunakan untuk kepentingan pengobatan atau penelitian. Penelitian ini bertujuan untuk menganalisis penerapan hukum pidana materil serta dasar pertimbangan Jaksa penuntut umum dalam menuntut hukuman terhadap penyalahgunaan narkoba golongan I terhadap putusan pengadilan negeri nomor: 188/Pid.Sus/2022/PN Rkb. Penelitian ini menggunakan metode hukum normatif dengan pendekatan studi kasus. Hasil penelitian menunjukkan bahwa terdapat kekurangan yang dilakukan oleh Jaksa Penuntut Umum terhadap penerapan sanksi dan penetapan status terdakwa yang dimana terdakwa diberikan sanksi selama 7 (tujuh) tahun penjara dan ditetapkan sebagai pelaku tindak pidana penyalahgunaan narkoba golongan I. Penelitian ini menyimpulkan bahwa penetapan sanksi dan status terdakwa yang tidak sesuai dengan berat barang bukti. Seharusnya penuntutan mempertimbangkan ketentuan hukum yang berlaku serta hal-hal yang meringankan. Hal ini menunjukkan bahwa penerapan hukum belum sepenuhnya mencerminkan asas keadilan. Oleh karena itu, diperlukan ketelitian dan pertimbangan yang lebih proporsional dalam proses penuntutan perkara narkoba.

Kata Kunci: Penyalahgunaan narkoba, hukum pidana materil, pertimbangan hukum

INTRODUCTION

Drugs is a term used to describe narcotics, psychotropics, and other dangerous substances. The term often used is NAPZA (Narcotics, Alcohol, Psychotropics, and Other Addictive Substances). Narcotics are substances or drugs derived from plants, both synthetic and semi-synthetic, that can cause decreased or altered consciousness, loss of sensation, reduction or elimination of pain, and can lead to dependence. These substances are classified into categories as outlined in Law No. 35 of 2009 concerning Narcotics (Jahri et al., 2024).

The issue of drug abuse is crucial given that narcotic drugs have physical and mental effects. When used in appropriate doses and under the supervision of a doctor or psychiatrist, they can be used for medical or research purposes. However, if misused or used inappropriately, they can be harmful to users. The direct effects of narcotics include not only moral and physical damage, but also potentially fatal diseases, such as HIV or AIDS, as a side effect of drug use (Fitroni et al., 2025).

Drug addicts and victims of drug abuse are required to undergo medical or social rehabilitation at drug addiction rehabilitation centers. Medical and social rehabilitation are intended to restore and/or develop the physical, mental, and social abilities of addicts, with the ultimate goal of recovering from drug dependence (Fitroni et al., 2025).

Fundamentally, drug abusers are criminals and often forget that they are also victims with inherent rights that must be fought for. This means that even though someone is a drug user who abuses drugs, they still have human rights because these rights are inherent in their nature and dignity as human beings. This means that the state has an obligation to provide legal protection for drug abusers, including the right to guidance and rehabilitation (Gofar et al., 2025).

Deviant behavior is growing in society due to economic imbalances, especially among Indonesian youth who frequently use alcohol and illegal drugs. This may be due to a lack of attention from their parents, or perhaps because of encouragement from users or their friends. Drugs were first created by the British and first distributed to mainland Asia, from China, Hong Kong, and Japan to Indonesia. The most commonly shipped drugs to Asia are heroin and morphine. In Indonesia, marijuana, Lexotan pills, and Extaci pills have also begun to be produced (Yusuf et al., 2024).

Drug abuse and illicit trafficking have been proven to damage the future of nations in any country, damaging human character, damaging the physical and health of the community, and in the long term, having the potential to significantly disrupt a nation's competitiveness and progress. Due to the significant damage caused, illicit drug trafficking is classified as an extraordinary and serious crime. Furthermore, illicit drug trafficking is transnational and organized, making it a real threat that requires serious and urgent action. Currently, the global trend of drug abuse and illicit trafficking is showing increasingly alarming trends (Pratiwi et al., 2025).

Drugs are typically consumed by wealthy children who lack parental attention. They usually consume Lexotan and Extaci pills because they are easier

and more convenient to purchase and use. Initially, they drink alcohol at discos or bars, but over time, they begin using drugs (Jahiri et al., 2023).

Today, society is filled with addictive substances that are negative and very dangerous for the body. These are known as narcotics and illegal drugs. In this modern, sophisticated era, drugs have become a problem for people worldwide. Drugs can destroy clear reasoning, damage the body and soul, and undoubtedly threaten the future of humanity (Kusumastuti, 2009).

Drug use occurs not only among adults but also among teenagers and children. Initially, they are simply curious about the taste, then try it, and once they experience the pleasure, they eventually become addicted to it. Many users of these drugs are initially tempted by the momentary pleasure or as an escape from their problems. However, the effects of drugs can damage physical and mental health. Adolescence is a time of self-discovery, and children experience emotional instability (Aryoseno, 2024).

Law enforcement against narcotics crimes has been carried out extensively by law enforcement officers and has resulted in many court decisions. It is hoped that this law enforcement will be able to act as a deterrent against the spread of narcotics trafficking (Safrul, 2025).

However, in reality, the more intensive law enforcement is, the more the drug trade increases (Hadi & Puspitosari, 2023).

Society has developed and reached its current level. Furthermore, all aspects of life are driven extra rapidly by information and communication systems, along with their attendant problems in various fields, supported by sophisticated technology. In the last two decades, socio-cultural progress and development have reached astonishing heights (Restifani, 2023).

From "producers," "distributors," and "users" (victims), there is a particularly serious type of crime. Moreover, as victims, the number of victims increases drastically every year, including in Indonesia. Indonesia has long (since the 1960s) struggled to eradicate drug abuse, both through legislation and law enforcement through the judiciary (Pratama, 2013).

Narcotics crimes, known in English as narcotic crime and in Dutch as *verdovende misdaad*, are crimes recognized in Law Number 35 of 2009 concerning Narcotics (Wirayuda & others, 2013). Narcotics crimes are defined by two terms: **(1)** Criminal Act, Criminal Act is a basic concept in criminal law (normative juridical). Crimes or evil acts can be defined juridically or criminologically. Crimes or evil acts in the normative juridical sense are acts as manifested in the abstract in criminal regulations. **(2)** Narcotics, Narcotics are substances or drugs, whether natural, synthetic, or semi-synthetic, that cause decreased consciousness, hallucinations, and arousal. The drug problem (narcotics, psychotropic drugs, and addictive substances) has become a national problem, as it is ubiquitous. It seems that no sub-district or village in this Republic is free from drugs. Whether we realize it or not, drugs are all around us.

The problem of drug abuse is crucial given that narcotics have physical and mental effects. When used in the correct dosage and under the supervision of a

doctor or psychiatrist, they can be used for medical or research purposes. However, if misused or used inappropriately, they can be dangerous for users. The direct effects of narcotics, in addition to moral and physical damage, can also lead to potentially fatal diseases, such as HIV or AIDS, as a side effect.

Currently, Indonesia is facing a narcotics emergency situation with a very high level of vulnerability related to drug abuse and illicit trafficking, and no region is exempt from its impact. Based on research by the National Narcotics Agency (BNN), the highest number of narcotics cases handled by the BNN throughout 2022 were in North Sumatra, with 76 cases. This was followed by East Java and West Java, with 52 cases each.

Meanwhile, East Nusa Tenggara (NTT) was the province with the highest number of drug cases last year. West Papua followed with 5 cases, followed by Banten and North Maluku provinces with 8 drug cases each. Although the number of drug cases handled in Indonesia decreased from 2019 to 2021, they increased again in 2022, as shown in the graph above.

During the 2009-2022 period, the highest number of drug cases handled in Indonesia was in 2018, reaching 1,039 cases. Meanwhile, the lowest number of cases handled was in 2009, with only 9 cases. According to the National Narcotics Agency (BNN), drug cases handled in Indonesia over the past 14 years have involved a total of 12,137 suspects. The number of drug suspects successfully handled by the BNN throughout 2022 was 1,422. However, this number is not the highest in more than a decade. Between 2009 and 2022, the National Narcotics Agency (BNN) successfully handled the highest number of drug suspects in 2018, with 1,545 suspects, compared to the lowest number in 2009, with only 2 suspects.

Banten Province itself is included in the "Indonesia Narcotics Emergency" zone. This was stated directly by Drs. Rohman Nursahid, M.Si., Head of the Banten Province BNN, who stated that Banten is not only a distribution hub but also a transit, movement, and production point for narcotics. This makes Banten a red zone province for narcotics cases.

As a result of the above problems, a pattern of social ills has emerged, such as crime, gambling, theft or mugging, rape, prostitution, and others. Drug addicts and victims of drug abuse are required to undergo medical rehabilitation or social rehabilitation at drug addiction rehabilitation centers. With rehabilitation, Medical and social rehabilitation are intended to restore and/or develop the physical, mental, and social abilities of addicts, with the ultimate goal of recovering from drug dependence. Given the increasing prevalence of drug abuse, the government, through Law Number 35 of 2009 concerning Narcotics, is expected to intensify efforts to rehabilitate drug abusers and addicts. If considered victims, it is clear that abusers and addicts must be removed from the stigma of criminality and must receive treatment.

Fundamentally, drug abusers are perpetrators of crimes, forgetting that they are also victims with inherent rights that must be fought for. This means that even though someone is a drug user who abuses drugs, they still have human rights because these rights are inherent in their nature and dignity as human beings. This

means that the state has an obligation to provide legal protection for drug abusers, the right to guidance and rehabilitation. It is deeply concerning to see our generation falling prey to narcotics, which will gradually harm themselves, their families, society, and even the nation.

Without preventative measures, sooner or later, the future of the younger generation will begin to crumble. To ensure the availability of narcotics for health and scientific purposes, on the one hand, and to prevent illicit drug trafficking, which always leads to abuse, narcotics regulation is necessary.

According to Law Number 35 of 2009 concerning Narcotics, narcotics are divided into three groups, in accordance with Article 6: (1) Narcotics, as referred to in Article 5, are classified as: (a) Narcotics Schedule I, Narcotics Schedule I, such as marijuana, opium, and coca plants, are extremely dangerous to consume due to their high risk of addiction. (b) Narcotics Schedule II, Meanwhile, narcotics Schedule II can be used for medical purposes as long as they are prescribed by a doctor. There are approximately 85 types of narcotics in this category, including morphine, alphaprodine, and others. Class II also has a high potential for dependence. (c) Class III Narcotics

Finally, Class III narcotics have a relatively low risk of dependence and are widely used for medical and therapeutic purposes. (2) The classification of narcotics as referred to in paragraph (1) is first established as set out in Attachment I and is an integral part of this Law. (3) Provisions regarding changes to the classification of narcotics as referred to in paragraph (2) are regulated by a Ministerial Regulation.

From the facts obtained, witnessed almost daily through both print and electronic media, it is clear that these illicit substances have spread to various groups, from children and adolescents to the elderly, and it is undeniable that they are involved in the crime of drug abuse.

Law enforcement against narcotics crimes has been extensively carried out by law enforcement officials and has resulted in numerous verdicts from judges. The goal of this law enforcement should be to prevent the spread of illicit drug trafficking and distribution. However, ironically, the more intensive law enforcement is, the more the illicit distribution and trade in narcotics increases. Despite the existence and enforcement of laws governing narcotics, drug-related crime has not been eradicated.

Some drug dealers and distributors have been arrested and sentenced to severe penalties, but others appear to ignore this and are even more inclined to expand their operations. Law enforcement against crime in Indonesia, particularly regarding criminal punishment, should adopt a normative approach that focuses on rehabilitating criminals through rehabilitation programs in correctional institutions. This is expected to improve the behavior of convicts within these institutions.

Meanwhile, empirically, the concept of sentencing convicts in prison remains largely based on the concept of simply punishing convicts in prison. This suggests that crime is only temporarily halted and will re-emerge within society. Narcotics crimes as defined in Law Number 35 of 2009 concerning Narcotics

provide quite severe criminal sanctions. However, in reality, the number of perpetrators is actually increasing, and those convicted are not deterred and tend to repeat their crimes.

This may be due to the fact that the sentencing factors do not have a deterrent effect on the perpetrators. Law Number 35 of 2009 no longer adheres to the principle of There is a punishment for every narcotics abuse which has been felt to be less effective in eradicating or reducing narcotics crimes. Law Number 35 of 2009 also increasingly maximizes the role of the National Narcotics Agency (BNN) in preventing and eradicating narcotics abuse, so that with the existence of this law, it is hoped that the performance of the agency will be more optimal because the BNN is also given the authority to conduct investigations and inquiries into narcotics cases.

METHODS

According to Peter (Heikal & Iqbal, 2023), normative legal research is a process of discovering legal rules, principles, and doctrines to address legal issues. Based on this definition, the type of research conducted in this journal is normative legal research, as it relies primarily on library materials as the main data source while also supported by field observations. This type of research utilizes secondary data or library legal research that broadly aims to explore legal principles, systematics, synchronization, history, and comparative law (Wibowo & Wahyuningsih, 2020). The approaches employed in this study include the statute, conceptual, and case approaches. The statute approach involves examining laws, regulations, and related legal instruments, particularly Article 114 paragraph (1) of Law Number 35 of 2009 on Narcotics. The conceptual approach is carried out by studying legal experts' opinions and doctrines relevant to the research object, which serve as the basis for constructing legal arguments. Meanwhile, the case approach is used to analyze the juridical aspects of narcotics crime cases, particularly the appeal decision No. 1/Pid.Sus/2023/PT BTN. The data sources in this study consist of primary legal materials such as the Criminal Code, Criminal Procedure Code, Law Number 35 of 2009, and related court decisions (Rangkasbitung District Court Decision No. 188/Pid.Sus/2022/PN Rkb and Banten High Court Appeal Decision No. 1/Pid.Sus/2023/PT BTN); secondary materials including books, journals, scholarly opinions, and jurisprudence; as well as tertiary materials that provide explanatory references such as statutory commentaries and legal encyclopedias.

RESULTS AND DISCUSSION

General Discussion of Drug Abuse Crimes

Improper drug use is when someone uses drugs or dangerous substances for purposes other than medical or research purposes, and does so without following the rules or proper dosage. If drugs are used in reasonable amounts and according to medically recommended dosages, continued use can lead to dependency, dependence, addiction, or dependency. Furthermore, drug abuse also impacts the

physical and mental-emotional health of users. If drug use becomes more frequent, especially in excessive amounts, it can damage physical health, mental health, and social functioning in society.

According to researchers, one of the main causes of drug dependence is difficult social and economic conditions. As a result, individuals living in environments plagued by poverty, unemployment, and lack of access to education often seek escape from their reality through drug use.

Several factors that contribute to drug abuse include:

1. Grief

Drug abuse can be triggered by feelings of deep grief. For some people, this feeling is difficult to handle. Prolonged grief can cause physical and mental health problems. This feeling is one of the causes of drug abuse because it becomes a way to find relief. It's best to see a therapist or counselor so you can express your grief and deal with it appropriately.

2. Family Environment

Drug abuse can also be caused by the family environment. Family attitudes and beliefs can influence a person when they try to quit drug use. When parents believe that drug use is a moral failure, it's easier for children to break this bad habit. When families have good education and information about drug addiction, they can play a role in helping overcome this problem.

3. Social Environmental Pressure

Make sure to choose a circle of friends with positive values. It's best to avoid social circles that are closely associated with drug abuse. This can lead someone to adopt the habits of their environment. The more a person is accustomed to drug abuse in their environment, the greater the risk of becoming a drug addict.

Legal Analysis of the Prosecutor's Basis for Appealing Decision Number 188/Pid.Sus/2022/PN.Rkb

1. Defendant's Identity

ARIF YAN PERMANA alias BIDENG bin PUJI IRIANTO, 31 years old, January 9, 1991, Male, Indonesian Nationality, Resides in Tajur Pasir Village, RT.002, RW.003, Mekaragung Subdistrict, Cibadak District, Lebak Regency, Banten Province, Occupation: Unemployed/Not Working.

2. Case Situation

That it began on Saturday, May 21, 2022, at approximately 3:30 PM WIB, when the defendant, ARIF YAN PERMANA alias BIDENG bin PUJI IRIANTO, was hanging out at a food stall in Kampung Baru, Lebak District. Rangkasbitung, Lebak Regency, Banten Province, then the defendant received a message via WhatsApp from Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) whose contents invited him to work together, namely distributing narcotics in the form of crystal methamphetamine, then the defendant answered and agreed, then Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) told the defendant to go to his house, after which the defendant immediately

went to the house of Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) which is located in Kp. Ciseke, Rangkasbitung District, Lebak Regency, Banten Province. After the defendant arrived at the house of Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file), there was Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) and Mr. Jivilipi Als Jepri (DPO) who is the brother of Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file), then the defendant chatted with Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) and Mr. Jivilipi Als Jepri (DPO) then Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) and Mr. Jivilipi Als Jepri (DPO) invited the defendant to work distributing narcotics then the defendant agreed then after that Mr. Jivilipi Als Jepri (DPO) informed someone whose name was unknown to the defendant, with the intention of asking for narcotics in the form of crystal methamphetamine, not long after Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file). then, Sulir. Ahamad Rizki told the Defendant (to wait because Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) and Mr. Jivilipi Als Jepri (DPO) were going to pick up narcotics in the form of crystal methamphetamine. Then the defendant waited at the house of Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) which is located in Kp. Ciseke, Rangkasbitung District, Lebak Regency, Banten Province while resting, while resting, Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) and Mr. Jivilipi Als Jepri (DPO) came while carrying class I narcotics in the form of crystal methamphetamine and entered the house, then the defendant was invited to come in by Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) and Mr. Jivilipi Als Jepri (DPO), after the defendant, Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) and Mr. Jivilipi Als Jepri (DPO) entered the house, then Mr. Jivilipi Als Jepri (DPO) opened the package of shabu-type narcotics, then counted there were 46 (forty-six packages of shabu-type narcotics ready for distribution which were then taken by Mr. Jivilipi Als Jepri (DPO) 1 (one) clear plastic package containing white crystals suspected to be shabu-type narcotics with the intention of being consumed together then Mr. Jivilipi Als Jepri (DPO) ordered Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) to make a shabu-type smoking device/BONG, then the shabu-type narcotics were used alternately. After finishing consuming the shabu-type narcotics then Mr. Jivilipi Als Jepri (DPO) handed over the shabu-type narcotics shabu to the defendant in the amount of 45 (forty five) packages of shabu type narcotics with the intention of being distributed, then the defendant kept it in the left side pocket of the pants that the defendant was wearing. Then after that the defendant and Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) were ordered by Mr. Jivilipi Als Jepri (DPO) to deliver 3 (three) packages of shabu type narcotics to the ona area. Then at around 19.00 WIB the defendant and Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) went to deliver the shabu type narcotics and made a map of the location of the shabu type narcotic storage. Then after the defendant delivered the shabu type narcotics, the defendant and Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna

(separate file) returned to the defendant's house which is located in Kp Tajur Pasir Rt 02 RW 03 Kel/Ds. Mekaragung Kec. Cibadak Kab. Lebak Prov. Banten then the defendant arrived home and rested with Mr. Muhammad Rizki aka Bolu Bin Entis Sutiasna.

3. Public Prosecutor's Charges

The Public Prosecutor charged the defendant ARIF YAN PERMANA alias BIDENG bin PUJI IRIANTO with an alternative charge in the narcotics crime case in decision 188/Pid.Sus/2022/PN Rkb, which was filed by the Public Prosecutor, under Article 114 Paragraph (1) of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics in conjunction with Article 132 Paragraph (1) of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics.

First Charge:

That the defendant ARIF YAN PERMANA alias BIDENG bin PUJI IRIANTO, together with Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separately prosecuted) on Monday, May 23, 2022 at approximately 17.50 WIB or at least some time in May 2022, located in a house located in Kp. Tajur Pasir Rt.02 Rw 03 Kel/Ds Mekaragung Kec. Cibadak Regency, Lebak Province, Banten Province or at least in a place that is still included in the Jurisdiction of the Rangkasbitung District Court which is authorized to examine and try this case, Attempt or conspiracy to commit a crime of narcotics and narcotic precursors, which without rights or against the law offers for sale, sells, buys, receives, acts as an intermediary in the sale and purchase, exchanges, or delivers class I narcotics other than plants of the methamphetamine type. The defendant committed the following acts:

- a. On Saturday, May 21, 2022, at approximately 3:30 PM WIB, defendant ARIF YAN PERMANA alias BIDENG bin PUJI IRIANTO was hanging out at a food stall in Kampung Baru, Rangkasbitung District, Lebak Regency, Banten Province. He received a WhatsApp message from Mr. Muhamad Rizki alias Bolu bin Entis Sutiasna (separate file) inviting him to work together, distributing methamphetamine. The defendant agreed, and Mr. Muhamad Rizki alias Bolu bin Entis Sutiasna (separate file) asked him to come to his house. Afterward, the defendant went directly to the house of Mr. Muhamad Rizki alias Bolu bin Entis Sutiasna (separate file) in Ciseke Village, Rangkasbitung District, Lebak Regency, Banten Province.
- b. That on Sunday, May 22, 2022, at approximately 02.00 WIB, the defendant and Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) went to Rangkasbitung Square, Banten Province to hang out and have coffee. After hanging out and having coffee, the defendant went home and Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) told the defendant to meet Mr. Rafli (DPO) at his house in Kp. Salahaur, Rangkasbitung District, Lebak Regency, Banten Province, then after that the defendant went home and rested, while the defendant was resting on

Sunday, May 22, 2022, at approximately 05.00 WIB, a message came in via WhatsApp from Mr. Muhamad Rizki aka Bolu bin Entis Sutiasna (separate file) which contains "Bang Si Ago wants to buy, I have 100 rupiah but I want to use it at my house" with the intention of buying narcotics in the form of crystal methamphetamine from the defendant, then the defendant replied "It's up to you, Bolu, but not at my house" then Mr. Muhamad Rizki aka Bolu bin Entis Sutiasna (separate file) said "So what, bro?" then the defendant replied "If you want to, just rent a house near my house" then Mr. Muhamad Rizki aka Bolu bin Entis Sutiasna (separate file) replied "Okay, let's go" then the defendant went to a rented house not far from the defendant's house which is located at Kp Tajur Pasir Rt 02 Rw 03 Kel/Ds. Mekaragung Kec. Cibadak Kab. Lebak Prov. Banten, then the defendant arrived and Mr. Muhamad Rizki Als Bolu Bin Entis Sutiasna (separate file) was already waiting for the defendant at the rented house, and brought his friends, namely Mr. Rafli (DPO) and Mr. Ago (DPO) where previously Mr. Ago (DPO) would buy narcotics of the type of crystal methamphetamine from the defendant for Rp. 100,000,- (one hundred thousand rupiah) to be consumed together then after that the defendant gave 1 (one) clear plastic package containing white crystals suspected of being narcotics of the type of methamphetamine to Mr. Ago (DPO) then after that Mr. Rafli (DPO) bought an aqua bottle and a straw after that Mr. Muhammad Rizki Als Bolu Bin Entis Sutiasna (separate file) made the methamphetamine/BONG smoking device, then used it alternately until it was finished.

That based on the Results of the Criminalistic Laboratory Examination No. PL95DF/VI/2022/Narcotics Laboratory Center dated June 15, 2022, electronically signed by Ir. Wahyu Widodo, with the following results:

Characteristics of the Sample Received:

- a. One blue wallet containing eight black tape packages, each containing one white tissue paper package, and one clear plastic package containing white crystals with an initial net weight of 1.1463 grams and a final net weight of 0.9820 grams.

The sample was confiscated from the defendant, ARIF YAN PERMANA, alias BIDENG bin PUJI IRIANTO

4. Public Prosecutor's Demands

Based on the description referred to above and based on the provisions of the applicable laws and regulations related to this case, the Public Prosecutor at the Lebak District Attorney's Office DEMANDS that the defendant be sentenced as follows:

- a. Declaring that the defendant ARIF YAN PERMANA alias BIDENG bin PUJI IRIANTO is proven guilty of committing the crime of "Without the right or against the law offering for sale, selling, buying, receiving, acting as an intermediary in the sale and purchase, exchanging, or handing over Class I

Narcotics in a form other than plants" as regulated and subject to criminal penalties by Article 114 Paragraph (1) of Law of the Republic of Indonesia No. 35 of 2009 concerning Narcotics as stated in the First Indictment of the Public Prosecutor.

- b. Sentencing the Defendant ARIF YAN PERMANA alias BIDENG bin PUJI IRIANTO to 7 (seven) years, reduced by the time the defendant has been in temporary detention, with an order that the defendant remain detained and a fine of Rp. 1,000,000,000 (one billion rupiah) subsidiary to 6 (six) months in prison and with an order that the defendant remain detained.
- c. Submitting evidence in the form of: 1 (one) blue wallet containing 8 (eight) clear plastic packages containing white crystals wrapped in black duct tape found in the defendant's room, specifically in the closet, 1 (one) brown Samsung brand cellphone found by the police in the defendant's room, specifically on the middle floor of the room, and a set of methamphetamine smoking tools/Bong found in the room, specifically on the table.
- d. Ordering the defendant to pay court costs of Rp. 3,000 (three thousand rupiah). Considering, that regarding the said demands, the Defendant through the Defendant's Counsel has submitted a written appeal on January 18, 2023, in which the Defendant essentially asks the Panel of Judges to give the lightest possible sentence on the grounds that the Defendant has regretted his actions, feels guilty, promised not to repeat it, has never been punished, did not provide convoluted statements, and was polite during the trial.

Legal Analysis of the Judge's Considerations in Handing Down Decision Number 1/Pid.Sus/2023/PT BTN

1. Judge's Considerations

In handing down the decision in case number 1/Pid.Sus/2023/PT. BTN, the defendant was brought to trial based on the indictment filed by the public prosecutor, as previously described, where the defendant violated Article 112 paragraph (1) of Law No. 35 of 2009 concerning Narcotics.

The judge's decision is the culmination of a case being examined and tried by the judge, which will be handed down to the defendant. The judge's considerations in handing down the decision, after the examination and trial process have been completed, must make an appropriate decision. Therefore, before imposing a criminal sanction, the judge first examines the truth of the events presented to him by examining the evidence (trial facts) presented during the trial and accompanying his convictions. After that, he considers and assesses the events that occurred, relates them to applicable law, and then draws a conclusion by determining a criminal sanction for the act committed.

Considerations The panel of judges at the Banten High Court who examined and tried this case, after hearing the testimony of witnesses, the defendant's statement, and evidence, obtained the following legal facts:

- a. Considering, that the defendant was brought to trial by the Public Prosecutor with charges as stated in the indictment, namely violating the articles as

stated in the indictment: first, violating Article 114 paragraph (1) of Law of the Republic of Indonesia No. 35 of 2009 concerning narcotics, second, violating Article 114 paragraph (1) of Law of the Republic of Indonesia No. 35 of 2009 concerning narcotics, and third, violating Article 112 paragraph (1) of Law of the Republic of Indonesia No. 35 of 2009.

- b. Considering, that in the trial, the public prosecutor presented 2 (two) witnesses who gave statements under oath, namely witness Muhamad Hasbi and witness Feri Yuana Tresna, as fully stated in the trial minutes.

CONCLUSION

Based on the research findings, the researcher can conclude that: (1) Several deficiencies were identified in the public prosecutor's demands, particularly regarding the public prosecutor's appeal of the narcotics case involving defendant Arif Yan Permana, also known as Bideng bin Puji Irianto, regarding the application of substantive criminal law and the charges filed by the Public Prosecutor (JPU). Considering the possession of the goods weighing less than 1 gram, namely only 0.9820 grams, the panel of judges should have appropriately sentenced him to 4 years and 6 months, taking into account mitigating circumstances. (2) In the case of the Defendant Arif Yan Permana alias Bideng bin Puji Irianto, there was an error made by the public prosecutor (JPU) regarding the application of sanctions and determination of the Defendant's status, where the Defendant was given a criminal sanction of 7 (seven) years imprisonment and was determined as a perpetrator of the crime of class I narcotics abuse. Because according to the researcher's analysis, the public prosecutor should have considered Article 112 Paragraph (1) of Law Number 35 of 2009 concerning Narcotics in his demands. This is based on the provisions of any person who without rights or against the law possesses, stores, controls or provides class I narcotics that are not plants, even though with evidence of the Defendant's ownership of narcotics of the type of crystal methamphetamine weighing no more than 1 gram, should not be given a criminal sanction of 7 (seven) years imprisonment, but rather.

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