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LAW ENFORCEMENT AGAINST PERPETRATORS OF CATEGORY I NARCOTICS CRIMES IN THE JURISDICTION OF THE ROKAN HILIR DISTRICT COURT

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ABSTRACT

Article 112 paragraph (1) and paragraph (2) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics regulates the minimum criminal threat of 4 years and 5 years. This study aims to analyze law enforcement against perpetrators of class I narcotics crimes in the Rokan Hilir District Court based on these regulations. The research method used is sociological legal research with a statutory approach. The results of the study indicate that law enforcement against perpetrators of class I narcotics crimes in the Rokan Hilir Court has not been implemented properly, where judges impose sentences below the minimum threat provisions stipulated in Article 112 paragraph (1) and paragraph (2) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics for perpetrators of methamphetamine narcotics crimes in 2022 and 2023. Obstacles to law enforcement come from statutory factors; law enforcement officers; and the community (defendants and mitigating witnesses).

Keywords: : Methamphetamine, Judge's Verdict, Rokan Hilir

ABSTRAK

Pasal 112 ayat (1) maupun ayat (2) Jo. Pasal 132 ayat (1) Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika mengatur ancaman pidana minimum yaitu 4 tahun dan 5 tahun. Penelitian ini ditujukan untuk menganalisis penegakan hukum terhadap pelaku tindak pidana Narkotika golongan I di Pengadilan Negeri Rokan Hilir berdasarkan regulasi tersebut. Metode penelitian yang digunakan adalah penelitian hukum sosiologis dengan pendekatan perundang-undangan. Hasil penelitian menunjukkan penegakan hukum terhadap pelaku tindak pidana Narkotika golongan I di Pengadilan Rokan Hilir belum terlaksana dengan baik, dimana hakim menjatuhkan pidana dibawah ketentuan ancaman minimum yang diatur dalam Pasal 112 ayat (1) maupun ayat (2) Jo. Pasal 132 ayat (1) Undang-Undang Nomor 35 Tahun 2009 tentang Narkotika bagi pelaku tindak pidana narkotika jenis shabu pada tahun 2022 dan 2023. Hambatan terhadap penegakan hukum tersebut berasal dari faktor perundang-undangan; aparat penegak hukum; dan masyarakat (terdakwa dan saksi yang meringankan).

Kata Kunci: Metamfetamina, Putusan, Rokan Hilir

INTRODUCTION

Law enforcement must be carried out against violations of the law. "The law functions to protect human interests, so the law must be implemented normally, peacefully, but violations of the law can occur, so the law must be enforced to become a reality." Law enforcement against criminal acts is carried out through the application of criminal sanctions, "criminal sanctions as punishment attached to conviction at crimes such as fines, probation and sentences, namely the punishment imposed aims to provide punishment to a perpetrator/criminal act."

Finally, the application of criminal sanctions in the criminal justice system is the judicial institution, "The criminal justice system is a series of crime control by government institutions, namely the police, prosecutors, courts and correctional institutions." "The criminal justice system is a system in society to combat crime." "Crime control is included in the Crime Control Model which is based on the assumption that the implementation of criminal justice is solely to suppress criminal behavior (criminal conduct), this is the main objective of the judicial process because those who are guilty must be punished."

In the courts, the implementer of law enforcement is the judge. "A judge is a concrete form of law and justice that is textually abstract, depicting the judge as God's representative on earth in enforcing law and justice." "The judge is responsible for revealing the material truth in the trial and the judge is responsible for all decisions he has made." According to Article 1 number Law Number 48 of 2009 concerning Judicial Power, "Judges are judges at the Supreme Court and judges at judicial bodies below it in the general judicial environment, religious judicial environment, military judicial environment, state administrative judicial environment, and judges at special courts within the judicial environment."

Nowadays, drug abuse is one of the cases that is often enforced by judges. "Drug abuse is a form of deviation, action or deed carried out by people without rights and without authority to use or distribute narcotics," where "Based on the Criminal Procedure Code, special criminal acts have their own special procedures, different from the procedural law that has been

regulated in the Criminal Procedure Code." Drug crimes are specifically regulated in Law Number 35 of 2009 concerning Narcotics.

According to Article 1 number 1 of Law Number 35 of 2009 concerning Narcotics, "Narcotics are substances or drugs derived from plants or non-plants, either synthetic or semi-synthetic, which can cause decreased or altered consciousness, loss of feeling, reduce to eliminate pain, and can cause dependence, which are divided into groups as attached to this Law." While in the review of the concept "narcotics are a group of drugs that have a selective working system on the Central Nervous System (CNS) and have a primary effect on consciousness or decreased consciousness, loss of feeling, reduce/or eliminate pain. Narcotics are basically used as analgesics (pain relievers), antispasmodics (reduce the risk of muscle spasms and relax muscles) and pre-medication anesthesia (relaxation)."

Drug abuse is a form of criminal act that is stated as a crime. "Crime is an act that violates norms in society without questioning whether it is against the law or not." Referring to this opinion, the crime of drug abuse is a criminal act because it has violated laws and regulations. Criminal acts (Straf-baar Feit) are interpreted as "A violation of norms (disruption of legal order) intentionally or unintentionally committed by the perpetrator, where the imposition of punishment on the perpetrator is necessary for the sake of maintaining the law and ensuring public interest." "The form of drug abuse in general is users, dealers, producers and couriers/intermediaries for drug distribution."

Based on the study of documents/literature conducted by the author, it is known that the number of drug abuse cases is very high in Indonesia. "In Indonesia in 2023 there were 2,464 cases of drug abuse and in 2024 per month of January there were 3,873 cases of drug abuse," where from the total number based on the author's observations it is known that there is a contribution of drug abuse cases from Rokan Hilir Regency.

Rokan Hilir is one of the regencies in Riau Province. The geographical condition of this regency is located on the coast facing directly with the neighboring country, Malaysia, becoming the dominant factor in the formation of entrances through small rivers. Based on document/literature studies conducted by the author, it is known that there are 4 sub-districts that are used as rat ports in the illegal circulation of narcotics to Rokan Hilir Regency, namely Pasir Limau Kapas District, Kubu District, Senabo District

and Bangko District. In addition to the rat ports, local law enforcement officers believe that there are other areas that are used as rat ports in Rokan Hilir Regency. "This condition can be interpreted that Rokan Hilir Regency is a strategic illegal narcotics trade and entry route.

The ideal concept of law enforcement is often configured on punishment. "The state wants to achieve its goals by punishing criminals, so that punishment is applied as a tool to achieve state goals, the law has the aim of scaring someone from criminal practices." "Punishment is based on the aim of deterring, improving convicts and destroying/making perpetrators of criminal acts helpless."

"Law and justice will be strong if law enforcement officers and all components of society as subsystems have legal awareness and a sense of justice." Linked to the implementation of the duties and authority of judges, the provisions for the implementation of the duties and authority of judges in district courts must clearly be in accordance with the provisions of the laws and regulations as mentioned above, in addition to that, they must also reflect justice for those being tried." However, in its implementation in Rokan Hilir Regency, there are still judges who carry out their duties and authority in deciding criminal cases that have not been carried out properly, which does not reflect justice for the perpetrators, especially perpetrators of the distribution of Class I narcotics, not plants, such as shabu (Methamphetamine) who are charged under Article 112 paragraph (1) Jo. 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics and Article 112 paragraph (2) Jo. 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotic.

Based on the Regulation of the Minister of Health Number 44 of 2019 concerning Changes in the Classification of Narcotics, "Methamphetamine or shabu is a Class I Non-Plant narcotic." Based on observations made by the author, it is known that case decisions that do not reflect justice occur in the Rokan Hilir District Court Class IB.

The author's observation results show that the judges in the court imposed sentences far below the minimum threat provisions of Article 112 paragraph (1) Jo. 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics and Article 112 paragraph (1) Jo. 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics for perpetrators of Class I narcotics crimes other than plants of the shabu (Methamphetamine) type with evidence of less than 5 grams and more than 5 grams. Such cases occurred in 2022 and 2023 as

many as 4 cases, namely Decision Number 475 / Pid.Sus / 2022 / PN Rhl; Decision Number 340 / Ppd.Sus / 2023 / PN Rhl; Decision Number 474 / Pid.Sus / 2022 / PN Rhl; Decision Number 599 / Pid.Sus / 2022 / PN Rhl.

Justice is closely related to legal certainty. "Legal certainty is the implementation of the law according to its wording, so that the public can ensure that the law is implemented. The creation of legal certainty in laws and regulations requires requirements regarding the internal structure of the legal norms themselves." So that both of these things must be reflected in the judge's decision. Legally, the legal basis for imposing sanctions on perpetrators of narcotics crimes in Law Number 35 of 2009 concerning Narcotics is:

1. Article 112 paragraph (1): "Any person who without rights or against the law possesses, stores, controls or provides Class I Narcotics that are not plants, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least IDR 800,000,000.00 (eight hundred million rupiah) and a maximum of IDR 8,000,000,000.00 (eight billion rupiah)." 2. Article 112 paragraph (2): "In the case of the act of possessing, storing, controlling, or providing Class I Narcotics other than plants as referred to in paragraph (1) weighing more than 5 (five) grams, the perpetrator shall be punished with life imprisonment or a minimum of 5 (five) years and a maximum of 20 (twenty) years imprisonment and a maximum fine as referred to in paragraph (1) plus 1/3.
2. Article 132 paragraph (1): "Attempts or conspiracy to commit crimes involving Narcotics and Narcotics Precursors as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129, the perpetrator shall be punished with life imprisonment or a minimum of 5 (five) years and a maximum of 20 (twenty) years imprisonment and a maximum fine as referred to in paragraph (1) plus 1/3.
3. Article 132 paragraph (1): "Attempts or conspiracy to commit crimes involving Narcotics and Narcotics Precursors as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129, the perpetrator shall be punished with shall be punished with the same prison sentence in accordance with the provisions referred to in the Articles."

The above conditions have shown that there is a gap between the legal facts (Das Sollen) regarding legal sanctions against perpetrators of Class I narcotics crimes other than plants of the methamphetamine type, namely Article 112 paragraph (1) Jo. 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics and Article 112 paragraph (2) Jo. 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics with social facts (Das Sein), namely the decision of the Rokan Hilir District Court Class IB judge who handed down a criminal sentence far below the minimum threat provisions in the Article against perpetrators of Class I narcotics crimes other than plants in the form of crystal methamphetamine (Methamphetamine) with evidence of less than 5 grams in 2022 and 2023. This condition is reinforced by "the limited thinking of the community regarding clear and responsible legal considerations/justifications related to the difference in the amount of criminal penalties for cases with similar case characteristics which actually raises questions for the community, especially those seeking justice (justiciabellen).¹

RESEARCH METHODOLOGY

This study uses sociological legal research. Sociological legal research is also often referred to as empirical research, namely: "A legal research method that functions to be able to see the law in a real sense and examine how the law works in a community environment. Because this study is studying people in social relations, the empirical legal research method can also be called sociological legal research." "legal facts then seek solutions to the problems that arise in these social phenomena." Therefore, in this type of legal research, as a requirement, researchers must basically know law and social sciences and have knowledge in social science research.

Sociological/empirical legal research prioritizes the existence of "field research" which is essentially a method to specifically find out the reality of what is happening in society, so conducting research on several current problems/hot issues that are currently raging and expressed in the form of social symptoms or processes.

¹ Tim Penyusun Indonesia *Judicial Research Society* (IIRS), *Penelitian Disparitas Pemidanaan Dan Kebijakan Penanganan Perkara Tindak Pidana Narkotika Di Indonesia*, (Jakarta: Indonesia Judicial Research Society IIRS, 2022), hlm. 7.

RESULTS AND DISCUSSION

Law Enforcement Against Class I Narcotics Crime Offenders in the Jurisdiction of the Rokan Hilir District Court Based on Law Number 35 of 2009 concerning Narcotics

Indonesia is still faced with social issues. In the dynamics of its development, these social issues cause the characteristics of stable and formal law, the development of practical law by government bureaucratic apparatus and legal practitioners is far from reality. As if the law is in a different world. In other words, there is a distance between the law and the existing social realities. As a result, the law is unable to answer the problems presented to it, this condition also causes legal problems in society."²

Based on observations made by the author in this thesis research, it is known that legal problems in Rokan Hilir Regency are currently dominated by narcotics crimes, especially narcotics crimes. Narcotics crimes are crimes that occur due to violations of the main regulations on narcotics and several of its derivative regulations. The main regulation is Law Number 35 of 2009 concerning Narcotics. Narcotics crimes are as stated in Articles 111 to 148 of Law Number 35 of 2009 concerning Narcotics. According to Supramono, "narcotics crimes are the use of narcotics outside of the needs for medical and scientific purposes."³

The results of the author's observations above are reinforced by the results of the author's interview with the Head of the Rokan Hilir Police Narcotics Investigation Unit, who stated that: "Rokan Hilir Regency, which has a geographical location on the coast that directly faces the neighboring country of Malaysia, is a dominant factor in the formation of entry points through small rivers that are vulnerable to becoming entry routes for narcotics circulation so that legal problems regarding narcotics crimes are very high in this Regency, especially Class I Non-Plants with the type of crystal methamphetamine (Methamphetamine)."⁴

Regarding the number of perpetrators of Class I Non-Plant Narcotics crimes with the type of methamphetamine (Methamphetamine), the author

² Soejono soekanto, *Perspektif Teoritis Studi Hukum dalam Masyarakat*, (Jakarta: CV Rajawali, 1985), hlm. 36.

³ G. Supramono, *Hukum Narkotika...*, Loc. Cit..

⁴ Author's Interview with Mr. AKP Elva Hendri, SH, MH as Head of the Rokan Hilir Police Narcotics Investigation Unit, on Monday, November 11, 2024, at 11.15 WIB, at the Rokan Hilir Police Headquarters.

also conducted an interview with the Head of the Rokan Hilir District Court Class IB, in this case represented by the Judge of the Rokan Hilir District Court Class IB. the number of cases that have been enforced by the Rokan Hilir District Court Class IB. The Number of Narcotics Crime Cases Carried Out by Law Enforcement by the Rokan Hilir District Court Class IB in 2022 and 2023, above is based on the results of the author's interview with the Head of the Rokan Hilir District Court Class IB, in this case represented by the Judge of the Rokan Hilir District Court Class IB, he can explain as follows:⁵

1. Article 112 paragraph (1), states: "Any person who without rights or against the law possesses, stores, controls or provides Class I Narcotics that are not plants, shall be punished with imprisonment for a minimum of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least IDR 800,000,000.00 (eight hundred million rupiah) and a maximum of IDR 8,000,000,000.00 (eight billion rupiah)."
2. Article 112 paragraph (2), that: "In the case of the act of possessing, storing, controlling, or providing Class I Narcotics other than plants as referred to in paragraph (1) weighing more than 5 (five) grams, the perpetrator shall be punished with life imprisonment or a minimum of 5 (five) years and a maximum of 20 (twenty) years imprisonment and a maximum fine as referred to in paragraph (1) plus 1/3 (one third).
3. Article 132 paragraph (1), that: "Attempts or conspiracy to commit crimes involving Narcotics and Narcotics Precursors as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129, the perpetrator shall be punished with the same prison sentence in accordance with the provisions referred to in the Article.

According to the explanation of Article 6 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, Class I Narcotics are Narcotics which can only be used for the purpose of developing scientific knowledge and are not used in therapy, and have a very high potential to cause dependency."

⁵ Interview of the Author with the Head of the Rokan Hilir District Court Class IB, in this case represented by Mrs. Nora, SH as Judge of the Rokan Hilir District Court Class IB, Monday, November 18, 2024, at 09.00 WIB, at the Office of the Rokan Hilir District Court Class IB.

Based on a literature study/document through the Regulation of the Minister of Health Number 44 of 2019 concerning Changes in the Classification of Narcotics, it is known that in this regulation Methamphetamine/Methamphetamine/shabu is classified as a Class I Non-Plant Narcotics. "The use of Methamphetamine/Methamphetamine/shabu has side effects of addiction, memory impairment, paranoia, difficulty sleeping, blurred vision, excessive sweating, and rapid heartbeat. Overdose can cause depression, fatigue, severe dehydration and even death."⁶

This is reinforced by the results of the author's interview with the Judge of the Rokan Hilir District Court Class IB who Handles Narcotics Crime Cases, in this case represented by the Chief Clerk of the Rokan Hilir District Court Class IB, who stated that: "In accordance with the provisions of the Minister of Health Regulation Number 44 of 2019 concerning Changes to the Classification of Narcotics, Methamphetamine/Methamphetamine/shabu is classified as a Class I Non-Plant Narcotics."⁷

Criminal sanctions are sanctions applied in narcotics crimes. "Criminal sanctions as punishment attached to conviction at crimes such as fines, probation and sentences are a punishment imposed with the aim of punishing a perpetrator/criminal act"⁸. The forms of sanctions referred to as criminal sanctions are: in the form of fines and imprisonment."⁹ One of the narcotics crimes reviewed from the legal sanctions regulations related to criminal acts in the misuse of Class I Non-Plant Narcotics of the type of crystal methamphetamine (Methamphetamine) is as regulated in Article 112 paragraph (1) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics and Article 112 paragraph (2) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, as follows:

1. Article 112 paragraph (1), states: "Any person who without rights or against the law possesses, stores, controls or provides Class I Narcotics that are not plants, shall be punished with imprisonment for a minimum

⁶ Hendri Dermawan Ginting, Tamrin dan Mimpin Ginting, *Penentuan Jalur..., Loc Cit.*

⁷Interview of the Author with the Judge of the Rokan Hilir District Court Class IB who Handles Narcotics Crime Cases, in this case represented by Mr. Samsyir Sihombing, SH as the Chief Clerk of the Rokan Hilir District Court Class IB, on Monday, November 18, 2024, at 09.50 WIB, at the Office of the Rokan Hilir District Court Class IB.

⁸ Mahrus Ali, *Dasar-Dasar ..., Loc. Cit*

⁹*Ibid.*

of 4 (four) years and a maximum of 12 (twelve) years and a fine of at least IDR 800,000,000.00 (eight hundred million rupiah) and a maximum of IDR 8,000,000,000.00 (eight billion rupiah)."

2. Article 112 paragraph (2), that: "In the case of the act of possessing, storing, controlling, or providing Class I Narcotics other than plants as referred to in paragraph (1) weighing more than 5 (five) grams, the perpetrator shall be punished with life imprisonment or a minimum of 5 (five) years and a maximum of 20 (twenty) years imprisonment and a maximum fine as referred to in paragraph (1) plus 1/3 (one third).
3. Article 132 paragraph (1), that: "Attempts or conspiracy to commit crimes involving Narcotics and Narcotics Precursors as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129, the perpetrator shall be punished with the same prison sentence in accordance with the provisions referred to in the Article.."

Based on the results of the author's observations referring to the narrative above, it is known that the judicial institution, especially the District Court, is part of the Integrated Criminal Justice System. Its tasks are different and internally have their own goals, but the essence of each subsystem in the criminal justice system is that they work together and are bound by the same goal, especially in enforcing the law against defendants in narcotics crimes that occurred in Rokan Hilir Regency as the focus of this study.

This is in line with the results of the author's interview with the Public Prosecutor of the Rokan Hilir District Attorney's Office who Handles Narcotics Crime Cases, that: "Regarding the handling of narcotics crimes, the Rokan Hilir Resort Police, the District Attorney's Office and the Rokan Hilir District Court do have their respective duties and functions sectorally as regulated by laws and regulations governing the work procedures, duties and functions of each of these law enforcement institutions. However, in the context of the Integrated Criminal Justice System, these institutions of the Integrated Criminal Justice System must work together and be bound by the

same goal, especially in enforcing the law against defendants in narcotics crimes that occur in Rokan Hilir Regency."¹⁰

"Authority is the right to use the authority possessed by an official or institution according to applicable provisions, thus authority also concerns the competence of legal actions that can be carried out according to formal rules, so authority is the formal power possessed by an official or institution." As an institution in the Integrated Criminal Justice System which is the main focus of the author in this thesis research, based on the observations made by the author, it is known that the authority of court judges, especially the Rokan Hilir District Court, which is granted by laws and regulations, is very broad.

This is regulated in Article 25 of Law Number 48 of 2009 concerning Judicial Power in conjunction with Article 50 of Law Number 8 of 2004 concerning Amendments to Law Number 2 of 1986 concerning General Courts, as follows:

1. 1. Article 25 of Law Number 48 of 2009 concerning Judicial Power, that: "General courts under the Supreme Court as referred to in paragraph (1) have the authority to examine, try, and decide criminal and civil cases in accordance with the provisions of laws and regulations."
2. Article 50 of Law Number 8 of 2004 concerning Amendments to Law Number 2 of 1986 concerning General Courts: that: "District Courts have the duty and authority to examine, decide, and resolve criminal and civil cases at the first level."

Based on observations made by the author, it is known that the Freedom mentioned above is basically not absolute freedom but responsible freedom that is limited by certain things. This is in line with what was conveyed by the Head of the Rokan Hilir District Court Class IB, in this case represented by the Judge of the Rokan Hilir District Court Class IB in his interview with the author who stated that the judge's authority related to the freedom granted by law in examining, trying and distancing the decision of the penalty sanction against the defendant in general must prioritize:¹¹

¹⁰ Author's Interview with Mr. Lita Warman, SH., MH as the Public Prosecutor of the Rokan Hilir District Attorney's Office who Handles Narcotics Crime Cases, on Wednesday, December 4, 2024, at 09.10 WIB, at the Rokan Hilir District Attorney's Office.

¹¹ Interview of the Author with the Head of the Rokan Hilir District Court Class IB, in this case represented by Mrs. Nora, SH as Judge of the Rokan Hilir District Court Class IB, Monday, November 18, 2024, at 09.00 WIB, at the Office of the Rokan Hilir District Court Class IB.

1. Applicable laws and regulations
2. Prioritize justice as the purpose of the law
3. Provide benefits to many people
4. Provide legal certainty

The verdict handed down by the Rokan Hilir District Court against the defendant who violated the provisions in Article 112 paragraph (1) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics and Article 112 paragraph (2) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics should have been implemented based on the correct requirements and procedures. This is in line with the results of the author's interview with the Head of the Rokan Hilir District Court Class IB, in this case represented by the Judge of the Rokan Hilir District Court Class IB, who stated that: "So far, the decisions handed down by the Rokan Hilir District Court against defendants who violated the provisions of Article 112 paragraph (1) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics and Article 112 paragraph (2) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics have been implemented based on the correct requirements and procedures which in terms are called examinations. Examination (examination of court decisions) is a study or withdrawal of court decisions by the judge who issued the relevant decision. What is examined primarily is how the evidence of the incident and its qualifications is, whether the judge's decision that has been issued is accompanied by logical legal reasons or not. In short, it can be interpreted that whether the decision that has been issued has met the requirements or procedures for issuing a decision or not. Both in stages, Constants, qualifiers and constituents".¹²

Furthermore, regarding the decision referred to by him, the author also conducted an interview with the Judge of the Rokan Hilir District Court Class IB who Handles Narcotics Crime Cases, in this case represented by the Chief Clerk of the Rokan Hilir District Court Class IB, so that the data on the decision referred to was obtained as the author presents below.:¹³

¹² Interview of the Author with the Head of the Rokan Hilir District Court Class IB, in this case represented by Mrs. Nora, SH as Judge of the Rokan Hilir District Court Class IB, Monday, November 18, 2024, at 09.00 WIB, at the Office of the Rokan Hilir District Court Class IB.

¹³ Interview of the Author with the Judge of the Rokan Hilir District Court Class IB who Handles Narcotics Crime Cases, in this case represented by Mr. Samsyir Sihombing, SH as the Chief Clerk of the Rokan Hilir District Court Class IB, on Monday, November 18, 2024, at 09.50 WIB, at the Office of the Rokan Hilir District Court Class IB.

Table 1
Decision Under Minimum Criminal Threat Article 112 paragraph (1) or paragraph (2)
Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning
Narcotics By Judge of Rokan Hilir District Court
Class IB 2022 and 2023

N o.	Year of Judgment	Decision Number	The indictment	Defendant
1.	2022	Decision Number 474/Pid.Sus/2022 /PN Rhl	Article 112 paragraph (1) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics	HS
2.	2022	Decision Number 475/Pid.Sus/2022 /PN Rhl	Article 112 paragraph (1) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics	ST
3.	2022	Decision Number 474/Pid.Sus/2022 /PN Rhl	Article 112 paragraph (2) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics	RZ
4.	2023	Decision Number 340/Ppd.Sus/2023 /PN Rhl	Article 112 paragraph (1) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics	ZK

Data source: Rokan Hilir District Court Class IB, processed in 2024.

Based on observations made by the author regarding the narcotics crime, it is known that the local district court judge decided on a sentence below the minimum threat provisions which is not in accordance with the local police's BAP and the contents of the indictment of the Rokan Hilir District Court Public Prosecutor.

This is reinforced by the results of an interview with the Public Prosecutor of the Rokan Hilir District Attorney's Office who Handles Narcotics Crime Cases, who stated that: "In the indictment, his party charged and charged the defendant ZK with Article 112 paragraph (1) Jo. Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, the criminal threat is a minimum of 4 (four) years imprisonment and a maximum of 12 (twelve) years and a fine of at least Rp. 800,000,000.00 (eight hundred million rupiah) and a maximum of Rp. 8,000,000,000.00 (eight billion rupiah). However, for several reasons, the local judge decided the case by imposing a

sentence below the minimum threat in the regulation. The sentence against ZK is a prison sentence of 3 years and 4 months and a fine of Rp. 1,000,000,000.00 (one billion rupiah) subsidiary to a prison sentence of 1 month in Decision Number 340/Ppd.Sus/2023/PN Rhl."¹⁴

Regarding the threat of criminal penalties below the minimum, the author conducted an interview with the Head of the Rokan Hilir District Court Class IB, in this case represented by the Judge of the Rokan Hilir District Court Class IB, who stated that: "Regarding Decision Number 340/Ppd.Sus/2023/PN Rhl, please ask the judge handling it directly because according to him, the decision has been implemented based on the correct examination related to the requirements and procedures."¹⁵

For further information, the author conducted an interview with the Judge of the Rokan Hilir District Court Class IB who Handles Narcotics Crime Cases, in this case represented by the Chief Clerk of the Rokan Hilir District Court Class IB, who stated that: "In the trial facts, several legal facts and trial facts were found that were different from the contents of the indictment of the local Public Prosecutor's Office against the defendant ZK, one of which was that ZK used crystal methamphetamine only for his own use, not for sale. In this case, the prosecutor did not indict and charge the defendant with Article 127 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, so that in this case the local judge decided on the sentence for the defendant HS based on the Provisions of Letter A number 1 of the Circular of the Supreme Court Number 02 of 2015 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court. In Decision Number 340 / Ppd.Sus / 2023 / PN The panel of judges sentenced the defendant to 3 years and 4 months in prison and a fine of Rp. 1,000,000,000.00 (one billion rupiah) or a subsidiary prison sentence of 1 month."¹⁶

¹⁴Author's Interview with Mr. Lita Warman, SH., MH as the Public Prosecutor of the Rokan Hilir District Attorney's Office who Handles Narcotics Crime Cases, on Wednesday, December 4, 2024, at 09.10 WIB, at the Rokan Hilir District Attorney's Office.

¹⁵ Interview of the Author with the Head of the Rokan Hilir District Court Class IB, in this case represented by Mrs. Nora, SH as Judge of the Rokan Hilir District Court Class IB, Monday, November 18, 2024, at 09.00 WIB, at the Office of the Rokan Hilir District Court Class IB.

¹⁶ Interview of the Author with the Judge of the Rokan Hilir District Court Class IB who Handles Narcotics Crime Cases, in this case represented by Mr. Samsyir Sihombing, SH

Regarding the verdict below the minimum criminal threat, the author also conducted an interview with the defendant. In the interview, the person concerned stated that: "He was sentenced to a light sentence, namely imprisonment for 3 years and 4 months and a fine of Rp. 1,000,000,000.00 (one billion rupiah) subsidiary to 1 month's imprisonment in Decision Number 340 / Ppd.Sus / 2023 / PN Rhl. He was satisfied with the verdict because he was only a methamphetamine user, not a dealer, and the evidence was also only a little, namely 0.15 grams of methamphetamine."¹⁷

Based on the overall research results conducted by the author above, regarding the problem of law enforcement against perpetrators of Class I Narcotics crimes at the Rokan Hilir District Court based on Law Number 35 of 2009 concerning Narcotics, the author analyzes using the Theory of Judges' Considerations, Theory of Justice and Theory of Legal Certainty, as follows:

First, the Theory of Judge's Consideration. When deciding a case, in the conceptual aspect the judge refers to several theories that underlie the formation of the theory of judge's consideration. According to Mackenzie, the theory consists of several, namely:¹⁸

1. Balance Theory
2. Art and Intuition Approach Theory
3. Scientific Approach Theory
4. Ratio Decidendi Theory
5. Wisdom Theory

Second, the Theory of Justice. The principles of justice according to John Rawls include the following:¹⁹

1. Everyone has an equal claim to the fulfillment of rights and freedoms-which have a compatible basis and are of the same kind for all people and equal political freedom is guaranteed at a fair value.
2. Attached to offices and positions-positions open to all under conditions of fair equality of opportunity.

as the Chief Clerk of the Rokan Hilir District Court Class IB, on Monday, November 18, 2024, at 09.50 WIB, at the Office of the Rokan Hilir District Court Class IB.

¹⁷ Author's Interview with ZK, as a Narcotics Crime Convict in Rokan Hilir Regency in 2023 who was Sentenced to a Sentence Below the Minimum Sentence, Interview Conducted on Tuesday, November 19, 2024, at 14.25 WIB.

¹⁸ Ahmad Rifai, *Penemuan Hukum, Loc. Cit.*

¹⁹ Pan Mohamad Faiz, *Teori Keadilan..., Loc. Cit.*

Aristotle categorizes justice as collective justice. Collective justice according to Aristotle, states that: "If there is an action that is considered unfair (unfair prejudice) in the social order of society, then the law plays a very important role in reversing the situation, so that the justice that has been lost (the lost justice) can be found again by the party that has been unfairly needed (oppressed, exploited)".²⁰

In relation to this problem, justice can only be obtained for the wider community by the Public Prosecutor of the Rokan Hilir District Attorney's Office taking legal action for cassation based on the authority granted by law in Article 244 of the Criminal Procedure Code (KUHP) which reads: "Regarding a criminal case decision given at the final level by a court other than the Supreme Court, the defendant or public prosecutor may submit a request for a cassation examination to the Supreme Court except for an acquittal decision."

Third, the Theory of Legal Certainty, Jan Michiel Otto views legal certainty from the perspective of the situation faced. Legal certainty according to Jan Michiel Otto defines it as the possibility that in certain situations:²¹

1. There are clear (transparent), consistent and easily obtained rules, issued by and recognized because of the (power) that exists in the state.
2. The ruling agency (government) in implementing these legal rules consistently and also submits and obeys them.
3. Citizens in principle adjust their behavior to these rules.
4. Judges (courts) who are independent and do not think apply these legal rules consistently when they resolve legal disputes.
5. Judicial decisions are concretely implemented.

Referring to the theory of legal certainty and Law Number 35 of 2009 concerning Narcotics as described and analyzed above, the author states that legal certainty in handling narcotics crimes in 2022 and 2023 in the jurisdiction of the Rokan Hilir Class IB District Court has not been fulfilled.

²⁰ B. Arief Sidharta dan Meuwissen, *Tentang Pengembangan...*, Loc, Cit.

²¹ Soeroso, *Pengantar Ilmu ...*, Op. Cit, hlm. 17.

Obstacles and Efforts to Overcome Obstacles in Law Enforcement Against Perpetrators of Class I Narcotics Crimes in the Jurisdiction of the Rokan Hilir District Court Based on Law Number 35 of 2009 concerning Narcotics

Based on the overall research results above conducted by the author through observation, non-structural interviews and document/literature studies, the author analyzes that the obstacles in law enforcement against perpetrators of class I narcotics crimes in the jurisdiction of the Rokan Hilir District Court based on Law Number 35 of 2009 concerning Narcotics are as follows:

1. Legislative factors, namely:
 - a. Article 25 of Law Number 48 of 2009 concerning Judicial Power in conjunction with Article 50 of Law Number 8 of 2004 concerning Amendments to Law Number 2 of 1986 concerning General Courts which provides too broad authority for judges, especially district court judges, in deciding cases;
 - b. Circular Letter of the Supreme Court Number 04 of 2010 concerning Placement of Drug Abusers, Victims of Drug Abuse and Addicts into Medical Rehabilitation and Social Rehabilitation Institutions, which regulates the criteria for victims of drug abuse;
 - c. Provisions of Letter A number 1 of the Circular Letter of the Supreme Court Number 02 of 2015 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court which states that: "The prosecutor charges Article 111 or Article 112 of Law Number 35 of 2009 concerning Narcotics but based on the legal facts revealed in court it is proven that Article 127 of Law Number 35 of 2009 concerning Narcotics, where this article is not charged, the defendant is proven to be a user and the amount is relatively small (Circular Letter of the Supreme Court Number 04 of 2010) then the judge decides according to the indictment but can deviate from the provisions of the special minimum criminal penalty by making sufficient considerations;
 - d. The length of the sentence threatened in Article 112 of Law Number 35 of 2009 concerning Narcotics is not all cases comparable to the actions committed by the defendant;

- e. The enactment of various legal products produced by the judicial institution can override the main regulations which are actually part of the hierarchy of laws and regulations in Indonesia as stated in Law Number 12 of 2011 concerning the Formation of Legislation, while legal products produced by judicial institutions are not included in the intended hierarchy. One of them is the substance of Law Number 35 of 2009 concerning Narcotics which is set aside

Regarding the obstacles from the above legislative factors, according to the author's analysis, efforts can be made to overcome them, namely:

- a. Although the judge's power is broad, the judge should not be arbitrary in making a decision so that the judge's decision can provide justice, benefits and legal certainty that is not subjective in nature, but oriented towards justice, benefits and legal certainty for the wider community;
- b. As usual, the judge applies the Circular of the Supreme Court Number 04 of 2010 concerning the Placement of Abusers, Victims of Abuse and Drug Addicts into Medical Rehabilitation and Social Rehabilitation Institutions, which regulates the criteria for victims of drug abuse carefully and precisely;
- c. As usual, the judge applies the Provisions of Letter A number 1 of the Circular of the Supreme Court Number 02 of 2015 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Court against defendants who meet the criteria in the Circular of the Supreme Court;
- d. The government is amending Law Number 35 of 2009 concerning Narcotics because in certain circumstances it is no longer in accordance with the needs of law enforcement;
- e. Judges apply the law based on the substance of Law Number 35 of 2009 concerning Narcotics. However, when faced with a Judge who has the authority to make legal discoveries (*rechtvinding*) in examining, trying and deciding the cases handled so that they are stated in certain decisions, so that based on this, the judge then issues a legal product such as one of the Provisions Letter A number 1 of the Circular Letter of the Supreme Court Number 02

of 2015 concerning the Enforcement of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for Courts that are not in line with Law Number 35 of 2009 concerning Narcotics. This condition seems to make Law Number 35 of 2009 concerning Narcotics no longer relevant to the needs of law enforcement, so that it is difficult for the government to make changes to Law Number 35 of 2009 concerning Narcotics

2. Law enforcement factors, namely:

- a. Judges who are less precise and careful in implementing the Provisions of Letter A number 1 of the Circular Letter of the Supreme Court Number 02 of 2015 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Courts so that the sentencing of sentences below the minimum threat to defendants of narcotics crimes charged with Article 112 of Law Number 35 of 2009 concerning Narcotics;
- b. The difference in the contents of the indictment of the Public Prosecutor of the Rokan Hilir District Attorney's Office with the facts at trial which prove that the defendant is a narcotics user who uses it for himself, while the indictment related to Article 112 of Law Number 35 of 2009 concerning Narcotics is actually in conjunction with Article 132 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, not in conjunction with Article 127 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. In fact, in the trial, the defendant was proven to be only a user of crystal methamphetamine, so the classification of the defendant refers to the provisions of Article 55 of the Criminal Code regarding the role of the perpetrator/defendant, namely whether he was the mastermind behind the crime, an accomplice, knew but did not report it or only participated. Then, the decision of the Supreme Court of the Republic of Indonesia No. 1386 K/Pid.Sus/2011 dated August 3, 2011

has provided clear boundaries regarding the differences in control of narcotics, whether the control of narcotics is as a user (Article 127 Paragraph (1) or otherwise falls under another article (such as Article 114 or Article 112 of Law Number 35 of 1999) where in this case the trial facts prove that the perpetrator/defendant is a crystal methamphetamine user.

Regarding the obstacles from the law enforcement factors mentioned above, according to the author's analysis, efforts can be made to overcome them, namely:

- a. Judges are more careful and do not have certain interests must be in accordance with the examination concept which is carried out with the correct requirements and procedures and accompanied by logical legal reasons supported by trial facts so that they are right in implementing the Provisions of Letter A number 1 of the Circular Letter of the Supreme Court Number 02 of 2015 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber as a Guideline for the Implementation of Duties for the Courts of Justice.
 - b. The Public Prosecutor is more careful and precise in compiling the indictment and avoiding any certain interests so that it is right in making the indictment and there is no difference between the contents of an indictment and the facts in the trial. Then the Public Prosecutor takes legal action against the judge's decision.
3. Community factors (defendant and mitigating witnesses), namely:
- a. both the defendant and the mitigating sanctions tend to be manipulative so that there is a difference in the facts in the trial with the contents of the indictment;
 - b. the conditions of the defendant when being examined in court that can mitigate the sentence given by the judge to the defendants such as the defendant is not a recidivist, the defendant is the backbone of the family, there is very little evidence, the defendant is honest and cooperative in court

- c. The defendant and mitigating witnesses can prove in court that the defendant is only a user, not a dealer or distributor of crystal methamphetamine

Regarding the obstacles from the community factors (defendants and mitigating witnesses) mentioned above, according to the author's analysis, efforts can be made to overcome them, namely::

- a. the defendant and the mitigating witnesses told the truth in court so that the contents of the indictment were in line with the facts in court;
- b. the judge's considerations in handing down a light sentence to the defendant were truly in accordance with the defendant's conditions when being examined in court;
- c. The defendant can present mitigating witnesses that the defendant is only a user, not a courier or distributor of methamphetamine

CONCLUSION

1. Law enforcement against perpetrators of Class I Narcotics crimes at the Rokan Hilir District Court based on Law Number 35 of 2009 concerning Narcotics has not been running well where judges impose sentences far below the minimum threat provisions in the Article for perpetrators of methamphetamine narcotics crimes in 2022 and 2023.
2. The obstacles to law enforcement are First, the legislative factor, namely the existence of Article 25 of Law Number 48 of 2009 concerning Judicial Power in conjunction with Article 50 of Law Number 8 of 2004 concerning Amendments to Law Number 2 of 1986 concerning General Courts so that the judge's authority is broad; the existence of Circular Letter of the Supreme Court Number 04 of 2010; Provisions in Letter A number 1 of Circular Letter of the Supreme Court Number 02 of 2015; the length of the sentence threatened in Article 112 of Law Number 35 of 2009 concerning Narcotics where not all cases are comparable to the actions committed by the defendant; the validity of various legal products produced by the judicial institution can override the main regulation, namely threatened in Article 112 of the Law. Efforts to overcome this are: Although the judge's power is broad, the judge's decision should be able to provide justice, benefits and legal certainty that are not subjective in nature but for the wider community; apply the rules carefully and precisely; judges apply them to defendants who meet the criteria in the Supreme Court Circular; The government amends Law Number 35 of 2009 concerning Narcotics because in certain circumstances it is no longer in accordance with the needs of

law enforcement; Judges apply the law based on the substance of Law Number 35 of 2009 concerning Narcotics. Second, the factor of law enforcement officers is that judges are less precise and careful in applying the Provisions of Letter A number 1 of the Supreme Court Circular Letter Number 02 of 2015; the difference in the contents of the indictment of the Public Prosecutor of the Rokan Hilir District Attorney's Office with the facts in the trial which prove that the defendant is a drug user where the indictment related to Article 112 is not in conjunction with Article 127 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. Efforts to overcome this are that the Judge is more careful and does not have a particular interest and must be in accordance with the examination concept so that it is right in applying the Provisions of Letter A number 1 of the Circular Letter of the Supreme Court Number 02 of 2015; the Public Prosecutor is more careful and thorough in compiling the indictment and avoiding any particular interests then the Public Prosecutor takes legal action. Third, the community factor (defendant and mitigating witnesses) is that both the defendant and the sanctions tend to be manipulative so that there is a difference in the facts in the trial with the contents of the indictment; the conditions of the defendant when being examined in court which can reduce the sentence by the judge; The defendant and the mitigating witnesses can prove in court that the defendant is only a user. Efforts to overcome this are that the defendant and the mitigating sanctions tell the truth in court; The judge's consideration in handing down a light sentence is truly in accordance with the conditions of the defendant when being examined at trial; The defendant can present mitigating witnesses.

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