



**PENERAPAN PENJATUHAN PIDANA MINIMUM KHUSUS
TERHADAP PERKARA TINDAK PIDANA NARKOTIKA
DALAM PUTUSAN HAKIM**

TESIS

**Disusun Dalam Rangka Memenuhi Persyaratan
Program Magister Hukum**

Oleh :

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DALAM PUTUSAN HAKIM**

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ABSTRAK

Ketentuan Pasal 112 ayat (1) UU Narkotika mengancam pelaku dengan pidana penjara minimum khusus selama 4 (empat) tahun, tetapi dalam penerapan putusan, para terdakwa dijatuhi pidana di bawah ancaman pidana minimum khusus tersebut. Rumusan masalah dalam penelitian ini, yaitu, *pertama*, bagaimana penerapan penjatuhan pidana minimum khusus terhadap tindak pidana narkotika dalam putusan Hakim ? dan *kedua*, apa dasar pertimbangan Hakim yang menjatuhkan pidana di bawah minimum khusus terhadap perkara tindak pidana narkotika ? Penelitian ini adalah penelitian hukum normatif menggunakan data sekunder yang didukung dengan data empiris. Hasil penelitian ini menunjukkan bahwa, penerapan penjatuhan pidana minimum khusus terhadap tindak pidana narkotika dalam putusan Hakim mengalami disparitas karena tuntutan ancaman pidana minimum khusus menurut Pasal 112 ayat (1) UU Narkotika diterapkan Penuntut Umum, tetapi dalam putusan, berdasarkan Pasal 127 ayat (1) UU Narkotika, para terdakwa oleh Hakim dijatuhi pidana penjara lebih ringan daripada tuntutan, dengan dasar pertimbangan Hakim bahwa para terdakwa menggunakan narkotika untuk konsumsi pribadi, urine positif metamphetamine, tidak tertangkap tangan sedang menggunakan narkotika, barang bukti berjumlah kecil, dan tidak terbukti terlibat dalam peredaran gelap narkotika. Walaupun demikian, para terdakwa tetap harus dipidana, tanpa mempertimbangkan Pasal 127 ayat (1) UU Narkotika agar dapat direhabilitasi, karena tidak layak dipertimbangkan sebagai pecandu atau penyalah guna narkotika, karena tidak menggunakan narkotika karena dibujuk, diperdaya, ditipu, dipaksa, dan/atau diancam untuk menggunakan Narkotika, tetapi memang karena kesadaran dan keinginan sendiri mengkonsumsi narkotika.

Kata Kunci : Pidana Minimum Khusus; Putusan Hakim; Tindak Pidana Narkotika

**APPLICATION OF SPECIAL MINIMUM SENTENCES
TO DRUG CRIMINAL CASES
IN JUDGES' DECISIONS**

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ABSTRACT

Article 112 paragraph (1) of the Narcotics Law imposes a special minimum prison sentence of 4 (four) years, but in the implementation of the verdict, the defendants were sentenced below the minimum sentence. The problem formulation in this research is, first, how is the application of the imposition of a special minimum sentence for narcotics crimes in the judge's decision ? and second, what is the basis for the judge's consideration in imposing a sentence below the special minimum for narcotics crimes ? This research is a normative legal study using secondary data supported by empirical data. The results of this study indicate that the application of the minimum sentence for narcotics crimes in judges' decisions is disparate. The demand for the minimum sentence under Article 112 paragraph (1) of the Narcotics Law was applied by the Public Prosecutor, but in the verdict, based on Article 127 paragraph (1) of the Narcotics Law, the judge sentenced the defendants to a lighter prison sentence than the demand. The judge considered that the defendants used narcotics for personal consumption, had a positive urine sample for methamphetamine, were not caught red-handed using narcotics, had a small amount of evidence, and were not proven to be involved in illicit narcotics trafficking. However, the defendants must still be punished, without considering Article 127 paragraph (1) of the Narcotics Law so that they can be rehabilitated, because they are not worthy of being considered addicts or abusers of narcotics, because they did not use narcotics because they were persuaded, tricked, deceived, forced, and/or threatened to use narcotics, but rather because they consciously and willingly consumed narcotics.

Keywords : Judge's Decision; Narcotics Crimes; Special Minimum Sentence

