

RINGKASAN

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**PENERAPAN PENJATUHAN PIDANA
MINIMUM KHUSUS OLEH HAKIM DALAM
PERKARA TINDAK PIDANA NARKOTIKA
NOMOR 146/Pid.Sus/2023/PN/Tkn PADA
PENGADILAN NEGERI TAKENGON**

**(Dr. Muhammad Hatta, S.H., LL.M. dan
Dr. Hamdani, S.H., LL.M.)**

Penerapan pidana minimum narkotika sering diperdebatkan. Kasus PN Takengon dan MA (No. 966 K/Pid.Sus/2024) menyimpangi pidana minimum bagi pengguna (dari 4 tahun menjadi 1 tahun 6 bulan). Putusan ini mempertimbangkan peran pelaku dan keadilan substantif, mencerminkan dilema antara penegakan ketat dan proporsionalitas hukuman.

Jenis penelitian ini adalah penelitian yuridis normatif. Penelitian ini bertujuan untuk mengkaji penerapan asas legalitas dan pertimbangan hakim dalam menjatuhkan pidana minimum berdasarkan peraturan perundang-undangan yang berlaku, seperti KUHP dan undang-undang khusus terkait tindak pidana narkotika.

Konsep pidana minimum khusus dalam tindak pidana narkotika merupakan instrumen hukum penting yang menegaskan sikap represif negara terhadap peredaran narkotika, khususnya skala besar, guna memberikan efek jera dan menjamin hukuman setimpal. Dalam KUHP Nasional (UU No. 1 Tahun 2023) dan UU No. 35 Tahun 2009, ketentuan ini menetapkan batas minimum pidana yang tegas, namun dalam praktiknya memunculkan disparitas karena diskresi hakim yang luas dan belum adanya pedoman pemidanaan yang jelas, sehingga berpotensi melanggar asas kepastian hukum dan keadilan. Putusan PN Takengon No. 146/Pid.Sus/2023/PN Tkn dan MA No. 966 K/Pid.Sus/2024 menunjukkan bahwa penyimpangan terhadap pidana minimum dapat dibenarkan untuk pengguna narkotika demi mewujudkan keadilan substantif, dengan dasar pertimbangan rehabilitatif dan proporsionalitas sebagaimana diatur dalam SEMA dan KUHP Nasional, sekaligus memperkuat legitimasi diskresi hakim dalam konteks pemidanaan modern.

Disarankan agar penegak hukum menerapkan pidana minimum khusus secara hati-hati dan proporsional, dengan membedakan tegas antara pelaku utama seperti bandar dan pengguna atau kurir berperan minor dan dilakukan revisi Undang-Undang Narkotika dengan menetapkan batas kuantitas narkotika yang jelas serta mengintegrasikan rehabilitasi sebagai alternatif hukuman. Selain itu, disarankan Mahkamah Agung menerbitkan SEMA baru yang mengadopsi preseden PN Takengon dan MA sebagai pedoman normatif, termasuk kriteria rehabilitasi dan penggunaan diskresi hakim secara terukur dan adil.

Kata Kunci: Pidana Minimum, Hakim, Tindak Pidana Narkotika.

SUMMARY

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**JUDICIAL APPLICATION OF MANDATORY
MINIMUM SENTENCES IN NARCOTICS
CASE NUMBER 146/PID.SUS/2023/PN/TKN AT
THE DISTRICT COURT OF TAKENGON.**

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The application of minimum sentencing in narcotics cases is often debated. The Takengon District Court and the Supreme Court of Indonesia (Case No. 966 K/Pid.Sus/2024) deviated from the statutory minimum sentence for drug users, reducing the sentence from 4 years to 1 year and 6 months. This ruling considered the offender's role and substantive justice, reflecting the dilemma between strict legal enforcement and proportional punishment.

This research is normative juridical in nature. It aims to examine the application of the principle of legality and the judicial considerations in imposing minimum sentences based on applicable laws and regulations, such as the Indonesian Criminal Code (KUHP) and specific laws on narcotics crimes.

The concept of mandatory minimum sentencing in narcotics crimes serves as an important legal instrument that underscores the state's repressive stance against large-scale drug trafficking, aiming to create a deterrent effect and ensure that punishments are commensurate with the severity of the offense. Under the new Indonesian Criminal Code (Law No. 1 of 2023) and Law No. 35 of 2009 on Narcotics, strict minimum sentencing provisions are enforced. However, in practice, they often result in sentencing disparities due to broad judicial discretion and the absence of clear sentencing guidelines, potentially violating legal certainty and fairness. The rulings in Case No. 146/Pid.Sus/2023/PN Tkn by the Takengon District Court and Case No. 966 K/Pid.Sus/2024 by the Supreme Court demonstrate that deviation from mandatory minimum sentences may be justified for drug users to achieve substantive justice, based on rehabilitative and proportional considerations as outlined in Supreme Court Circular Letters (SEMA) and the national penal code, thereby reinforcing the legitimacy of judicial discretion in modern sentencing.

It is recommended that law enforcement officers apply mandatory minimum sentences with caution and proportionality, clearly distinguishing between major offenders such as drug lords and minor participants such as users or coerced couriers. A revision of the Narcotics Law is also recommended, including the establishment of clear quantity thresholds and the integration of rehabilitation as an alternative sanction. Furthermore, the Supreme Court is advised to issue a new SEMA that adopts the precedents set by the Takengon and Supreme Court rulings as normative guidelines, including specific rehabilitation criteria and measured use of judicial discretion to ensure proportional and fair sentencing

Keywords: Minimum Penalty, Judge, Narcotics Crime.