

RINGKASAN

**M. Tri Bagus Satria : Penyelesaian Secara *In Absentia* Terhadap Tindak Pidana Desersi Dimasa Damai (Studi Putusan Nomor 8-K/PM.I-04/AD/I/2024)
(Husni, S.H., M.H. dan Dr. Shira Thani, S.H., M.H.)**

Salah satu pelanggaran yang dilakukan oleh TNI adalah tindak pidana desersi, sebagaimana yang diatur dalam Undang-Undang Nomor 39 Tahun 1947 Kitab Undang-Undang Hukum Pidana Militer tepatnya dalam pasal 87 yang merupakan suatu cara untuk menarik diri dari pelaksanaan kewajiban dinas. Salah satu kasus yang menarik perhatian adalah kasus Dwi Rahmawan yang melakukan tindakan pergi meninggalkan tugas dinas selama lebih dari 1 bulan tanpa sepengetahuan atasan. Penelitian ini bertujuan untuk mengetahui analisis yuridis terhadap penerapan pemeriksaan *in absentia* dalam tindak pidana desersi berdasarkan putusan nomor : 8-K/PM.I-04/AD/I/2024 serta mengetahui bentuk tanggung jawab hukum bagi tentara nasional indonesia yang melakukan tindak pidana desersi yang diperiksa secara *in absentia*.

Penelitian ini menggunakan metode hukum normatif dengan pendekatan perundang-undangan dan studi putusan. Data yang diperoleh dari bahan hukum primer, sekunder, dan tersier. Teknik analisis data yang dilakukan secara deskriptif kualitatif untuk mengevaluasi argumentasi hukum dalam putusan Pengadilan Militer I-04 Palembang Nomor 8-K/PM.I-04/AD/I/2024.

Hasil penelitian menunjukkan bahwa pelaku terbukti melakukan tindak pidana desersi pada masa damai dengan meninggalkan dinas lebih dari 30 hari tanpa izin dari atasan sebagaimana diatur dalam pasal 87 ayat (1) ke-2 jo pasal 2 KUHPM, yang diancam dengan pidana 1 tahun 6 bulan. Dikarenakan terdakwa melarikan diri dan tidak ditemukan lagi dalam waktu 6 bulan serta sudah diupayakan pemanggilan 3 kali berturut-turut secara sah oleh jaksa, tetapi tidak hadir di sidang tanpa suatu alasan dan upaya pencarian yang dilakukan oleh pihak Kodim tetap tidak ditemukan, maka persidangan dilaksanakan secara *in absentia*. Berdasarkan hasil pemeriksaan saksi dan pertimbangan hakim terhadap unsur militer, maka majelis hakim menyimpulkan bahwa pelaku terbukti secara sah dan meyakinkan bersalah, sehingga dijatuhi pidana penjara selama 1 tahun dan pidana tambahan berupa pemecatan dari dinas militer TNI AD. Apabila terdakwa yang dijatuhi pidana *in absentia* kemudian tertangkap atau menyerahkan diri, maka putusan tersebut langsung dieksekusi tanpa dilakukan pemeriksaan ulang kembali.

Disarankan untuk diadakan sosialisasi dan edukasi hukum secara berkelanjutan kepada seluruh anggota TNI agar mereka memahami konsekuensi hukum dari setiap tindakan pelanggaran disiplin dan pidana militer, khususnya terkait desersi dan Diperlukan upaya preventif melalui pembinaan mental, sosial, dan ekonomi anggota TNI agar faktor-faktor penyebab desersi seperti masalah psikologis, keluarga, ekonomi, dan lingkungan dapat diminimalisir.

Kata kunci: Tindak Pidana Desersi, TNI, *In Absentia*.

SUMMARY

M. Tri Bagus Satria : *Settlement in Absentia of the Crime of Desertion in Peacetime (Study Of Decision Number 8-K/PM.I-04/AD/I/2024)*
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One of the violations committed by the TNI is the crime of desertion, as regulated in Law Number 39 of 1947 Military Criminal Code, specifically in Article 87, which is a way to withdraw from carrying out one's service obligations. One of the cases that attracted attention was the case of Dwi Rahmawan who committed the act of leaving his duty for more than 1 month without the knowledge of his superiors. This study aims to determine the legal analysis of the application of in absentia examination in the crime of desertion based on decision number: 8-K / PM.I-04 / AD / I / 2024 and to determine the form of legal responsibility for the Indonesian national army who committed the crime of desertion who was examined in absentia.

This research uses a normative legal method with a statutory approach and decision studies. Data were obtained from primary, secondary, and tertiary legal materials. The data analysis technique used was descriptive qualitative to evaluate the legal arguments in the decision of the Palembang Military Court I-04 Number 8-K/PM.I-04/AD/I/2024.

The results of the research show that the perpetrator was proven to have committed the crime of desertion during peacetime by leaving service for more than 30 days without permission from his superior as regulated in Article 87 paragraph (1) 2 in conjunction with Article 2 of the Military Criminal Code, which is punishable by a sentence of 1 year and 6 months. Because the defendant fled and was not found again within 6 months and had been legally summoned 3 times in a row by the prosecutor, but did not appear in court without any reason and the search efforts carried out by the Kodim still did not find him, the trial was held in absentia. Based on the results of the witness examination and the judge's consideration of the military element, the panel of judges concluded that the perpetrator was legally and convincingly proven guilty, so he was sentenced to 1 year in prison and an additional sentence in the form of dismissal from the Indonesian Army military service. If the defendant who was sentenced in absentia is later caught or surrenders, the decision is immediately executed without further re-examination.

It is recommended that ongoing legal socialization and education be held for all TNI members so that they understand the legal consequences of every act of violation of military discipline and crime, especially related to desertion and Preventive efforts are needed through mental, social, and economic development of TNI members so that factors causing desertion such as psychological, family, economic, and environmental problems can be minimized.

Keywords: *Crime Of Desertion, TNI, In Absentia.*