

SUMMARY

**Dinda Humaira *Legal Analysis of Sentencing for Illegal Firearm*
210510060 *Possession (Study of Decision 39/Pid.Sus/2021/PN RBI)***

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Sentencing for the crime of illegal firearms possession, a study of Decision Number 39/Pid.Sus/2021/PN RBI. The main issue raised is the discrepancy between the revealed legal facts and the decision handed down in court. The legal facts that occurred fulfill the elements of Article 1 Paragraph (1) of Emergency Law No. 12 of 1951 concerning illegal firearms. Meanwhile, the article used as the basis for the sentencing is Article 2 Paragraph (1) of Emergency Law No. 12 of 1951 concerning sharp weapons. The purpose of this study is to analyze the misuse of the Article in Decision Number 39/Pid.Sus/2021/PN RBI. What are the judge's considerations in sentencing the defendant convicted based on Decision Number 39/Pid.Sus/2021/PN RBI.

This study uses a normative juridical research type with a case approach (Case Approach), namely an analytical approach. The data collection technique uses a legal material collection method through document study (Library Research).

The results of the study indicate that the failure to apply Article 1 Paragraph (1) of Emergency Law Number 12 of 1951 in Decision Number 39/Pid.Sus/2021/PN RBI constitutes a legal inaccuracy, because the trial facts have fulfilled the elements of illegal firearms possession. The application of Article 2 Paragraph (1) causes a discrepancy between the facts and the legal basis and weakens legal certainty. The judge's consideration in Decision Number 39/Pid.Sus/2021/PN RBI made an error in applying the article because it used Article 2 Paragraph (1) of Emergency Law Number 12 of 1951 concerning sharp weapons, even though the evidence owned by the defendant was a homemade firearm which should be charged with Article 1 Paragraph (1). The judge's consideration was based on humanitarian reasons to provide a lighter sentence, but was deemed legally inappropriate because it ignored the principles of legality and legal certainty. As a result, the purpose of punishment was not achieved and substantive justice was disrupted.

Judges must apply the appropriate articles based on the facts of the trial, avoiding subjective reasoning, and adhere to Supreme Court jurisprudence to ensure consistent decisions and effective enforcement of illegal firearms laws.

Keywords: *Sentencing and Legal Principles, Illegal Firearm Possession, Error in Application of Law, Judicial Reasoning and Discretion, Legal Certainty and Justice*