

## ABSTRAK

**Rizka Hafsanah Marpaung**  
**NIM 220510095**

**Penerapan Asas Proporsionalitas dan  
Ultimum Remedium dalam Tindak Pidana  
Pencurian  
Ringan (Studi Putusan Nomor  
262/Pid.C/2025/PN Rap.)  
(Husni S.H.,M.H. dan Arif Rahman  
S.H.,M.H)**

Skripsi berjudul Penerapan Asas Proporsionalitas dan Ultimum Remedium dalam Tindak Pidana Pencurian Ringan (Studi Putusan Nomor 262/Pid.C/2025/PN Rap.) ini dilatarbelakangi oleh kenyataan bahwa tidak semua tindak pidana pencurian memiliki tingkat keseriusan yang sama, sehingga hukum membedakan pencurian ringan (Pasal 364 KUHP, disesuaikan melalui Perma No. 2 Tahun 2012) dari pencurian biasa. Penulis menyoroti perlunya hakim menerapkan asas proporsionalitas atau keseimbangan antara kesalahan pelaku, akibat perbuatan, dan pidana yang dijatuhkan serta asas ultimum remedium, yaitu pemidanaan (khususnya penjara) sebagai upaya terakhir setelah alternatif lain dipertimbangkan, dalam menangani perkara pencurian ringan.

Berdasarkan latar belakang tersebut, penelitian ini merumuskan dua masalah: bagaimana penerapan asas proporsionalitas dan bagaimana penerapan asas ultimum remedium dalam penjatuhan pidana pada Putusan Nomor 262/Pid.C/2025/PN Rap., sebuah perkara pencurian ringan berondolan/janjang kelapa sawit dengan terdakwa Muhammad Syukur Nasution. Penelitian menggunakan metode yuridis normatif dengan pendekatan perundang-undangan, konseptual, dan kasus, mengolah bahan hukum primer, sekunder, dan tersier secara kualitatif dengan penalaran deduktif.

Hasil analisis menunjukkan bahwa hakim dalam putusan tersebut menjatuhkan pidana penjara 2 (dua) bulan dengan masa percobaan 4 (empat) bulan (pidana bersyarat), yang mencerminkan upaya proporsionalitas karena mempertimbangkan bukan hanya terbuktinya unsur pidana, tetapi juga tujuan pembinaan agar terdakwa tidak mengulangi perbuatannya meski uraian hakim mengenai keseimbangan antara tingkat kesalahan, akibat, dan alternatif pemidanaan dinilai penulis masih dapat diperdalam. Dari sisi ultimum remedium, penjatuhan pidana bersyarat (tidak wajib dijalani kecuali terdakwa mengulangi tindak pidana) dinilai telah mengarah pada penerapan asas tersebut karena penjara tidak langsung dieksekusi, namun penerapannya belum sepenuhnya optimal sebab hakim belum menguraikan secara mendalam perbandingan alternatif pemidanaan. Terkait restorative justice, pengembalian barang bukti (10 janjang sawit, 170 kg) kepada korban dicatat dalam putusan, tetapi hal ini belum tentu membuktikan telah dilaksanakannya proses restorative justice secara utuh.

Skripsi ini menyimpulkan bahwa penerapan kedua asas tersebut sudah mengarah ke arah yang tepat namun belum sepenuhnya optimal, dan menyarankan agar hakim memberikan pertimbangan yang lebih komprehensif dan sistematis mengenai proporsionalitas serta lebih mengoptimalkan asas ultimum remedium — termasuk mempertimbangkan alternatif pemidanaan yang lebih ringan dan pendekatan restorative justice — dalam menangani perkara pencurian ringan.

**Kata Kunci:** *Asas Proporsionalitas, Ultimum Remedium, Pencurian Ringan, Pemidanaan, Residivis.*

## **SUMMARY**

**Rizka Hafsanah Marpaung**  
**NIM 220510095**

**Penerapan Asas Proporsionalitas dan**  
**Ultimum Remedium dalam Tindak Pidana**  
**Pencurian**  
**Ringan (Studi Putusan Nomor**  
**262/Pid.C/2025/PN Rap.)**  
**(Husni, S.H.,M.H. dan Arif Rahman,**  
**S.H.,M.H)**

*This research is The Application of the Principles of Proportionality and Ultimum Remedium in Minor Theft Offenses (A Study of Decision Number 262/Pid.C/2025/PN Rap.), is motivated by the fact that not all theft offenses carry the same level of seriousness, which is why the law distinguishes minor theft (Article 364 of the Criminal Code, as adjusted by Supreme Court Regulation No. 2 of 2012) from ordinary theft. The author highlights the need for judges to apply the principle of proportionality — a balance between the offender's degree of fault, the consequences of the act, and the sentence imposed — as well as the principle of ultimum remedium, whereby imprisonment is used only as a last resort after other alternatives have been considered, in handling minor theft cases.*

*Based on this background, the research formulates two problems: how the principle of proportionality and how the principle of ultimum remedium were applied in sentencing under Decision Number 262/Pid.C/2025/PN Rap., a minor theft case involving loose oil palm fruit bunches with defendant Muhammad Syukur Nasution. The research uses a normative juridical method with statutory, conceptual, and case approaches, analyzing primary, secondary, and tertiary legal materials qualitatively through deductive reasoning.*

*The findings show that the judge imposed a 2 (two)-month prison sentence with a 4 (four)-month probation period (a suspended/conditional sentence), reflecting an effort toward proportionality, as the judge considered not only the proven elements of the offense but also the rehabilitative aim of preventing the defendant from reoffending — although the judge's reasoning on balancing the degree of fault, the consequences of the act, and sentencing alternatives is considered by the author to still require further elaboration. Regarding ultimum remedium, the imposition of a suspended sentence (not to be served unless the defendant reoffends) is considered to reflect the application of this principle, since imprisonment was not immediately enforced; however, its application cannot yet be considered fully optimal, as the judge did not elaborate in depth on a comparison of sentencing alternatives. Concerning restorative justice, the decision records the return of evidence (10 bunches of oil palm fruit weighing 170 kg) to the victim, but this alone does not necessarily prove that a full restorative justice process was carried out.*

*The concludes that the application of both principles is moving in the right direction but is not yet fully optimal, and recommends that judges provide more comprehensive and systematic reasoning on proportionality, and further optimize the application of ultimum remedium — including considering lighter sentencing alternatives and restorative justice approaches — in handling minor theft cases.*

**Keywords:** *Principle of Proportionality, Ultimum Remedium, Minor Theft, Sentencing, Recidivist.*