

**PUTUSAN HAKIM DIBAWAH ANCAMAN MINIMUM KHUSUS
DALAM PERKARA TINDAK PIDANA NARKOTIKA
(Studi Kasus Putusan Nomor: 42/Pid.Sus/,2019/PN.Bpd)**

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ABSTRAK

Majelis Hakim Pengadilan Negeri Blangpidie dalam putusan Nomor 42/Pid.Sus/2019/PN.Bpd menyatakan bahwa terdakwa Syamsul Rizal terbukti secara sah melakukan tindak pidana tanpa hak memiliki Narkotika Golongan I dalam bentuk tanaman melanggar Pasal 111 ayat (1) UU Narkotika, sebagaimana yang didakwakan dalam dakwaan subsider namun hakim menjatuhkan pidana dibawah ancaman minimum khusus Undang-undang yakni pidana penjara selama 2 tahun dan 6 bulan dengan denda sejumlah Rp. 800.000.000,00. Apabila denda tidak dibayar diganti dengan pidana penjara selama 3 bulan. Tujuan dari penelitian ini untuk mengetahui dasar pertimbangan hakim dan mengetahui kesesuaian masa waktu hukuman pidana penjara dengan ketentuan undang-undang Nomor 35 Tahun 2009 tentang Narkotika. Metode penelitian yang digunakan ialah yuridis normatif yang merupakan cara penelitian dengan menggunakan literatur kepustakaan, yang terdiri dari buku, undang-undang, karya ilmiah, dan berbagai macam literatur kepustakaan. Sumber data yang digunakan adalah data hukum primer, sekunder dan tersier. Hasil dari penelitian ini ialah bahwa Dasar pertimbangan Hakim menjatuhkan putusan dibawah ancaman pidana minimum berdasarkan fakta yang terungkap di persidangan Terdakwa terbukti sebagai Pemakai, dimana barang bukti Narkotika Golongan I jenis ganja yang ditemukan relatif kecil seberat 3,20 gram. Majelis Hakim berpendapat tidak adil bagi terdakwa jika ia harus menjalani hukuman penjara yang terlalu lama dikaitkan dengan kesalahan yang telah terdakwa lakukan tidak sebanding. Kesimpulan dari penelitian ini ialah putusan Hakim dalam memberikan hukuman pidana penjara kepada terdakwa tidak sesuai dengan ketentuan UU Tindak Pidana Narkotika pasal 111 ayat (1), sebab hakim menyimpangi ketentuan UU Narkotika Nomor 35 Tahun 2009 karena ketentuan pidana minimum khusus yang berlaku dapat dikesampingkan sepanjang asalkan Hakim memiliki pertimbangan yang cukup dengan pola penafsiran dari perspektif *social-justice*, *moral-justice*, keadilan masyarakat serta atas kebebasan hakim dalam memutus suatu perkara.

Kata Kunci: Putusan Hakim, Minimum Khusus, Narkotika.

**JUDGE'S DECISION UNDER SPECIAL MINIMUM THREAT IN
NARCOTIC CRIMINAL CASES**
(Case Study of Decision Number: 42/Pid.Sus/2019/PN.Bpd)

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ABSTRACT

The Panel of Judges of the Blangpidie District Court in decision Number 42/Pid.Sus/2019/PN.Bpd stated that the defendant Syamsul Rizal was legally proven to have committed a crime without the right to own Narcotics Group I in the form of plants violating Article 111 paragraph (1) of the Narcotics Law, as who was charged in the subsidiary indictment but the judge imposed a sentence under the special minimum threat of the law, namely imprisonment for 2 years and 6 months and a fine of Rp. 800,000,000.00. If the fine is not paid, it is replaced by imprisonment for 3 months. The purpose of this study is to find out the basis for the judge's considerations and find out the suitability of the prison sentence with the provisions of Law Number 35 of 2009 concerning Narcotics. The research method used is normative juridical which is a method of research using literary literature, which consists of books, laws, scientific papers, and various kinds of literary literature. The data sources used are primary, secondary and tertiary legal data. The results of this study are that the Judge's basis for making a decision under minimum penalty is based on the facts revealed in the trial that the Defendant was proven to be a User, where the evidence of Narcotics Category I type of cannabis found was relatively small, weighing 3.20 grams. The panel of judges was of the opinion that it was unfair for the defendant if he had to serve a prison sentence that was too long due to the mistakes the defendant had committed that were not comparable. The conclusion of this study is that the judge's decision in imposing a prison sentence on the defendant is not in accordance with the provisions of the Narcotics Crime Act article 111 paragraph (1), because the judge deviates from the provisions of the Narcotics Law Number 35 of 2009 because the special minimum criminal provisions that apply can be waived as long as Judges have sufficient consideration with patterns of interpretation from the perspective of social-justice, moral-justice, community justice and the principle of freedom of judges in deciding a case.

Key words: Judge's Decision, Special Minimum, Narcotics.