

**Review of the Crime of Narcotics Abuse for Yourself**  
**(Case Study of Raha District Court Decision Number**  
**242/Pid.Sus/2019/PN Rah)**



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**2020**

## **ABSTRAK**

Penelitian ini bertujuan untuk mengetahui dasar pertimbangan hakim dan akibat hukum tindak pidana terhadap penyalahgunaan narkoba bagi diri sendiri.

Metode Penelitian ini dalam penulisan skripsi ini menggunakan jenis penelitian normatif, yaitu dilakukan dengan cara mengkaji data sekunder, yang meliputi bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Sifat penelitian deskriptif, yaitu mendeskripsikan mengenai dasar pertimbangan hakim dan akibat hukum pidana terhadap penyalahgunaan narkoba bagi diri sendiri.

Berdasarkan hasil analisis fakta dan data yang diperoleh, maka penulis mengambil kesimpulan antara lain : 1) Pertimbangan Hakim dalam perkara ini melihat unsur-unsur dari 3 (Tiga) dakwaan penuntut umum yaitu dakwaan Primer yaitu unsur-unsur Pasal 114 ayat (1). Dakwaan subsidair yaitu unsur-unsur Pasal 112 ayat (1) dan dakwaan lebih subsidair yaitu unsur-unsur Pasal 127 ayat (1) huruf a Undang Undang Nomor 35 Tahun 2009 tentang Narkoba. 2) Akibat hukum dari perbuatan terdakwa ialah rehabilitasi di Balai Rehabilitasi BNN selama 3 – 6 bulan.

**Kata kunci : Tindak Pidana, Narkoba, Diri Sendiri**

## **ABSTRACT**

*This study aims to determine the basis for judges' considerations and the legal consequences of criminal acts against narcotics abuse for oneself.*

*This research method in writing this thesis uses a type of normative research, which is carried out by reviewing secondary data, which includes primary legal materials, secondary legal materials, and tertiary legal materials. The nature of the descriptive research, namely describing the basis for judges' considerations and the consequences of criminal law on narcotics abuse for oneself.*

*Based on the results of the analysis of facts and data obtained, the authors draw conclusions, among others: 1) The Judge's consideration in this case saw the elements of the 3 (three) charges of the public prosecutor, namely the Primary indictment, namely the elements of Article 114 paragraph (1) of the Law. The subsidiary indictment is the elements of Article 112 paragraph (1), and the more subsidial indictment is the elements of Article 127 paragraph (1) letter a of Law Number 35 of 2009 concerning Narcotics. 2) The legal consequence of the defendant's actions is rehabilitation at the BNN Rehabilitation Center for 3 - 6 months.*

***Keywords: Crime, Narcotics, Self***

## **A. Background**

Original medicines are only used as a means of religious rituals and, besides that, they are also used for medicine, the first type of medicine used at the beginning was opium or commonly known as Madat or opium. However, with the growth of age, drugs that are used for negative things in the world of narcotic drugs are widely used specifically in the anesthetic process before the patient is operated. In addition to the development of time too, the person who starts off on drugs turns into a difficult addict, regardless of the addiction. Basically, the flow of narcotics in Indonesia is given a legal aspect that is valid for its existence. The law prohibits only the miraculous use of drugs without the permission of the law concerned.<sup>1</sup>

## **B. FORMULATION OF THE PROBLEM**

1. How to examine the judge in the case deciding against the abuse of narcotic drugs for themselves Raha District Court Number 242 / Pid.Sus / 2019 / PN Rah?
2. What are the consequences after the issuance of Raha District Court No. 242 / Pid.Sus / 2019 / PN Rah

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<sup>1</sup> Kusno Adi. 2009. *Diversi Sebagai Upaya Alternative Penanggulangan Tindak Pidana Narkotika Oleh Anak*,. Malang : Umm Press. Hal 3

## C. RESEARCH METHODS

### 1. Types of Research

This type of research in law writing is normative research, namely research using secondary data which includes primary legal materials, secondary legal materials and tertiary legal materials.<sup>2</sup>

### 2. The Nature of Research

The nature of this research is to look for descriptive meanings that describe certain objects and explain things related or systematically to describe the facts or characteristics of certain populations in certain areas and certain facts.<sup>3</sup>

### 3. Data Sources

#### 1) Primary Legal Materials

- a) Book of civil law
- b) Procedures for the Jenayah Law Book
- c) Law No. 35 of 2009 regarding narcotics

#### 2) Secondary Law Materials

Secondary law documents used are in the form of all law publications that are not official law documents. Secondary law document materials provide instructions or explanation of the primary law documents. The main law documents used in this thesis are books, journals, theses, documents, websites, and expert opinions (doctrines) related to drug abuse crimes.

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<sup>2</sup> Peter Mahmud Marzuki. 2011. *Penelitian Hukum*. Jakarta : Kencana. Hal 55-56.

<sup>3</sup> Sarifuddin Azwar. 1998. *Metode Penelitian*. Yogyakarta: Pustaka Pelajar. Hal. 7

3) Tertiary Law Materials

Tertiary Law Materials, are materials that provide guidance and explanation for primary and secondary law; examples are dictionaries, encyclopedias, cumulative indexes and so on.

4. Method of collecting data

Tertiary legal materials, namely materials that provide guidance and explanation of primary and secondary laws; for example, dictionaries, encyclopedias, cumulative indexes, etc.

5. Data analysis method

Collecting data for this article, the author uses secondary data through literature studies to learn that primary law and secondary law are used to obtain data relating to the drafting of this law.

**A. THE RESULT OF RESEARCH AND DISCUSSION**

**1. Judges' Considerations in Deciding on Cases of Narcotics Abuse for Theirself in the Raha District Court Decision Number 242 / Pid.Sus / 2019 / PN Rah**

Review of the judge's verdict on criminal decency in case No. 242 / Pid.Sus / 2019 yang fit / PN Rah as judge before deciding to use the main office or branch or first subsidiary illustrates the elements of the three (3) costs of bearing the following inscriptions:

a. Primary indictment

Article 114 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, the elements of which are as follows:

- Each person
- Without an illegal power or offer for sale, sale, purchase, intermediary acceptance in the sale and purchase, exchange, collection of Orda presented me amazing;

b. Subsidair indictment

Article 112 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, the elements of which are as follows:

- Each person;
- Without rights or against the law owning, keeping, controlling, or providing Narcotics Category I are not plants;

c. The indictment is more subsidiary

Case 127 (1) Letter A Deed No. 35 of 2009 Regarding Narcotics, the elements are "every collection of narcotics abuse for myself".

**2. Legal consequences that occurred after the issuance of the Raha District Court Decision Number 242 / Pid.Sus / 2019 / PN Rah**

The legal consequence of the defendant's actions is rehabilitation at the BNN Rehabilitation Center for 3 - 6 months in accordance with Article 127 paragraph (1) letter a of Law Number 35 of 2009 concerning Narcotics and based on Recommendations on the Results of Assessment in Legal Process Number Rek / 1.072.a / VIII / Ka / Rh.00.00 / 2019 / BNNP.

#### **D. CLOSING**

##### 1. Conclusion

##### **a. Judges' Considerations in Deciding on Case of Narcotics Abuse for Themselves in Raha District Court Decision Number 242 / Pid.Sus / 2019 / PN Rah**

The Judge's consideration in the case considers the elements of 3 (three) indictments for filling out the senior prosecutor that the elements of Article 114 paragraph (1) of Law Number 35 Year 2009 concerning Narcotics. child fees that the elements of section 112 paragraph (1) of Law Number 35 of 2009 concerning Narcotics and acting costs are more alternative that the elements of Article 127 paragraph (1) letter of law Number 35 of 2009 concerning narcotics.

##### **b. Legal consequences that occurred after the issuance of the Raha District Court Decision Number 242 / Pid.Sus / 2019 / PN Rah**

The legal consequence of the defendant's actions was rehabilitation at the BNN Rehabilitation Center for 3 - 6 months in accordance with Article 127 paragraph (1) UU Number 35 of 2009 concerning Narcotics and based on the Recommendation of Assessment Results in Legal Process Account Number / 1.072. a / VIII / Ka / Rh.00.00 / 2019 / BNNP.

##### 2. Suggestion

- a. The other judges should have followed what the judge in this case decided because people who are proven to have eradicated narcotics



should not be sentenced to prison but must be rehabilitated because if all narcotics abusers are in prison it is feared that there will be more development from users to becoming dealers as a result of the gathering of the abusers. with narcotics dealers.

- b. Defendants and people who do this kind of drug are asked not to repeat the act as it will be very dangerous for you and your family
- c. People should never try to use narcotics because besides being prohibited, narcotics can damage the body and can lead to dependence until death

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