

INTISARI

KEBIJAKAN HUKUM PIDANA MENGENAI PIDANA PENJARA SUBSIDER PIDANA DENDA DALAM TINDAK PIDANA NARKOTIKA

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Penelitian ini bertujuan untuk mengetahui dan menganalisis putusan pengadilan mengenai penerapan pidana penjara subsider pidana denda dalam tindak pidana narkotika. Penelitian ini juga bertujuan untuk mengetahui dan menganalisis pengaturan pidana penjara subsider pidana denda dalam tindak pidana narkotika di masa mendatang.

Penelitian ini merupakan penelitian hukum normatif yang didukung dengan wawancara narasumber. Sifat penelitian ini adalah deskriptif. Data yang digunakan terdiri dari data primer dan data sekunder. Data primer diperoleh dengan cara melakukan wawancara kepada narasumber. Data sekunder diperoleh dengan cara studi dokumen terhadap bahan-bahan pustaka berupa bahan hukum primer, bahan hukum sekunder, dan bahan hukum tersier. Data dalam penelitian ini dianalisis menggunakan analisis data kualitatif yang disajikan dalam bentuk deskriptif. Penarikan kesimpulan dilakukan secara deduktif.

Penelitian ini memiliki dua kesimpulan. Pertama, putusan pengadilan mengenai penerapan pidana penjara subsider pidana denda dalam tindak pidana narkotika menunjukkan adanya disparitas dalam penjatuhan berat ringannya pidana penjara subsider pidana denda. Disparitas pemidanaan tersebut merupakan wujud kemerdekaan hakim dalam mencari titik imbang antara kekhususan formulasi dalam Pasal 148 Undang-Undang Narkotika yang hanya menentukan batas maksimum pidana penjara subsider pidana denda yang dapat dijatuhkan dan fakta hukum yang terungkap dalam persidangan. Kedua, pengaturan pidana penjara subsider pidana denda dalam tindak pidana narkotika mengandung kelemahan formulasi karena ketiadaan petunjuk maupun pedoman yang mengatur penerapan penjatuhan pidana subsider pidana denda yang mengakibatkan adanya disparitas pemidanaan. Berdasarkan kelemahan formulasi tersebut, dibutuhkan adanya reformulasi pengaturan pidana penjara subsider pidana denda di masa mendatang dengan pembuatan pedoman penjatuhan pidana penjara subsider denda yang ditujukan untuk memberikan landasan bagi aparat penegak hukum untuk menentukan berat ringannya pidana penjara subsider pidana denda.

Kata Kunci: Tindak Pidana Narkotika, Pidana Penjara Subsider Pidana Denda, Kebijakan Hukum Pidana

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ABSTRACT

CRIMINAL LAW POLICY REGARDING IMPRISONMENT AS A SUBSTITUTE OF FINE SENTENCE IN NARCOTICS CRIME

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This research aims to determine and analyze court decisions regarding the application of prison sentences subsidiary to fines in narcotics crimes. This research also aims to determine and analyze the regulation of prison sentences subsidiary to fines in future narcotics crimes.

This research is normative legal research supported by interviews with experts. Based on the nature of the research, this research is descriptive research. The data used consists of primary data and secondary data. Primary data was obtained by conducting interviews with predetermined source. Secondary data was obtained by means of a documentary study of library materials that is legal materials, secondary legal materials and tertiary legal materials. The data in this research were analyzed using qualitative analysis methods and presented in descriptive form. The conclusions were drawn using deductive methods.

This research has two conclusions. First, the punishment regarding the application of prison sentences subsidiary to fines in narcotics crimes shows that there is a disparity in the severity of prison sentences subsidiary to fines. This disparity in punishment is a manifestation of the judge's independence in finding a balancing point between the specific formulation in Article 148 of the Narcotics Law which only determines the maximum limit of imprisonment, a subsidiary fine that can be imposed and the legal facts revealed in the trial. Second, the regulation of prison sentences subsidiary to criminal fines in narcotics crimes contains formulation weaknesses due to the absence of instructions or guidelines governing the application of criminal sentences subsidiary to criminal fines which results in disparities in punishment. Based on the weaknesses of this formulation, it is necessary to reformulate the regulation of prison sentences subsidiary to fines in the future by creating guidelines for the imposition of prison sentences subsidiary to fines which are intended to provide a basis for law enforcement officials to determine the severity of prison sentences subsidiary to fines.

Keywords: *Narcotics Crime, Imprisonment as a Substitute of Fine Sentence, Criminal Law Policy*

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