

Capital Punishment Sentencing in Narcotic Cases

By:

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ABSTRACT

This legal research aims to seek a better understanding the considerations of the judges in determining capital punishment sentencing in narcotic cases and to give insight the relevance of punishment theory towards the capital punishment sentencing. It is well known that there are several approaches of a judge in considering cases and also several punishment theories exist in the criminal law. Therefore, it is necessary to analyze the approach of a judge and the relevance of punishment theories which resulting different decisions.

This legal research conducted through a normative legal research, the data for the research is collected from literary studies in a form of books, journals, articles and other sources regarding approach of the judges, narcotic offense and punishment theory.

The analysis of this research heavily based on the approaches of the judges in the decision no. 92/Pid.Sus/2015/PN.Lsk, 37/Pid.Sus/2015/PN.Sak, 358/Pid.B/2010/PN.Slmm. 1360K/Pid.Sus/2016 in which in these cases, the defendants were facing capital punishment sentencing whether they were charged with capital punishment or they were given capital punishment sentence by the judges. The results are different because the judges in these four decisions use different approach and punishment theory in the *ratio decidendi* which lead to the capital punishment sentencing or non-capital punishment sentencing.

Keywords: Narcotic Offense, Capital Punishment, Approach of the Judges, Punishment Theory

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