

## Disparity Of Rokan Hilir District Court Decisions On Drug Crimes In 2024

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### Abstract

*The method used in this article research is normative legal research, namely research on problems by looking at the sources of applicable regulations related to the title Disparity of Rokan Hilir District Court Decisions on Narcotics Crimes in 2024. The occurrence of disparities in sentencing basically starts from the sanctions contained in Law of the Republic of Indonesia No. 35 of 2009 concerning the Eradication of Narcotics Abuse, which opens up opportunities because there are minimum and maximum limits for sentencing, so that judges are free to move to get the punishment they think is appropriate. Application of criminal sanctions to perpetrators of actions. Drug Abuse based on several decisions in Indonesia is based on factors revealed in the trial, first the public prosecutor's indictment, second witness statements, third defendant's statement, fourth evidence and fifth based on articles in the legislation. Referring to the theory of justice, it can be said that the difference in imposing criminal sanctions on perpetrators of drug abuse has not touched the sense of justice either towards victims who feel disadvantaged, or towards the judge's verdict for perpetrators of drug abuse as stated in the opinion above. The difference in sentencing will have a negative impact on convicts who feel disadvantaged by the judge's decision if one convict compares him with another convict who is sentenced to a lighter sentence even though the crime committed is the same, the convict who is sentenced to a heavier sentence will become a victim of legal injustice so that the convict does not believe and does not respect the law;*

**Keywords:** *Disparity, Verdict, Rokan Hilir District Court, Perpetrator, Narcotics Crime;*

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## INTRODUCTION

The judge's great authority in deciding cases has resulted in many disparities in decisions in similar cases (Zuhri et al., 2022). This is characterized by sharp substantial differences between the decisions of one District Court judge and another District Court judge, even though all refer to the same statutory regulations. Judges in their free position are required to be impartial *judges*. (Nomor & Rhl, 2024) As impartial judges in carrying out their profession, it means that judges must always guarantee the fulfillment of treatment in accordance with human rights, especially for suspects or defendants. This has become the obligation of judges to realize equality before the law for every citizen (*equally before the law*).

In the explanation of Law Number 4 of 2004 concerning Judicial Power, it is stated that the freedom of judges in exercising their judicial authority is not absolute (Rahman et al., 2024). Because the judge's duty is to uphold the law and justice based on Pancasila by interpreting and seeking the foundations and principles that form its basis, through the cases presented to him so that his decision reflects a sense of justice (Pardede et al., 2024). But in reality, the decisions made by judges often invite controversy. It is not uncommon for one perpetrator of a crime to be sentenced to a heavy sentence while another perpetrator of a crime is given a light sentence or even acquitted, even though the article violated is the same (Hulu, 2024).

(Amalia et al., 2024) The increasing number of narcotics crime cases from year to year is inseparable from the lightness of the verdicts handed down by the judges. In this regard, this study describes 2 examples of narcotics verdict cases decided by the Rokan Hilir District Court, in the Narcotics Crime in Decision NO. 434/PID.B/2024/PN RHL and in Decision NO. 367/PID.B/2024/PN RHL in which from these two decisions it is clear that there is a difference in the judge's point of view in giving and/or imposing a heavy or light sentence on the Defendant.

Disparities in sentencing of drug cases occur due to several factors. Such as policies made by leaders, lack of understanding of how to create criminal sentencing guidelines, and the lack of synergy between law enforcers(19103040051\_BAB-I\_IV-Atau-V\_DAFTAR-PUSTAKA.Pdf, n.d.).

Based on the description that has been presented above, it is important to conduct a study of the judge's decision regarding the Disparity of Decisions of the Rokan Hilir District Court Regarding Narcotics Crimes in 2024

## RESEARCH METHODS

This study uses a normative legal research method. Normative legal research is researching law from an internal perspective with the object of research being legal norms. In other words, legal research that places law as a building of a norm system. The norm system in question is regarding the principles, norms, rules of laws and regulations, court decisions, agreements and doctrines (teachings). This study uses a legislative approach and a conceptual approach. The legislative approach is used to get an overview of the Legal Analysis of Disparities in Rokan Hilir District Court Decisions Regarding Narcotics Crimes in 2024.

## RESULT AND DISCUSSION

### 1. Judge's Decision in Narcotics Crime in Decision No. 434/PID.B/2024/PN RHL and in Decision NO. 367/PID.B/2024/PN RHL;

A judge's decision is a statement made by a judge as a state official who is given the authority to do so, uttered in court with the aim of ending or resolving a case or dispute between the parties. Judges are judges at the Supreme Court and judges at judicial bodies below it in the general judicial system, religious judicial system, military judicial system, state administrative judicial system, and judges at special courts within these judicial systems.

The term court in English is called *court* and *rechtbank* in Dutch means a body that carries out justice by examining, trying and deciding cases.(Arsyad et al., 2023) Law is a rule that is mandatory and if someone violates the rule they are threatened with strict and real sanctions.

The object of the research refers to the Decision of the Rokan Hilir District Court No. 434/PID.B/2024/PN RHL and in Decision NO. 367/PID.B/2024/PN RHL . When viewed based on the chronology of the narcotics crime case as stated in Decision No. 434/PID.B/2024/PN RHL, the public prosecutor at the Rokan Hilir District Attorney's Office made a demand which in essence requested that the panel of judges so that the Panel of Judges of the Rokan Hilir District Court who examined and tried this case decide as follows:

#### **Demand :**

1. Stating that Defendant I SYAHRIAL SIRAIT alias RIKO Bin EFENDI SIRAIT and Defendant II SYAHRUL SIRAIT alias IYONG Bin EFENDI SIRAIT were proven legally and convincingly guilty of committing the crime of "*Attempt or conspiracy, without rights or against the law to offer for sale, sell, buy, receive, act as an intermediary in buying and selling, exchange or hand over Class I Non-Plant narcotics*" as regulated and threatened with criminal penalties in the First Indictment of the Public Prosecutor, namely violating Article 114 Paragraph (1) in conjunction with Article 132 Paragraph (1) of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics.
2. Sentencing Defendant I SYAHRIAL SIRAIT alias RIKO Bin EFENDI SIRAIT and Defendant II SYAHRUL SIRAIT alias IYONG Bin EFENDI SIRAIT to 8 (EIGHT)

YEARS and 6 (SIX) MONTHS in prison respectively with the provision that the defendant's sentence is reduced by the entire period of arrest and detention that the defendant has served and a fine of Rp. 1,000,000,000 (One Billion) subsidiary 6 (Six) Months in Prison.

3. Stating the evidence in the form of:

- 6 (six) clear plastic packages containing crystal granules suspected to be narcotics of the methamphetamine type with a net weight of 3.80 (three point eighty) grams
- 50 (fifty) sheets of empty clear plastic clips in unused condition (new)
- 1 (one) piece of plastic pipette/straw made of a scoop
- 1 (one) small pink wallet
- 5 (five) clear plastic packages containing crystal granules suspected to be narcotics of the methamphetamine type with a net weight of 0.20 (zero point twenty) grams

**(Seized For Destruction)**

- Money amounting to Rp. 100,000 (one hundred thousand rupiah)
- 1 (one) unit of Oppo A12 brand cellphone, blue color

**(Confiscated For The State)**

4. Ordering the Defendant to pay court costs of Rp. 2,000 (two thousand rupiah).

Then the Judge of the Rokan Hilir District Court in case no: 434/Pid.Sus/2024/PN Rhl after examining the case, then issued a verdict whose ruling stated:

**To Judge:**

1. Declaring that Defendant I Syahrial Sirait alias Riko bin Efendi Sirait and Defendant II Syahrul Sirait alias Iyong bin Efendi Sirait above, were proven legally and convincingly guilty of committing the crime of conspiracy to sell Class I Narcotics without the right, as in the first alternative charge;
2. Sentencing the Defendants therefore to imprisonment for Defendant I for 7 (seven) years and Defendant II for 6 (six) years 6 (six) months and a fine of Rp. 1,000,000,000.00 (one billion rupiah) each with the provision that if the fine is not paid then it will be replaced with imprisonment for 2 (two) months each;
3. Determine that the period of arrest and detention that the Defendants have undergone will be deducted in full from the sentence imposed;
4. Determine that the Defendants remain in detention;
5. Establishing evidence in the form of:
  - 6 (six) clear plastic packages containing crystal methamphetamine granules with a net weight of 3.80 (three point eighty) grams;
  - 50 (fifty) sheets of empty clear plastic clips in unused condition (new);
  - 1 (one) piece of plastic pipette/straw scoop;
  - 1 (one) small pink wallet;
  - 5 (five) clear plastic packages containing crystal methamphetamine granules with a net weight of 0.20 (zero point twenty) grams;

**Destroyed**

- Money amounting to Rp. 100,000.00 (one hundred thousand rupiah);
- 1 (one) unit of Oppo A12 brand cellphone, blue;

**Confiscated for the State**

6. Ordering the Defendants to pay court costs of Rp. 5,000.00 (five thousand rupiah) each;

Meanwhile, if viewed based on the chronology of the narcotics crime case as stated in Decision No. 367 /PID.B/2024/PN RHL, the public prosecutor at the Rokan Hilir District Attorney's Office made a demand which in essence requested that the panel of judges so that the Panel of Judges of the Rokan Hilir District Court who examined and tried this case decide as follows:



**Demand :**

1. Stating that the Defendant FHYOLLA ATIKA SYAHFITRI TANJUNG alias YOLA has been proven legally and convincingly guilty of committing the crime of " *abusing class I narcotics for oneself*", as regulated and threatened with criminal penalties in the Third Indictment of the Public Prosecutor, violating Article 127 paragraph (1) letter a of Law of the Republic of Indonesia No. 35 of 2009 concerning Narcotics.
2. Sentencing the defendant FHYOLLA ATIKA SYAHFITRI TANJUNG alias YOLA to 3 (THREE) years in prison minus temporary detention and ordering that the defendant remain in detention.
3. Stating evidence in the form of:
  - 1 (one) Vivo Mobile Phone Unit, Blue Color

(Confiscated for the state)

4. Charge the defendant with paying court costs of Rp. 2,000 (two thousand rupiah).

Then the Judge of the Rokan Hilir District Court in case no: 367/Pid.Sus/2024/PN Rhl after examining the case, then issued a verdict whose ruling stated:

**To Judge:**

1. Declaring that the Defendant Fhyolla Atika Syahfitri Tanjung alias Yola above, has been proven legally and convincingly guilty of committing the crime of Misusing Class I Narcotics for Herself, as in the third alternative charge;
2. Sentencing the Defendant to imprisonment for 2 (two) years and 6 (six) months;
3. Determine that the period of arrest and detention that the Defendant has undergone is deducted in full from the sentence imposed;
4. Determine that the Defendant remains in detention;
5. Establishing evidence in the form of:
  - 1 (one) unit of Vivo brand Android cellphone in blue;

Confiscated for the State;

6. Charge the Defendant with paying court costs amounting to Rp. 5,000.00 (five thousand rupiah);

## **2. Legal Analysis of Disparity of Judges' Decisions in Narcotics Crimes in Decision NO. 434/PID.B/2024/PN RHL and in Decision NO. 367/PID.B/2024/PN RHL**

Justice is one of the most discussed objectives of law throughout the history of legal philosophy. Talking about law is talking about relationships between humans. Talking about relationships between humans is talking about justice. (Restayuda et al., 2024) With justice, the objectives of law can be achieved, namely creating a just and prosperous society, just in prosperity and prosperous in justice. Aristotle stated that the word "just" has more than one meaning. Just can mean according to law, and what is comparable, namely and should be. In this case, it is shown that someone is said to be acting unfairly if that person takes more than their fair share. People who ignore the law can also be said to be "unjust", because all things that are based on law can be considered "fair".

(Pid et al., 2024) Narcotics are substances or drugs derived from plants or non-plants, either synthetic or semi-synthetic, which can cause decreased or altered consciousness, loss of feeling, reduce to eliminate pain, and can cause dependency (Article 1 number 1 of the Narcotics Law). In fact, the use of Narcotics is not prohibited as long as it is used in accordance with treatment standards and under strict and careful control and supervision. It is recognized that Narcotics are drugs or materials that are useful in the field of treatment or health services and the development of science. However, the use of Narcotics has the effects of decreased or altered consciousness, loss of feeling, reducing to eliminating pain, and can even cause dependency. Dependency on the use of Narcotics is characterized by the urge to use Narcotics continuously with increasing doses to produce the same effect and if its use is reduced and/or stopped

suddenly, it causes typical physical and psychological symptoms (such as extreme pain or fatigue). The dangers caused by the effects of narcotics use to the point of dependence are very detrimental and dangerous to the health of individuals or society, especially the younger generation, and even greater dangers to the life and cultural values of the nation, which in the end will weaken national resilience. Therefore, according to the Government, it is a logical reason to regulate restrictions on its use.

(Yusmadi, 2024) Prevention and eradication of abuse and illicit trafficking of narcotics and narcotic precursors is an effort to maintain and improve the health of Indonesia's human resources, which is carried out synergistically and continuously so that the state's goal of realizing a prosperous, (Saputra & Taufiq, 2024) just and prosperous Indonesian society based on Pancasila and the 1945 Constitution can be implemented properly.

In the Narcotics Law, there are specific regulations regarding the forms of narcotics abuse, for example in Article 114 Paragraph (1) of the Narcotics Law which states that:

***"Any person who without rights or against the law offers for sale, sells, buys, receives, acts as an intermediary in the sale and purchase, exchanges, or delivers Class I Narcotics, shall be punished with life imprisonment or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a fine of at least Rp. 1,000,000,000.00 (one billion rupiah) and a maximum of Rp. 10,000,000,000.00 (ten billion rupiah)."***

The prohibitions as stated in Article 114 Paragraph (1) of the Narcotics Law above show that the law determines all acts without rights or against the law to offer for sale, sell, buy, receive, act as an intermediary in buying and selling, exchange, or hand over Class I Narcotics because they are very dangerous and have an impact on increasing crime. If these acts are carried out by someone without rights, then they can be categorized as acts of narcotics abuse or are a special crime that can be threatened with severe legal sanctions (Romdoni & Fitriasih, 2022).

Article 112 of the Narcotics Law explains the following provisions. Article 112 paragraph (1) of the Narcotics Law stipulates that:

***"Any person who without rights or against the law possesses, stores, controls, or provides Class I Narcotics that are not plants, shall be punished with a minimum prison sentence of four years and a maximum of twelve years and a fine of at least IDR 800 million and a maximum of IDR 8 billion."***

Furthermore, based on the provisions of Article 112 paragraph (2) of the Narcotics Law, it is stated that:

***"In the case of the act of possessing, storing, controlling or providing Class I Narcotics which are not plants as referred to in paragraph (1) weighing more than five grams, the perpetrator shall be punished with life imprisonment or a minimum prison sentence of five years and a maximum of twenty years and a maximum fine as referred to in paragraph (1)."***

Furthermore, based on the provisions of Article 127 of the Narcotics Law, it is stated that:

***"Any person who abuses: a. Class I narcotics for themselves shall be punished with a maximum imprisonment of 4 (four) years;"***

In Law Enforcement Practice, a person who fulfills the Narcotics abuse as stated in Article 127 of Law 35/2009 is considered to have entered the element of possessing or controlling narcotics in Article 111 and Article 112. In fact, if examined further, the two articles have different punishment threats. As in the formulation of the norms of Article 111 and Article 112, the threat of a maximum prison sentence of 20 years. While in the formulation of the norms of Article 127, the threat of a maximum prison sentence of 4 years for users of class I narcotics.

The formulation of the norm in Article 127 explicitly regulates that users who are proven to be victims of drug abuse must undergo medical and social rehabilitation. "The practice of



implementing the two articles has a very different disparity, so that legal uncertainty ultimately leads to injustice . To overcome the problem of implementing the article, the Supreme Court has issued a Circular of the Supreme Court (SEMA) Number 3 of 2015 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2015 as a Guideline for the Implementation of Duties for the Court . lack of understanding of how to create criminal sentencing guidelines, to the lack of synergy between law enforcers .

The SEMA allows judges to decide on criminal cases under the minimum penalty as long as the legal facts in the trial show that the defendant is a drug abuser. Unfortunately, said Syarifuddin, this SEMA has not been able to resolve the problem comprehensively. This is because the defendant is still proven to have committed Article 111 and Article 112 of the Narcotics Law, so that the opportunity to impose rehabilitation is closed. "The application of this article has actually resulted in disparities in sentencing, especially the imposition of criminal sentences on cases that have similar characteristics. Disparities in sentencing are contrary to the objectives of the law, namely certainty, benefit and justice."

Based on the two Decisions that have been studied in this discussion, the Judge's Decisions handed down against perpetrators of Narcotics Abuse crimes all seem light and there has not been a judge who has sentenced the defendant to the maximum sentence determined by the Law. In the author's opinion, the maximum and minimum limits give judges the freedom to sentence perpetrators of Narcotics Abuse , the existence of minimum and maximum limits in the laws and regulations makes judges free to move to get the sentence they think is appropriate.

So referring to the theory of justice, it can be said that the difference in imposing criminal sanctions on perpetrators of drug abuse has not touched the sense of justice either towards victims who feel disadvantaged, or towards the judge's verdict for perpetrators of drug abuse as stated in the opinion above. The difference in sentencing will have a negative impact on convicts who feel disadvantaged by the judge's decision if one convict compares it with another convict who was given a lighter sentence even though the crime committed was the same, the convict who was given a heavier sentence will become a victim of legal injustice so that the convict does not believe in and does not respect the law.

The imposition of imprisonment on perpetrators of drug abuse regardless of the disparity in the length of detention in several judges' decisions at the Rokan Hilir District Court is appropriate, but it needs to be underlined that the imprisonment imposed is not solely intended to retaliate and frighten, but to prevent order in society from being disturbed, and during the prison sentence, of course, with spiritual education as a means of regret, it is certainly hoped that it can improve the convict towards a better direction, all of which cannot be separated from the role of the government and correctional institutions

## CONCLUSION

Referring to the theory of justice, it can be said that the difference in imposing criminal sanctions on perpetrators of drug abuse has not touched the sense of justice, either towards victims who feel disadvantaged, or towards the judge's verdict for perpetrators of drug abuse as stated in the opinion above. The difference in sentencing will have a negative impact on convicts who feel disadvantaged by the judge's decision if one convict compares it with another convict who was given a lighter sentence even though the crime committed was the same, the convict who was given a heavier sentence will become a victim of legal injustice so that the convict does not believe in and does not respect the law.

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