

ABSTRAK

Hakim memiliki peran yang penting dan dibutuhkan untuk menyelesaikan dan memberikan putusan suatu perkara didalam lembaga peradilan. Hakim dalam memeriksa perkara tindak pidana harus melalui beberapa proses yaitu penyidikan yang dilakukan oleh penyidik, penuntutan yang dilakukan oleh penuntut umum, dan juga pemeriksaan di sidang pengadilan sampai dengan adanya pembacaan putusan pengadilan. Hakim juga harus mempertimbangkan unsur-unsur Pasal yang menjadi dakwaan Penuntut Umum yang terdapat dalam surat dakwaannya dan unsur-unsur Pasal tersebut harus seluruhnya terbukti dan terpenuhi.

Penelitian ini menggunakan metode normatif. Hasil penelitian ini berupa Memorandum Hukum berisi tentang Putusan Nomor 1/Pid.Sus.Anak/2020/PN.Kot. yang bertentangan dengan Pasal 197 ayat (1) huruf f KUHP karena dalam amar putusan Hakim mengadili menggunakan unsur Pasal 112 ayat (1) Undang-Undang Tentang Narkotika Jo Pasal 132 ayat (1) Undang-Undang Tentang Narkotika tetapi dalam pertimbangannya Hakim tidak mencantumkan unsur Pasal yang menjadi dakwaan Penuntut Umum dan hanya menguraikan unsur Pasal 114 ayat (1) Undang-Undang Tentang Narkotika Jo Pasal 132 ayat (1) Undang-Undang Tentang Narkotika yang mana Pasal 114 ayat (1) Undang-Undang Narkotika tersebut tidak ada dalam surat dakwaan Penuntut Umum.

Kata Kunci: Pidanaan, Pasal 197 ayat (1) huruf f KUHP,
Batal demi Hukum

ABSTRACT

Judges have an important role and are needed to complete and give a decision on a case in the judiciary. Judges in examining criminal cases must go through several processes, namely investigations carried out by investigators, prosecutions carried out by public prosecutors, and also examinations at court hearings until there is a reading of the court's decision. The judge must also consider the elements of the article that became the indictment of the public prosecutor contained in his indictment and the elements of the article must be fully proven and fulfilled.

This research uses normative method. The results of this research are in the form of a Legal Memorandum containing Decision Number 1/Pid.Sus.Anak/2020/PN.Kot. which is contrary to Article 197 paragraph (1) letter f of the Criminal Procedure Code because in the verdict the Judge tried using elements of Article 112 paragraph (1) of the Law on Narcotics in conjunction with Article 132 paragraph (1) of the Law on Narcotics but in his consideration the Judge did not include elements The article which became the indictment of the Public Prosecutor and only describes the elements of Article 114 paragraph (1) of the Law on Narcotics in conjunction with Article 132 paragraph (1) of the Law on Narcotics where Article 114 paragraph (1) of the Narcotics Law is not in the letter Public Prosecutor's indictment.

Keywords: Punishment, Article 197 paragraph (1) letter f of the Criminal Procedure Code, null and void