



**AN ANALYSIS OF PADANGSIDIMPUAN COURT RULING  
No. 177/Pid.Sus/2020/Pn/Psp ON DRUGS DEALERS FROM  
THE PERSPECTIVE OF ISLAMIC CRIMINAL LAW**

**THESIS**

Submitted To The State Institute For Islamic Studies Padangsidimpuan  
As A Partial Fulfillment Of The Requirement For Graduate Degree Of Law In  
Sharia And Achieving A Law Degree (SH)

**Written By:**

**RABIYATUL ADAWIYAH HARAHAH**  
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**ISLAMIC CRIMINAL LAW STUDY PROGRAM  
SYARIAH AND LAW FACULTY STATE INSTITUTE FOR  
ISLAMIC STUDIES PADANGSIDIMPUAN**

**2021**



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**2021**



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Subject. **Rabiyatul Adawiyah Harahap**

Padangsidempuan, July 2021  
To  
Dean of Sharia and Law Faculty  
At.  
Padangsidempuan

*Assalamualaikum Wr.Wb.*

After reading, reviewing and providing suggestions for improvement as necessary to Rabiyatul Adawiyah Harahap's Thesis entitled: **"An Analysis Of Padangsidempuan Court Ruling No. 177/Pid.Sus/2020/Pn/Psp On Drugs Dealers From The Perspective Of Islamic Criminal Law"**, then we declare that this thesis has been accepted to fulfill part of the requirements in obtaining a Bachelor of Law (SH) in the field of Islamic Criminal Law at the Faculty of Sharia and Law at IAIN Padangsidempuan.

For that, in the not too distant future, we hope that the brother can be called to account for his thesis in the Munaqosyah trial.

Thus we convey, for the attention and cooperation of the parents, we thank you.

*Wassalamua 'laikum Wr.Wb.*

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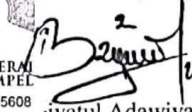
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Bachelor Of Law (SH)**



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## ABSTRACT

**Name : Rabiyatul Adawiyah Harahap**  
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**Thesis Title : An Analysis of Padangsidempuan Court Ruling No. 177/Pid.Sus/2020/Pn/Psp On Drugs Dealers From The Perspective Of Islamic Criminal Law**

This research was motivated by two accused narcotics couriers who came from Mandailing Natal who were caught by members of the Padangsidempuan City Police on January 8, 2020 in Field I Tor Simarsayang with evidence of narcotics class I, type of marijuana weighing 250 kilograms and was sentenced by a judge with sanctions sentence of 20 years in prison. The purpose of this study is to determine the application of the panel of judges regarding material law in the decision, to determine the judge's considerations in imposing the penalty. and to find out how the perspective of Islamic criminal law is related to the decision No.177/Pid.Sus/2020/Pn/Psp.

The research used in this research is field research which is qualitative in nature, namely research conducted by collecting primary and secondary data. Research data that becomes primary data is data obtained directly from research subjects, namely the results of interviews with the Padangsidempuan City District Court judges and the defendants in in social institution of Padangsidempuan. While the secondary legal materials for researchers were obtained from laws and regulations, books, articles, expert opinions, and other sources deemed relevant and related to this research. The data collection technique is done by interview, and documentation. The data is processed by identification, clarification and analysis techniques to obtain final conclusions.

The results of this study are the application of material law in No.177/Pid.Sus/2020/Pn/Psp is involvement as a narcotics courier, conspiracy in narcotics couriers and evidence. As well as the consideration of the panel of judges in decision No.177/Pid.Sus/2020/Pn/Psp in imposing a 20-year sentence, there are two considerations, namely juridical considerations and non-juridical considerations, in which the juridical considerations consist of the demands of the public prosecutor, a memorandum of defense for the defendant, statements the defendant, the statements of the witnesses, and mitigating and aggravating and non-juridical matters are sociological aspects. So that in imposing a sentence, the judges really consider the sanctions that will be decided based on the facts in the trial.

**Keywords: Drugs Dealers, Court Ruling, Islam.**



## FOREWORD



*Assalamualaikum Warohmatullahi Wabarokatuh*

Alhamdulillah, all thank to Allah SWT, who has bestowed His grace and guidance, so that the author can finish writing this thesis. Shalawat and greetings are always poured out to the noble man of the Great Prophet Muhammad SAW, a figure of a leader who should be imitated and imitated, *madinatul 'ilmi*, enlightener of the world from darkness along with his family and friends. Amen.

This thesis is entitled: “**Study Of Decision Of The Padangsidimpuan District Court No. 177/Pid.Sus/2020/Pn/Psp About Courier Of Narcotics Perspective Of Islamic Criminal Law**” Written to complete the task and fulfill the requirements to achieve a Bachelor of Law (SH) degree in the Islamic Criminal Law study program at the Faculty of Sharia and Legal Studies at the Institute of Religion State Islam (IAIN) Padangsidimpuan.

This thesis is prepared with the provision of knowledge that is very limited and very far from perfection, so that without the help, guidance and instructions from various parties, it is difficult for researchers to complete it. Therefore, with all humility and gratitude, the researcher would like to thank:

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Harahap, M.Ag., Vice Chancellor for Student Affairs and Cooperation.

2. Mr. Dr. H. Fatahuddin Aziz Siregar, M.Ag as Dean of the Faculty of Sharia and Law at IAIN Padangsidimpuan, Mr. Dr. Ikhwanuddin Harahap, M. Ag, Deputy Dean for Academic Affairs and Institutional Development, Mrs. Dra. Asnah, MA., Deputy Dean for Planning and Finance General Administration and Dr. Muhammad Arsad Nasution, M.Ag., Deputy Dean for Student Affairs and Cooperation.
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8. To the chairman of the Padangsidimpuan District Court, Lukas Sahabat Duha, SH, MH who has helped the author to obtain information related to this thesis.
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12. A special thank you very much to myself for working with myself because you already have a strong mentality by fighting against laziness and rising from illness and going through all the obstacles that exist, i wanna thank me for believing in me, i wanna thank me for doing all this hard work, i wanna thank me for having no days off, i wanna thank me for never quitting, for just being me at all times. So I am proud of myself for having succeeded so far in completing this thesis.
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May Allah Subhanahu Wa Ta'ala give you a double reward. The author realizes that there are still many shortcomings in the writing of thesis this, if there are suggestions and constructive criticism, the author will gladly accept it. Finally, the author hopes that this thesis can be useful, especially for writers and in general for all of us.

Padangsidempuan, July 2021  
Author

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## GUIDELINES FOR ARABIC-LATIN TRANSLITERATION

### 1. Consonants

Arabic consonants in the Arabic writing system are denoted by letters in this transliteration, some are denoted by letters, some are denoted by a sign and some others are denoted by letters and signs at the same time. The following is a list of Arabic letters and their transliterations with Latin letters.

Arabic	letters Latin letters Latin	letters	Name
ا	Alif	Not denoted	Not denoted
ب	Ba	B	be
ت	Ta	T	te
ث	· a	·	es (with dots above)
ج	Jim	J	je
ح	ḥa	ḥ	ha (with dots below)
خ	Kha	Kh	kadan ha
د	Dal	de	
ذ	Zai	Zet	

ذ	Zai	z	Zet
ر	ra	r	er
ز	Sin	S	Ice
س	shin	Sy	ice and ye
ش	SAD	S	(with a dot below)
ص	Dad	D	de (with a dot below)
ض	ta	t	te (with dot below)
ط	ṣa ṣ	zet	(with dot below)
ظ	'ain	∴	Inverted comma above
ع	Gain	G	Ge
غ	Fa	F	Ef
قا	Qaf	Q	Ki
ق	Kaf	K	Ka
ك	Lam	L	El
ل	Mim	M	Em
م	Nun	N	En

و	Wau	W	We
هـ	Ha	H	Ha
ء	Hamzah	.. '..	Apostrophe
ي	Yes	Y	Ye
ي			

## 2. Vowels

Arabic vowels such as Indonesian vowels, consist of a single vowel or monophthong and double vowels or diphthongs.

a. Vocal Solo is a single vowel Arabic emblem a sign or a vowel

transliteration as follows:

Signs	Name	LetterLatin	Name
	Fathah	A	A
	Kasrah	I	I
و	dommah	U	U

b. Duplicates are double vowel vowel Arabic emblem in the form of a combination of a vowel and letter, transliteration in the form of a combination of letters as follows:

Signs and letters	Name	Combined	Name
ي.....	fathah and yes	Ai	a and i
و.....	fathah and wau	Au	a and u

- c. *Maddah* is a long vowel whose symbol is in the form of vowels and letters, the transliteration is in the form of letters and signs as follows:

Character and	Name	Letter and Signs	Name
ا.....ى	fathah and alif or yes	-	a and top line
ي... ى ..	Kasrah and yes		i and the line under
و....	dommah and wau	-	u and the line above

### 3. *Ta Marbutah*

There are two transliterations for *Ta Marbutah*.

- The living *Ta Marbutah* is the living *Ta Marbutah* or gets the *harakat fathah, kasrah and dommah*, the transliteration is / t /.
- Ta Marbutah* is dead *Ta Marbutah* which dies or gets breadfruit, the transliteration is / h /. If in a word that ends in *Ta Marbutah* followed by a



word that uses the article al, and the reading of the two words is separate, then *Ta Marbutah* is transliterated as ha (h).

#### **4. Syaddah (Tasydid)**

*Syaddah* or *tasydid* which in the Arabic writing system is denoted by a sign, a sign of syaddah or a sign of *tasydid*. In this transliteration the *syaddah* sign is denoted by a letter, which is the same letter as the letter marked the *syaddah*.

#### **5. Clothing**

Words The article in the Arabic writing system is denoted by letters, namely: ﷲ. However, in transliteration the article is distinguished between the article followed by the *syamsiah* letter and the article followed by the *qamariah* letter. a. An article followed by a *syamsiah* letter is an article followed by a *syamsiah* letter transliterated according to its sound, namely the letter / l / is replaced by the same letter as the letter immediately followed by the article. The article that is followed by the letter *qamariah* is the one that is followed by the letter *qamariah* which is transliterated according to the rules outlined in front and according to the sound.

#### **6. Hamzah**

It is stated in front of the Arabic-Latin Transliteration List that the *hamzah* is transliterated with an apostrophe. However, it lies only in the middle and at the end of the word. If the hamzah is put at the beginning of the word, it is not represented, because in Arabic it is alif.

## **7. Word Writing**

Basically, every word, whether *fi'il*, *isim*, or letter is written separately. For certain words that are written in Arabic letters which are commonly coupled with other words because there are letters or vowels that are removed, in this transliteration the writing of these words can be done in two ways: words can be separated and can also be chained.

## **8. Capital Letters**

Although in the article system the capital letters are followed in Arabic, they are not recognized, in this transliteration they are also used. The use of capital letters as what applies in EYD, including capital letters are used to write the first letter, the name itself and the beginning of the sentence. If that personal name is passed by the article, then what is written in capital letters remains the first letter of the self-name, not the initial letter of the article. The use of the initial capital letter for Allah only applies in Arabic script, it is complete, and if the writing is put together with other words so that there is a letter or vowel that is omitted, the capital letter is not used.

## **9. Tajwid**

For those who want fluency in reading, this transliteration guide is an integral part of the science of recitation. Therefore, the formalization of this transliteration guideline needs to be accompanied by recitation guidelines.

Source: Religious Literature Research and Development Team. *Arabic-Latin Transliteration Guide*. Fifth Print. 2003. Jakarta: Project for the Study and Development of Religious Education Literature

## TABLE OF CONTENTS

### TITLE PAGE

SUPERVISOR APPROVAL PAGE.....	i
SUPERVISOR'S STATEMENT.....	ii
STATEMENT LETTER TO COMPLETE YOUR OWN THESIS.....	iii
STATEMENT OF PUBLICATION APPROVAL .....	iv
MINUTES OF THE MUNAQASYA ASSESSMENT.....	v
DEAN'S APPROVAL PAGE.....	vi
ABSTRACT .....	vii
FOREWORD .....	viii
ARAB-LATIN TRANSLITERATURE GUIDELINES.....	xii
TABLE OF CONTENTS.....	xviii

### CHAPTER I INTRODUCTION

A. The Background Of The Problem.....	1
B. The Limitation Of Problems.....	7
C. The Formulation Of Problems.....	7
D. The Aims of The Research.....	8
E. The Usefulness of The Research.....	8
F. The Relevant Research.....	9
G. The Outline of Thesis.....	10

### CHAPTER II THEORETICAL DESCRIPTION

A. The Narcotics Criminal Action.....	12
B. The Drugs Dealers.....	14
1. Definition of Dealers.....	14
2. The Legal Basis of Drugs Dealers.....	13
C. The Definition of Criminal Actions and Criminal Sessions Criminal.....	15
1. Type of Crime.....	16
D. The Perspective Islamic Criminal Law About Narcotis.....	17
E. Court Ruling.....	19
1. Definiton of Ruling.....	19
2. Steps in Making a Court Ruling.....	20
a. The Juridical Considerations.....	20
b. Non juridical Considerations.....	22
3. The type of Judge's Decision.....	24
a. The Acquittal Decision.....	25
b. The Sentencing Decisions.....	26
c. The Release of Decision.....	26

### CHAPTER III METHOD OF RESEARCH

A. The Time And Location of Research.....	28
B. The Types Of Research.....	28
C. The Data of Research.....	28
D. The Data Collection Techniques.....	29
E. The Data Validity Technique.....	29
F. Data Analysis Technique.....	30

#### **CHAPTER IV RESEARCH RESULT**

A. The Implementation of Material Criminal Law Toward Drugs Dealers As Narcotics Crime With Weighting In Decision No.177/Pid.sus/2020/Pn/Psp About Drugs Dealers.....	31
1. The Involment As a Drugs Dealers.....	32
2. Conspiracy As a Drugs Dealers.....	33
3. The Evidence As a Drugs Dealers.....	35
B. Judge’s Consideration in Imposting A Criminal Based on Ruling No. 177/Pid.Sus/2020/Pn/Psp About Drugs Dealers.....	36
1. Juridical Considerations.....	36
a. Demands of The Public Prosecutor.....	36
b. Memorandum of Defense of The Defendants.....	37
c. Statements Defendants.....	39
d. Witness Statements.....	40
e. Aggravating and Mitigating Circumstances.....	41
2. Non juridical Considerations.....	43
a. The Sociological Aspects.....	43
3. Decision of The Panel of Judge’s.....	44
4. The Analysis of Research Results.....	45
C. Perspective Islamic Criminal Law About Drugs Dealers On Ruling No. 177/Pid.Sus/2020/Pn/Psp.....	46

#### **CHAPTER V CONCLUSION AND SUGGESTION**

A. Conclusion.....	53
B. Suggestion.....	54

#### **BIBLIOGRAPHY**

#### **CURRICULUM VITAE**

#### **APPENDICES**

## **CHAPTER I**

### **INTRODUCTIONS**

#### **A. The Background of The Problem**

Life and human needs are increasingly developing, in carrying out life in the midst of developing times that make humans more creative and modern. This is marked by the difficulty in finding work, the number of unemployed and workers who have been terminated by the authorities. With a life that continues to develop and it is difficult to find work, the development of this life is also accompanied by the increase of crime. The increase of crime in society is closely related to changes in society with the environment that causes crime, both that lies in each individual human being as well as in the conditions and environment. social behavior which can result in the increase and development of different criminal behavior from time to time.

In this case, the need to survive in related to bad intentions is formed a way of justifying and doing wrong work in order to support the need to survive in the midst of the harsh times, such as the work of being a direct delivery of goods which is usually called "courier". This Courier job is a good job as long as it is done according to the procedure, but if this courier job is carried out for the delivery of goods that are prohibited by the state without rights and against the law in this case is narcotics, then this courier job is a wrong job because participating in a narcotics crime.

Narcotics according to the Narcotics Law Number 35 of 2009 concerning Narcotics are substances or drugs derived from plants or non-

plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can lead to dependence which is differentiated into groups- group.

Narcotics are classified into;

1. Narcotics category I, the types of narcotics in group I include: Marijuana, Shabu-shabu, Cocaine, Opium, Heroin etc.
2. Narcotics category II, types of narcotics in group II include: morphine, pertidin, etc.
3. Narcotics group III, types of narcotics in group III include: Codeine, etc.<sup>1</sup>

In this case, apart from the types and categories of narcotics, it is necessary to know the narcotics crime process, namely as narcotics dealers and narcotics users. In the distributor, the roles are divided again, namely as those who produce narcotics (*manufacturer*), sellers, and intermediaries or couriers, then the criminal sanctions are of course different according to what has been explained in Law Number 35 of 2009 concerning Narcotics. The government has enacted the Law governing Narcotics, namely Law Number 35 of 2009 concerning Narcotics. The law contains criminal penalties for anyone concerned with narcotics issues. In Chapter XV Criminal Provisions, the criminal provisions for a person who is a dealer, seller and intermediary are described in the criminal provisions in articles 111, articles 112, 113, 114 and article 115.

In article 114 paragraph (1), it is stated that "*every person without rights and against the law offers to sell, sell, buy, accept, become an*

---

<sup>1</sup> Law Number 35 of 2009 concerning Narcotics

*intermediary in buying and selling, exchanging or handing over Narcotics Category I, shall be punished with life imprisonment or imprisonment a minimum of 5 years and a maximum of 20 years and a fine of at least Rp. 1,000,000,000.00 (one billion rupiah) and [aling a lot of Rp. 10,000,000,000.00 (ten billion rupiah) ”.*

Then paragraph (2) it is stated that, "*in the case of an act to sell, sell, buy, become an intermediary in the sale and purchase, exchange, deliver, or receive Narcotics Category I as referred to in paragraph 1, which is in the form of plants whose weight exceeds 1 (one) kilogram or more than 5 (five) trees or in non-plant form weighing 5 (five) grams, the perpetrator shall be death penalty, life imprisonment, or imprisonment of at least 6 years and a maximum of 20 years and a fine the maximum as referred to in paragraph 1 plus 1/3 (one third).*"<sup>2</sup>

In Islamic law, narcotics and illegal drugs are things that can eliminate the mind which is haram. Because one of the 'illat forbidden objects is intoxicating as mentioned in the hadith of the Prophet:

كُلُّ مُسْكِرٍ خَمْرٌ وَكُلُّ خَمْرٍ حَرَامٌ

Meaning: Everything that is intoxicating is *khamar* and every *khamar* is *haram*.<sup>3</sup>

Using drugs is prohibited, because it have bad consequences, can damage the mind and physical, and other consequences. Therefore, Islamic law prohibits the use of such objects, whether in small quantities or in large quantities. In literature of classical Islamic *fiqh* (*book at-turast*) we do not find the word drugs, but we can find similarities in the nature of drugs including: the word *al-muskirat* (something that can be intoxicating) and the word *al-mukhaddirat* (something that can erase memory). *There are many types of including al-mukhaddiratal-Hashish, al-afiyun, al-*

<sup>2</sup> Ibid

<sup>3</sup> Al Imam Abi Husain Muslim Ibn Hajjaj Al Qusyair An Naisabur, *Sahih Muslim*, Juz IV, ( Beirut: Dar Al-kitab Al-Ilmiyah, t.th), p. 205.

*kukayin, al-murfind* and so on.<sup>4</sup>

Wahbah *az-Zuhaili* actually mentioned all *al-mukhaddirat* that occurred after the beginning of the 6th year H. The law is *haram* like *khamar* because it can erase reason and cover it up. In addition, there is also damage and fade that is in *khamar* has even greater harm, that is, it can blaspheme the *umat*, both individuals and society, both in terms of culture and civilization. Thus the drug trafficking both a manufacturer (maker), distributors (dealers), users, carriers, shippers, pourer, seller, buyer, and even money is *haram*.<sup>5</sup> This result is in accordance with the word of the Holy Rasululllah :

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لُعِنَتِ الْخَمْرُ عَلَى عَشْرَةِ أَوْجِهٍ بَعَيْنِهَا وَعَا  
صِيرِهَا وَمُعْتَصِرِهَا وَبَائِعِهَا وَمُبْتَا عِهَا وَحَامِلِهَا وَالْمَحْمُولَةَ إِلَيْهِ وَ أَكَلِ ثَمَنِهَا وَشَارِبِهَا  
وَسَاقِيهَا

Meaning; "Rasulullah SAW, said: *khamar* is damned for ten things, namely the object, the extortionist of the material, the hold or storage, the seller, the trader, the bearer, the recipient, the person who eats the product, the drinker and the serving it."<sup>6</sup>

It is important to know that Islamic law that has been issued, whether it is in the form of regulations or just rules, must adhere to these Islamic goals. The purpose of Islam is known as *maqasid ash-sharia*. *Maqasid ash-sharia*, namely protection of life, property, religion, reason

<sup>4</sup> Syapar Alim Siregar, "Pengedar Narkoba Dalam Hukum Islam", *Jurnal Al-Maqasid* Vol.5/No.1 (2019).

<sup>5</sup> Ibid.

<sup>6</sup> Al Imam Abi Husain Muslim Ibn Hajjaj Al Qusyair An Naisabur, *Sahih Muslim*, Juz II, (Beirut: Dar Al-kitab Al-Ilmiyah, t.th), p. 941.



and descent. Therefore, a judge or a ruler in carrying out legal activities must refer to the basic objectives of the *syari'at* so that the law issued creates a peaceful and harmonious atmosphere in society.

Talking about drug trading in Islamic criminal law, a crime is classified as *ta'zir*, namely the punishment for which the crime was not listed in the Qur'an and the Sunnah of the Prophet Muhammad. Instead, the sentence is determined by the judge or government to the perpetrator of the crime. Actions and activities of drug dealers are actions that can threaten the survival of many people and disturb the peace of society and even the state. so it can cause human damage which ultimately disturbs the benefit of the people.<sup>7</sup>

One of the cases related to the crime of narcotics abuse that the author raises is the crime of narcotics abuse committed by couriers, namely ASN who is often called Boja who works as an honorary employee of the Madina District Office of Panyabungan and PR who works as a driver. The two defendants were arrested on January 8, 2020 and the results of these arrests were found in the truck where marijuana was put in a 250 kilograms sack, then the two defendants and evidence were taken to the Padangsidimpuan police office for further investigation. The two defendants were sentenced by the public prosecutor respectively to death in accordance with the charges of the two public prosecutors because the two defendants had been legally and convincingly proven

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<sup>7</sup> Ibid.

guilty committing a criminal act of "criminal attempted or conspiracy without rights and against the law of receiving Narcotics Category I in the form of plants weighing more than 1 (one) kg". As regulated and subject to punishment in article 114 paragraph (2) about article 132 paragraph (1) of the Indonesia Law No.35 of 2009 on Narcotics. Then the verdict of the Padangsidempuan District Court judge sentenced him to imprisonment for 20 (twenty) years each and a fine of Rp. 1,000,000,000.00. If the fine is not paid, then it will be replaced by imprisonment for 6 (six) months each in accordance with the decision of the District Court Padangsidempuan No. 177 / Pid.Sus / 2020 / Pn Psp). Thus the judge sentenced the two defendants to courier with the maximum sentence in accordance with the Narcotics Law in Article 114 paragraph (2) in conjunction with Article 132 paragraph (1), in which the two defendants committed the act due to economic problems and while trying the cases of the two defendants as well. always cooperative in conducting trials but the judge sentenced him to 20 years in prison in accordance with the Narcotics Law.

Based on this background, the author is interested in choosing the title of "**An Analysis Of Padangsidempuan Court Ruling No. 177/Pid.Sus/2020/Pn/Psp On Drugs Dealers From The Perspective Of Islamic Criminal Law**".

## B. The Limitation of Problems

To avoid misunderstanding of the terms used in the title of this thesis, the following terms are defined:

1. Narcotics are substances or drugs derived from plants or non-plants, either synthetic or semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence which is differentiated into groups.<sup>8</sup>
2. Courier is someone who delivers something quickly.<sup>9</sup> Courier narcotics is defined as a person who carries out any activity that distribute or deliver narcotics.
3. Islamic criminal law is an act that is prohibited by *syara'*, whether the act is detrimental to life, property or others.<sup>10</sup>
4. Article 114 paragraph 2 of Law no. 35 of 2009
5. Article 132 paragraph 1 of Law no. 35 of 2009

## C. The Formulation of The Problems

Based on the background of the problem above, the writer draws the formulation of the problem as follows:

1. How is the implementation of material criminal law toward drug dealers as a narcotics crime related to decision No. 177 / Pid.Sus / 2020 / Pn Psp about drugs dealers ?

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<sup>8</sup> Law Number 35 of 2009 concerning Narcotics

<sup>9</sup> Kamus Besar Bahasa Indonesia, *Definisi Kurir*, (Jakarta: Lentera,2010),. p. 18

<sup>10</sup> Mardani, *Hukum Pidana Islam*, ( Jakarta : Kencana. 2019 ), p. 2.

2. How is the judge's consideration in making a decision on Padangsidimpuan Court No. 177 / Pid.Sus / 2020 / Pn Psp about drugs dealers ?
3. How is the perspective of Islamic criminal law related to the Padangsidimpuan Court ruling No. 177 / Pid.Sus / 2020 / Pn Psp about drugs dealers ?

#### **D. The Aims of The Research**

Based on the formulation of the problem above, the objectives of this research are as follows:

1. To describe the implementation and assessment of material law on drugs dealers with weighting in decision No. 177 / Pid.Sus / 2020 / Pn Psp about drugs dealers.
2. To know the judge's consideration in making a rule on Padangsidimpuan Court No. 177 / Pid.Sus / 2020 / Pn Psp about drugs dealers.
3. To find out the perspective of Islamic criminal law related to drug dealers against the judge's consideration in decision No. 177 / Pid.Sus / 2020 / Pn Psp about courier of narcotics.

#### **E. The Usefulness of The Research**

The result of this research is expected to be useful for :

1. Contributing thoughts in the field of law, especially those related to the material provisions and criminal provisions of the Narcotics crime. And the results of this study are expected to help parties related to the problem under study.

2. Providing a reference for future researches
3. As a condition obtaining a Bachelor of Laws degree.

#### **F. The Relevant Research**

To support integral studies and research as described in the background to the problem, the author will conduct research with several related research finding.

1. Andre Pamungkas in his thesis "*Criminological Judicial Review of Women as Couriers in Narcotics Circulation Associated with Law No. 35 of 2009 concerning Narcotics* ", concludes that the distribution of narcotics illegally by using people as distribution intermediaries or couriers is often done to distribute narcotics widely by involving one of them is a woman. The researchers also discussed the factors that encourage women to become good narcotics couriers because of the inequality of women's positions, economic factors, and the punishment or sanctions that are effective in accordance with the criminal provisions stipulated in the narcotics law.<sup>11</sup>
2. Muhammad Ikhwan Abadi in his thesis, "*Application of Criminal Sanctions Against Narcotics Couriers in Reviewing Law Number 35 Year 2009 concerning Narcotics (Study of the Kebumen District Court Decision Case Number 139 / Pid.B / 2010 / Pn.Kbm)*", concludes that acts that can be threatened with criminal sanctions contained in law number 35 of 2009 are regulated in article 111 to article 148. Then for

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<sup>11</sup>Andre Pamungkas, " *Tinjauan Yuridis Kriminologis Terhadap Perempuan Sebagai Kurir Dalam Peredaran Narkotika Dihubungkan dengan Undang-Undang No. 35 Tahun 2009 Tentang Narkotika* ", Skripsi Universitas Pasundan Bandung, 2014.

the achievement of criminal sanctions for intermediaries, it is regulated starting from article 114 paragraph 1 and 2, article 119 paragraphs 1 and 2, article 124 paragraphs 1 and 2, while for intermediaries to children, the application of child criminal sanctions refers to law number 11 of 2002 concerning the juvenile justice system.<sup>12</sup>

The two relevant research are clearly different from the research conducted by the author, in the first relevant research, namely the thesis of Andrea Pamungkas explaining about female couriers in drug trafficking by reviewing their criminological factors with women being drugs dealers. And the thesis of Muhammad Ikhwan Abadi explains the application of criminal sanctions against drugs dealers by studying court decisions. Therefore, from the two relevant research, the authors in this study are very different from the relevant research above because the authors in this study discuss and explain about drugs dealers by reviewing district court decisions and discussing sanctions given by judges.

#### **G. The Outline of Thesis**

This research consists of five chapter, namely :

Chapter I consists of introduction, covering the background of problem, limitation of problem, problem formulation, the aims of the

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<sup>12</sup> Muhammad Ikhwan Abadi, “ *Penerapan Sanksi Pidana Terhadap Kurir Narkotika Dalam Tinjauan Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika (Studi Putusan Pengadilan Negeri Kebumen Perkara Nomor 139/Pid.B/2010/Pn.Kbm)* “, Skripsi Universitas Sumatera Utara, 2015.

research, research benefits, and relevant research.

Chapter II consists of theoretical framework, discuss the definition of narcotics crime, narcotics couriers, definition of criminal actions and criminal sessions criminal, and islamic criminal law perspective on narcotics.

Chapter III consists of research methods, discusses the types of research, data sources, and data analysis.

Chapter IV consists study of decision of the Padangsidempuan district court no. 177 / Pid.sus / 2020 / Pn Psp about courier of narcotics perspective of islamic criminal law.

Chapter V consists of conclusions and suggestions this research.

## **CHAPTER II**

### **THEORETICAL DESCRIPTIONS**

#### **A. The Narcotics Criminal Action**

In Law No. 35 of 2009 concerning Narcotics which regulates, supervises and acts against distribution and abuse Narcotics. Narcotics do not only make humans addicted, but it can cause a person to die quickly and unnaturally. Humans really need a clean place in their environment and a healthy body in order to carry on their life. The abuse of narcotics has been called a crime against humanity. Narcotics is of course the enemy of our nation in terms of creating the next generation of a nation that is healthy and free from narcotics. Narcotics are substances or drugs that come from plants or non-plants, both synthesis and semisynthesis which can cause a decrease or change in consciousness, loss of taste, reduce and eliminate taste. pain, and cause dependence.

Likewise with psychotropic substances, which are substances or drugs, both natural and non-narcotic syntheses, which have psychoactive effects through selective effects on the central nervous system causing distinctive changes in mental activity and behavior. The scope of criminal law includes three provisions, namely criminal acts, liability, and punishment. The criminal provisions contained in Law no. 35 of 2009 concerning Narcotics is formulated in Chapter XV of the Criminal Provisions Article 111 to Article 148. Law No. 35 in 2009 on Narcotics, there are four categorizations of wrongful acts which are prohibited by law and may be subject to criminal sanctions, namely:



1. The first category, which acts in the form of possessing, storing, controlling or providing narcotics and drug precursors (Articles 111 and 112 for narcotics group I, Article 117 for narcotics group II and Article 122 for narcotics group III and Article 129 letter (a)).
2. The second category, namely actions in the form of producing, importing, exporting, or distributing narcotics and narcotics precursors (Article 113 for narcotics class I, Article 118 for narcotics group II, and Article 123 for narcotics group III and Article 129 letter (b)).
3. The third category, namely actions in the form of offering for sale, selling, buying, receiving, becoming an intermediary in the sale and purchase, exchange, or handing over of narcotics and narcotic precursors (Articles 114 and 116 for class I narcotics, Articles 119 and 121 for narcotics group II, Article 124 and Article 126 for narcotics group III as well as Article 129 letter (c)).
4. The fourth category, which acts in the form of carrying, delivering, transporting or linking narcotic drugs and precursors (Article 115 of the narcotics group I, Article 120 for the narcotic class II and Article 125 for the narcotic class III and Article 129 letter (d)).<sup>13</sup>

Narcotics are classified into;

- a. Narcotics Category I, the types of narcotics in group I include:  
Marijuana, Shabu-shabu, Cocaine, Opium, Heroin etc.
- b. Narcotics Category II, types of narcotics in group II include:  
morphine, pertidin, etc.

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<sup>13</sup>Anton Sudanto, “*Penerapan Hukum Pidana Narkotika di Indonesia*”, *Jurnal Hukum*, Vol.8 No.1 (2017);, p. 151-152.

- c. Narcotics Group III, types of narcotics in group III include: Codeine, etc.<sup>14</sup>

## B. The Drugs Dealers

### 1. Definition of Dealers

Definition of dealers doesn't exist in Law Number 35 of 2009 concerning narcotics but in law number 35 of 2009 concerning drugs dealers known as intermediary by selling and buying narcotics. So definition of intermediary in the formal Indonesian Dictionary is a person who delivers something important quickly.<sup>15</sup> In this case the intermediary means the person who delivers or picks up narcotics to be delivered to someone or a place. The profession as an intermediary is also said to be a drug dealers.

### 2. The Legal Basis of Drugs Dealers

For intermediaries in narcotics transactions category I, the perpetrators are threatened in accordance with Article 114 paragraph 1 and paragraph 2 of the Narcotics Law No 35 of 2009.

*In article 114 paragraph (1), it is stated that "every person without rights and against the law offers to sell, buy, accept, become an intermediary in buying and selling, exchanging or handing over Narcotics Category I, shall be punished with life imprisonment or imprisonment a minimum of 5 years and a maximum of 20 years and a fine of at least Rp. 1,000,000,000.00 (one billion rupiah) and [at most Rp. 10,000,000,000.00 (ten billion rupiah) ".*

*Then in paragraph (2) it is stated that, "in the case of an act to sell, buy, become an intermediary in the sale and purchase, exchange, deliver, or receive Narcotics Category I as referred to in paragraph 1, which is in the form of having plants whose weight exceeds 1 ( one*

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<sup>14</sup>Law Number 35 of 2009 concerning Narcotics

<sup>15</sup> Kamus Besar Bahasa Indonesia, *Definisi Kurir*, (Jakarta: Lentera,2010), p. 18

*kilogram or more than 5 (five) trees or in non-plant form weighing 5 (five) grams, the perpetrator shall be death penalty, life imprisonment or imprisonment of at least 6 years and a maximum of 20 years and a maximum fine. as referred to paragraph 1 plus 1/3 (one third) ”.*

Article 132 paragraph 1 states that *"Attempting or planning the crime to commit the crime of Narcotics and Narcotics Precursor as referred to in Article 111, Article 112, Article 113, Article 114, Article 115, Article 116, Article 117, Article 118, Article 119, Article 120, Article 121, Article 122, Article 123, Article 124, Article 125, Article 126, and Article 129, the perpetrator is sentenced to the same imprisonment in accordance with the provisions referred to these Articles "*<sup>16</sup>

Regarding the definition of drugs dealers, it is not specifically explained in Law Number 35 of 2009 concerning narcotics specifically, only regarding articles and those related to couriers mentioned in Law Number 35 of 2009 concerning narcotics are intermediaries for selling and buying narcotics . In the narcotics Law Number 35 of 2009 concerning drugs dealers or narcotics intermediaries in article 114 paragraph 2 the legal rules are quite clear in the narcotics law regarding drugs dealers along with sanctions the punishment that is judged to make it hard for a narcotics dealer because this crime is against the law in the Republic of Indonesia because it can have a bad impact on the generation of the nation republic Indonesia.

### **C. The Definition of Criminal Actions and Criminal Sanction**

Law according to WLG Lemaire is criminal law that consists of norms containing requirements and prohibitions which (by legislators) have been associated with a sanction in the form of punishment, namely

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<sup>16</sup> Ibid.

a suffering of a special nature.<sup>17</sup> Moreover according to Professor Pompe, a criminal act is nothing other than an act according to a formulation of the law that has been declared an action that can be punished.

In addition the most important thing is that no one can be punished unless his action is truly illegal and has been carried out based on some form of error, namely intentionally or unintentionally. Thus to impose a sentence is not sufficient if there is only a criminal act, but there must also be a person who can be punished where the person cannot be punished if the criminal act he has committed is not against the law.<sup>18</sup>

Criminal sanctions are reactive to an act. The focus of criminal sanctions is on the wrongdoing of a person through the imposition of suffering (so that the person becomes a deterrent), criminal sanctions emphasize the element of retaliation. It is an affliction that is always imposed on a person who is an offender, criminal sanctions aim to provide special suffering to the offender so that he feels the consequences of his actions. Thus a criminal sanction is oriented towards the idea of imposing sanctions on the perpetrator of an action.<sup>19</sup>

#### 1. Types of crime

According to the provisions in Article 10 of the Criminal Code,

a. The principal crimes consist of :

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<sup>17</sup> Lamintang, *Dasar-dasar Hukum Pidana Indonesia*, (Bandung: CV. Sinar Baru, 1984), p. 1.

<sup>18</sup> Lamintang, *Ibid*, p. 174

<sup>19</sup> I Made Widnyana, *Asas-asas Hukum Pidana*, (Jakarta: Fikahati Aneska, 2010), p. 32 and 33.

- 1) Death penalty
  - 2) Imprisonment
  - 3) Confinement
  - 4) Fine penalty
- b. Additional penalties are:
- 1) Revocation of certain rights
  - 2) Confiscation of certain objects
  - 3) Announcement of the judge's decision<sup>20</sup>

#### D. The Perspective of Islamic Criminal Law About Narcotics

In Islamic law, Narcotics and drugs (Narcotics) are objects that can eliminate the mind that is haram. Because one of the 'illat' that the object is forbidden is intoxicating as mentioned in the hadith of the Prophet:

كُلُّ مُسْكِرٍ خَمْرٌ وَكُلُّ خَمْرٍ حَرَامٌ

Meaning : Everything that is intoxicating is khamar and every khamar is haram.<sup>21</sup>

Using drugs is not only prohibited but it also has bad consequences, it can damage brain and physical, as well as other consequences. Therefore, Islamic law prohibits the use of such objects, whether in small quantities or in large quantities. In the literature of classical Islamic *fiqh* (*book at-turast*) we do not find the word drugs, but we can find similarities in the nature of drugs including: the word *al-muskirat* (something that can be intoxicating) and the word *al-mukhaddirat* (something that can erase memory). *There are*

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<sup>20</sup> Tina Asmarawati, *Pidana dan Pemidanaan dalam Sistem Hukum di Indonesia (Hukum Penitensier)*, (Yogyakarta, CV Budi Utama, 2015), p. 109.

<sup>21</sup> Al Imam Abi Husain Muslim Ibn Hajjaj Al Qusyair An Naisabur, *Sahih Muslim*, Juz IV, (Beirut: Dar Al-kitab Al-Ilmiyah, t.th), p. 205.

many types it including *al-mukhaddiratal-Hashish*, *al-afiyun*, *al-kukayin*, *al-murfind* and so on.<sup>22</sup>

Wahbah *az-Zuhaili* actually mentioned all *al-mukhaddirat* that occurred after the beginning of the 6th H. The law is *haram* like *khamar* because it can erase reason and cover it up. In addition, there is also damage and fade that exists in *khamar*, which is even greater, that is, it can humiliate the ummah, both individuals and society, both in terms of culture and civilization. Thus, trafficking drugs, both producers (makers), distributors (dealers), users, carriers, senders, pourers, sellers, buyers, orderers and even money, the result is *haram*.<sup>23</sup> according to the words of Rasulullah (saw).

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لُعِنَتِ الْخَمْرُ عَلَى عَشْرَةٍ أَوْجُهُ بَعَيْنَيْهَا وَعَا صِرْهَا  
وَمُعْتَصِرِهَا وَبَائِعِهَا وَمُبْتَا عَهَا وَحَامِلِهَا وَالْمَحْمُولَةَ إِلَيْهِ وَ أَكَلِ ثَمَنِهَا وَشَارِبِهَا وَسَاقِيهَا

Meaning; "Rasulullah SAW, said: *khamar* is damned for ten things, namely the object, the extortionist of the material, the hold or storage, the seller, the trader, the bearer, the recipient, the person who eats the produce, the drinker and the one serving it."<sup>24</sup>

As it is important to know that Islamic law that has been issued, whether it is in the form of regulations or just rules, must adhere to these Islamic goals. The purpose of Islam is known as *maqasid ash-sharia*. *Maqasid ass-sharia*, namely protection of life, property, religion, reason and descent. Therefore, a judge or a ruler in carrying out legal activities must refer to the basic objectives of the *syari'at* so that the law issued creates a peaceful and

<sup>22</sup> Syapar Alim Siregar, "Pengedar Narkoba Dalam Hukum Islam", *Jurnal Al-Maqasid* Vol.5/No.1 (2019).

<sup>23</sup> Ibid

<sup>24</sup> Al Imam Abi Husain Muslim Ibn Hajjaj Al Qusyair An Naisabur, *Sahih Muslim*, Juz II, (Beirut: Dar Al-kitab Al-Ilmiyah, t.th), p. 941

harmonious atmosphere in society. Talking about drug trading in Islamic criminal law, it is a crime classified as *ta'zir*, namely the punishment for which the crime was not listed in the Qur'an and the Sunnah of the Prophet Muhammad. Instead, the sentence is determined by the judge or government to the perpetrator of the crime. Actions and activities of drug dealers are actions that can threaten the survival of many people and disturb the peace of society and even the state. So it can cause damage to human that ultimately disrupt benefit of the people.<sup>25</sup>

## E. Court Ruling

### 1. Definition of Ruling

According to article 1 point criminal code a court decision is a judge's statement pronounced in an open court session, which can be in the form of sentencing or free or realese from all lawsuits in the case and according to the method regulated in the law.<sup>26</sup> According to Lilik Mulyadi, a judge's decision is a decision pronounced by a judge in a trial of a criminal case that is open to the public after going through the process and procedural law of criminal procedure which generally contains a sentence for punishment or acquittal or release from all lawsuits made in written form with the aim of resolving the case.<sup>27</sup>

Regarding what ruling court will give, it depends on the consensus of the judges based on the assessment they get from the indictment in connection with everything that is proven by the examination in court.

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<sup>25</sup> Syapar Alim Siregar., Loc. Cit.

<sup>26</sup> Law Number 8 1981 concerning Criminal Proceure Law

<sup>27</sup> Lilik Mulyadi, *Seraut Wajah Putusan Hakim dalam Hukum Acara Pidana Indonesia*, (Bandung: PT Citra Aditya Bakti, p. 131.

Therefore, deciding the case is not easy, it needs careful consideration by the judge in giving a decision in order to provide justice for the victim and the defendant.

## 2. Steps in Making a Court Ruling

Judge's considerations are one of the most important aspects in determining the realization of the value of a judge's decision which contains justice (*ex aequo bono*) and contains legal certainty, and contains benefits for the parties concerned so that the judge's considerations must be addressed well and carefully. A judge is required to uphold law and justice impartially, the judge in giving justice must first examine the truth of the events proposed.

The steps in making a ruling are :

### a. The Juridical Considerations

The juridical consideration is the judge's judgment based on the juridical facts revealed in the trial and by law that has been determined as a matter that must be included in the decision.

The steps in juridical considerations, namely :

#### 1) The Indictment of the Public Prosecutor

The indictment is the legal basis for the criminal procedure because based on that the examination at the trial was carried out, the indictment does not only contain the identity of the accused but also contains a description of the criminal indicted by mentioning the time and place where the crime was committed, cumulative,



alternative or subsidiary.<sup>28</sup>

2) The defendant's statement

The defendant's statement is classified as evidence according to the Criminal Procedure Code article 184 point e. The defendant's statement is the defendant's statement about the legal events he has committed which he himself knows or has personally experienced. The defendant's testimony may include information in the form of rejection and information in the form of rejection and confession of all those accused of him.<sup>29</sup>

3) Witness testimony

One of the components that must be considered by the judge in making a decision is witness testimony. The testimony of a witness is as evidence as long as the witness's testimony is about events that he himself heard, saw, and experienced for himself and must be submitted in court under oath. And witness testimony is an important component in the main considerations and is always considered by the judge in his decision.<sup>30</sup>

4) Evidence

The existence of evidence that is revealed at the trial will increase the judge's confidence in assessing whether or not the

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<sup>28</sup> Rusli Muhammad, *Potret Lembaga Pengadilan Indonesia*, (Yogyakarta: PT. GrafindoPersada, 2009), p. 124-125.

<sup>29</sup> Ibid, p. 126.

<sup>30</sup> Ibid, p. 126-12.

actions alleged to the defendant are true and of course the judge will be more confident if this evidence is also present and tends to be considered by the judge in making a decision.<sup>31</sup>

#### 5) Articles of judge's regulations

In court practice, articles of criminal law regulations are always related to the actions of the defendant, in this case, the public prosecutor and the judge try to prove and examine through evidence whether or not the defendant's actions have fulfilled the formulated elements. in the articles of criminal law regulations. Based on article 197 of the Criminal Procedure Code, one of the things that must be included in the decision sentencing is the article on the laws and regulations that form the basis for a sentence or action.<sup>32</sup>

#### b. Non Juridical Considerations

##### 1) Background of The Defendant's Actions

**Background of the Defendant's Actions** The understanding of the background of the defendant's actions in this discussion is any situation that causes the desire and encouragement to arise in the defendant in committing a criminal act. Economic conditions, for example, are examples that often become the background of crime.

The disharmony of the defendant's social relations, both

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<sup>31</sup> Ibid, p. 130-131.

<sup>32</sup> Ibid, p. 135.

within his family and other people (victims of crime), is also a condition that encourages the defendant to commit a crime. Prolonged quarrels between husband and wife do not only end in divorce, but sometimes end in criminal acts, for example the defendant kills his wife or husband. Disharmonious social relations in the family also have fatal consequences for the development of offspring. It is not uncommon to find many children who fail and their souls suffer. constant frustration, even become naughty and evil as a result of the state of the relationship that is not harmonious.<sup>33</sup>

## 2) The Effect of The Defendant's Actions

The criminal acts committed by the defendant will certainly bring victims or losses to other parties which have bad consequences, not only to the victims, but to the wider community. Even the consequences of the defendant's actions and the crimes committed can also adversely affect the wider community, at least their security and provisions are always threatened.<sup>34</sup>

## 3) The Condition of Defendant's

Physical condition refers to the age and level of maturity, while the psychological state is meant to relate to feelings, for example being angry, having feelings of revenge, getting

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<sup>33</sup>Rusli Muhammad, *Potret Lembaga Pengadilan Indonesia*, (Yogyakarta: PT. GrafindoPersada, 2009), p. 136-137.

<sup>34</sup>Ibid, p. 138

threats or pressure from others and the mind is in a state of chaos or abnormality.<sup>35</sup>

#### 4) The Socio-Economic Condition Of The Defendant

In the Criminal Code and in the Criminal Procedure Code there is not a single rule that clearly commands that the socio-economic condition of the accused must be considered in making a decision in the form of a sentence. This is a different concept from the New Criminal Code where there are provisions regarding sentencing guidelines that must be followed and considered by the judge.

In the concept of the new Criminal Code, it is stated that in sentencing, the judge considers the maker, motive, and purpose of committing a crime, the method of committing the crime, the inner attitude of the maker, curriculum vitae, and socio-economic conditions of the maker, attitudes, and actions of the maker after committing a crime and the effect of the crime on the future of the maker and the public's view of the crime committed.<sup>36</sup>

### 3. The Types of Judge's Decision

A judge's decision is the result of deliberation starting from an indictment with everything that is proven in the examination at the court. Judging from the judge's decision, what was indicted in the indictment was proven, it may also judge that what was indicted was indeed proven,

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<sup>35</sup> Ibid, p. 139-140..

<sup>36</sup> Ibid, p. 141.

but what was indicted was not a criminal act, but included the scope of a civil case or included the scope of a criminal complaint (*klacht delict*).<sup>37</sup>

The forms of decisions that can be handed down by the Court regarding a case are:

a. The Acquittal Decision

An acquittal is a defendant who is sentenced to be acquitted or free from lawsuits (*vrij spraak*) or *acquittal*. The defendant was acquitted of the lawsuit, means that the defendant was released from punishment. The basis of the acquittal is in the provisions of Article 191 paragraph (1) of the Criminal Procedure Code (KUHP) which explains that, if the court is of the opinion: From the results of the examination in court; The defendant's guilt for the actions he was accused of was "not proven" legally and convincingly. Juridically, a defendant is acquitted if the panel of judges concerned judges: does not meet the evidence according to the law in a negative way.

The evidence obtained at the trial was not sufficient to prove the defendant's guilt and at the same time the defendant's guilt which was not sufficiently proven was not believed by the judge. Does not meet the principle of the limit of evidence. The guilt charged to the defendant is only supported by one piece of evidence, in the provisions of Article 183 of the Criminal Procedure Code, in order to prove the defendant's guilt, at least two pieces of evidence are

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<sup>37</sup> Yahya Harahap, *Pembahasan Permasalahan dan Penerapan KUHP*, Jakarta: Sinar Grafika cetakan kedua, 2000, p. 347.

valid.<sup>38</sup>

b. The Sentencing Decisions

The form of sentencing decisions is regulated in Article 193 of the Criminal Procedure Code. Sentencing means that the defendant is sentenced to a criminal sentence in accordance with the threat specified in the article of the crime charged against the defendant. In accordance with Article 193 paragraph (1) of the Criminal Procedure Code which reads:

*"If the court is of the opinion that the defendant is guilty, it is sufficient to prove what he has been charged with, the court shall impose a sentence".<sup>39</sup>*

In accordance with Article 193 paragraph (1), the sentencing of the defendant is based on the judgment of the court. If the court is of the opinion and judges that the defendant is found guilty of committing the act that he is accused of, the court shall impose a criminal sentence on the defendant.

c. The Release of Decision

The decision of releasing someone from all Lawsuits/ *Onslag Van Rechtsvervolging* is regulated in Article 191 paragraph (2) of the Criminal Procedure Code, which reads: If the court is of the opinion that the act that has been accused to the defendant is proven, the act will not constitute a criminal act, and the defendant is dismissed from all lawsuits. The criteria for the decision to be released from all lawsuits as stated in Article 191 paragraph (2) are:

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<sup>38</sup> Law Number 8 1981 concerning Kitab Undang-undang Hukum Acara Pidana

<sup>39</sup> Law Number 8 1981 concerning Kitab Undang-undang Hukum Acara Pidana article

*What has been charged against the defendant is proven legally and convincingly. But even if it is proven, the judge will think that the act that is being charged is not a criminal act.<sup>40</sup>*

The decision is free from all lawsuits, namely the fact that what was indicted and what has been proven is not a crime. The difference between an acquittal of all lawsuits and an acquittal is that the acquittal of what the public prosecutor is accused of is not legally and convincingly proven. Meanwhile, the decision to be released from all lawsuits is that what the public prosecutor has indicted is proven not to be a crime.

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<sup>40</sup> Law Number 8 1981 concerning Kitab Undang-undang Hukum Acara Pidana

## **CHAPTER III**

### **METHOD OF RESEARCH**

#### **A. The Time and Location of Research**

This research was conducted at Padangsidimpuan court, related to the case study appointed by the researcher, namely the ruling of the Padangsidimpuan Court No. 177 / Pid.Sus / 2020 / Pn Psp. So the location of the research was carried out in the Padangsidimpuan district court office in order to obtain accurate, clear and safe information and was location of this research at prison. Research conducted from November 2020 until June 2021.

#### **B. The Types of Research**

The type of research used in this research was *Field Research*, namely data collection was carried out by direct interviews with the panel of judges at the Padangsidimpuan District Court and interviews with the defendants in the Class II B Social Institution of Padangsidimpuan in Decision No. 177/Pid.Sus/2020/Pn/Psp equipped with documentation.

#### **C. The Data of Research**

In this study, the researcher included the category of field research with a case approach, so the data sources to be collected and managed were data obtained from interviews with the parties involved. The data sources of this research consisted of:

##### **1. Main Source of Data**

The main data source of this research was contained about direct interviews with judges and convict in decision number



177/Pid.Sus/2020/Pn/Psp.

## 2. Secondary data sources

The secondary data sources of this research were the form of journals, writings or articles, books that were related to this research material. Then the result of observations from the field was required in the research process.<sup>41</sup>

### **D. The Data Collection Technique**

The researchers used a data collection techniques as follows :

#### 1. Interview

Interview is a question and answer process or writing two or more persons related to be examined to obtain accurate information with subject of this research like judges, convict at Padangsidempuan Court via communication by asking questions to the sources or respondents.

#### 2. Documentation

Collecting data in the form of this documentation includes notes, transcripts, books, newspapers, inscriptions, meeting notes, agendas, photos, and modules.

### **E. The Data Validity Technique**

A technique is needed to determine the validity of the data by means of triangulation. The triangulation used in this research was source triangulation and technique triangulation. Triangulation in this research by checking the information or data obtained through one informant and another who are still related to one another, namely : judges, attorneys for

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<sup>41</sup> Peter Mahmud Marzuki, *Penelitian Hukum*, (Jakarta: Kencana, 2005), p. 196.

clerks and convict. Then technical triangulation was done by checking information or data between the result of interviews and document.

#### **F. Data Analysis Technique**

Analysis is a data grouping by studying the data then sorting the data that has been collected to find important data which must be learned to be collected for data preparation, data analysis, and systematize data describing the situation to get a conclusion. Techniques of qualitative data analysis are as follow :

1. Data editing, which is to organize the data redaction into a systematic sentence arrangement.
2. Data reduction, is a checking to completenses of data to look for the skill lacking and putting aside irrelevant.
3. Describing the data systematically associated with the processing data qualitatively according to the topics of discussion. Deduction that is summarizing all data descriptions in several sentences which understanding is brief, dense and clear.

## CHAPTER IV

### RESEARCH RESULTS

#### A. The Implementation Of Material Criminal Law Toward Drug Dealers As Narcotics Crime With Weighting In Decision No. 177 / Pid.Sus / 2020 / Pn Psp About Drugs Dealers

Based on the consideration of the panel of judges in the decision Number 177/Pid.Sus/2020/Pn/Psp in which the defendant on behalf of ASN and the defendant PR in the panel trial of judges concluded that the defendants were legally and convincingly proven to have committed a criminal act of conspiracy without rights, they become an intermediary in the sale and purchase of narcotics class I in the form of plants weighing more than 1 kg. By having fulfilled all the elements of article 114 paragraph 2 in related to article 132 paragraph 1 of the Indonesia Law No. 35 of 2009 concerning narcotics by taking into account the facts in the trial which had previously been indicted by the public prosecutor with 3 articles in the alternative indictment, namely article 115 paragraph 2 related to Article 132 paragraph 1 of Law No. 35 of 2009, Article 114 paragraph (2) Jo Article 132 paragraph (1) of RI Law no. 35 of 2009 concerning narcotics regarding narcotics, and Article 111 paragraph (2) in related to article 132 paragraph (1) of the Indonesia Law no. 35 of 2009 about narcotics.<sup>42</sup>

In the alternative indictment, the panel of judges chose the second alternative in accordance with the demands by the public prosecutor, namely article 114 paragraph 2 in conjunction with article 132 paragraph 1 of the

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<sup>42</sup> Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidempuan District Court), on Friday, May 28, 2021, at 04.00 Pm at Padangsidempuan District Court.

Indonesia Law No. 35 of 2009 concerning narcotics, which reads:

*"In terms of acts of selling, buying, becoming intermediaries in buying and selling, exchanging, delivering, or receiving Narcotics Category I as referred to paragraph 1 in the form of plants weighing more than 1 (one) kilogram or exceeding 5 (five) tree trunks or in non-plant form weighing 5 (five) gram, the perpetrator is sentenced to death, life imprisonment, or imprisonment for a minimum of 6 years and a maximum of 20 years and a maximum fine as referred to paragraph 1 plus 1/3 (one third)".<sup>43</sup>*

The elements of which are as follows:

1. The Involvement As a Drugs Dealers

The element of each person in Article 114 paragraph 2 of the Narcotics Law No. 35 of 2009 is every person or legal entity as a legal subject who is charged with committing a crime as stated in the letter. The indictment of the public prosecutor and the person concerned is being brought before the court which, if his actions meet the elements of the criminal offense charged, then that person will be declared the perpetrator.

In the trial court no. 177/Pid.Sus/2020/Pn/Psp the defendants on behalf of ASN and PR admitted at trial that what the public prosecutor had indicted in his indictment confirmed before the court that the identity stated in the indictment was the original identity of the defendant. It was also supported by the testimony of witnesses in the trial.<sup>44</sup> Therefore the judges weighed and considered, and found elements of every person legally and convincingly fulfilled in article 114 paragraph 2 of the

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<sup>43</sup> In Article 114 paragraph 2 Law Number 35 of 2009 concerning Narcotics

<sup>44</sup> Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidempuan District Court), on Friday, May 28, 2021, at 04.00 Pm at Padangsidempuan District Court.

Narcotics Act 35 of 2009.

## 2. Conspiracy As a Drugs Dealers

Conspiracy is the act of two or more people who conspire or agree to commit, carry out, assist, participate in committing, ordering, recommending, facilitating, providing consultation, becoming a member of a narcotics crime organization, or organizing a narcotics crime.<sup>45</sup> Based on the confession of the defendant ASN or B and the defendant PR that the evidence in the form of 241 packages of narcotics class I types of marijuana was received by the two defendants in Gunung Baringin, Panyabungan Timur District, Mandailing Natal Regency, who had previously been contacted by F DPO or A DPO asking to be willing to deliver the marijuana to South Tapanuli Sipirok, where previously the defendants did not know the person.

The defendants ASN or B and PR would receive a salary of Rp. 10,000,000.00 while the defendant PR will be given a salary of Rp. 20,000,000.00 after the narcotics in the form of marijuana arrived at the intended person who was in Sipirok South Tapanuli.<sup>46</sup> Based on the testimony of the defendant in the trial and supported by the statements of the witnesses as well as with evidence, the panel of judges in their decision Number 177/Pid.Sus/2020/Pn/Psp argued that the defendant had committed a malicious conspiracy without rights and was against the law to become an intermediary in the sale.

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<sup>45</sup> In Article 1 paragraph 18 Law Number 35 Of 2009 Concerning Narcotics

<sup>46</sup> Interview with Adi Sahputra Nasution and Pandapotan Rangkuti, (The Prisoners), on Friday, May 7, 2021, at 09.00 am at Prison Padangsidimpuan District.

Narcotics group I in the form of plants, because they have agreed and made an agreement to be an intermediary for the sale and purchase of narcotics class I in the form of plants by knowing beforehand that the two defendants would bring and deliver the narcotics to an unknown person who was in South Tapanuli in exchange for wages if the marijuana had been given it would be given a wage of Rp. 10,000,000.00 and Rp. 20,000,000.00 to each defendant.<sup>47</sup>

The Panel of Judges of the Padangsidimpuan District Court said that the unlawful and unlawful act committed by the two defendants was an act in a criminal act which was said to be a delict of inclusion (*deelneming*). Participation is an act of participation of one or more persons in committing a crime. Participation is regulated in Article 55 and Article 56 of the Criminal Code based on these articles, participation is divided into two divisions, namely:

- a. Maker (*dader*) Article 55 which consists of
  - 1) Actors (*pleger*)
  - 2) Those who order to do (*doenpleger*)
  - 3) Those who participat (*medepleger*)
  - 4) Those who advocate (*uitloker*)
- b. Assistant (*Medeplichtige*) article 56 consists of:
  - 1) Assistant at the time the crime is committed

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<sup>47</sup> Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidimpuan District Court), on Friday, May 28, 2021, at 04.00 Pm at Padangsidimpuan District Court.

## 2) Assistant before the crime is committed<sup>48</sup>

In decision Number 177/Pid.Sus/2020/Pn/Psp the panel of judges was think that the criminal acts committed by the defendants are part of the offense of participation on the part of the maker (*dader*) by participating. Based on the facts in the trial of the defendants in Number 177/Pid.Sus/2020/Pn/Psp who are usually known as couriers in the case of narcotics, the location of the act is that the defendants act as intermediaries or couriers in narcotics buying and selling transactions, in which the defendants with F DPO has agreed and consciously cooperated to deliver narcotics with the aim of being given to someone in Sipirok South Tapanuli with wages that will be given if the narcotics have arrived at the agreed destination.

So with that consideration, the panel of judges at the Padangsidempuan District Court in its decision Number 177/Pid.Sus/2020/Pn/Psp criminal acts committed by narcotics couriers are included in the element of evil conspiracy as an intermediary for buying and selling narcotics class I in the form of plants legally proven and convincing according to law, namely by participating in narcotics crime as regulated on the offense of participation in criminal law.<sup>49</sup>

## 3. The Evidence As a Drugs Dealers

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<sup>48</sup> Interview with Hasnul Tambunan, (The Judges of Padangsidempuan District Court), on Thursday, May 27, 2021, at 03.00 Pm at Padangsidempuan District Court.

<sup>49</sup> Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidempuan District Court), on Friday, May 28, 2021, at 04.00 Pm at Padangsidempuan District Court.

The panel of judges at the Padangsidimpuan District Court in their decision Number 177/Pid.Sus/2020/Pn/Psp took into account the facts revealed in the trial both from statements witnesses and statements from the defendants, at the time of their arrest on January 08, 2020 members of the Padangsidimpuan Police Police found 241 packages of narcotics class I type of marijuana wrapped in brown duct tape with a total weight of 250 Kilograms.

The defendants confirmed that the defendant brought the marijuana and knew what the defendants had brought before the panel of judges at the Padangsidimpuan District Court. For this reason, elements weighing more than 1 kg or exceeding one tree trunk have been legally and convincingly proven.<sup>50</sup>

**B. Judge's Consideration In Imposing A Criminal Based on Ruling No. 177/Pid.Sus/2020/Pn/Psp About Drugs Dealers**

1. Juridical Considerations

Juridical considerations are legal considerations that form the basis before deciding a case, the judge will draw facts in the trial process which are cumulative conclusions from the statements of witnesses, defendants' statements and evidence.

a. Demands Of The Prosecutor

The demands of the public prosecutor against the defendants are each with the death penalty. Public prosecutor in giving the death penalty in his charge to the defendants because the defendant is

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<sup>50</sup> Ibid.



proven legally and convincingly guilty of committing the crime of "attempts or conspiracy without rights or against the law to accept narcotics class I in the form of plants weighing more than 1 kg, as regulated in Article 114 paragraph 2 Jo Article 132 paragraph 1 of Law no. 35 of 2009 regarding narcotics couriers based on the facts in the trial from May to July 2020 which were obtained both from the defendant's statement and evidence.

Therefore, the public prosecutor, namely Gabena Pohan, demands the death penalty for committing the crime with an agreement for a specific purpose and evidence of more than 1 kg weighing 250 kg of marijuana which can damage generations of the nation and state and to reduce narcotics crime.<sup>51</sup>

b. Memorandum Of The Defendants Defence

After reading the charges by the public prosecutor, Gabena Pohan, the defendants went through legal counsel for the defendant, namely M. Sahor Bangun Ritonga, which basically contained the defense of the criminal acts committed by the pre-defendant, with the aim that the panel of judges considered in the trial to reduce the sentence that has been demanded by the public prosecutor in the indictment.

Memorandum of defendants defence through legal counsel

M. Sahor Bangun Ritonga, which in essence is that the defendant is

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<sup>51</sup> Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidempuan District Court), on Friday, May 28, 2021, at 04.00 Pm at Padangsidempuan District Court.

not convoluted in the trial, is not a recidivist, and promises that he will commit another narcotic crime. M. Sahor Bangun Ritonga in the trial said that the panel of judges must be careful in considering the sanctions given because the defendants are not recidivist and the demands given by the public prosecutor are so heavy that they no longer consider human rights, namely the right to human life.

And if the defendants are sentenced to death, narcotics crimes in Padangsidempuan City and the Mandailing Natal Region will be difficult to eradicate narcotics trafficking, because the defendants are narcotics couriers in the case of decision Number/177/Pid.Sus/2020/Pn/Psp, not as bandits. narcotics. And in terms of assisting the government in eradicating narcotics in the Mandailing Natal area, the defendants said the initials of a narcotics dealer and revealed narcotics crimes in the Mandailing Natal area, namely F DPO, which was submitted by the defendants in front of the trial and has been designated as a wanted list.

For this reason, the legal counsel for the defendants, M. Sahor Bangun Ritonga, asked the panel of judges to consider and relieve the punishment from the demands of the public prosecutor and asked the panel of judges to impose Article 115 paragraph 2 in conjunction with Article 132 paragraph 1 of Law No. 35 of 2009 concerning narcotics as an article that was proven to have been violated by the defendants and decided the defendants with the

lightest and fairest decisions.<sup>52</sup>

c. Defendants Statement

Based on the defendant's testimony in the trial, the defendants admitted in front of the panel of judges that the defendant was indeed the courier of the narcotics in which the defendants, namely ASN alias B and PR, worked as honorary and truck drivers.

The defendants were caught in the Tor Simarsayang field I at 23.00 WIB in the village of Bonan Dolok, North Padangsidimpuan District, Padangsidimpuan City. The defendants confirmed that the defendant was carrying 241 packages of narcotics class I, marijuana, wrapped in duct tape, 8 pieces of plastic burlap sacks, white with blue and red stripes.

The defendant PR served as a truck driver while the defendant ASN alias B was in the truck. The defendants previously confirmed in front of the panel of judges that the reason for the defendants wanting to bring narcotics was contacted by F DPO separately and the defendants met on January 8, 2020 at approximately 18.00 WIB in Panyabungan to be willing to deliver marijuana to Sipirok South Tapanuli and meet someone who unknown to the defendants with a wage of Rp. 10,000,000 and Rp. 20,000,000 will be given to the defendant if the marijuana has been

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<sup>52</sup> Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidimpuan District Court), on Friday, May 28, 2021, at 04.00 Pm at Padangsidimpuan District Court.

sold and reaches its destination. At the time of their arrest the defendants did not receive any wages from F DPO.

According to the defendant's statement, PR, the defendant committed an act that was prohibited by the state due to economic problems where the wife was about to give birth and she did not have the money to take care of the delivery. Meanwhile, ASN alias Boja did an act that was prohibited by the state due to economic problems at that time ASN's parents were sick. That's the reason for each of the defendants in committing the crime of narcotics courier.<sup>53</sup>

d. Witness Statements

Based on the facts in the trial in terms of the statements of the witnesses who were tried in the trial the witnesses were DSW, LAA and FH. DSW and LAA were witnesses from members of the Padangsidempuan City Police, who at the time of their arrest were present at the time of the incident on January 8, 2020 at 23.00 WIB in field I of Torsimarsayang, Padangsidempuan City based on information from the previous community about the truck. That The thief entered the Padangsidempuan City area and was arrested by finding evidence in the form of 241 packs of narcotics class I marijuana wrapped in brown duct tape, 8 blue plastic burlap sacks and one white Hino dump truck. with the aim of South Tapanuli

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<sup>53</sup>Interview with Adi Sahputra Nasution and Pandapotan Rangkuti, (The Prisoners), on Friday, May 7, 2021, at 09.00 am at Prison Padangsidempuan District.

Sipirok.

While witness FH is the owner of the truck used by the defendant in committing the crime of narcotics courier, in December 2019 Saski's son brought a friend named Ateng to borrow a Hino B 9806 TYT truck. The witness said that he did not know that the truck borrowed by the defendants and would be used to deliver narcotics and the witness also said that he did not receive any wages related to the ownership of the truck. Based on the testimony of this witness, the defendants did not know the witness Fitri Heriani.<sup>54</sup>

e. Aggravating And Mitigating Circumstances

The mitigating and aggravating factors for the defendants in the trial are very influential in terms of the panel of judges imposing sanction for the defendants. In the decision 177/Pid.Sus/2020/Pn/Psp the mitigating thing for the defendants in the trial was that the defendants admitted honestly without resistance the defendants were the perpetrators of the narcotics courier crime, and as long as the competition continued the defendants did not fight and behaved cooperatively, the defendants are also relatively young and will certainly not commit their crimes in the future. And what the panel of judges considers is that the defendants have never been recidivist or have never committed a narcotic crime before and the defendants have also never committed other criminal acts, so those are some of

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<sup>54</sup> Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidempuan District Court), on Friday, May 28, 2021, at 04.00 Pm at Padangsidempuan District Court.

the things that ease the punishment for the defendants in 177/Pid.Sus/2020/Pn/Psp regarding narcotics couriers.

Meanwhile, the things that incriminate the defendants based on the facts in the trial are that the actions of the defendants that do not support the government's efforts in eradicating narcotics crimes that can damage millions of young people who are the future generation of the nation and state. One of the aggravating things is the confiscated evidence in the form of narcotics with a very large amount so that it can burden the judge's consideration in imposing the sanction of the decision.

For this reason, the considerations in the drug courier crime case No. Decision No. 177/Pid.Sus/2020/Pn/Psp with the defendant ASN Alias Boja and the defendant PR are proof of the elements where the criminal acts committed by the two defendants have fulfilled the dans accordance with the crime charged by the public prosecutor.

In the juridical consideration of the two defendants, the judge has drawn the facts in the trial which are the cumulative conclusions from the statements of the witnesses, the statements of the defendants and the memorandum of defense. And the panel of judges has revealed the facts in the trial the judge has also considered the elements of the offense charged and the panel of judges has also considered things that can relieve or aggravate the

defendant.<sup>55</sup>

## 2. Non-Juridical Consideration

Non-juridical considerations The judges' considerations in making a decision on the case of Defendant Adi Saputra Alias Boja and Defendant Pandapotan Rangkuti are as follows:

### a. The Sociological Aspects

The two defendants previously indicted by the public prosecutor were capital punishment, so the panel of judges considered that this was too severe than what the defendants had done, the panel of judges considered that more consideration was needed to impose a death penalty on drug couriers because of human rights in decision no. 177/2020/Pn/Psp because after seeing the facts in the trial the defendants were very cooperative and opened up the distribution of other drugs and were never recidivist.

The panel of judges considered the demands indicted by the public prosecutor, namely that the death penalty was extremely bitter after seeing the facts in the trial the panel of judges argued that the imposition of the death penalty was an effort imposed on perpetrators of crimes who were not expected to improve themselves and the crime rate was extraordinary, but in In this case, the defendants were just a request in the transaction of buying and selling narcotics of marijuana type with a relatively large weight and this was known to be true by

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<sup>55</sup> Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidempuan District Court), on Friday, May 28, 2021, at 04.00 Pm at Padangsidempuan District Court.

the defendants. so that a lot of considerations are needed to be gathered from the facts of the trial of the panel of judges in considering the fairest law to be imposed on the defendant.<sup>56</sup>

### 3. Decision of the Judge's Panel

Where as according to the Panel of Judges, the sentence that will be decided against the Defendant in this decision is deemed sufficient to fulfill the sense of justice, usefulness and legal certainty of the demands given by the public prosecutor, namely the death penalty, the panel of judges decided to give a criminal sentence of imprisonment that has fulfilled the sense of justice. On September 7, 2020 in a session open to the public on Monday, which was chaired by Lukas Sahabat Duha, Cakra Tona Parhusip and Fadel Pardamean Bate with the clerk Mangara Hutapea. Stating that the defendants ASN Alias B and PR have been legally and convincingly proven guilty of the crime of "committing evil conspiracy without the right to be an intermediary for the sale and purchase of narcotics class I in the form of plants weighing more than 1 (one) kilogram" as stated in the second alternative charge .

Then sentenced the defendants to imprisonment for 20 (twenty) years each and a fine of Rp. 1,000,000,000,00. (one billion rupiah) provided that if the fine is not paid, it will be replaced with imprisonment for 6 (six) months each. And stipulates that the period of

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<sup>56</sup> Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidempuan District Court), on Friday, May 28, 2021, at 04.00 Pm at Padangsidempuan District Court.



arrest and detention that has been served by each of the defendants is deducted entirely from the sentence imposed. Determined that the defendants were still in detention and determined that the evidence consisted of 241 (two hundred and forty one) packages of class I narcotics. Types of marijuana wrapped in brown duct tape with a total weight of 250 Kilograms, 8 (eight) plastic burlap sacks. white and red blue stripes, 8 (eight) blue plastic sheets, 1 (one) brown Samsung brand mobile phone (destroyed), and 1 (one) white hino truck B 9806 TYT and charged the defendants to pay the costs each case amounting to Rp. 10,000.00 (ten thousand rupiah).<sup>57</sup>

#### 4. The Analysis of Research Results

Judges' considerations according to the researchers in deciding the narcotics crime case with the defendants ASN Alias B and PR were appropriate, in which this consideration did not only focus on juridical considerations but also non-juridical considerations, namely the sociological aspect of the criminal case. will be dropped. In the judgment the Jurisdiction is correct, namely in making the decision there are witness statements, evidence, statements of the defendant and a memorandum of defense, so that in making the decision, the panel of judges does not only consider the jurisdiction in decision No/177/Pid.Sus/2020/Pn/ Psp but also consider non-jurisdictional aspects, namely the sociological aspect.

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<sup>57</sup> Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidempuan District Court), on Friday, May 28, 2021, at 04.00 Pm at Padangsidempuan District Court.

In Article 1 of Law Number 48 of 2009 concerning judicial power, it explains that judicial power is the power of an independent state to administer justice to uphold law and justice based on Pancasila for the implementation of the constitutional state of the Republic of Indonesia.<sup>58</sup> In Article 10 of Law Number 48 of 2009 concerning judicial power, courts are prohibited from refusing to examine, hear, and decide on a case filed on the pretext that the law does not exist or is unclear, but is obliged to examine and try it. In deciding a criminal case, the judge must have consideration, the judge's consideration is one of the most important aspects in determining the realization of the value of a judge's decision that contains justice (*ex aequo et bono*) and contains legal certainty.<sup>59</sup>

### **C. The Perspective of Islamic Criminal Law About Drugs Dealers on Ruling No.177/Pid.Sus/2020/Pn/Psp**

Islamic criminal law or *jinayah* is an act of a person that threatens human physical safety and has the potential cause harm to human dignity and property so that the act or act is considered unlawful to do, even the perpetrator must be subject to legal sanctions in the world and the hereafter as a punishment. punishment from Allah SWT.<sup>60</sup>

In positive criminal law there are several principles that regulate Islamic criminal law, one of which is the principle of legality which is usually known as "*Nullum delictum nulla poena sine praevia lege poenali*", which means there is no offense, no crime without prior regulation. . This principle protects against abuse of judges' authority, ensures the safety of individuals

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<sup>58</sup> In Article 1 Law Number 48 Of 2009 Concerning Judicial Power

<sup>59</sup> In Article 10 Law Number 48 Of 2009 Concerning Judicial Power

<sup>60</sup> Nurul Irfan, *Hukum Pidana Islam*, (Jakarta: Amzah, 2016), p. 8

with permitted and prohibited information. Everyone should be warned beforehand about illegal acts and their punishment. So based on this principle, no act may be considered unlawful by a judge if it has not been clearly stated by a criminal law and as long as the act has not been committed.

As with Islamic criminal law, there are clear rules on the principle of legality such as:

لَا جُرْمَ وَلَا عُقُوبَةَ إِلَّا بِنَصِّ

Meaning : No crime and no punishment except by *nash* (law)<sup>61</sup>

In his explanation that a person is said to be perpetrator *jarimah* if previously there was a *nash* or law that explicitly prohibits and imposes sanctions on perpetrators who are in criminal law Islam. In the decision Number 177/Pid.Sus/2020/Pn/Psp regarding the crime of drug couriers, it has been previously regulated in the Law regarding these crimes along with their sanctions, for that both in Islamic criminal law and positive criminal law it is clear that the principle of legality Islamic criminal law is the same as the positive criminal law principle in providing legal certainty regarding narcotics courier crimes.

According to Islamic law, narcotics are *haram*. This is due to the fact that drugs are classified as *muskir* objects (intoxicating objects) which can cause harm to those who use them such as the destruction of the mind and the destruction of people's morals in carrying out social life. The prohibition of this drug is based on the prohibition of *khamr* which has been determined by

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<sup>61</sup> Abdul Qadir Audah, *At-Tasyri al-jinaiy al-islamiy: Muqoronan bi al-Qonun al-wad'iy*, Juz I, (Beirut: Muasasah la-Risalah, 1992), p.115

Allah SWT and His Messenger. In classical Islamic fiqh literature (*kitab at-turast*) we do not find the word drug, but we can find similarities in the nature of the drug, including: the word *al muskirat* (something that can intoxicate) and the word *al-mukhaddirat* (something that can erase memory). There are many types of including *al-mukhaddiratal-hasyisy*, *al-afiyun*, *al-kukayin*, *al-murfin* and so on. the law is haram like *khamr* because it can eliminate the mind and cover it. In addition, there is also damage and harm that is in *khamr*, even greater harm, that is, it can harm the ummah, both individuals and society, both in terms of culture and civilization. Thus, trading drugs, both producers (makers), distributors (dealers), users, carriers, senders, pourers, sellers, buyers, buyers and even the money is haraam<sup>62</sup> in accordance with the law.

قَالَ رَسُولُ اللَّهِ صَلَّى اللَّهُ عَلَيْهِ وَسَلَّمَ لُعِنَتِ الْخَمْرُ عَلَى عَشْرَةِ أَوْجِهٍ بَعَيْنِهَا وَعَا صِرْهَا وَمُعْتَصِرِهَا وَبَائِعِهَا وَمُبْتَا عَهَا وَحَامِلِهَا وَالْمَحْمُولَةَ إِلَيْهِ وَ أَكَلِ ثَمَنِهَا وَشَارِبِهَا وَسَاقِئِهَا

Meaning ; "Rasulullah SAW, said: *khamar* is damned for ten things, namely the object, the extortionist of the material, the hold or storage, the seller, the trader, the bearer, the recipient, the person who eats the produce, the drinker and the serving it."<sup>63</sup>

In the explanation of this hadith, namely *syara 'forbidding* from the ten actions of others in the hadith not only *alcohol* alone because the ten actions are causes of disobedience, and helping in anact unlawful both parties who provide assistance and contributions, the law is the same. like the culprit. For

<sup>62</sup> Syapar Alim Siregar, "Pengedar Narkoba Dalam Hukum Islam", *Jurnal Al-Maqasid* Vol.5/No.1 (2019).

<sup>63</sup> Al Imam Abi Husain Muslim Ibn Hajjaj Al Qusyair An Naisabur, *Sahih Muslim*, Juz II, (Beirut: Dar Al-kitab Al-Ilmiyah, t.th), p. 941.

this reason, dealers, traders, smugglers, intermediaries, and everyone who has a role in narcotics crimes, including those who commit grave sins and commit unlawful and evil deeds.<sup>64</sup>

In the decision Number 177/Pid.Sus/2020/Pn/Psp regarding narcotics couriers, the actions of buying and selling intermediaries or narcotics couriers are included in the act of conspiracy by participating in committing criminal acts. Similarly, in the perspective of Islamic criminal law, someone who participates in a crime is said to be someone who helps in disobedience and prohibition.

In Islamic criminal law there is what is referred to as participating in the crime of doing *jarimah*, namely the act of *jarimah* carried out by more than one person, in the case of narcotics couriers in the Islamic perspective as intermediaries in the sale and purchase of narcotics, narcotics couriers enter the group to participate directly in the crime. criminal or what is called "*syarik mubasyir*" acts and his actions are called "*isytirak-mubasyir*" which means someone who is part of the implementation of *jarimah* and the punishment is the punishment for direct and indirect makers is *ta'zir* with the same punishment.<sup>65</sup>

Abdul al-Qadir 'Audah, stated that *ta'zir* is a type of punishment imposed on the perpetrators of *jarimah ta'zir* (a type of crime that is not explicitly described in the Qur'an) including crimes that have been confirmed

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<sup>64</sup> Wahbah az-zuhaili, *Fiqih Islam Wa Adillatuhu*, jilid 7, Terjemahan Abdul Hayyie Al-Katanni (Jakarta : Gema Insani, 2011), p. 459.

<sup>65</sup> Ahmad Hanafi, *Asas-asas Hukum Pidana Islam*, (Jakarta: Bulan Bintang, 1967), p. 136 and 153.

by Allah SWT in the Qur'an. however, the punishment is not explained in detail about the punishment, especially for *jarimah ta'zir* (new crimes) such as narcotics and corruption. Regarding the ta'zir punishment, it is left to the judge to determine the sentence, it may impose penalties in the form of warnings, warnings, fines, beatings, imprisonment, and so on depending on the severity and severity of the offense or crime committed because ta'zir punishment is learning.<sup>66</sup>

The intermediary of buying and selling drugs in Islamic criminal law, is a crime that is classified as a crime *ta'zir*. That is a punishment whose crime is not listed in the Qur'an and the Sunnah of the Prophet Muhammad. Rather, the punishment is determined by the judge or the government for the perpetrators of the crime. The actions and activities of drug dealers are actions that can threaten the survival of many people and disturb the peace of society and even the state. so that it can cause human damage which in the end echoes the benefit of the people.

In the Fatwa of the Indonesian Ulama Council Number 53 of 2014 explains as follows:

1. For people who make drugs, distribute and use drugs without their authority, the syar'i law is haram and classified as *al-had* and/or *al ta'zir*.
2. People who make drugs, owners, distributors and users of drugs must be given severe sanctions because the harm of drugs is far greater than

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<sup>66</sup> Hendra Gunawan, "Penerapan Hukuman Ta'zir di Indonesia (Suatu Analisis Terhadap Penerapan Hukuman di Lapas Kota Padangsidempuan)", *Jurnal Fitra*. Vol.4/No.2(2018).

the harm of *khamr*;

3. The government, in this case the judge, is allowed to impose sentence *at-ta'zir*, a light or heavy in this case, the punishment of the heart to drug offenders.
4. The government is not expected to provide leniency or acquittal to drug producers, owners, distributors and abusers.<sup>67</sup>

For this reason, in the decision Number 177/Pid.Sus/2020/Pn/Psp regarding narcotics couriers, the Padangsidempuan District Court of Justice in terms of material law is the same as Islamic criminal law because it is clear that the rules have been previously regulated, this proves that there is legal certainty both in terms of law Islamic criminal law and positive criminal law applied and applicable in Indonesia. In terms of the punishment given in the positive punishment, namely 20 years in prison imposed by the panel of judges at the Padangsidempuan District Court, namely giving a prison sentence which in Islamic law itself is *ta'zir* whose sanction is given by the judge with the length provisions based on the judge's consideration in the trial.

It's just that in giving sanctions the panel of judges at the Padangsidempuan District Court was too severe for the crime of drug couriers. Because in Islamic criminal law there are matters regarding the punishment of punishment given as fairly as possible to the defendant because in this case there are many considerations to give punishment not

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<sup>67</sup> Syapar Alim Siregar, "*Pengedar Narkoba Dalam Hukum Islam*", *Jurnal Al-Maqasid Vol.5/No.1* (2019).

with the maximum penalty as stated in the Act. As for the application of the death penalty in narcotics crimes, it is very appropriate if indeed as a drug dealer with heavy evidence of course the application of the death penalty is very appropriate because his actions can bring badness to the generation of the nation and state. For this reason, in terms of the application of the death penalty, of course, it is necessary to have a deeper study of the narcotics crime, whether it is appropriate to be sentenced to death or not because imposing the death penalty is not an easy matter, it must be in accordance with the actions and considerations that incriminate him and the deepening of the case.



## **CHAPTER V**

### **CONCLUSIONS AND SUGGESTIONS**

#### **A. Conclusion**

Based on the results of previous research, the author make the following conclusions:

1. The material legal weighting against drug couriers in the decision Number 177/Pid.Sus/2020/Pn/Psp regarding drug couriers is in accordance with the actions committed by the defendants for being involved in as well as in committing narcotics crimes prohibited by the Republic of Indonesia. And the weighting of article 114 paragraph 2 in conjunction with article 132 paragraph 1 of the Republic of Indonesia Law no. 35 of 2009 has fulfilled the elements of weighting against the defendants likes elements the involvement as a narcotics couriers, conspiracy as a narcotics couriers, and the evidence as a narcotics courier, so that the defendants were proven to have violated article 114 paragraph 2 in conjunction with article 132 paragraph 1 of the Republic of Indonesia Law no. 35 of 2009.
2. The judge's consideration in giving criminal sanctions to the defendant in the decision Number 177/Pid.Sus/2020/Pn/Psp is correct because it considers juridical and non-juridical, but in terms of criminal sanctions imposed by the panel it is not appropriate because the judges the defendant was only a courier who had never been a recidivist and dismantled a narcotics trafficking syndicate and during the direct trial process the defendants had been cooperative and honest throughout the trial process. Therefore, judges may not impose sanctions or decide on a case in a trial

arbitrarily, it takes a consideration and certain reasons the judge imposes sanctions on a decision in a trial. However, the reason for the judge in the decision number 177/Pid.Sus/2020/Pn/Psp, according to the author, is still lacking because the defendant has never been convicted or committed no crime, then the defendants also did this act only for temporary interests, not the work that the defendant had been doing so far. work so that the penalty is commuted.

3. The perspective of Islamic criminal law in the decision Number 177/Pid.Sus/2020/Pn/Psp has been in accordance with the basis of the judge's considerations related to the awarding and punishment of the defendant in the decision Number 177/Pid.Sus/2020/Pn/Psp, namely the legality principle of Islamic criminal law related to this case namely the rule of Islamic criminal law with the meaning is "No crime and no punishment except by *nash* (law)" and material law related to drug courier cases in Islamic criminal law with the meaning is "Rasulullah SAW, said: *khamar* is damned for ten things, namely the object, the extortionist of the material, the hold or storage, the seller, the trader, the bearer, the recipient, the person who eats the produce, the drinker and the serving it." and formal law of drug courier cases in Islamic law is *tak'zir* which is where the punishment and how long is given by the assembly judge.

## **B. Suggestion**

1. The author hopes that the panel of judges will be more careful in considering things that are aggravating and easing sanctions on the defendant, because this is very important and relates to the value of justice

of a decision for all parties and greatly influences the deterrent effect on the defendant.

2. The author hopes for the panel of judges that if they want to make reasons for giving sanctions to the defendant, they will be more thorough, because if the judge is wrong in giving criminal sanctions, the defendant will feel the loss for the rest of his life. For this reason, the panel of judges provides more consideration and fairer criminal sanctions against the accused.

## BIBLIOGRAPHY

- Abadi, Muhammad Ikhwan, " *Penerapan Sanksi Pidana Terhadap Kurir Narkotika Dalam Tinjauan Undang-Undang Nomor 35 Tahun 2009 Tentang Narkotika (Studi Putusan Pengadilan Negeri Kebumen Perkara Nomor 139/Pid.B/2010/Pn.Kbm)*". Thesis University of North Sumatra, 2015.
- An Naisabur, Al Imam Abi Husain Muslim Ibn Hajjaj Al Qusyair An Naisabur, *Sahih Muslim*, Juz II, Beirut: Dar Al-kitab Al-Ilmiyah, t.th
- An Naisabur, Al Imam Abi Husain Muslim Ibn Hajjaj Al Qusyair, *Sahih Muslim*, Juz IV, Beirut: Dar Al-kitab Al-Ilmiyah, t.th.
- Audah, Abdul Qadir, *At-Tasyri al jinaiy al-islamiy: Muqoronan bi al-Qonun al-wad'iy*, Juz I, Beirut: Muasasah la-Risalah, 1992.
- Az-zuhaili, Wahbah, *Fiqh Islam Wa Adillatuhu*, jilid 7, Terjemahan Abdul Hayyie Al-Katanni Jakarta : Gema Insani,2011
- Gunawan, Hendra, " *Penerapan Hukuman Ta'zir di Indonesia (Suatu Analisa Terhadap Penerapan Hukuman di Lapas Kota Padangsidempuan)*", *Jurnal Fitra Vol.4/No.2.2018*.
- Hanafi, Ahmad, *Asas-asas Hukum Pidana Islam*, Jakarta: Bulan Bintang, 1967.
- Harahap, Yahya, *Pembahasan Permasalahan dan Penerapan KUHAP*, Jakarta: Sinar Grafika Cetakan Kedua, 2000.
- Interview with Adi Saputra Nasution and Pandapotan Rangkuti, (The Prisoners), Padangsidempuan District Prison.
- Interview with Lucas Sahabat Duha and Hasnul Tambunan, (The Judges of Padangsidempuan District Court), at Padangsidempuan District Court.
- Kamus Besar Bahasa Indonesia, *Definisi Kurir*, Jakarta: Lentera, 2010
- Lamintang, *Dasar-dasar Hukum Pidana Indonesia*, Bandung: CV. Sinar Baru, 1984.
- Law Number 8 of 1981 concerning Kitab Undang-undang Hukum Acara Pidana
- Law Number 35 Year 2009 Concerning Narcotic
- Mardani, Hukum Pidana Islam, Jakarta : Kencana. 2019
- Marzuki, Peter, Mahmud, *Penelitian Hukum*, Jakarta: Kencana, 2005.

- Muhammad, Rusli, *Potret Lembaga Pengadilan Indonesia*, Yogyakarta: PT. GrafindoPersada, 2009.
- Mulyadi, Lilik, *Seraut Wajah Putusan Hukum Acara Pidana Indonesia*, Bandung : PT. Citra Aditya Bakti.
- Irfan, Nurul, *Hukum Pidana Islam*, Jakarta: Amzah, 2016
- Pamungkas, Andre "*Tinjauan Yuridis Kriminologis Terhadap Perempuan Sebagai Kurir Dalam Peredaran Narkotika Dihubungkan dengan Undang-Undang No. 35 Tahun 2009 Tentang Narkotika* ", Thesis of Pasundan University, Bandung, 2014.
- Siregar, Syapar Alim, "*Pengedar Narkoba Dalam Hukum Islam*", *Al-Maqasid Journal Vol.5 / No.1* (2019).
- Sudanto, Anton "*Penerapan Hukum Pidana Narkotika di Indonesia*", *Jurnal Hukum*, Vol.8 No.1 2017
- Tina Asmarawati, *Pidana dan Pemidanaan dalam Sistem Hukum di Indonesia (Hukum Penitensier)*, Yogyakarta, CV Budi Utama, 2015
- Widnyana, I Made, *Asas-asas Hukum Pidana*, Jakarta: Fikahati Aneska, 2010.

## CURRICULUM VITAE



### A. PERSONAL IDENTITY

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### B. Education Background

1. Graduated from Kindergarten Kemala Bhayangkari 13 Padangsidimpuan (2003-2004)
2. Graduated from State Primary School 22 Padangsidimpuan (2005-2011)
3. Graduated from State Junior High School 1 Padangsidimpuan (2011-2014)
4. Graduated from State Senior High School 4 Padangsidimpuan (2014-2017)
5. State Institut for Islamic Studies Padangsidimpuan ( 2017-2021)

## INTERVIEW FORMAT

### A. Interview with the Panel of Judges at the Padangsidempuan District Court

1. What is your consideration in carrying out the material criminal law burden on drugs dealers in decision no. 177/pid.sus/2020/pn/psp ?
2. How did you consider in imposing 20 years in prison on drugs dealers in decision no. 177/pid.sus/2020/pn/psp ?
3. What is the reason you sentenced him to 20 years in prison, whereas in Article 114 of Law Number 35 of 2009 there is a choice of punishment related to the crime of drugs dealers?
4. What is your view regarding the public prosecutor demanding the death penalty for the two defendants?
5. What is your reason for not granting the demand from the public prosecutor, namely the death penalty for the two defendants?

### B. Interview with the Convict in Decision No. 177/Pid.Sus/2020/Pn/Psp

1. Is it true that you committed a drugs dealers crime?
2. What is your reason for committing the crime of drugs dealers?
3. What is the chronology of the crimes that occurred, sir?
4. How long have you been committing the crime of drugs dealers?
5. Did you accept the sentence handed down by the panel of judges?
6. Did you cassation or appeal, sir?

Dokument



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Nomor : B- 389 /ln.14/D.1/TL.00/04/2021

21 April 2021

**Mohon Bantuan Informasi  
 Penyelesaian Skripsi.**

Ketua Pengadilan Negeri Padangsidimpuan  
 Kota Padangsidimpuan

Assalamu'alaikum Wr.Wb.

Dengan hormat, Dekan Fakultas Syariah dan Ilmu Hukum Institut Agama Islam Negeri Padangsidimpuan menerangkan bahwa:

Nama : Rabiyatul Adawiyah Hrp  
 NIM : 1710700007  
 Fakultas/Jurusan : Syariah dan Ilmu Hukum / Hukum Pidana Islam  
 No Telpon/ HP : 081222302447

adalah benar mahasiswa Fakultas Syariah dan Ilmu Hukum IAIN Padangsidimpuan yang sedang menyelesaikan Skripsi dengan judul "Study Of Decision Of The Padangsidimpuan District Court No. 177/Pid.Sus/2020/PN Psp About Courier Of Narcotics Perspective Of Islamic Criminal Law".

Sehubungan dengan itu, dimohon bantuan Bapak untuk memberikan data dan informasi sesuai dengan maksud judul skripsi di atas.

Demikian disampaikan, atas kerjasamanya diucapkan terima kasih.

an. Dekan,  
 Wakil Dekan Bidang Akademik

Dr. Ikhwanuddin Harahap, M.Ag  
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Padangsidimpuan, 25 Mei 2021

W2.U5/ 1157 / Um.02.02/5/2021

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Institut Agama Islam Negeri  
Padangsidimpuan (IAIN)  
di-

**PADANGSIDIMPUAN**

Dengan hormat,

Sehubungan dengan surat Saudara tertanggal 21 April 2021, Nomor : B-389/In.14/D.1/TL.00/04/2021, perihal tentang Mohon Bantuan Informasi Penyelesaian Skripsi di Pengadilan Negeri Padangsidimpuan, bersama ini kami sampaikan bahwa Mahasiswi :

Nama : Rabiyatul Adawiyah Harahap  
NIM : 1710700007  
Fakultas/ Jurusan : Syariah dan Ilmu Hukum/ Hukum Pidana Islam

dapat kami bantu dengan menyediakan Informasi di Pengadilan Negeri Padangsidimpuan Kelas IB untuk Penyelesaian Skripsi yang bersangkutan.

Demikian kami sampaikan atas kerjasama yang baik kami ucapkan terima kasih.

  
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**PADANGSIDIMPUAN**  
**SEKRETARIS**  
**ERWIN HAREFA, S.H**  
**NIP. 19721221 19930 3 002**

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Nomor : W2.E18.PK.01.05.11 -

06 Mei 2021

Isi : Mohon Bantuan Informasi  
Penyelesaian Skripsi

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Institut Agama Islam Negeri Padangsidimpuan

Tempat.

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Nama : Rabiyyatul Adawiyah Harahap  
NIM : 1710700007  
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Nomor Telp/ HP : 081222302447  
Judul Skripsi : Study Of The Padangsidimpuan Distric Court No. 177/Pid.Sus/  
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**INDRA KESUMA, A.Md.IP.,SH.,MH**  
NIP : 19720503 199603 1 001



PUTUSAN
Nomor 177/Pid.Sus/2020/PN Psp

DEMI KEADILAN BERDASARKAN KETUHANAN YANG MAHA ESA

Pengadilan Negeri Padangsidempuan yang mengadili perkara pidana dengan acara pemeriksaan biasa dalam tingkat pertama menjatuhkan putusan sebagai berikut dalam perkara Para Terdakwa;

Terdakwa 1

Nama lengkap : Adi Saputra Nasution alias Boja;
Tempat lahir : Gunung Baringin;
Umur/tanggal lahir : 26 Tahun / 27 Juli 1994; Jenis Kelamin : Laki-laki;
Kebangsaan : Indonesia;
Tempat tinggal : Kampung Sedikit Kelurahan Gunung Baringin Kecamatan Panyabungan Timur Kabupaten Mandailing Natal.;
Agama : Islam;
Pekerjaan : Pegawai Honororer Dinas Pu Kabupaten Madina;

Terdakwa ditangkap berdasarkan Surat Perintah Penangkapan Nomor SP-Kap/02/I/2020/Resnarkoba tanggal 8 Januari 2020, sejak tanggal 8 Januari 2020 sampai dengan tanggal 10 Januari 2020;
Surat Perintah Perpanjangan Penangkapan Nomor SPP-Kap/02.A/I/2020/Resnarkoba tanggal 11 Januari 2020, sejak tanggal 11 Januari 2020 sampai dengan tanggal 13 Januari 2020;

Terdakwa Adi Saputra Nasution alias Boja ditahan dalam Tahanan Rutanoleh:

- 1. Penyidik Nomor SP-Han/03/I/2020/Resnarkoba tanggal 14 Januari 2020, sejak tanggal 14 Januari 2020 sampai dengan tanggal 02 Februari 2020;
2. Penyidik Perpanjangan Oleh Penuntut Umum Nomor Print-03/L.2.15/Enz.1/01/2020 tanggal 28 Januari 2020, sejak tanggal 03 Februari 2020 sampai dengan tanggal 13 Maret 2020;
3. Penyidik Perpanjangan Pertama Oleh Ketua Pengadilan Negeri Nomor 83/Pen.Pid/2020/PN Psp tanggal 11 Maret 2020, sejak tanggal 14 Maret 2020 sampai dengan tanggal 12 April 2020;
4. Penyidik Perpanjangan Kedua Oleh Ketua Pengadilan Negeri Nomor 133/Pen.Pid/2020/PN Psp tanggal 8 April 2020, sejak tanggal 13 April 2020 sampai dengan tanggal 12 Mei 2020;



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6. Hakim Pengadilan Negeri Nomor **207/177/Pen.Pid/MH/2020/PN Psp** tanggal 19 Mei 2020, sejak tanggal 19 Mei 2020 sampai dengan tanggal 17 Juni 2020;
7. Perpanjangan Pertama Oleh Ketua Pengadilan Negeri Nomor **208/177/Pen.Pid/KPN/2020/PN Psp** tanggal 20 Mei 2020, sejak tanggal 18 Juni 2020 sampai dengan tanggal 16 Agustus 2020;
8. Perpanjangan pertama oleh Ketua Pengadilan Tinggi Medan Nomor **1844/Pen.Pid/2020/PT MDN** tertanggal 3 Agustus 2020, sejak tanggal 17 Agustus 2020 sampai dengan tanggal 15 September 2020;
9. Perpanjangan Kedua oleh Ketua Pengadilan Tinggi Medan Nomor **1957/Pen.Pid/2020/PT MDN** tertanggal 25 Agustus 2020, sejak tanggal 16 September 2020 sampai dengan tanggal 15 Oktober 2020;

## Terdakwa 2

Nama lengkap : **Pandapotan Rangkuti**;  
 Tempat lahir : Padang Laru;  
 Umur/tanggal lahir : 45 Tahun / 21 Mei 1975; Jenis Kelamin : Laki-laki;  
 Kebangsaan : Indonesia;  
 Tempat tinggal : Desa Padang Laru Kecamatan Panyabungan Timur Kabupaten Mandailing Natal.;  
 Agama : Islam;  
 Pekerjaan : Sopir;

Terdakwa ditangkap berdasarkan Surat Perintah Penangkapan Nomor **SP-Kap/03/I/2020/Resnarkoba** tanggal 8 Januari 2020, sejak tanggal 8 Januari 2020 sampai dengan tanggal 10 Januari 2020;

Surat Perintah Perpanjangan Penangkapan Nomor **SPP-Kap/03.A/I/2020/Resnarkoba** tanggal 11 Januari 2020, sejak tanggal 11 Januari 2020 sampai dengan tanggal 13 Januari 2020;

## Terdakwa Pandapotan Rangkuti ditahan dalam Tahanan Rutan oleh:

1. Penyidik Nomor **SP-Han/04/I/2020/Resnarkoba** tanggal 14 Januari 2020, sejak tanggal 14 Januari 2020 sampai dengan tanggal 02 Februari 2020;
2. Penyidik Perpanjangan Oleh Penuntut Umum Nomor **Print-04/L.2.15/Enz.1/01/2020** tanggal 28 Januari 2020, sejak tanggal 03 Februari 2020 sampai dengan tanggal 13 Maret 2020;

Halaman 2 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp

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3. Penyidik Perpanjangan Pertama Oleh Ketua Pengadilan Negeri Nomor **82/Pen.Pid/2020/PN Psp** tanggal **11 Maret 2020**, sejak tanggal 14 Maret 2020 sampai dengan tanggal 12 April 2020;
4. Penyidik Perpanjangan Kedua Oleh Ketua Pengadilan Negeri Nomor **132/Pen.Pid/2020/PN Psp** tanggal **19 Maret 2020**, sejak tanggal 13 April 2020 sampai dengan tanggal 12 Mei 2020;
5. Penuntut Nomor **Print-48/L.2.15/Enz.2/05/2020** tanggal 12 Mei 2020, sejak tanggal 12 Mei 2020 sampai dengan tanggal 31 Mei 2020;
6. Hakim Pengadilan Negeri Nomor **208/177/Pen.Pid/MH/2020/PN Psp** tanggal 19 Mei 2020, sejak tanggal 19 Mei 2020 sampai dengan tanggal 17 Juni 2020;
7. Perpanjangan Pertama Oleh Ketua Pengadilan Negeri Nomor **209/177/Pen.Pid/KPN/2020/PN Psp** tanggal 20 Mei 2020, sejak tanggal 18 Juni 2020 sampai dengan tanggal 16 Agustus 2020;
8. Perpanjangan oleh Ketua Pengadilan Tinggi Medan Nomor 1845/Pen.Pid/2020/PT MDN tertanggal 3 Agustus 2020, sejak tanggal 17 Agustus 2020 sampai dengan tanggal 15 September 2020;
9. Perpanjangan Kedua oleh Ketua Pengadilan Tinggi Medan Nomor 1958/Pen.Pid/2020/PT MDN tertanggal 25 Agustus 2020, sejak tanggal 16 September 2020 sampai dengan tanggal 15 Oktober 2020;

Para Terdakwa menerangkan dipersidangan didampingi oleh Penasihat Hukum, berdasarkan penunjukan Majelis Hakim yaitu **M. Sahor Bangun Ritonga, S.H., M.H., Advokat/Penasihat Hukum dari YLBH PK PERSADA Cabang Padangsidempuan pada Pusbakum Pengadilan Negeri Padangsidempuan**, berdasarkan penetapan Nomor **98/Pen.Pid/2020/PN Psp** tanggal **8 Juni 2020**;

## Pengadilan Negeri tersebut;

Setelah membaca:

- Penetapan Ketua Pengadilan Negeri Padangsidempuan Nomor 177/Pid.Sus/2020/PN Psp tanggal 19 Mei 2020, tentang penunjukan

Majelis Hakim;

- Penetapan Majelis Hakim Nomor 177/Pid.Sus/2020/PN Psp tanggal 19 Mei 2020, tentang penetapan hari sidang;
- Berkas perkara dan surat-surat lain yang bersangkutan;
- Ssetelah membaca dakwaa Penuntut Umum;

Setelah mendengar keterangan Saksi-Saksi dan Para Terdakwa serta

memperhatikan barang bukti yang diajukan di persidangan;

Setelah mendengar pembacaan tuntutan pidana yang diajukan oleh Penuntut Umum yang pada pokoknya sebagai berikut:

Halaman 3 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



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1. Menyatakan Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA dan Terdakwa 2. PANDAPOTAN RANGKUTI telah terbukti secara sah dan meyakinkan bersalah melakukan tindak pidana "**percobaan atau permufakatan jahat tanpa hak atau melawan hukum menerima Narkotika Golongan I dalam bentuk tanaman beratnya melebihi 1 (satu) kg**" sebagaimana diatur dan diancam pidana dalam pasal 114 ayat (2) Jo Pasal 132 ayat (1) Undang-Undang RI No. 35 tahun 2009 Tentang Narkotika sebagaimana dakwaan Kedua Penuntut Umum.
2. Menjatuhkan pidana terhadap Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA dan Terdakwa 2. PANDAPOTAN RANGKUTI **masing-masing pidana MATI.**
3. Menyatakan barang bukti berupa :
  - 241 (dua ratus empat puluh satu) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat dengan berat keseluruhan 250.000,-(dua ratus lima puluh ribu) gram, dimana sebanyak 249.500 (dua ratus empat puluh Sembilan ribu lima ratus) gram telah dimusnahkan oleh penyidik Polres Padangsidempuan sesuai dengan Surat Ketetapan tanggal 16 April 2020 Nomor : S.Tap/01/IV/2020/Psp tentang Pemusnahan Barang Bukti/ Benda Sitaan dan Surat Perintah Pemusnahan Benda Sitaan/Barang Bukti Nomor : SP.Sita/02/IV/2020/Resnarkoba tanggal April 2020 dan Berita Acara Pemusnahan Barang Bukti tertanggal 16 April 2020, sedangkan yang disisihkan seberat 500 (lima ratus) gram dikirim untuk pemeriksaan di Laboratorium Forensik Polri, dan dari hasil pemeriksaan Laboratorium Forensik sisanya seberat 500 (lima ratus) gram;
  - 8 (delapan) buah karung goni plastic warna putih garis biru merah;
  - 8 (delapan) lembar plastic warna biru;
  - 1 (satu) unit handphone merk Samsung warna coklat;

**Masing-masing dirampas untuk dimusnahkan.**

- 1 (satu) unit mobil truk hino warna putih B 9806 TYT

**Dirampas untuk negara**

4. Biaya perkara sebesar Rp. 5.000,- (lima ribu rupiah) dibebankan kepada Negara.

Setelah mendengar nota pembelaan Para Terdakwa melalui PenasihatHukum Para Terdakwa yang pada pokoknya bahwa berdasarkan pengakuan

Halaman 4 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp

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keterangan dari para Terdakwa tentunya kami menyampaikan hal dibawah ini Sebagai pertimbangan untuk memutus perkara ini :

1. Para terdakwa tidak berbelit-belit dan berlaku sopan di persidangan;

2. Bahwa terdakwa tidak mengulangi perbuatannya lagi;  
3. Bahwa para terdakwa tidak pernah dihukum sebelumnya/  
bukanlah residivis yang kerjanya keluar masuk penjara;

4. Bahwa tuntutan dari jaksa penuntut umum terlalu luar biasa pahitnya yaitu **Pidana Mati**, sehingga tidak lagi memandang Hak Asasi Manusia yaitu Hak Hidup Manusia, selain daripada itu kami masih berkeyakinan kita semua para penegak hukum masih memiliki keyakinan beragama bahwa yang menentukan ajal/kematian seseorang hanyalah Tuhan yang maha ESA, Semoga Kita Tidak mendahului TUHAN kita masing-Masing sehingga kita tidak membuka mata pada alasan pemaaf

dalam kasus ini;

5. Bahwa selain dari pada itu kedua terdakwa juga telah membongkar nama-nama para Intelektual kejahatan narkoba jenis ganja ini dipersidangan dan telah dinyatakan Daftar Pencarian Orang;

6. Bahwa secara pribadi para terdakwa telah menyampaiPkan kepada saya selaku kuasa hukumnya bahwa saudara Faisal (DPO) ialah petani Ganja Yang berada di panyabungan timur, hal ini kami pikir sangat membantu negara untuk pengungkapannya, dimana perkara selama ini perkara barang bukti yang kita sidangkan di pengadilan negeri padangsidimpuan selama ini apabila ditanyakan kebanyakan berasal dari

panyabungan;

7. Bahwa selain daripada itu mengingat pemberitaan di beberapa media eletronik atas temuan berhektar-hektar ladang ganja di panyabungan sampai saat ini belum terungkap siapa pemiliknya, seperti

alamat berita:

Kompas yang dimuat pada 12-06-2020, penemuan ladang ganja 8 hektar oleh BNN, TNI, POLISI dan MASYARAKAT

["https://regional.kompas.com/read/2020/06/12/18215751/ditemukan-8-hektar-ladang-ganja-mandailing-natal-nomor-2-penghasil-ganja](https://regional.kompas.com/read/2020/06/12/18215751/ditemukan-8-hektar-ladang-ganja-mandailing-natal-nomor-2-penghasil-ganja)

04 November 2019, penemuan ladang ganja 2 Hektar di torsiHITE oleh BNNK

<https://news.detik.com/berita/d-4771412/2-hektare-ladang-ganja- ditemukan-di-lembah-tor-sihite-sumut> dan

masih banyak lagi media yang menyoroti hal ini, sehingga sungguh naif apabila fakta persidangan dan informasi dari para terdakwa ini tidak ditelusuri oleh aparat penegakhukum, jaksa maupun masyarakat yang mengetahuinya;

Halaman 5 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



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bahwa jika para terdakwa dihukum mati, maka pengungkapan Petani petani Ganja Di madina akan berakhir, untuk itu semoga majelis hakim menjadikan hal ini alasan pemaaf untuk meringankan putusan dari tuntutan jaksa penuntut umum sehingga menjadi putusan pemidanaan ringan;

Untuk itu kami Memohon Majelis Hakim Pengadilan Negeri Padangsidempuan yang memeriksa dan mengadili perkara ini menjatuhkan putusan:

1. Para terdakwa Melanggar pidana pasal 115 ayat (2) Jo Pasal 132 ayat (1) UU RI No. 35 Tahun 2009 Tentang Narkotika. Yaitu **tanpa hak atau melawan hukum membawa, mengirim, mengangkut, atau mentransito Narkotika Golongan I dalam bentuk tanaman yang beratnya melebihi 1 (satu) kg atau melebihi 5 (lima) batang pohon**"pelaku dipidana dengan pidana penjara paling singkat 5 (lima) tahun dan paling lama 20 (dua puluh) tahun
2. Dari pasal tersebut kami memohon Agar Terdakwa diputus dengan Putusan yang ringan-ringannya dan seadil-adilnya;

atau

Ex aquo et Bono

Setelah mendengar tanggapan Penuntut Umum terhadap permohonan Para Terdakwa melalui Penasihat Hukum Para Terdakwa Penuntut Umum padapokoknya menyatakan tetap pada Tuntutan;

Menimbang, bahwa Para Terdakwa diajukan ke persidangan oleh Penuntut Umum didakwa berdasarkan surat dakwaan sebagai berikut:DAKWAAN

### Kesatu

Bahwa mereka Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA dan Terdakwa 2. PANDAPOTAN RANGKUTI pada hari Rabu tanggal 08 Januari 2020 sekira pukul 23.00 WIB atau setidak- tidaknya pada waktu lain dalam Bulan Januari Tahun 2020, atau setidak-tidaknya pada suatu waktu dalam Tahun 2020, bertempat di Lapangan I Tor Simarsayang Kelurahan Bonan Dolok Kecamatan Padangsidempuan Utara Kota Padangsidempuan, disuatu tempat yang masih termasuk dalam daerah hukum Pengadilan Negeri Padangsidempuan yang berwenang memeriksa dan mengadili perkaranya, **"percobaan atau pemufakatan jahat tanpa hak atau melawan hukum membawa, mengirim, mengangkut, atau mentransito Narkotika Golongan I dalam bentuk tanaman yang beratnya melebihi 1 (satu) kg atau melebihi 5**

Halaman 6 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



## Direktori Putusan Mahkamah Agung Republik Indonesia

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**(lima) batang pohon**" perbuatan tersebut dilakukan para Terdakwa dengancara sebagai berikut:

Bahwa awalnya pada hari Selasa tanggal 07 Januari 2020 sekira pukul 12.00 WIB Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA dan FAISAL (DPO) sepakat agar Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA mengangkut narkotika jenis ganja kearah Padangsidimpuan dengan perjanjian bila ganja sudah diantar Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA akan diberikan upah sebesar Rp. 10.000.000,-(sepuluh juta rupiah), dan saat itu FAISAL mengatakan kepada Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA bahwa mobil yang akan mengangkut ganja tersebut sudah tersedia. Selanjutnya pada hari Rabu tanggal 08 Januari 2020 sekira pukul 10.00 WIB Terdakwa 2. PANDAPOTAN RANGKUTI bertemu dengan ADEK (DPO), dan antara Terdakwa 2. PANDAPOTAN RANGKUTI dan ADEK (DPO) sepakat agarTerdakwa 2. PANDAPOTAN RANGKUTI sebagai sopir dump truck yang akan mengangkut ganja kearah Padangsidimpuan bersama Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA, dengan perjanjian apabila ganja tersebut telah berhasil diantar maka ADEK (DPO) akan memberikan upah sebesar Rp. 20.000.000,-(dua puluh juta rupiah) kepada Terdakwa 2. PANDAPOTAN RANGKUTI. Kemudian sore harinya sekira pukul 17.00 WIB Terdakwa 2. PANDAPOTAN RANGKUTI bertemu dengan ADEK (DPO) dan saat itu ADEK (DPO) menyerahkan1 (satu) unit mobil dump truck Hino B 9806 TYT yang akan digunakan untuk membawa ganja tersebut,yang mana Terdakwa 2. PANDAPOTAN RANGKUTI sebagai supir. Kemudian sekira pukul 18.00 WIB Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA bersama dengan Terdakwa 2. PANDAPOTAN RANGKUTI berangkat dari Panyabungan Kabupaten Mandailing Natal menuju arah Kota Padangsidimpuan dengan membawa 1 (satu) unit mobil dump truck Hino B 9806 TYT yang berisikan 8 (delapan) buah karung goni plastic yang berisi 241 (dua ratus empat puluh satu) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat. Selanjutnya saat para Terdakwa melintas didaerah Sihitang Kota Padangsidimpuan tiba-tiba Saksi FADLI ARISANDI bersama rekan-rekannya anggota polisi Polres Padangsidimpuan yang sebelumnya mendapat informasi dari masyarakat bahwa ada 1 (satu) unit mobil dump truck Hino B 9806 TYT sedang mengangkut ganja akan memasuki Kota Padangsidimpuan melihat 1 (satu) unit mobil dump truck Hino B 9806 TYT sebagai mana yang di informasikan dan kemudian langsung melakukan pengejaran, hingga akhirnya Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA dan Terdakwa 2.

Halaman 7 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



## Direktori Putusan Mahkamah Agung Republik Indonesia

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PANDAPOTAN RANGKUTI berhasil ditangkap di Lapangan I Tor Simarsayang Kelurahan Bonan Dolok Kecamatan Padangsidempuan Utara Kota Padangsidempuan serta barang bukti 1 (satu) unit mobil dump truck Hino B 9806TYT berisikan 8 (delapan) buah karung goni plastic yang berisi seluruhnya 241 (dua ratus empat puluh satu) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat, selanjutnya para Terdakwa dan barang bukti dibawa ke Polres Padangsidempuan untuk diproses sesuai hukum yang berlaku.

Berdasarkan Hasil pemeriksaan Laboratorium Forensik Cab. Medan No. Lab : 399/NNF/2020 tanggal 21 Januari 2020, yang ditanda tangani oleh DEBORA M. HUTAGAOL, S.Si,Apt dan SUPIYANI, S.Si, M.Si Pemeriksa pada Labfor Bareskrim Cabang Medan telah melakukan analisis secara kimia terhadap barang bukti milik Terdakwa atas nama ADI SAPUTRA NASUTION Alias BOJA dan PANDAPOTAN RANGKUTI adalah benar positif ganja dan terdaftar dalam Golongan I (satu) Nomor Urut 8 lampiran I Undang Undang Republik Indonesia No. 35 tahun 2009 Tentang Narkotika.

Bahwa berdasarkan Hasil Penimbangan Barang Bukti dari PT. Pegadaian(Persero) Cabang Padangsidempuan Nomor: 66/JL.10061/2020 tanggal 09 Januari 2020, yang mana barang bukti 241 (dua ratus empat puluh satu) paket yang dibalut dengan lakban warna coklat berisi narkotika golongan I jenis ganjadengan berat keseluruhan 250.000 (dua ratus lima puluh ribu) gram.

Bahwa perbuatan para Terdakwa membawa, mengirim, mengangkut, atau mentransito Narkotika Golongan I dalam bentuk tanaman yang beratnya melebihi 1 (satu) kg atau melebihi 5 (lima) batang pohon dilakukannya dengan tidak ada izin dari pemerintah RI yang berwenang untuk itu.

**Perbuatan para Terdakwa sebagaimana diatur dan diancam dalam pasal 115 ayat (2) Jo Pasal 132 ayat (1) UU RI No. 35 Tahun 2009 Tentang Narkotika.**

### **Atau Kedua**

Bahwa mereka Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA dan Terdakwa 2. PANDAPOTAN RANGKUTI pada hari Rabu tanggal 08 Januari 2020 sekira pukul 23.00 WIB atau setidak- tidaknya pada waktu lain dalam Bulan Januari Tahun 2020, atau setidak-tidaknya pada suatu waktu dalam Tahun 2020, bertempat di Lapangan I Tor Simarsayang Kelurahan Bonan Dolok Kecamatan Padangsidempuan Utara Kota Padangsidempuan, disuatu tempat yang masih termasuk dalam daerah hukum Pengadilan Negeri Padangsidempuan yang berwenang memeriksa dan mengadili perkaranya,

*Halaman 8 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp*



## Direktori Putusan Mahkamah Agung Republik Indonesia

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***“percobaan atau pemufakatan jahat tanpa hak atau melawan hukum menawarkan untuk dijual, menjual, membeli, menerima, menjadi perantara dalam jual beli menukar atau menyerahkan Narkotika Golongan I, beratnya melebihi 1 (satu) Kg atau melebihi 5 (lima) batang pohon”*** perbuatan tersebut dilakukan para

Terdakwa dengan cara sebagai berikut :

Bahwa awalnya pada hari Selasa tanggal 07 Januari 2020 sekira pukul 12.00 WIB Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA dan FAISAL (DPO) sepakat agar Terdakwa 1.

ADI SAPUTRA NASUTION Alias BOJA mengangkut narkotika jenis ganja kearah Padangsidimpuan dengan perjanjian bila ganja sudah diantar Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA akan diberikan upah sebesar Rp. 10.000.000,-(sepuluh juta rupiah), dan saat itu FAISAL mengatakan kepada Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA bahwa mobil yang akan mengangkut ganja tersebut sudah tersedia.

Selanjutnya pada hari Rabu tanggal 08 Januari 2020 sekira pukul 10.00 WIB Terdakwa 2. PANDAPOTAN RANGKUTI bertemu dengan ADEK (DPO), dan antara Terdakwa 2. PANDAPOTAN RANGKUTI dan ADEK (DPO) sepakat agar Terdakwa 2. PANDAPOTAN RANGKUTI sebagai sopir dump truck yang akan mengangkut ganja kearah Padangsidimpuan bersama Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA, dengan perjanjian apabila ganja tersebut telah berhasil diantar maka ADEK (DPO) akan memberikan upah sebesar Rp. 20.000.000,-(dua puluh juta rupiah) kepada Terdakwa 2. PANDAPOTAN RANGKUTI. Kemudian sore harinya sekira pukul 17.00 WIB Terdakwa 2. PANDAPOTAN RANGKUTI bertemu dengan ADEK (DPO) dan saat itu ADEK (DPO) menyerahkan 1 (satu) unit mobil dump truck Hino B 9806 TYT yang akan digunakan untuk membawa ganja tersebut, yang mana Terdakwa 2. PANDAPOTAN RANGKUTI sebagai supir. Kemudian sekira pukul 18.00 WIB Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA bersama dengan Terdakwa

2. PANDAPOTAN RANGKUTI berangkat dari Panyabungan Kabupaten Mandailing Natal menuju arah Kota Padangsidimpuan dengan membawa 1 (satu) unit mobil dump truck Hino B 9806 TYT yang berisikan 8 (delapan) buah karung goni plastic yang berisi 241 (dua ratus empat puluh satu) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat. Selanjutnya saat para Terdakwa melintas didaerah Sihitang Kota Padangsidimpuan tiba-tiba Saksi FADLI ARISANDI bersama rekan-rekannya anggota polisi Polres Padangsidimpuan yang sebelumnya mendapat informasi dari masyarakat bahwa ada 1 (satu) unit mobil dump truck Hino B 9806 TYT sedang mengangkut ganja akan memasuki Kota Padangsidimpuan melihat 1

Halaman 9 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



## Direktori Putusan Mahkamah Agung Republik Indonesia

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(satu) unit mobil dump truck Hino B 9806 TYT sebagai mana yang di informasikan dan kemudian langsung melakukan pengejaran, hingga akhirnya Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA dan Terdakwa 2. PANDAPOTAN RANGKUTI berhasil ditangkap di Lapangan I Tor Simarsayang Kelurahan Bonan Dolok Kecamatan Padangsidempuan Utara Kota Padangsidempuan serta barang bukti 1 (satu) unit mobil dump truck Hino B 9806TYT berisikan 8 (delapan) buah karung goni plastic yang berisi seluruhnya 241 (dua ratus empat puluh satu) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat, selanjutnya para Terdakwa dan barang bukti dibawa ke Polres Padangsidempuan untuk diproses sesuai hukum yang berlaku.

Berdasarkan Hasil pemeriksaan Laboratorium Forensik Cab. Medan No. Lab : 399/NNF/2020 tanggal 21 Januari 2020, yang ditanda tangani oleh DEBORA M. HUTAGAOL, S.Si,Apt dan SUPIYANI, S.Si, M.Si Pemeriksa pada Labfor Bareskrim Cabang Medan telah melakukan analisis secara kimia terhadap barang bukti milik Terdakwa atas nama ADI SAPUTRA NASUTION Alias BOJA dan PANDAPOTAN RANGKUTI adalah benar positif ganja dan terdaftar dalam Golongan I (satu) Nomor Urut 8 lampiran I Undang Undang Republik Indonesia No. 35 tahun 2009 Tentang Narkotika.

Bahwa berdasarkan Hasil Penimbangan Barang Bukti dari PT. Pegadaian(Persero) Cabang Padangsidempuan Nomor: 66/JL.10061/2020 tanggal 09 Januari 2020, yang mana barang bukti 241 (dua ratus empat puluh satu) paket yang dibalut dengan lakban warna coklat berisi narkotika golongan I jenis ganja

dengan berat keseluruhan 250.000 (dua ratus lima puluh ribu) gram.

Bahwa perbuatan para Terdakwa menawarkan untuk dijual, menjual, membeli, menerima, menjadi perantara dalam jual beli menukar atau menyerahkan Narkotika Golongan I beratnya melebihi 1 (satu) Kg atau melebihi 5 (lima) batang pohon dilakukan para Terdakwa dengan tidak ada izin dari pemerintah RI yang berwenang untuk itu.

**Perbuatan para Terdakwa sebagaimana diatur dan diancam dalam pasal 114 ayat (2) Jo Pasal 132 ayat**

**(1) UU RI No. 35 Tahun 2009 Tentang Narkotika .**

### Atau Ketiga

Bahwa mereka Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA dan Terdakwa 2. PANDAPOTAN RANGKUTI pada hari Rabu tanggal 08 Januari 2020 sekira pukul 23.00 WIBatau setidaknya tidaknya pada waktu lain dalam

*Halaman 10 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp*



## Direktori Putusan Mahkamah Agung Republik Indonesia

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Bulan Januari Tahun 2020, atau setidaknya-tidaknya pada suatu waktu dalam Tahun 2020, bertempat di Lapangan I Tor Simarsayang Kelurahan Bonan DolokKecamatan Padangsidimpuan Utara Kota Padangsidimpuan, disuatu tempat yang masih termasuk dalam daerah hukum Pengadilan Negeri Padangsidimpuan yang berwenang memeriksa dan mengadili perkaranya, ” **percobaan atau pemufakatan jahat tanpa hak atau melawan hukum menanam, memelihara, memiliki, menyimpan, menguasai, atau menyediakan Narkotika Golongan I dalam bentuk tanaman yang beratnya melebihi 1 (satu) kg atau melebihi 5 (lima) batang pohon**” perbuatan tersebut dilakukan para Terdakwa dengan cara sebagai berikut :

Bahwa pada waktu dan tempat seperti tersebut diatas, berawal dari Saksi FADLI ARISANDI bersama rekan-rekannya anggota polisi Polres Padangsidimpuan mendapat informasi dari masyarakat bahwa ada 1 (satu) unit mobil dump truck sedang membawa ganja datang dari arah Kabupaten Mandailing Natal menuju arah Kota Padangsidimpuan, kemudian Saksi FADLI ARISANDI bersama rekan-rekannya melakukan penyelidikan dan saat berada di daerah Sihitang Kota Padangsidimpuan Saksi FADLI ARISANDI bersama rekan-rekannya melihat 1 (satu) unit mobil dump truck Hino B 9806 TYT sebagai mana yang di informasikan dan kemudian langsung melakukan pengejaran, hingga akhirnya Terdakwa 1. ADI SAPUTRA NASUTION Alias BOJA dan Terdakwa 2. PANDAPOTAN RANGKUTI berhasil ditangkap di Lapangan I Tor Simarsayang Kelurahan Bonan Dolok Kecamatan Padangsidimpuan Utara Kota Padangsidimpuan serta barang bukti 1 (satu) unit mobil dump truck Hino B 9806 TYT berisikan 8 (delapan) buah karung goni plastic yang berisi seluruhnya 241 (dua ratus empat puluh satu) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat, selanjutnyapara Terdakwa dan barang bukti dibawa ke Polres Padangsidimpuan untuk diproses sesuai hukum yang berlaku;

Berdasarkan Hasil pemeriksaan Laboratorium Forensik Cab. Medan No. Lab : 399/NNF/2020 tanggal 21 Januari 2020, yang ditanda tangani oleh DEBORA M. HUTAGAOL, S.Si,Apt dan SUPIYANI, S.Si, M.Si Pemeriksa pada Labfor Bareskrim Cabang Medan telah melakukan analisis secara kimia terhadap barang bukti milik Terdakwa atas nama ADI SAPUTRA NASUTION Alias BOJA dan PANDAPOTAN RANGKUTI adalah benar positif ganja dan terdaftar dalam Golongan I (satu) Nomor Urut 8 lampiran I Undang Undang Republik Indonesia No. 35 tahun 2009 Tentang Narkotika.

Halaman 11 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



# Direktori Putusan Mahkamah Agung Republik Indonesia

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Bahwa berdasarkan Hasil Penimbangan Barang Bukti dari PT Pegadaian (Persero) Cabang Padangsidimpuan Nomor: 66/JL-10061/2020 tanggal 09

Januari 2020, yang mana barang bukti 241 (dua ratus empat puluh satu) paket yang dibalut dengan lakban warna coklat berisi narkotika golongan I jenis ganja dengan berat keseluruhan 250.000 (dua ratus lima puluh ribu) gram.

Bahwa perbuatan para Terdakwa menanam, memelihara, memiliki, menyimpan, menguasai, atau menyediakan Narkotika Golongan I dalam bentuk tanaman yang beratnya melebihi 1 (satu) kg atau melebihi 5 (lima) batang pohon dilakukan para Terdakwa dengan tidak ada izin dari pemerintah RI yang berwenang untuk itu.

## **Perbuatan para Terdakwa sebagaimana diatur dan diancam dalam pasal 111 ayat (2) Jo Pasal 132 ayat (1) UU RI No. 35 Tahun 2009 Tentang Narkotika.**

Menimbang, bahwa atas dakwaan Penuntut Umum tersebut, Para Terdakwa menyatakan telah mengerti dan selanjutnya Para Terdakwa menyatakan tidak mengajukan Keberatan (*Eksepsi*);

Menimbang, bahwa untuk membuktikan dakwaannya Penuntut Umum telah mengajukan Saksi-Saksi sebagai berikut:

1. **Dedi Saputra Waruhu** berjanji dipersidangan memberikan keterangan yang pada pokoknya sebagai berikut;

- Bahwa Saksi dalam keadaan sehat jasmani dan rohani;
- Bahwa Saksi mengetahui apa penyebab Saksi diajukan keruang persidangan yaitu sehubungan dengan penangkapan yang dilakukan oleh Saksi bersama dengan rekan-rekan Saksi terhadap Para Terdakwa karena

terkait tindak pidana Narkotika;

- Bahwa Saksi bersama dengan rekan-rekan Saksi melakukan penangkapan terhadap Para Terdakwa pada hari Rabu tanggal 8 Januari 2020 sekira pukul

23.00 WIB di Lapangan I Torsinarsayang Kelurahan Bonan Dolok Kecamatan

Padangsidimpuan Utara Kota Padangsidimpuan;

- Bahwa pada saat penangkapan dari para Terdakwa berhasil disita barang bukti berupa 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat, 8 (*delapan*) buah karung goni plastic warna putih garis biru merah, 8 (*delapan*) lembar plastic warna biru, 1 (*satu*) unit mobil truk hino warna

putih B 9806 TYT, 1 (satu) unit handphone merk Samsung warna coklat;

- Bahwa barang bukti 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih

Halaman 12 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp





## Direktori Putusan Mahkamah Agung Republik Indonesia

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garis biru merah diterima oleh Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti di Gunung Baringin Kecamatan panyabungun Timur Kabupaten Mandailing Natal dan rencananya para Terdakwa akan menyerahkan ganja tersebut kepada seseorang teman dari Faisal (DPO) dan Adek (DPO) yang berada di Sipirok Kabupaten Tapanuli Selatan namun ditengah perjalanan yaitu di Padangsidimpuan Saksi dan rekan-rekannya (anggota Polisi Polres Padangsidimpuan) menangkap Para Terdakwa;

- Bahwa Para Terdakwa akan menyerahkan ganja tersebut kepada seseorang namun namanya tidak diketahui oleh para Terdakwa di Sipirok Kabupaten Tapanuli Selatan;
- Bahwa adapun kronologis penangkapan yang dilakukan oleh Saksi dan rekan Saksi (anggota Polisi Polres Padangsidimpuan) berawal setelah mendapat informasi dari masyarakat tentang adanya 1 (*satu*) unit mobil truck yang mengangkut narkotika golongan I jenis ganja yang datang dari Kabupaten Mandailing Natal dan menuju ke Sipirok Kabupaten Tapanuli Selatan, selanjutnya dilakukan penyelidikan yang didampingi langsung oleh Kapolres Padangsidimpuan kemudian Saksi dan rekan-rekan Saksi (anggota Polisi Polres Padangsidimpuan) melihat 1 (*satu*) unit mobil truk Hino warna putih B 9806 TYT sedang melintas sesuai dengan yang diinformasikan sebelumnya, kemudian Saksi dan rekan-rekan Saksi (anggota Polisi Polres Padangsidimpuan) melakukan pengejaran hingga akhirnya Saksi dan rekan-rekan (anggota Polisi Polres Padangsidimpuan) menghentikan mobil truk Hino warna putih nomor Polisi B 9806 TYT yang dikendarai oleh para Terdakwa tersebut dan kemudian melakukan penangkapan terhadap Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti serta mengamankan barang bukti berupa 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah, 1 (*satu*) unit handphone merk Samsung warna coklat dan 1 (*satu*) unit mobil truk Hino warna putih B 9806 TYT, setelah para Terdakwa dan barang bukti diamankan selanjutnya dibawa ke Polres Padangsidimpuan untuk diproses

sesuai hukum yang berlaku;

- Bahwa pada saat penangkapan pada saat itu yang membawa mobil (Supirnya) adalah Terdakwa 2 Pandapotan Rangkuti sedangkan Terdakwa 1 Adi Saputra Nasution alias Boja berada didalam truk;

Halaman 13 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



## Direktori Putusan Mahkamah Agung Republik Indonesia

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Terhadap keterangan Saksi tersebut, Para Terdakwa memberikan pendapat bahwa keterangan Saksi

tersebut adalah benar;

2. **Libert Arnol Aritonang** berjanji dipersidangan memberikan keterangan yang pada pokoknya sebagai berikut;

- Bahwa Saksi dalam keadaan sehat jasmani dan rohani;
- Bahwa Saksi mengetahui apa penyebab Saksi diajukan keruang persidangan yaitu sehubungan dengan penangkapan yang dilakukan oleh Saksi bersama dengan rekan-rekan Saksi terhadap Para Terdakwa karena

terkait tindak pidana Narkotika;

- Bahwa Saksi bersama dengan rekan-rekan Saksi melakukan penangkapan terhadap Para Terdakwa pada hari Rabu tanggal 8 Januari 2020 sekira pukul

23.00 WIB di Lapangan I Torsimarsayang Kelurahan Bonan Dolok Kecamatan

Padangsidempuan Utara Kota Padangsidempuan;

- Bahwa pada saat penangkapan dari para Terdakwa berhasil disita barang bukti berupa 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat, 8 (*delapan*) buah karung goni plastic warna putih garis biru merah, 8 (*delapan*) lembar plastic warna biru, 1 (*satu*) unit mobil truk hino warna

putih B 9806 TYT, 1 (*satu*) unit handphone merk Samsung warna coklat;

- Bahwa barang bukti 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah diterima oleh Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti di Gunung Baringin Kecamatan panyabungan Timur Kabupaten Mandailing Natal dan rencananya para Terdakwa akan menyerahkan ganja tersebut kepada seseorang teman dari Faisal (DPO) dan Adek (DPO) yang berada di Sipirok Kabupaten Tapanuli Selatan namun ditengah perjalanan yaitu di Padangsidempuan Saksi dan rekan-rekannya (anggota Polisi Polres Padangsidempuan) menangkap

Para Terdakwa;

- Bahwa Para Terdakwa akan menyerahkan ganja tersebut kepada seseorang namun namanya tidak diketahui oleh para Terdakwa di Sipirok Kabupaten Tapanuli Selatan;
- Bahwa adapun kronologis penangkapan yang dilakukan oleh Saksi dan rekan Saksi (anggota Polisi Polres Padangsidempuan) berawal setelah mendapat informasi dari masyarakat tentang adanya 1 (*satu*) unit mobil truck yang mengangkut narkotika golongan I jenis ganja yang datang dari Kabupaten Mandailing Natal dan menuju ke Sipirok Kabupaten Tapanuli

Halaman 14 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



# Direktori Putusan Mahkamah Agung Republik Indonesia

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Selatan, selanjutnya dilakukan penyelidikan yang didampingi langsung oleh Kapolres Padangsidempuan kemudian Saksi dan rekan-rekan Saksi (anggota Polisi Polres Padangsidempuan) melihat 1 (*satu*) unit mobil truk Hino warna putih B 9806 TYT sedang melintas sesuai dengan yang diinformasikan sebelumnya, kemudian Saksi dan rekan-rekan Saksi (anggota Polisi Polres Padangsidempuan) melakukan pengejaran hingga akhirnya Saksi dan rekan-rekan (anggota Polisi Polres Padangsidempuan) menghentikan mobil truk Hino warna putih nomor Polisi B 9806 TYT yang dikendarai oleh para Terdakwa tersebut dan kemudian melakukan penangkapan terhadap Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti serta mengamankan barang bukti berupa 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah, 1 (*satu*) unit handphone merk Samsung warna coklat dan 1 (*satu*) unit mobil truk Hino warna putih B 9806 TYT, setelah para Terdakwa dan barang bukti diamankan selanjutnya dibawa ke Polres Padangsidempuan untuk diproses sesuai hukum yang berlaku;

- Bahwa pada saat penangkapan pada saat itu yang membawa mobil (Supirnya) adalah Terdakwa 2 Pandapotan Rangkuti sedangkan Terdakwa 1 Adi Saputra Nasution alias Boja berada didalam truk;

**Terhadap keterangan Saksi tersebut, Para Terdakwa memberikan pendapat bahwa keterangan Saksi tersebut adalah benar;**

**3. Saksi Fitri Heriani**, dibawah sumpah dipersidangan, pada pokoknya menerangkan sebagai berikut:

- Bahwa Saksi dalam keadaan sehat jasmani dan rohani serta bersedia memberikan keterangan dipersidangan;
- Bahwa Saksi pernah diperiksa oleh Penyidik Polres Padangsidempuan dan membenarkan semua keterangannya dalam berita acara pemeriksaan;
- Bahwa Para Terdakwa ditangkap oleh anggota Kepolisian Polres Kota Padangsidempuan pada hari Rabu tanggal 08 Januari 2020 sekira pukul

23.00 WIB di Lapangan I Tor Simarsayang Kelurahan Bonan Dolok Kecamatan Padangsidempuan Utara Kota Padangsidempuan Polisi menangkap Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti karena mengangkut ganja;

Halaman 15 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



## Direktori Putusan Mahkamah Agung Republik Indonesia

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- Bahwa alat yang dipergunakan para Terdakwa saat melakukan perbuatan tersebut adalah 1 (*satu*) unit mobil dump truck hino warna putih B 9806 TYT;
- Bahwa adapun pemilik 1 (*satu*) unit mobil dump truck hino warna putih B 9806 TYT adalah suami Saksi Eddi Nerwin Hasibuan (alm) kemudian sekira bulan Desember 2019 anak Saksi membawa membawa seseorang dengan panggilan Ateng meminta izin kepada Saksi untuk mengoperasikan mobil dump truck Hino B 9806 TYT tersebut dan pada saat itu Saksi berpesan kepada Anak Saksi supaya yang bernama Ateng tersebut menjaga mobil dump truck tersebut dengan sebaik-baiknya;
- Bahwa Saksi mengetahui adanya peristiwa tindak pidana narkotika jenis ganja setelah Ateng memberitahukan kepada Saksi bahwa mobil dump truck Hino warna putih B 9806 TYT telah ditangkap polisi karena membawa ganja selanjutnya Saksi menanyakan apakah sebabnya mobil tersebut bisa digunakan membawa ganja lalu tertangkap dan kapan Saksi menyuruhnya untuk menggunakan mobil dump truck tersebut mengangkut ganja kemudian Ateng memberitahukan bahwa bukan Ateng yang menggunakan mobil dump truck tersebut untuk membawa ganja melainkan adalah teman akrabnya yang bernama Adek yang beralamat Desa Padang Laru Kecamatan Panyabungan Timur Kabupaten Mandailing Natal yang mana 2 (*dua*) hari sebelumnya Adek meminjam 1 (*satu*) unit mobil dump truck Hino warna putih B 9806 TYT kepada Ateng untuk melangsir kayu bulat;
- Bahwa Saksi tidak ada menerima upah dari para Terdakwa karena 1 (*satu*) unit mobil dump truck Hino warna putih B 9806 TYT dipergunakan para Terdakwa untuk mengangkut Narkotika golongan I jenis ganja;
- Bahwa para Terdakwa dan Ateng maupun Adek tidak pernah meminta izin kepada Saksi untuk menggunakan 1 (*satu*) unit mobil dump truck Hino warna putih B 9806 TYT mengangkut ganja;

**Terhadap keterangan Saksi tersebut, Para Terdakwa memberikan pendapat bahwa keterangan Saksi tersebut tidak diketahui, karena Para Terdakwa tidak kenal dengan Saksi;**

Menimbang, bahwa Terdakwa 1 **Adi Saputra Nasution alias Boja** di persidangan telah memberikan keterangan yang pada pokoknya sebagai berikut:

- Bahwa Terdakwa dalam keadaan sehat jasmani dan rohani serta bersedia memberikan keterangan dipersidangan.

Halaman 16 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



## Direktori Putusan Mahkamah Agung Republik Indonesia

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- Bahwa Terdakwa pernah diperiksa oleh Penyidik Polres Padangsidempuan dan membenarkan semua keterangannya dalam berita acara pemeriksaan;

- Bahwa Terdakwa dan Terdakwa 2 Pandapotan Rangkuti ditangkap oleh anggota Polisi dari Polres Padangsidempuan pada hari Rabu tanggal 08 Januari 2020 sekira pukul 23.00 WIB di Lapangan I Tor Simarsayang Kelurahan Bonan Dolok Kecamatan Padangsidempuan Utara Kota Padangsidempuan;

- Bahwa pada saat penangkapan dari Terdakwa dan Terdakwa 2 Pandapotan Rangkuti disita barang bukti berupa 241 (*dua ratus empat puluh satu*) paket narkoba golongan I jenis ganja yang dibungkus dengan lakban warna coklat, 8 (*delapan*) buah karung goni plastic warna putih garis biru merah, 8 (*delapan*) lembar plastic warna biru, 1 (*satu*) unit mobil truk hino warna putih B 9806 TYT, 1 (*satu*) unit handphone merk Samsung

warna coklat;

- Bahwa Terdakwa dan Terdakwa 2 Pandapotan Rangkuti ditangkap oleh anggota polisi setelah Terdakwa dan Terdakwa 2 Pandapotan Rangkuti menerima 241 (*dua ratus empat puluh satu*) paket narkoba golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah dengan menggunakan 1 (*satu*) unit mobil truk hino warna putih B 9806 TYT dari Faisal (DPO) dan Adek (DPO) di Panyabungan Kabupaten Mandailing Natal untuk diserahkan kepada seseorang teman dari Faisal (DPO) di

Sipirok Kabupaten Tapanuli Selatan;

- Bahwa Terdakwa dan Terdakwa 2 Pandapotan Rangkuti mengangkut 241 (*dua ratus empat puluh satu*) paket narkoba golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah dari Gunung Baringin Kecamatan panyabungan Timur Kabupaten Mandailing Natal dan rencananya akan menyerahkan ganja tersebut kepada seseorang yang Terdakwa tidak tahu identitasnya yaitu teman dari Faisal (DPO) di Sipirok Kabupaten Tapanuli Selatan namun ketika melintas di

Padangsidempuan sudah tertangkap;

- Bahwa adapun pemilik 241 (*dua ratus empat puluh satu*) paket narkoba golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru

Halaman 17 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp

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seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah tersebut seluruhnya adalah milik Faisal (DPO) kemudian Terdakwa dan Terdakwa 2 Pandapotan Rangkuti sepakat untuk menyerahkan ganja tersebut kepada seseorang teman dari Faisal (DPO) yang berada di Sipirok Kabupaten Tapanuli Selatan;

- Bahwa adapun penyebab Terdakwa mau membawa Narkotika tersebut berawal pada hari Selasa tanggal 07 Januari 2020 sekira pukul 12.00 WIB Terdakwa mendapat telephone dari Faisal (DPO) dan menanyakan kepada Terdakwa apakah Terdakwa bersedia mengantar dan menyerahkan ganja ke Sipirok yang nantinya disana Terdakwa menyerahkan kepada seseorang dan akan ditunjukkan alamat bongkarnya, kemudian Faisal (DPO) juga mengatakan kepada Terdakwa akan memberikan kepada Terdakwa upah sejumlah Rp10.000.000,00 (*sepuluh juta rupiah*) apabila ganja sudah terjual, dan Terdakwa bersedia;

- Bahwa kemudian Pada hari Rabu tanggal 08 Januari 2020 sekira pukul 18.00 WIB Terdakwa bertemu dengan Terdakwa 2 Pandapotan Rangkuti di Panyabungan yang merupakan supir dari mobil truk yang akan membawa ganja tersebut sehingga Terdakwa dan Terdakwa 2 Pandapotan Rangkuti berangkat ke Simpang Pagur Kecamatan Panyabungan Timur untuk menjemput ganja tersebut, dan setelah sampai di Simpang Pagur Kabupaten Mandailing Natal ternyata sudah ada orang yang akan memasukkan ganja kedalam mobil, selanjutnya setelah ganja diterima barulah Terdakwa dan Terdakwa 2 Pandapotan Rangkuti berangkat, dan menurut pemberitahuan Faisal (DPO) bahwa dia berada di depan mobil truk tersebut menggunakan sepeda motor dan Terdakwa dan Terdakwa 2 Pandapotan Rangkuti tinggal mengikuti saja, namun saat dalam perjalanan Terdakwa dan Terdakwa 2 Pandapotan Rangkuti tidak ada melihat Faisal dan hanya komunikasi melalui handphone saja. Selanjutnya sewaktu dalam perjalanan yaitu memasuki Kota Padangsidempuan ternyata ada yang mengikuti Terdakwa dan Terdakwa 2 Pandapotan Rangkuti hingga akhirnya ketika di Lapangan I Tor Simarsayang Kelurahan Bonan Dolok Kecamatan Padangsidempuan Utara Kota Padangsidempuan Terdakwa dan Terdakwa 2 Pandapotan Rangkuti dihentikan yang ternyata mereka adalah Polisi, selanjutnya Terdakwa dan Terdakwa 2 Pandapotan Rangkuti ditangkap dan kemudian Terdakwa dan Terdakwa 2 Pandapotan Rangkuti serta barang bukti dibawa ke Polres Padangsidempuan dan diproses hukum;

Halaman 18 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp

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- Bahwa Terdakwa belum ada menerima upah dari Faisal (DPO) maupun Adek (DPO) karena sesuai kesepakatan bahwa upah akan Terdakwaterima setelah ganja diserahkan dan terjual;

- Bahwa Terdakwa tidak ada ijin dari pemerintah yang berwenang untuk melakukan perbuatan menerima, menyerahkan dan menjadi perantara

dalam jual beli narkotika golongan I jenis ganja tersebut;

- Bahwa Terdakwa membenarkan barang bukti yang diajukan di Persidangan;

Menimbang, bahwa Terdakwa 2 **Pandapotan Rangkuti** di persidangantelah memberikan keterangan yang pada pokoknya sebagai berikut:

- Bahwa Terdakwa dalam keadaan sehat jasmani dan rohani serta bersedia memberikan keterangan dipersidangan.

- Bahwa Terdakwa pernah diperiksa oleh Penyidik Polres Padangsidempuan dan membenarkan semua keterangannya dalam berita acara pemeriksaan;

- Bahwa Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja ditangkap oleh anggota Polisi Polres Padangsidempuan pada hari Rabu tanggal 08 Januari 2020 sekira pukul 23.00 WIB di Lapangan I Tor Simarsayang Kelurahan Bonan Dolok Kecamatan Padangsidempuan Utara

Kota Padangsidempuan;

- Bahwa pada saat penangkapan dari Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja telah ditemukan barang bukti berupa 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat, 8 (*delapan*) buah karung goni plastic warna putih garis biru merah, 8 (*delapan*) lembar plastic warna biru,

1 (*satu*) unit mobil truk hino warna putih B 9806 TYT, 1 (*satu*) unit handhone merk Samsung warna coklat;

- Bahwa Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja ditangkap oleh anggota Polisi setelah Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja menerima 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah dari Faisal (DPO) dan Adek (DPO) dan akan diserahkan kepada seseorang teman dari Faisal (DPO) di Sipirok

Kabupaten Tapanuli Selatan;

- Bahwa Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja menerima 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi

Halaman 19 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp

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dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah dari Faisal (DPO) dan Adek (DPO) di Gunung Baringin Kecamatan Panyabungan Timur Kabupaten Mandailing Natal dan akan diserahkan kepada seseorang yang Terdakwa tidak tahu identitasnya yaitu teman dari Faisal (DPO) di Sipirok Kabupaten Tapanuli Selatan namun ditengah perjalanan yaitu di Kota Padangsidempuan sudah tertangkap.

- Bahwa adapun pemilik 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah tersebut seluruhnya adalah Faisal (DPO) kemudian Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja sepakat untuk menerima dan menyerahkan ganja tersebut kepada teman dari Faisal (DPO) yang berada di Sipirok Kabupaten Tapanuli Selatan;

- Bahwa adapun penyebab Terdakwa mau membawa Narkotika tersebut berawal pada hari Rabu tanggal 08 Januari 2020 sekira pukul 10.00 WIB Terdakwa ditemui oleh Adek (DPO) dan bertanya kepada Terdakwa apakah Terdakwa bersedia sebagai sopir mobil dump truk dan mau menerima ganja untuk untuk diantar dan diserahkan kepada seseorang di Sipirok Kabupaten Tapanuli Selatan sedangkan kalau alamat dan tujuan nanti akan diberitahu Terdakwa 1 Adi Saputra Nasution alias Boja kemudian Adek (DPO) juga mengatakan akan memberikan kepada Terdakwa upah sejumlah Rp20.000.000,00 (*dua puluh juta rupiah*) apabila ganja sudah Terdakwa serahkan dan terjual, dan Terdakwa bersedia dan

sepakat untuk menyanggupinya;

- Bahwa selanjutnya sore harinya sekira pukul 17.00 WIB Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja menerima 1 (*satu*) unit mobil truk hino warna putih B 9806 TYT sebagai alat untuk membawa ganja tersebut dan kemudian Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja berangkat ke Simpang Pagur Kecamatan Panyabungan Timur untuk menjemput ganja, dan setelah sampai di Simpang Pagur ternyata sudah ada orang yang tidak dikenal Terdakwa dan langsung memasukkan ganja tersebut kedalam mobil. Selanjutnya setelah ganja selesai dimasukkan kedalam mobil dan diterima oleh Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja dari Faisal (DPO) dan Adek (DPO), lalu Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja berangkat dan Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja tinggal

Halaman 20 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp





## Direktori Putusan Mahkamah Agung Republik Indonesia

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mengikuti perintah penunjuk jalan yaitu Faisal (DPO) melalui handphone yang mana menurut pemberitahuannya bahwa Faisal (DPO) berada di depan dengan menggunakan sepeda motor, tetapi ternyata saat dalam perjalanan Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja tidak ada melihat Faisal (DPO) dan hanya komunikasi melalui handphone saja;

- Bahwa selanjutnya sewaktu dalam perjalanan memasuki Kota Padangsidempuan ternyata ada yang mengikuti Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja sehingga ketika Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja berada di Lapangan I Tor Simarsayang Kelurahan Bonan Dolok Kecamatan Padangsidempuan Utara Kota Padangsidempuan Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja dihentikan yang ternyata mereka adalah Polisi selanjutnya Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja ditangkap dan kemudian Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja serta barang bukti dibawa ke Polres Padangsidempuan untuk di proses hukum;

- Bahwa Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja belum ada menerima upah dari Faisal (DPO) maupun dari Adek (DPO) karena sesuai kesepakatan bahwa upah akan diberikan setelah ganja sudah sampai dan diserahkan kepada seseorang teman dari Faisal (DPO)

di Sipirok Kabupaten Tapanuli Selatan;

- Bahwa Terdakwa dan Terdakwa 1 Adi Saputra Nasution alias Boja tidak ada ijin dari pemerintah RI menerima, menyerahkan dan menjadi perantaradalam jual beli narkoba golongan I jenis ganja tersebut;

- Bahwa Terdakwa membenarkan barang bukti yang diajukan di Persidangan;

Menimbang, bahwa Penuntut Umum mengajukan barang bukti sebagai berikut:

- 241 (*dua ratus empat puluh satu*) paket narkoba golongan I jenis ganja yang dibungkus dengan lakban warna coklat dengan berat keseluruhan

250.000 (*dua ratus lima puluh ribu*) gram, dimana sebanyak 249.500 (*dua ratus empat puluh Sembilan ribu lima ratus*) gram telah dimusnahkan oleh penyidik Polres Padangsidempuan sesuai dengan Surat Ketetapan tanggal 16 April 2020 Nomor : S.Tap/01/IV/2020/Psp tentang Pemusnahan Barang Bukti/ Benda Sitaan dan Surat Perintah Pemusnahan Benda Sitaan/Barang Bukti Nomor : SP.Sita/02/IV/2020/Resnarkoba tanggal April 2020 dan Berita Acara Pemusnahan Barang Bukti tertanggal 16 April 2020, sedangkan yang disisihkan seberat 500 (*lima ratus*) gram dikirim untuk pemeriksaan di

Halaman 21 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



## Direktori Putusan Mahkamah Agung Republik Indonesia

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Laboratorium Forensik Polri, dan dari hasil pemeriksaan Laboratorium Forensik sisanya seberat 498 (*empat ratus sembilan puluh delapan*) gram;

- 8 (*delapan*) buah karung goni plastic warna putih garis biru merah;
- 8 (*delapan*) lembar plastic warna biru;
- 1 (*satu*) unit handphone merk Samsung warna coklat;
- 1 (*satu*) unit mobil truk hino warna putih B 9806 TYT;

Menimbang, bahwa berdasarkan barang bukti yang diajukan keruangan persidangan, maka telah terungkap fakta– fakta sebagai berikut:

- > Bahwa berdasarkan keterangan Saksi Dedi Saputra Waruhu dan Saksi Albert Arnol Aritonang (masing-masing merupakan anggota Kepolisian Polres Padangsidempuan) bahwa Saksi Dedi Saputra Waruhu dan Saksi Albert Arnol Aritonang dan rekan-rekan dari Polres Padangsidempuan melakukan penangkapan terhadap Para Terdakwa pada hari Rabu tanggal 8 Januari 2020 sekira pukul 23.00 WIB di Lapangan I Torsimarsayang Kelurahan Bonan Dolok Kecamatan Psp Utara Kota Padangsidempuan;
- > Bahwa pada saat penangkapan dari para Terdakwa berhasil disita barang bukti berupa 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat, 8 (*delapan*) buah karung goni plastic warna putih garis biru merah, 8 (*delapan*) lembar plastic warna biru, 1 (*satu*) unit mobil truk hino warna putih B 9806 TYT, 1 (*satu*) unit handphone merk Samsung warna coklat;
- > Bahwa berdasarkan pengakuan Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti bahwa barang bukti 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah diterima oleh Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti di Gunung Baringin Kecamatan panyabungan Timur Kabupaten Mandailing Natal dan rencananya Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti akan menyerahkan ganja tersebut kepada seseorang teman dari Faisal (DPO) dan Adek (DPO) yang berada di Sipirok Kabupaten Tapanuli Selatan namun namanya tidak diketahui oleh para Terdakwa akan tetapi ditengah perjalanan tepatnya di kota di Padangsidempuan Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti berhasil diamankan oleh pihak

Halaman 22 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp

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Kepolisian Polres Padangsidempuan diantaranya yaitu Saksi Dedi Saputra Waruhu dan Saksi Albert Arnol

Aritonang;

> Bahwa adapun kronologis penangkapan yang dilakukan Saksi Dedi Saputra Waruhu dan Saksi Albert Arnol Aritonang bersama rekan-rekan Saksi (anggota Polisi Polres Padangsidempuan) berawal setelah mendapat informasi dari masyarakat tentang adanya 1 (*satu*) unit mobil truck yang mengangkut narkotika golongan I jenis ganja yang datang dari Kabupaten Mandailing Natal dan menuju ke Sipirok Kabupaten Tapanuli Selatan, selanjutnya dilakukan penyelidikan yang didampingi langsung oleh Kapolres Padangsidempuan kemudian Saksi dan rekan-rekan Saksi (anggota Polisi Polres Padangsidempuan) melihat 1 (*satu*) unit mobil truk Hino warna putih B 9806 TYT sedang melintas sesuai dengan yang diinformasikan sebelumnya, kemudian Saksi dan rekan-rekan Saksi (anggota Polisi Polres Padangsidempuan) melakukan pengejaran hingga akhirnya Saksi dan rekan-rekan (anggota Polisi Polres Padangsidempuan) menghentikan mobil truk Hino warna putih nomor Polisi B 9806 TYT yang dikendarai oleh Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti tersebut dan kemudian melakukan penangkapan terhadap Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti serta mengamankan barang bukti berupa 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah, 1 (*satu*) unit handphone merk Samsung warna coklat dan 1 (*satu*) unit mobil truk Hino warna putih B 9806 TYT, setelah para Terdakwa dan barang bukti diamankan selanjutnya dibawa ke Polres Padangsidempuan untuk diproses sesuai hukum yang berlaku;

> Bahwa dari pengakuan Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti bahwa untuk mengantar Narkotika tersebut Terdakwa 1 Adi Saputra Nasution alias Boja memperoleh upah sejumlah Rp10.000.000,00 (*sepuluh juta rupiah*) sedangkan Terdakwa 2 Pandapotan Rangkuti memperoleh upah sejumlah Rp20.000.000,00 (*dua puluh juta rupiah*) namun Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti belum menerima upah tersebut dikarenakan Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti akan diberikan upah oleh Faisal (DPO) ataupun

Halaman 23 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp

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Adek (DPO) setelah Narkotika berupa ganja tersebut sampai kepada orang yang dituju yang berada dispirok tersebut ;

- > Bahwa dipersidangan Saksi Fitri Heriani menerangkan bahwa adapun pemilik 1 (*satu*) unit mobil dump truck hino warna putih B 9806 TYT adalah suami Saksi Eddi Nerwin Hasibuan (alm) kemudian sekira bulan Desember 2019 anak Saksi membawa seseorang dengan panggilan Ateng meminta izin kepada Saksi untuk mengoperasikan mobil dump truck Hino B 9806 TYT tersebut dan pada saat itu Saksi berpesan kepada Anak Saksi supaya yang bernama Ateng tersebut menjaga mobil dump truck tersebut dengan sebaik-baiknya dan dalam perkara ini Saksi mengetahui bahwa adanya peristiwa tindak pidana narkotika jenis ganja setelah Ateng memberitahukan kepada Saksi dan Saksi juga menanyakan kepada Ateng apa penyebabnya mobil dump truck tersebut tersebut bisa digunakan oleh Para Terdakwa untuk membawa ganja lalu tertangkap kemudian Ateng memberitahukan bahwa bukan Ateng yang menggunakan mobil dump truck tersebut untuk membawa ganja melainkan adalah teman akrab Ateng yang bernama Adek yang beralamat di Desa Padang Laru Kecamatan Panyabungan Timur Kabupaten Mandailing Natal, yang mana 2 (*dua*) hari sebelumnya Adek meminjam 1 (*satu*) unit mobil dump truck Hino warna putih B 9806 TYT kepada Ateng untuk melangsir kayu bulat;
- > Bahwa barang bukti berupa: 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat dengan berat keseluruhan 250.000 (*dua ratus lima puluh ribu*) gram, dimana sebanyak 249.500 (*dua ratus empat puluh Sembilan ribu lima ratus*) gram telah dimusnahkan oleh penyidik Polres Padangsidimpuan sesuai dengan Surat Ketetapan tanggal 16 April 2020 Nomor : S.Tap/01/IV/2020/Psp tentang Pemusnahan Barang Bukti/ Benda Sitaan dan Surat Perintah Pemusnahan Benda Sitaan/Barang Bukti Nomor : SP.Sita/02/IV/2020/Resnarkoba tanggal April 2020 dan Berita Acara Pemusnahan Barang Bukti tertanggal 16 April 2020, sedangkan yang disisihkan seberat 500 (*lima ratus*) gram dikirim untuk pemeriksaan di Laboratorium Forensik Polri, dan dari hasil pemeriksaan Laboratorium Forensik sisanya seberat 498 (*empat ratus sembilan puluh delapan*) gram;
- > Bahwa Para Terdakwa tidak memiliki ijin dari pihak yang berwenang ataupun Pemerintah Republik Indonesia dalam melakukannya;

Halaman 24 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp

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Menimbang, bahwa selanjutnya Majelis Hakim akan mempertimbangkan apakah berdasarkan fakta-fakta hukum tersebut diatas, Para Terdakwa dapat dinyatakan telah melakukan tindak pidana yang didakwakan kepadanya;

Menimbang, bahwa Para Terdakwa telah didakwa oleh Penuntut Umum

dengan dakwaan yang berbentuk Alternatif, sehingga terhadap dakwaan yang disusun demikian Majelis Hakim dengan memperhatikan fakta-fakta hukum tersebut diatas Majelis Hakim langsung memilih dakwaan alternatif Kedua sebagaimana diatur dalam Pasal 114 ayat (2) Jo Pasal 132 ayat (1) UU RI No. 35 Tahun 2009 tentang Narkotika, yang unsur-unsurnya adalah sebagai berikut:

1. **Setiap Orang ;**
2. **Permufakatan jahat Tanpa Hak atau melawan Hukum menawarkan untuk dijual, menjual, membeli, menjadi perantara dalam jual beli, menukar, menyerahkan, atau menerima Narkotika Golongan I dalam bentuk tanaman;**
3. **Yang beratnya melebihi 1 (satu) kg atau melebihi 5 (lima) batang**

**pohon;**

Menimbang, bahwa terhadap unsur-unsur tersebut Majelis Hakim mempertimbangkan sebagai berikut:

### **Ad.1. Unsur Setiap Orang**

Menimbang, bahwa yang dimaksud dengan setiap orang dalam unsur ini adalah setiap orang atau badan hukum selaku subjek hukum yang didakwa melakukan tindak pidana seperti dalam Surat Dakwaan Penuntut Umum dan yang bersangkutan sedang dihadapkan dipersidangan. Apabila perbuatannya memenuhi unsur tindak pidana yang didakwakan maka orang tersebut akan dinyatakan sebagai pelaku;

Menimbang, bahwa dalam sidang Terdakwa 1 **Adi Saputra Nasution alias Boja** dan Terdakwa 2 **Pandapotan Rangkuti** telah membenarkan identitas dirinya sebagaimana yang termuat dalam Surat Dakwaan dan pengakuan Para Terdakwa tersebut sepanjang mengenai identitas dirinya tersebut didukung oleh keterangan Saksi-Saksi sehingga dalam hal ini tidak terdapat error in persona / kekeliruan dalam mengadili orang sehingga yang dimaksud dengan setiap orang dalam hal ini adalah Terdakwa 1 **Adi Saputra Nasution alias Boja** dan Terdakwa 2 **Pandapotan Rangkuti** yang lebih lanjut akan dipertimbangkan apakah perbuatannya memenuhi unsur dari Tindak Pidana yang didakwakan;

Menimbang, bahwa atas pertimbangan tersebut diatas Majelis Hakim berpendapat bahwa unsur setiap orang secara sah dan meyakinkan telah terpenuhi;

Halaman 25 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



## Direktori Putusan Mahkamah Agung Republik Indonesia

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**Ad.2. Unsur “Melakukan permufakatan jahat Tanpa Hak atau melawan Hukum menawarkan untuk dijual, menjual, membeli, menjadi perantara dalam jual beli, menukar, menyerahkan, atau menerima Narkotika Golongan I dalam bentuk tanaman;**

Menimbang bahwa berdasarkan fakta-fakta dipersidangan sebagaimana keterangan Saksi Dedi Saputra Waruhu dan Saksi Albert Arnol Aritonang (masing- masing merupakan anggota Kepolisian Polres Padangsidempuan) bahwa Saksi Dedi Saputra Waruhu dan Saksi Albert Arnol Aritonang dan rekan-rekan dari Polres Padangsidempuan melakukan penangkapan terhadap Para Terdakwa pada hari Rabu tanggal 8 Januari 2020 sekira pukul 23.00 WIB di Lapangan I Torsinarsayang Kelurahan Bonan Dolok Kecamatan Psp Utara Kota Padangsidempuan;

Menimbang bahwa pada saat penangkapan dari para Terdakwa berhasil disita barang bukti berupa 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat, 8 (*delapan*) buah karung goni plastic warna putih garis biru merah, 8 (*delapan*) lembar plastic warna biru, 1 (*satu*) unit mobil truk hino warna putih B 9806 TYT, 1 (*satu*) unit handphone merk Samsung warna coklat;

Menimbang bahwa berdasarkan pengakuan Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti bahwa barang bukti berupa : 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8(*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah diterima oleh Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti di Gunung Baringin Kecamatan panyabungan Timur Kabupaten Mandailing Natal dan rencananya Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti akan menyerahkan ganja tersebut kepada seseorang teman dari Faisal (DPO) dan Adek (DPO) yang berada di Sipirok Kabupaten Tapanuli Selatan namun namanya tidak diketahui oleh para Terdakwa akan tetapi ditengah perjalanan tepatnya di kota di Padangsidempuan Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti berhasil diamankan oleh pihak Kepolisian Polres Padangsidempuan diantaranya yaitu Saksi Dedi Saputra Waruhu dan Saksi Albert Arnol Aritonang;

Menimbang bahwa adapun kronologis penangkapan yang dilakukan Saksi Dedi Saputra Waruhu dan Saksi Albert Arnol Aritonang bersama rekan-rekan Saksi (anggota Polisi Polres Padangsidempuan) berawal setelah mendapat informasi dari masyarakat tentang adanya 1 (*satu*) unit mobil truck yang

Halaman 26 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



## Direktori Putusan Mahkamah Agung Republik Indonesia

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mengangkut narkoba golongan I jenis ganja yang datang dari Kabupaten Mandailing Natal dan menuju ke Sipirok Kabupaten Tapanuli Selatan, selanjutnya dilakukan penyelidikan yang didampingi langsung oleh Kapolres Padangsidimpuan kemudian Saksi dan rekan-rekan Saksi (anggota Polisi Polres Padangsidimpuan) melihat 1 (*satu*) unit mobil truk Hino warna putih B 9806 TYT sedang melintas sesuai dengan yang diinformasikan sebelumnya, kemudian Saksi dan rekan-rekan Saksi (anggota Polisi Polres Padangsidimpuan) melakukan pengejaran hingga akhirnya Saksi dan rekan-rekan (anggota Polisi Polres Padangsidimpuan) menghentikan mobil truk Hino warna putih nomor Polisi B 9806 TYT yang dikendarai oleh Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti tersebut dan kemudian melakukan penangkapan terhadap Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti serta mengamankan barang bukti berupa 241 (*dua ratus empat puluh satu*) paket narkoba golongan I jenis ganja yang dibungkus dengan lakban warna coklat yang dilapisi dengan 8 (*delapan*) lembar plastic warna biru seterusnya dimasukkan kedalam 8 (*delapan*) buah karung goni plastic warna putih garis biru merah, 1 (*satu*) unit handphone merk Samsung warna coklat dan 1 (*satu*) unit mobil truk Hino warna putih B 9806 TYT, setelah para Terdakwa dan barang bukti diamankan selanjutnya dibawa ke Polres Padangsidimpuan untuk diproses sesuai hukum yang berlaku;

Menimbang bahwa dari pengakuan Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti bahwa untuk mengantar Narkoba tersebut Terdakwa 1 Adi Saputra Nasution memperoleh upah sejumlah Rp10.000.000,00 (*sepuluh juta rupiah*) sedangkan Terdakwa 2 Pandapotan Rangkuti memperoleh upah sejumlah Rp20.000.000,00 (*dua puluh juta rupiah*) namun Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti belum menerima upah tersebut dikarekan Terdakwa 1 Adi Saputra Nasution alias Boja dan Terdakwa 2 Pandapotan Rangkuti akan diberikan upah oleh Faisal (DPO) ataupun Adek (DPO) setelah Narkoba berupa ganja tersebut sampai kepada orang yang dituju yang berada disipirok tersebut ;

Menimbang bahwa berdasarkan keterangan Saksi Dedi Saputra Waruhu dan Saksi Albert Arnol Aritonang (masing-masing merupakan anggota Kepolisian Polres Padangsidimpuan) dan keterangan Para Terdakwa dan dari hasil pengembangan bahwa adapun hubungan Para Terdakwa dengan Faisal (DPO) ataupun Adek (DPO) adalah yang dimana Para Terdakwa adalah suruhan Faisal (DPO) ataupun Adek (DPO) untuk mengantarkan Narkoba dalam bentuk ganja

Halaman 27 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



## Direktori Putusan Mahkamah Agung Republik Indonesia

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tersebut kepada seseorang yang berada di Sipirok kabupaten Tapanuli selatan dan Para Terdakwa akan memperoleh upah sebagaimana yang telah dijanjikan yaitu Terdakwa 1 Adi Saputra Nasution alias Boja memperoleh upah sejumlah Rp10.000.000,00 (*sepuluh juta rupiah*) sedangkan Terdakwa 2 Pandapotan Rangkuti memperoleh upah sejumlah Rp20.000.000,00 (*dua puluh juta rupiah*) apabila Para Terdakwa sudah menyerahkan Narkotika tersebut kepada seseorang yang berada di Sipirok kabupaten Tapanuli selatan dan perbuatan tersebut Para Terdakwa lakukan tanpa ijin pihak yang berwenang sehingga menurut hemat Majelis Hakim perbuatan Para Terdakwa masuk dalam unsur “Melakukan permufakatan jahat Tanpa Hak menjadi perantara dalam jual beli Narkotika golongan I bentuk tanaman”;

Dengan demikian unsur Ini telah terbukti secara sah dan meyakinkan menurut Hukum;

### **Ad.3. Unsur “Yang beratnya melebihi 1 (satu) kg atau melebihi 5 (lima) batang pohon;**

Menimbang berdasarkan fakta-fakta yang terungkap dipersidangan baik melalui keterangan Saksi Dedi Saputra Waruhu dan Saksi Albert Arnol Aritonang (masing-masing merupakan anggota Kepolisian Polres Padangsidempuan) dan maupun surat-surat diajukan dipersidangan dan keterangan Para Terdakwa sendiri pada saat Para Terdakwa ditangkap oleh anggota telah ditemukan dan disita barang bukti berupa: 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat dengan berat keseluruhan 250.000 (*dua ratus lima puluh ribu*) gram, dimana sebanyak 249.500 (*dua ratus empat puluh Sembilan ribu lima ratus*) gram telah dimusnahkan oleh penyidik Polres Padangsidempuan sesuai dengan Surat Ketetapan tanggal 16 April 2020 Nomor : S.Tap/01/IV/2020/Psp tentang Pemusnahan Barang Bukti/ Benda Sitaan dan Surat Perintah Pemusnahan Benda Sitaan/Barang Bukti Nomor : SP.Sita/02/IV/2020/Resnarkoba tanggal April 2020 dan Berita Acara Pemusnahan Barang Bukti tertanggal 16 April 2020, sedangkan yang disisihkan seberat 500 (*lima ratus*) gram dikirim untuk pemeriksaan di Laboratorium Forensik Polri, dan dari hasil pemeriksaan Laboratorium Forensik sisanya seberat 498 (*empat ratus sembilan puluh delapan*) gram;

Dengan demikian unsur ini terbukti secara sah dan meyakinkan menurut hukum;

Menimbang bahwa berdasarkan pertimbangan-pertimbangan tersebut ternyata perbuatan Para Terdakwa telah memenuhi seluruh unsur dari Pasal

Halaman 28 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp





## Direktori Putusan Mahkamah Agung Republik Indonesia

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114 ayat (2) Jo Pasal 132 ayat (1) UU RI No. 35 Tahun 2009 tentang Narkotika sebagaimana yang didakwakan dalam dakwaan Kedua oleh Penuntut Umum kepada Para Terdakwa sehingga Majelis Hakim berkesimpulan bahwa Para Terdakwa telah terbukti secara sah dan meyakinkan melakukan tindak pidana **“Permufakatan jahat Tanpa hak menjadi perantara dalam jual beli Narkotika Golongan I dalam bentuk tanaman yang beratnya melebihi 1 (satu) kilogram”**;

Menimbang, bahwa dalam persidangan, Majelis Hakim tidak menemukan hal-hal yang dapat menghapuskan pertanggungjawaban pidana, baik sebagai alasan pembenar dan atau alasan pemaaf, maka Para Terdakwa harus

mempertanggungjawabkan perbuatannya;

Menimbang, bahwa oleh karena Para Terdakwa mampu bertanggung jawab, maka harus dinyatakan bersalah dan dijatuhi pidana;

Menimbang, bahwa terhadap diri Para Terdakwa dituntut pidana Mati, maka Majelis Hakim setelah melihat fakta persidangan berpendapat penjatuhan pidana mati adalah upaya terakhir yang dikenakan terhadap pelaku kejahatan yang tidak dapat diharapkan untuk memperbaiki diri dan tingkat kejahatannya luar biasa, akan tetapi dengan melihat peran Para Terdakwa telah nyata hanya menjadi suruhan dalam transaksi jual beli Narkotika jenis ganja dengan berat yang tergolong besar dan hal ini diketahui benar dan diinsyafi oleh Para Terdakwa dimana Para Terdakwa mendapatkan janji imbalan setelah selesainya kejahatan mereka itu, namun hal tersebut tidak terjadi karena telah lebih dahulu diamankan oleh pihak Kepolisian dan berdasarkan pertimbangan ini, setelah Majelis Hakim bermusyawarah telah memutuskan untuk memberikan hukuman pidana berupa pemenjaraan telah memenuhi rasa keadilan dan lamanya pidana

pemenjaraan tersebut akan ditentukan dalam amar putusan ini;

Menimbang, bahwa dalam perkara ini terhadap Para Terdakwa telah dikenakan penangkapan dan penahanan yang sah, maka masa penangkapan dan penahanan tersebut harus dikurangkan seluruhnya dari pidana yang

dijatuhkan;

Menimbang, bahwa oleh karena Para Terdakwa ditahan dan penahanan

terhadap Para Terdakwa dilandasi alasan yang cukup, maka perlu ditetapkan agar Para Terdakwa tetap

ditahan;

Menimbang, bahwa terhadap barang bukti yang diajukan di persidangan

untuk selanjutnya dipertimbangkan sebagai berikut:

Menimbang, bahwa terhadap barang bukti berupa: 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat dengan berat keseluruhan 250.000 (*dua ratus lima puluh ribu*) gram, dimana sebanyak 249.500 (*dua ratus empat puluh Sembilan ribu*)

*Halaman 29 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp*



## Direktori Putusan Mahkamah Agung Republik Indonesia

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*lima ratus*) gram telah dimusnahkan oleh penyidik Polres Padangsidempuan sesuai dengan Surat Ketetapan tanggal 16 April 2020 Nomor : S.Tap/01/IV/2020/Psp tentang Pemusnahan Barang Bukti/ Benda Sitaan dan Surat Perintah Pemusnahan Benda Sitaan/Barang Bukti Nomor : SP.Sita/02/IV/2020/Resnarkoba tanggal April 2020 dan Berita Acara Pemusnahan Barang Bukti tertanggal 16 April 2020, sedangkan yang disisihkan seberat 500 (*lima ratus*) gram dikirim untuk pemeriksaan di Laboratorium Forensik Polri, dan dari hasil pemeriksaan Laboratorium Forensik sisanya seberat 498 (*empat ratus sembilan puluh delapan*) gram, 8 (*delapan*) buah karung goni plastic warna putih garis biru merah, 8 (*delapan*) lembar plastic warna biru, 1 (*satu*) unit handphone merk Samsung warna coklat bahwa barang bukti tersebut sudah tidak diperlukan dalam untuk pembuktian perkara dan supaya menghindari penyalahgunaannya dikemudian hari sehingga Majelis Hakim berpendapat terhadap barang bukti tersebut sepatutnya dimusnahkan;

Menimbang bahwa barang bukti berupa: 1 (*satu*) unit mobil truk hino

warna putih B 9806 TYT, sebagaimana fakta dipersidangan bahwa: 1 (*satu*) unit mobil truk hino warna putih B 9806 TYT dalam perkara ini Saksi Fitri Heriani menerangkan bahwa mobil tersebut adalah milik mending suaminya yang berdasarkan Kartu Keluarga (KK), Surat Keterangan Ahli Waris dan Surat Keterangan Meninggal Dunia bernama Efri Ewin sedangkan dalam Dokumen Surat Tanda Nomor Kendaraan Bermotor (STNK) kendaraan tersebut adalah atas nama seseorang bernama Eddi Nerwin Hasibuan yang menurut Majelis Hakim perbedaan nama tersebut tidaklah cukup berdasar untuk mengembalikan barang bukti tersebut kepada Saksi Fitri Heriani ditambah lagi pada saat memberi keterangan Saksi tersebut tidak dapat menjelaskan secara jelas kronologis bagaimana kendaraan tersebut dapat dipergunakan oleh Para Terdakwa untuk melakukan kejahatannya, meskipun Fitri Heriani bercerita bahwa anak Saksi Fitri Heriani yang memberi akses kendaraan kepada seseorang yang bernama Ateng namun tidak ada bukti lain yang mendukung keterangannya tersebut sehingga Majelis Hakim berpendapat bahwa terhadap barang bukti tersebut layak dan patut untuk dirampas oleh Negara Karenadipergunakan dalam kejahatan;

Menimbang, bahwa oleh karena Para Terdakwa dijatuhi pidana maka Para Terdakwa haruslah dibebani pula untuk membayar biaya perkara; Menimbang, bahwa untuk menjatuhkan pidana terhadap diri Para

Terdakwa, maka perlu dipertimbangkan terlebih dahulu keadaan yang memberatkan dan yang meringankan

Para Terdakwa;

### **Keadaan yang memberatkan:**

Halaman 30 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



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- Para Terdakwa tidak mendukung Program Pemerintah dalam melakukan pemberantasan tindak pidana Narkotika;
- Narkotika yang disita dari Para Terdakwa memiliki jumlah yang sangat

banyak;

## Kedadaan yang meringankan:

- Para Terdakwa mengakui terus terang akan perbuatannya;
- Para Terdakwa masih berusia muda dan dapat memperbaiki diri dimasa mendatang;

Memperhatikan Pasal 114 ayat (2) Jo Pasal 132 ayat (1) UU RI No. 35 Tahun 2009 tentang Narkotika dan Undang-Undang Republik Indonesia Nomor 8 Tahun 1981 tentang KUHP, serta peraturan Perundang-Undangan lain yang bersangkutan;

## MENGADILI:

1. Menyatakan Terdakwa 1 **Adi Saputra Nasution alias Boja** dan Terdakwa 2 **Pandapotan Rangkuti** tersebut diatas, telah terbukti secara sah dan meyakinkan bersalah melakukan tindak pidana “**Melakukan permufakatan jahat Tanpa Hak menjadi perantara jual beli Narkotika Golongan I dalam bentuk Tanaman yang beratnya melebihi 1 (satu) kilogram**” sebagaimana dalam dakwaan alternatif Kedua;

2. Menjatuhkan pidana terhadap Para Terdakwa oleh karena itu dengan pidana penjara masing-masing selama **20 (dua puluh) tahun** dan denda masing-masing sejumlah **Rp1.000.000.000,00 (satu milyar rupiah)** dengan ketentuan apabila denda tersebut tidak dibayar maka diganti dengan pidana penjara masing-masing selama **6 (enam) bulan**;

3. Menetapkan masa penangkapan dan penahanan yang telah dijalani oleh Para Terdakwa masing-masing dikurangkan seluruhnya dari pidana yang dijatuhkan;

4. Menetapkan Para Terdakwa tetap ditahan;

5. Menetapkan barang bukti berupa:

- 241 (*dua ratus empat puluh satu*) paket narkotika golongan I jenis ganja yang dibungkus dengan lakban warna coklat dengan berat keseluruhan 250.000 (*dua ratus lima puluh ribu*) gram, dimana sebanyak 249.500 (*dua ratus empat puluh Sembilan ribu lima ratus*) gram telah dimusnahkan oleh penyidik Polres Padangsidimpuan sesuai dengan Surat Ketetapan tanggal 16 April 2020 Nomor : S.Tap/01/IV/2020/Psp tentang Pemusnahan Barang Bukti/ Benda Sitaan dan Surat Perintah Pemusnahan Benda Sitaan/Barang

Halaman 31 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp



## Direktori Putusan Mahkamah Agung Republik Indonesia

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Bukti Nomor : SP.Sita/02/IV/2020/Resnarkoba tanggal April 2020 dan Berita Acara Pemusnahan Barang Bukti tertanggal 16 April 2020, sedangkan yang disisihkan seberat 500 (*lima ratus*) gram dikirim untuk pemeriksaan di Laboratorium Forensik Polri, dan dari hasil pemeriksaan Laboratorium Forensik sisanya seberat 498 (*empat ratus sembilan puluh delapan*) gram;

- 8 (*delapan*) buah karung goni plastic warna putih garis biru merah;
- 8 (*delapan*) lembar plastic warna biru;
- 1 (*satu*) unit handphone merk Samsung warna coklat;
  
- 1 (*satu*) unit mobil truk hino warna putih B 9806 TYT;

**Dimusnahkan.**

**Dirampas untuk negara**

6. Membebaskan Para Terdakwa untuk membayar biaya perkara masing-masing sejumlah **Rp10.000,00 (*sepuluh ribu rupiah*)**;

Demikianlah diputuskan dalam sidang permusyawaratan Majelis Hakim Pengadilan Negeri Padangsidimpuan, pada hari **Senin** tanggal **31 Agustus 2020**, oleh, **Lucas Sahabat Duha, S.H., M.H.** sebagai Hakim Ketua, **Cakra Tona Parhusip, S.H., M.H.** dan **Fadel Pardamean Batee, S.H.** masing-masing sebagai Hakim Anggota, putusan mana diucapkan dalam sidang terbuka untuk umum pada hari **Senin** tanggal **7 September 2020**, oleh Hakim Ketua Majelis tersebut dengan didampingi oleh Para Hakim Anggota dibantu oleh **Mangara Hutapea, S.H.** Panitera Pengganti pada Pengadilan Negeri Padangsidimpuan, dihadiri oleh **M. Zul Syafran Hsb, S.H** Penuntut Umum pada Kejaksaan Negeri Padangsidimpuan dan Para Terdakwa didampingi oleh penasihat hukumnya;

Hakim Anggota;

Hakim Ketua,

**Cakra Tona Parhusip, S.H., M.H**

**Lucas Sahabat Duha, S.H., M.H.**

**Fadel Pardamean Batee, S.H.**

Panitera Pengganti,

Halaman 32 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp

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**Mangara Hutapea, S.H.**

*Halaman 33 dari 33 Putusan Nomor 177/Pid.Sus/2020/PN Psp*

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