

ABSTRAK

DESKRIPSI TENTANG PERTANGGUNG JAWABAN PIDANA TERHADAP ORANG DENGAN GANGGUAN JIWA (ODGJ) YANG MELAKUKAN TINDAK PIDANA PEMBUNUHAN

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Permasalahan yang diangkat dalam dalam penulisan ini adalah: 1). Bagaimana pertimbangan hukum majelis hakim menjatuhkan pidana kepada terdakwa meskipun terdapat hasil Visum et Repertum Psychiatricum yang menyatakan terdakwa mengalami gangguan jiwa berat? 2). Apa perbandingan antara alasan pemaaf menurut Pasal 44 KUHP dengan KUHP Nasional? Tujuan Penelitian 1). Untuk mengetahui pertimbangan hukum majelis hakim menjatuhkan pidana kepada terdakwa meskipun terdapat hasil Visum et Repertum Psychiatricum yang menyatakan terdakwa mengalami gangguan jiwa berat. 2). Untuk mengetahui perbandingan antara alasan pemaaf menurut Pasal 44 KUHP dengan KUHP Nasional. Sifat penelitian adalah deskriptif dan jenis penelitian adalah normatif. Variabel bebas ialah pertimbangan hukum majelis hakim menjatuhkan pidana terhadap terdakwa meskipun telah ada visum et repertum psychiatricum yang mengatakan terdakwa mengalami gangguan jiwa berat dan perbandingan alasan pemaaf menurut pasal 44 KUHP dan KUHP Nasional. Variabel terikat adalah putusan hakim dalam tindak pidana berencana, yang pelakunya mengalami gangguan jiwa berat.

Berdasarkan hasil penelitian yang penulis lakukan maka pertimbangan hakim Pengadilan Negeri, Pengadilan Tinggi dan Mahkamah Agung sama-sama menjatuhkan pidana terhadap terdakwa, disebabkan oleh; a). Gangguan jiwa yang dialami terdakwa tidak bersifat permanen. b). Terdakwa dipandang secara sadar merencanakan dan melaksanakan perbuatan tersebut. Perbandingan alasan pemaaf menurut pasal 44 KUHP dan KUHP Nasional a) Pasal 44 KUHP lama hanya memberikan pilihan pembebasan dari pidana dengan kemungkinan penempatan di rumah sakit jiwa, sedangkan Pasal 39 KUHP Nasional memungkinkan pengenaan "tindakan" selain pidana, yang memberikan fleksibilitas lebih besar bagi hakim dalam menentukan penanganan kasus. Adapun saran: 1. Penerapan dalam pertimbangan terhadap hasil Visum et Repertum Psychiatricum yang menyatakan terdakwa mengalami gangguan jiwa berat, maka hakim seharusnya lebih cermat dalam menilai tingkat kemampuan bertanggung jawab terdakwa pada saat melakukan perbuatan pidana, bukan hanya melihat kondisi sosial atau motif pelaku semata. 2. Implementasi Pasal 39 KUHP Nasional perlu didukung peraturan pelaksana yang rinci, fasilitas rehabilitasi yang memadai, serta kerja sama antara aparat hukum dan tenaga kesehatan jiwa untuk menjamin penanganan yang tepat bagi pelaku dengan gangguan jiwa.

Kata kunci: Tindak Pidana Pembunuhan, Yang Pelakunya Mengalami Gangguan Jiwa Berat.

ABSTRACT

DESCRIPTION OF CRIMINAL RESPONSIBILITY FOR PEOPLE WITH MENTAL DISORDERS (ODGJ) WHO COMMIT THE CRIMINAL ACT OF MURDER

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The problems raised in this writing are: 1). How is the legal consideration of the panel of judges in sentencing the defendant despite the results of the Visum et Repertum Psychiatricum stating that the defendant has a severe mental disorder? 2). What is the comparison between the reasons for forgiveness according to Article 44 of the Criminal Code and the National Criminal Code? Research Objectives 1). To determine the legal considerations of the panel of judges in sentencing the defendant despite the results of the Visum et Repertum Psychiatricum stating that the defendant has a severe mental disorder. 2). To determine the comparison between the reasons for forgiveness according to Article 44 of the Criminal Code and the National Criminal Code. The nature of the research is descriptive and the type of research is normative. The independent variables are the legal considerations of the panel of judges in sentencing the defendant despite the existence of a psychiatric visum et repertum stating that the defendant has a serious mental disorder and a comparison of the reasons for forgiveness according to Article 44 of the Criminal Code and the National Criminal Code. The dependent variable is the judge's decision in a premeditated crime, where the perpetrator has a serious mental disorder.

Based on the results of the author's research, the considerations of the judges of the District Court, the High Court and the Supreme Court were the same in sentencing the defendant, due to: a). The mental disorder experienced by the defendant is not permanent. b). The defendant is seen as consciously planning and carrying out the act. Comparison of reasons for forgiveness according to Article 44 of the Criminal Code and the National Criminal Code a) Article 44 of the old Criminal Code only provides the option of release from punishment with the possibility of placement in a mental hospital, while Article 39 of the National Criminal Code allows the imposition of "actions" other than punishment, which provides greater flexibility for judges in determining the handling of cases. The suggestions are: 1. The application of the weighting of the results of the Visum et Repertum Psychiatricum which states that the defendant has a serious mental disorder, the judge should be more careful in assessing the level of the defendant's ability to be responsible at the time of committing the crime, not only looking at the social conditions or motives of the perpetrator alone. 2. The implementation of Article 39 of the National Criminal Code needs to be supported by detailed implementing regulations, adequate rehabilitation facilities, and cooperation between law enforcement and mental health workers to ensure appropriate treatment for perpetrators with mental disorders.

Keywords: Criminal Act of Murder, the Perpetrator of which has a Serious Mental Disorder