

**EXECUTION OF COURT DECISIONS IN THE FORM OF
CONFIRMATION OF NARCOTICS EVIDENCE FOR THE STATE (CASE
STUDY OF EXECUTION OF DECISION NO 39/PID.SUS/2020/PN, BYL)**

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ABSTRACT

This research examines the perspective on the execution of court decisions on narcotics evidence confiscated for the state. The purpose of this study is to find out the implementation of the execution of seized narcotics evidence for the State in terms of criminal law and Narcotics Law. The research uses empirical and juridical approach methods. The execution of the court's decision on narcotics evidence is contained in ruling No. 39/Pid.Sus/2020/PN.BYL stated that the narcotics evidence seized is for the state. The destruction of evidence of narcotics is regulated in Law Number 35 of 2009 concerning Narcotics, and the Attorney General's decision number: KEP-089/J.A/1988 concerning Settlement of Confiscated Goods in Articles 12 to 14. The results of this study show how the mechanism for completing the process of confiscation of seized narcotics evidence for the state is viewed from the perspective of criminal law. This researcher wants to explain what is the mechanism for implementing criminal case decisions regarding seized narcotic evidence for the State. Judging from the importance of destroying narcotics confiscated goods, it is necessary to know the procedure for destroying narcotics confiscated goods so that they are more in line with the procedures described in the law. As stated that the purpose of administering criminal procedural law in Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP) is to achieve and obtain or at least approach material truth (substantial truth) namely the complete truth of a criminal incident by applying the provisions of criminal procedure law honestly and appropriately.



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Introduction

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, and dependence, which are divided into groups as mentioned in the annex to Law Number 35 of 2009 concerning narcotics (Masoara, 2017). Almost everyone can certainly know that goods in the form of narcotics are prohibited in this country and even the international world also prohibits illicit circulation and abuse of narcotics. But even though narcotics are prohibited items, there are still many people involved in narcotics cases, either planting, distributing, or consuming narcotics (Darwis, Dalimunthe, & Riadi, 2017). However, the juridical reason that makes narcotics forbidden is because of the large adverse effects (danger) caused by the abuse of

narcotics on human nerve cells, so that these narcotics become prohibited items to be abused (Nurcahyo, Gurusi, Suhartono, & Ernawati, 2020).

To prevent and eradicate the abuse and circulation of narcotics that are very detrimental and endanger the lives of the community, nation, and state, it is necessary to change the regulation on narcotics (Hariyanto, 2018). To regulate efforts to eradicate narcotics crimes, namely through the threat of criminal sanctions in the form of imprisonment, life imprisonment, or the death penalty. In addition to some of the efforts mentioned above, one of the efforts to eradicate narcotics is by confiscating or confiscating evidence in narcotics crimes (Hartanto, 2017).

Destruction is a series of investigator actions to destroy confiscated goods, the implementation of which is carried out after a determination from the local Chief District Attorney to be destroyed and witnessed by officials representing, elements of the Prosecutor's Office, the Ministry of Health, and the Food and Drug Supervisory Agency (Hartanto, 2017). If the official element cannot be present, then the extermination is witnessed by other parties, namely officials or members of the local community. Article 60 of Law Number 22 of 1997 concerning Narcotics which was updated in Law Number 35 of 2009 concerning Narcotics Articles 91 and 92 regulate the destruction of narcotics which one of the causes is related to criminal acts while the destruction of psychotropic drugs related to criminal acts is regulated in Article 53 of Law Number 5 of 1997 concerning Psychotropics (Eduward, Mulyadi, Ablisar, & Purba, 2016).

Confiscated goods are narcotics and narcotic precursors or suspected narcotics and narcotic precursors or containing narcotics and narcotic precursors and other chemicals from narcotic crimes and narcotic precursors seized by the Investigator (Herman, 2017). The destruction of narcotics evidence is regulated in Law Number 35 of 2009 concerning Narcotics and Regulation of the Head of the National Narcotics Agency (BNN) Number 7 of 2010 concerning Technical Guidelines for Safe Handling of Narcotic Confiscated Goods, Narcotic Precursors and Other Chemicals (Hariantika & Sukinta, 2016).

In Indonesia, material criminal law is outlined in criminal law, both the Penal Code and other special criminal laws that are not codified in the Criminal Code, while formal criminal law is outlined in Law No. 8 of 1981 concerning the Law of Criminal Procedure or better known as the Criminal Procedure Code (Sudaryono & Surbakti, 2017). Article 45 paragraph (4) of Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHAP) specifies that confiscated objects that are prohibited or prohibited from being circulated, seized to be used for state interests or to be destroyed (Yuniar Fadlilah, 2023). Included in the category of confiscated goods that are prohibited from circulation include liquor, narcotics, psychotropics, weapons, and explosives as well as books or pictures and other forms of items that fall into the group of pornography.

Execution is to forcibly carry out a court decision with general force, to carry out a court decision that has given permanent legal force. The court decision will have no

meaning if the judgment (execution) is not carried out, as Yahya Harahap's opinion expresses that execution is a general action carried out by the court to the losing party in a case (Tolib Effendi, 2018). In carrying out the execution of court decisions in the form of the seizure of narcotics evidence for the state, correct procedures are needed by applicable law. The procedure for the execution of court decisions in the form of confiscation of narcotics evidence for the state begins with the receipt of court decisions by the competent authorities (Manurung, Syahrin, Ablisar, & Sunarmi, 2021).

The thought arises whether the purpose of the law has been achieved, as stated that the purpose of implementing the criminal procedure law in Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHP) is to achieve and obtain or at least approach the material truth (substantial truth), namely the complete truth of a criminal event by applying the provisions of the criminal procedure law honestly and precisely (Sinaga, 2021).

Based on these provisions, what still needs to be clarified is the mechanism for narcotics confiscated goods that can be destroyed or returned to the rightful or confiscated State as stipulated in Article 101 of Law No. 35 of 2009 and the Criminal Procedure Code, if we look back there is no difference between the Narcotics Law and the Criminal Procedure Code which is the problem here is only the stage of execution whether the goods are confiscated (destroyed) or confiscated for the State because the content of the Act is like that if it is deprived of it for the country what kind of mechanism. In this case, it is necessary to clarify whether the confiscated goods are confiscated for the State which means whether it can be interpreted by the prosecutor's office as the executor who handed over to the institution in need such as; Health Office, Hospital or other health services.

Method

The approach used in this research is an empirical juridical approach to field research, which examines applicable legal provisions and what happens in reality in society. Empirical juridical research is legal research on the enactment or implementation of normative legal provisions in action on any particular legal event that occurs in society. This approach will be used in discussing research problems from the perspective of applicable laws and regulations and their legal practice by the Boyolali District Attorney's Office. Statue Approach by analyzing Indonesian laws and regulations on the Execution of Verdicts of narcotics evidence seized for the state. In addition to using a statutory approach (Statue Approach), this research will use a case approach (Case Approach). This approach will examine case studies in Criminal Cases on narcotics and the Execution of Verdicts on narcotics evidence seized for the state.

Or in other words, it is research conducted on the actual situation or real conditions that occur in the community to know and find the facts and data needed, after the required data is collected then leads to the identification of problems that ultimately lead to solving the problem.

In addition, this study also used primary and secondary legal materials. The primary legal material used is the Data Source consisting of primary legal material which includes laws and regulations related to research such as the 1945 NRI Constitution, the Criminal Code, Law No. 35 of 2009 concerning Narcotics, Law No. 40 of 2013 concerning Government regulations concerning the technical implementation of Law No. 35 of 2009, Law No. 16 of 2004 concerning the prosecutor's office, Law No. 8 of 1981, Attorney General Decree Number: KEP- 089 / J. A /8 / 1988, Minister of Finance Regulation Number: 03 / PMK.06 / 2011 dated January 5, 2011, as well as several other laws and regulations related to this research, and court decision No 39 / Pid.Sus / 2020 / PN. BYL.

This research also uses descriptive research, which is a type of research that aims to describe a phenomenon or event in detail and systematically. This research was conducted by collecting data and information from various sources, such as observations, interviews, and questionnaires. The main purpose of descriptive research is to provide an objective picture of a phenomenon or event that occurs in criminal cases regarding narcotics evidence seized for the state. In addition, the author also uses the right sample or sample will also affect the results of the study.

Data collection techniques are carried out using literature studies and field research with interview techniques. A literature study is a way of collecting data to obtain data from sources that have relevance to the subject matter in the form of regulations, books, documents, or literature. An interview was conducted with the Boyolali District Attorney who was the executor in the verdict of the Narcotics case in Boyolali.

The collection of legal materials is carried out through literature studies and analyzed systematically using deductive and inductive legal arguments. Data collection is carried out by reading, collecting, and classifying materials relevant to the research topic. After that, the data were analyzed using deductive and inductive legal argumentation methods. The deductive method is used to analyze primary and secondary legal materials by looking at how the regulatory mechanism that explains the execution of seized narcotics evidence for the state with the facts found in the study.

The results of the analysis of the above problems are then presented descriptively in scientific articles. The analysis is carried out in a qualitative descriptive way, by analyzing qualitative data from research results with qualitative analysis. and described in the form of a comprehensive report for further conclusions will be drawn with deductive methods to answer the problems in this study. Data analysis or the process of converting research results into information that can be used to conclude is an activity carried out to convert research results into information that can be used in concluding. In this research, the author uses technical data analysis descriptive methods, by describing what is in the field, ongoing processes, causes or effects that develop.

Results and Discussion

Execution is the forcible execution of a court decision with general force, to carry out a court decision that has given permanent legal force. In another sense, the execution of a judgment or execution is already a common thing, which can be concluded from the term by experts or experts, according to R. Subekti and Retno Wulan Sutantio who took over the term "execution of judgment" as a substitute for the term "execution" in which case the term or meaning of the execution of the judge's decision has been considered as a standard term instead of execution.

Execution is a force with general force committed by the court to a party who is proven wrong or lost in a trial, where the court decision has permanent legal force. In addition, the court or judge is not only passing the decision, but the decision must be enforceable or executed so that it can realize achievements as the obligations of the parties listed in the decision.

Legally, the implementation of the decision is carried out by law enforcement, namely prosecutors under the auspices of the Prosecutor's Office of the Republic of Indonesia. Prosecutors are functional officials who are authorized by law to act as public prosecutors and execute court decisions that have obtained permanent legal force and other authorities under Law Number 16 of 2004. The current existence of the Prosecutor's Office of the Republic of Indonesia is Law Number 16 of 2004 concerning the Prosecutor's Office. According to the provisions in Article 2 Paragraph (1) of the Prosecutor's Law, it states that the Prosecutor's Office of the Republic of Indonesia is a government institution that exercises State power in the field of prosecution and other authorities based on the law.

The law does not specifically define expropriation. However, in the context of criminal law, confiscation can be interpreted as the act of confiscation or expropriation of goods by competent authorities, be it investigators, prosecutors, or courts, because the goods are allegedly related to a criminal act or are the result of a criminal act committed by someone. The act of deprivation is carried out as part of the process of investigating or prosecuting the perpetrator of the crime and is carried out to collect evidence or take possession of goods allegedly related to the criminal act. After the legal process is completed, the seized items can be expropriated by the state or auctioned for the benefit of the state. Regarding the processing mechanism for the settlement of loot, it has been regulated in Circular Number: SE-03/B/B.5/8/1988 concerning the Settlement of Loot, which states that; The grace period for completing the loot is limited to no later than 4 (four) months from the time the Court Decision acquires permanent legal force. The grace period is binding and the procuratorate should comply with it. According to Article 273 paragraph (3) and paragraph (4) of the Code of Criminal Procedure.

The authority of the prosecutor in executing court decisions is regulated in several articles, namely Article 270 of the Criminal Procedure Code, which states that the implementation of court decisions that have obtained legal force is still carried out by the prosecutor, for which the clerk sends a copy of the decision letter to him. Article 30

paragraph (3) letter (b) of Law Number 16 of 2004 concerning the Prosecutor's Office of the Republic of Indonesia, states that in the criminal field, the prosecutor's office has the duty and authority to carry out the determination of judges and court decisions that obtain permanent legal force.

As well as Article 54 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power, states that the implementation of court decisions in criminal cases is carried out by prosecutors. State confiscated goods are evidence based on a Court Decision that has permanent legal force and/or based on the determination of the Judge is declared confiscated for the state. The rights and obligations of the community are a habit that is not legalized by law, when the law legalizes the rights and obligations of the community, it will be seen in the form of written regulations and promulgated so that other parties know about it as well as in the judge's decision which reads that narcotics seized for the state must have a definite legal basis

The process of destruction or seizure of narcotics evidence at the level of investigation, prosecution, and judicial level, has indeed been mandated in the Criminal Procedure Code, Law 35 of 2009 concerning Narcotics, so law enforcement officials (criminal justice system) should not hesitate to carry out destruction. Any narcotics evidence confiscated, recovered, and handed over by the public to the authorities must be destroyed. The process of resolving the loot is quite clear, starting from the investigation carried out by the police to the court's decision

Based on Law Number 35 of 2009 concerning Narcotics, precisely in Article 101 paragraph 1 "Narcotics, Narcotic Precursors, and tools or goods used in the criminal act of Narcotics and Narcotic Precursors or related to Narcotics and Narcotic Precursors and the results are declared confiscated for the State". However, the law does not explain the mechanism of the settlement of the loot, in the sense that the goods do not know where to go. In this case, there are no rules governing the settlement of seized goods for the State.

If we look at the general picture through the point of view of criminal law and the Challenging Law, the general explanation of the execution of narcotics evidence seized for the State is regulated in Law No. 35 of 2009 and Government Regulation of the Republic of Indonesia Number 40 of 2015. that to implement the provisions of Article 32, Article 62, Article 89 paragraph (2), Article 90 paragraph (2), Article 94, Article 100 paragraph (2), and Article 101 paragraph (4) of Law Number 35 of 2009 concerning Narcotics, it is necessary to establish a Government Regulation on the Implementation of Law Number 35 of 2009. In criminal law, the regulation of the prosecutor as an executor regulated in Article 270 of the Criminal Code is the basis for the authority of the prosecutor to act as an executor (executor of court decisions that have obtained permanent legal force) as soon as possible to implement court decisions. The current existence of the Prosecutor's Office of the Republic of Indonesia is Law Number 16 of 2004 concerning the Prosecutor's Office (Prosecutor's Law) According to the provisions in Article 2 Paragraph (1) of the Prosecutor's Law, it is stated that the Prosecutor's Office of the Republic of Indonesia is a government institution that

implements. instructions of the Attorney General of the Republic of Indonesia. Number: INS006/J.A17/1986 concerning the Implementation of Administration of state power in the field of prosecution and other authorities under the Law.

When viewed from the provisions of the article above, especially Article 101 of Law Number 35 of 2009, it is clear that Narcotics, Narcotic Precursors, and tools or goods used in the criminal act of Narcotics and Narcotic Precursors or those involving Narcotics and Narcotic Precursors and the results are declared confiscated for the state. This is proof of the government's seriousness to provide a deterrent effect to the community of drug offenders. In court decisions related to drug crimes, many judges have determined the status of narcotics evidence seized for the State as ordered by law. For example, Boyolali District Court Decision Number: No 39 / Pid.sus / 2020 / PN, BYL in the decision, the judge handed down a verdict on narcotics evidence seized for the state. Of course, the Judge considered that narcotics evidence was seized for the state so that it would not be used again for illegal purposes, therefore the Judge decided that narcotics evidence should be seized for the State.

Research conducted in the decision of the Boyolali District Court judge who in consideration for Narcotics evidence stated that the loot for the State contradicted the theory of legal certainty referring to article 101 paragraph (1) of Law Number 35 of 2009 concerning Narcotics which explained "Narcotics, Narcotics Precursors and tools or goods used in Narcotics and Narcotics Precursors or transporting Narcotics and Narcotics precursors and the result is declared confiscated for the State" while based on the legal facts in the trial, that the evidence is directly related to narcotics, while in the judge's consideration refers to the provisions of article 101 paragraph (1) of Law Number 35 of 2009 concerning Narcotics stipulates that all evidence in the case is declared seized for the State.

But in the ruling, the evidence seized by the State resulted in or caused the prosecutor as the executor difficulty in executing the narcotics seized by the State, because Article 273 paragraph (3) of the Criminal Procedure Code explains "Regarding the criminal execution of confiscation of evidence, the Prosecutor empowers the object at the state auction office within a grace period of 3 months to be sold and can be extended by another one month, and the proceeds are entered into the state treasury in the name of the Prosecutor".

Even though it has been regulated correctly and follows the applicable legal rules, the facts in the field are found that the implementation does not work this way. This can be known from the length of completion of the booty. One of the reasons is that the District Attorney as the party who completed the loot in the form of narcotics does not know the mechanism or procedure for auctioning loot in the form of narcotics that has been decided in court. Regulation of the Minister of Finance Number: 03 / PMK.06 / 2011 dated January 5, 2011, concerning Management of State Property derived from State Spoils and Gratuity Goods. Article 15 paragraph (4) point C is excluded from the provisions as referred to in paragraph (1) for State loot in the form of other than land

and/or buildings that are prohibited from circulating generally by statutory provisions, the settlement can be destroyed. However, with the regulation from the minister of finance, which means that narcotics evidence seized by the State can be destroyed immediately, the implication is that the verdict directly states that the confiscated goods must be destroyed. But the ruling stated that confiscated goods were first confiscated by the State. Even regarding evidence, there are already 3 rules (destroyed, confiscated for the State, and returned to the rightful person).

The execution of court decisions in the form of confiscation of narcotics evidence for the state is one form of criminal punishment given to drug offenders. This action is carried out as an effort to prevent the misuse of narcotics evidence that has been confiscated by the authorities (Hartanto 2017). From a criminal perspective, the seizure of narcotics evidence for the state is a legal act and is regulated in Law Number 35 of 2009 concerning Narcotics. The implementation of this act of deprivation must be carried out.

The discrepancy between the decision of the Boyolali District Court judge regarding evidence in the form of Narcotics seized for the State referring to Article 101 paragraph (1) of Law Number 35 of 2009 concerning Narcotics explains "That Narcotics, Narcotics Precursors and tools or goods used in Narcotics crimes and Narcotics precursors or transporting narcotics and Narcotics precursors and the proceeds are seized for the State, based on referring to Article 101, the judge determines that all evidence in the case seized for the State is true.

Although it has been arranged ideally, the facts in the field found that the implementation did not work that way. With the implementation of regulations, the settlement of the destruction of loot or confiscation of narcotics takes a very long time, namely one year. Because this can be known from the length of completion of the booty. One of the reasons is that the District Attorney's Office as the party that completes the loot in the form of narcotics does not know the mechanism or procedure for auctioning loot in the form of narcotics that has been decided in court. In executing narcotics evidence verdicts seized for the state, the application of legal certainty is very important to ensure that the execution process is carried out, definitely, and by applicable legal regulations.

Conclusion

The execution of the Boyolali district court decision in the form of a criminal case of confiscation of narcotics evidence seized for the state, several things need to be considered so that the execution action can be carried out effectively and efficiently. The prosecution must ensure that the execution process is carried out carefully, and professionally, and follows applicable legal regulations. Law enforcement by the judge on evidence of narcotics crimes in the Boyolali District Court Judge's Decision in his consideration that the evidence presented by the Public Prosecutor before the court and confirmed by the defendant is a tool or item used in narcotics crimes referring to Article 101 paragraph (1) of Law Number 35 of 2009 concerning Narcotics explains "That

Narcotics, Narcotics precursors and tools or goods used in Narcotics and Narcotics precursors or those involving narcotics and Narcotics precursors and the results seized for the State have no legal certainty.

The implementation of the execution of narcotics evidence seized for the state carried out by the Boyolali State Prosecutor's Office has so far not been effective, this is due to the length of time for the issuance of loot destruction permits from the Attorney General's Office of the Republic of Indonesia, Determination of the physical condition of loot in the form of narcotics from the competent authorities, which is needed which is related to the process of completing the destruction of loot that has permanent legal force. The prosecutor as the executor has also sent letters to various institutions that need narcotics as research material as well as no response from the institution. Obstacles in executing narcotics evidence seized for the State are juridical and non-juridical obstacles. Juridical obstacles include a. ineffective application of article 45 paragraph (4) of the Code of Criminal Procedure (KUHAP), b There are no special rules governing loot in the form of narcotics seized for the State in the Criminal Procedure Code.

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