

Effectiveness of the Implementation of Termination of Investigation in Drug Addicts Cases Based on Restorative Justice (Study of Decision Number 116/Pid.Sus/2024/Pn.Sda)

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Abstract. *This study examines the effectiveness of the implementation of termination of investigation in drug addict cases with a restorative justice approach, based on the study of Decision Number 116/Pid.Sus/2024/PN.Sda. The focus of the study is on how the implementation of termination of investigation is carried out, the weaknesses that arise in its implementation, and its level of effectiveness in providing justice that is oriented towards social recovery for drug addicts. The method used is the socio-legal method, which is a combination of normative legal studies and analysis of social conditions that influence the application of the law. Through this method, research not only looks at formal legal aspects but also social dynamics in the field, especially related to the application of restorative justice in handling drug addicts. The results of the study indicate that the implementation of the termination of the investigation has been carried out in accordance with legal provisions, but there are several weaknesses such as the lack of understanding of law enforcement officers regarding the principles of restorative justice and limited assistance for addicts. However, the termination of the investigation based on restorative justice has proven effective in providing protection for the rights of addicts and supporting more humane rehabilitation, thereby reducing recidivism rates and encouraging sustainable social recovery.*

Keywords: *Investigation; Justice; Restorative; Termination.*

1. Introduction

Drug abuse is one of the serious problems faced by Indonesian society. This phenomenon not only impacts the individuals involved, but also has far-reaching consequences for families, communities, and the country. Data shows that more than 60% of prison inmates in Indonesia are prisoners who are caught in drug cases, creating a significant overcapacity problem in the prison system. In this context, conventional approaches that prioritize criminal sanctions are often ineffective in addressing the root causes of drug abuse.

Along with the development of modern legal thought, the concept of restorative justice began to be introduced as an alternative in handling drug abuse cases. Restorative justice emphasizes recovery and reconciliation between the perpetrator, victim, and community, not solely on punishment. This approach aims to provide an opportunity for the perpetrator to undergo rehabilitation and improve themselves, as well as restore the social conditions that have been disturbed by the crime.

Restorative justice, although recognized as a more humane and effective method in handling drug cases, its implementation in the field still faces various challenges. Law Number 35 of 2009 on Narcotics tends to prioritize a punitive approach and does not fully support the implementation of restorative justice. This raises questions about how criminal sanctions can be aligned with the principles of restorative justice to achieve better results for drug abusers.

Article 1 paragraph 3 of the 1945 Constitution states that Indonesia is a country of law. This statement contains the meaning that all aspects of national, social, and state life must be based on applicable law. Thus, every aspect of life is regulated and protected by legal provisions, which aim to create justice and certainty for all citizens.

The statement on the rule of law is marked by the existence of a judicial institution that has an important task in enforcing the rule of law. The supremacy of law emphasizes that "Indonesia is a country that upholds human dignity and honor, in line with applicable laws and regulations. The government is required to enforce the law without exception." This shows a commitment to ensuring that every individual, without discrimination, receives protection and justice under the law. Thus, the judiciary plays a crucial role in maintaining the integrity of the legal system and ensuring that the principles of justice are consistently upheld in society..¹

¹Lailatul Nur Hasanah and Sri Endah Wahyuningisih, The Application of Justice Principles of Rapid Simple Fee in Criminal Justice System in the State Court (Case Study in State court of Pati), Jurnal Daulat Hukum Volume 2 Issue 4, December 2019 ISSN: 2614-560X

Law can be understood as a system consisting of various rules that regulate human behavior. Thus, law does not only refer to a single rule, but is a collection of rules that are interrelated and function as a whole. This legal system is very important because it plays a role in regulating various interests in society. Therefore, criminal law is needed to create order and justice in society, as well as to enforce norms that are mutually recognized.²Criminal law can be described as one of the integral components in the entire legal system that applies in a country. As part of the legal system, criminal law functions to regulate actions that are considered to violate social norms and provide sanctions for the perpetrators. Thus, criminal law does not stand alone, but is interrelated with other legal norms, such as civil law and administrative law, to create a just and orderly social order. Through the enforcement of criminal law, it is hoped that protection will be created for the public interest and the maintenance of order and security in society.

Criminal law is part of the overall law that applies in a country.³Nowadays, crime can happen to anyone and can be committed by anyone, regardless of social, economic, or educational background. This phenomenon reflects the complexity of the increasing crime problem in society. Various factors, such as poverty, unemployment, and lack of education, can contribute to the high crime rate.

Increased accessibility of information and technology also allows individuals to commit crimes in more sophisticated and hidden ways. This requires law enforcement to adapt and improve strategies in preventing and handling criminal acts. In addition, it is important to involve the community in crime prevention efforts through legal education and awareness of the negative impacts of criminal acts.

A comprehensive approach is needed to address this issue, including the implementation of restorative justice that can provide opportunities for perpetrators to improve themselves and reduce the negative impact on victims and society as a whole. Thus, the participation of all parties, including the government, law enforcement, and the community, is very important in creating a safe and crime-free environment.

Criminal acts are a term that contains a basic understanding in criminal law, while criminal acts can occur anytime and anywhere. Various motives for criminal acts are motivated by various interests, both individual and group. In relation to the above, the Government has formed an agency that has the authority to address every criminal problem that occurs in society, namely the criminal justice system.

²Jimly Asshiddiqie and Ali Safaat, 2006, *Hans Kelsen's Theory of Law*, Secretariat General and Clerk's Office of the Constitutional Court of the Republic of Indonesia, Jakarta, p. 1

³Moeljatno, 2008, *Principles of Criminal Law*, Rineka Cipta, Jakarta, p. 1.

Drugs is an abbreviation of narcotics and dangerous drugs, besides the term drugs, the Ministry of Health of the Republic of Indonesia also provides another term, namely Napza, which is an abbreviation of Narcotics, Psychotropics and Addictive Substances.⁴

Article 1 paragraph (1) of Law No. 35 of 2009 explains that 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 feeling, reduce to eliminate pain, and can cause dependency, which is divided into groups as attached to this Law. Narcotic substances were originally indicated for medical purposes, but along with the development of science and technology, types of narcotics can be processed in such a large number and their functions can also be misused.⁵

Drug and illicit drug crimes are transnational in nature, which is a form of cross-border crime using sophisticated procedures and technology. This causes the development of drug crimes that occur in countries around the world to need to be eradicated completely. Law enforcement officers are expected to be able to prevent and overcome these crimes in order to improve the morale and quality of Indonesia's human resources. Especially for the next generation of this country. If consumed without careful restrictions and supervision, these drugs can endanger the health and even the lives of their users.⁶

Narcotics Law, narcotics are classified into three groups as follows. Looking at the provisions of Article 6 paragraph (1) of the Narcotics Law, here are the 3 groups of narcotics as follows:

1) Class I Narcotics

This narcotic is only used for scientific purposes and is not used in therapy/treatment and has a very high potential to cause dependency syndrome.

2) Class II Narcotics

This narcotic is for treatment which is used as a last resort and can be used in therapy/treatment or for scientific purposes and has a strong potential to cause dependency syndrome.

3) Narcotics Class III

⁴Aliffia Ananta, et al., Counseling for Adolescents Against Narcotics and Psychotropics, Jurnal Abdikarya: Journal of Community Service Work of Lecturers and Students, Vol. 03 No. 04, 2019, p. 301

⁵Moh. Makaro Taufik, Suhasril, and Moh. Zakky, 2005, Narcotics Crimes, Ghalia Indonesia, Bogor, p. 19.

⁶Moh. Taufik Makarao, Suhasril, and Moh. Zakky, 2003, Narcotics Crimes, Ghalia Indonesia Jakarta, p.1.

This narcotic is for treatment and is widely used in therapy/treatment or for scientific purposes and has a mild potential to cause dependency syndrome.

Drug cases in Indonesia currently continue to show a significant increase, causing deep concern in society. The rampant distribution of drugs can be seen from the increasing success of law enforcement in uncovering various drug cases. This reflects the challenges faced in efforts to eradicate drugs and the need for stronger collaboration between the government, law enforcement officers, and the community to address this problem effectively.

The advancement of increasingly sophisticated communication and transportation technology facilitates drug trafficking transactions. Transactions can be done via the internet by disguising themselves as parcels, so that sellers and buyers do not need to meet in person and risk being easily identified by the police, so that narcotics become a very serious problem for Indonesia, because drugs do not choose who they will make victims.

The increasing accessibility of the internet and the use of social media have created new spaces for criminals to carry out their activities more easily and anonymously. They can use various methods to disguise their identities and transaction purposes, such as packaging narcotics in the form of other goods that look ordinary, making it difficult for security officers to detect.

International drug syndicate networks utilize transportation modes to smuggle and distribute narcotics to various regions in Indonesia. News about smuggling via land, sea, and air routes is increasingly appearing, illustrating how serious this threat is. Thus, drug trafficking is not only an individual problem, but also threatens the safety of society as a whole.

The Indonesian government in facing this challenge has taken steps to strengthen law enforcement and raise public awareness of the dangers of drugs. Cooperation between the National Narcotics Agency (BNN) and related ministries is essential to create a safe and drug-free environment. However, this effort requires support from all levels of society in order to be effective in combating the increasingly rampant drug trafficking.

Article 4 of the 1945 Constitution affirms the commitment to protect the entire Indonesian nation, improve public welfare, and provide protection to the people. In this context, community participation is very important in realizing a healthy national life. In addition, this article also underlines the importance of creating world order, lasting peace, and social justice as a common goal. Thus, every individual is expected to actively contribute to achieving these ideals for the welfare and progress of the nation.⁷

⁷The 1945 Constitution, Fourth Paragraph.

Narcotics Law Number 35 of 2009, there are no specific regulations regarding drug abuse. This is done as a strategic step by the government to meet the need for a more comprehensive approach in handling the drug problem. By not regulating abuse directly, the government is trying to create a legal framework that is more flexible and responsive to existing social dynamics, while providing space for rehabilitation and protection for individuals caught in drug abuse. This approach is expected to encourage more effective prevention and eradication efforts, as well as ensuring that handling the drug problem is carried out by considering aspects of humanity and social justice.

According to Redbruch, the priority principle must be used, namely the first priority is always "justice", then "benefit" and finally "certainty". Imposing the same criminal sentence will create a sense of injustice and even harm the sense of justice in society. And considering that the illicit trafficking of narcotics is an unlawful act, as the perpetrator can be sentenced to a criminal sentence. A person who can be sentenced to a criminal sentence is a person who is guilty of violating a criminal law regulation or committing a crime and has the ability to be responsible in order to be held accountable for his mistake.⁸ It is hoped that sentencing drug abusers to prison will not only have a deterrent effect on the perpetrators but also be a means of preventing crime.

Drug crime prosecution is carried out extensively by police officers and is the subject of many court decisions. Therefore, it is expected that law enforcement officers will be able to stop the rampant trade and illicit drug trafficking. In fact, the more law enforcement is enforced, the more widespread the illegal drug trade will be. Although legal regulations regarding drug issues have been developed and enforced, the number of drug-related crimes has not decreased. In recent incidents, many drug dealers and traffickers have been arrested and given heavy sanctions, but other perpetrators seem to be ignored, increasing the possibility that they will expand their activities.⁹

Justice *Restorative* provide the best solution in resolving cases of crime or violations, namely by prioritizing the core problem of a crime. An important solution to note is to repair the damage or loss caused.

Judges have the freedom to determine the type of criminal offense and the height of the punishment, judges have the freedom to move on the minimum and maximum limits of criminal sanctions regulated by law for each crime. This is that the issue of punishment is entirely the authority of the judge.¹⁰

⁸Ibid, p.4

⁹Mirza Dwi Bagustiantara and Ira Alia Maerani, Law Enforcement Against Perpetrators of Narcotics Abuse Crimes at the Kudus District Court, UNISSULA STUDENTS SCIENTIFIC CONFERENCE (KIMU) 4 Sultan Agung Islamic University Semarang, October 28, 2020, p. 684

¹⁰Sudarto, 1986, Selected Chapters on Criminal Law, Alumni, Bandung, p. 78.

In practice, there are still many drug addicts who are actually processed legally and sentenced to prison, even though they should be entitled to rehabilitation. This shows that there are still obstacles in the implementation of the termination of investigations based on restorative justice. For example, the case of RS (name disguised), a student in Jakarta who was arrested for possession of 0.5 grams of crystal methamphetamine in 2022. Based on Article 127 of Law Number 35 of 2009 concerning Narcotics, drug addicts should receive rehabilitation, not criminal penalties. However, in reality, RS was still processed legally and sentenced to 5 years in prison. This is contrary to the principle of restorative justice which emphasizes that addicts are victims and need to be rehabilitated so that they can return to society in better conditions.

The restorative justice policy has actually been supported by several regulations, such as the Supreme Court Circular (SEMA) Number 4 of 2010 and the Joint Regulation of the Minister of Law and Human Rights, Minister of Health, Minister of Social Affairs, Attorney General, Chief of Police, and Head of BNN in 2014 concerning Handling of Narcotics Addicts and Victims of Narcotics Abuse into Rehabilitation Institutions. However, the implementation of these regulations has not been optimal due to various obstacles, such as the lack of understanding of law enforcement officers, lack of coordination between institutions, and the stigma of society towards drug addicts.

It is expected that the formulation of the Law can provide a solution in overcoming the illicit trafficking and abuse of Narcotics and Psychotropics. In addition, this law is expected to be a reference and guideline for the courts and the organizers or implementers of court decisions in implementing existing provisions. In particular, judges are expected to be able to use this law as a guideline in imposing criminal sanctions for crimes that occur. Thus, law enforcement can be carried out fairly and based on established principles.

The case of drug abuse also occurred in the Sidoarjo District Court area Number 116/Pid.Sus/2024/PN.Sda. Starting from that the Defendant VG on Thursday, December 7, 2023 at around 22.00 WIB or at least around that time in December 2023 at the edge of Jalan Raya Simpang Tiga Cemengkalang, Sidoarjo District, Sidoarjo Regency, or at least in another place still within the jurisdiction of the Sidoarjo District Court, which has the authority to examine and try this case, without rights or against the law, offered for sale, sold, bought, acted as an intermediary in buying and selling, exchanged, handed over, or received Class I Narcotics.

Based on the principle of *ultimum remedium* in criminal law, the use of criminal sanctions should be the last option if non-penal efforts are no longer effective. In the context of drug abuse for oneself, the criminalization approach is not always relevant, considering that the perpetrator is more a victim of dependence than a pure criminal. Law Number 35 of 2009 concerning Narcotics, especially Article

54, emphasizes that drug addicts are required to undergo medical and social rehabilitation, not imprisonment. Furthermore, the Circular of the Supreme Court (SEMA) Number 4 of 2010 and the Joint Regulation between five state institutions in 2014 regulate the assessment mechanism as a basis for terminating investigations of addicts and transferring them to rehabilitation institutions. This is in line with the principle of Restorative Justice which aims to restore the individual and social conditions of the perpetrator, as well as prevent the effects of excessive criminalization of addicts. Thus, the termination of investigations and rehabilitation are not only legally valid, but also fairer and more effective in dealing with drug problems in a humane and proportional manner.

2. Research Methods

The approach method used in this study is the Socio-Legal Research approach, an approach in legal research that combines a normative approach (legal dogmatic) with an empirical approach (sociological). This approach aims to understand law not only as a set of rules written in laws and regulations, but also how law is applied and functions in social reality.¹¹ The research method used by the author in its implementation is the Case Study Approach, where the author examines legal cases that have occurred to understand the implementation of law in real life.¹²

3. Results And Discussion

3.1. Current Implementation of Termination of Investigation in Drug Addict Cases

1) Case Study Description of Decision Number 116/Pid.Sus/2024/PN.Sda

Declaring that the Defendant VIGO PRAYOGI BIN SUJITO ALIAS VIGO has been proven legally and convincingly guilty of committing a criminal act without rights or against the law, possessing, storing, controlling or providing Class I Narcotics which are not plants as regulated and threatened with criminal penalties in Article 112 paragraph (1) of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics, in accordance with the Second Indictment of the Public Prosecutor;

Sentencing the Defendant VIGO PRAYOGI BIN SUJITO ALIAS VIGO to 6 (six) years imprisonment minus the period of arrest and detention that has been served and ordering the Defendant to pay a fine of IDR 800,000,000.00 (eight hundred million rupiah) with the provision that if the fine is not paid it will be replaced with 6 (six) months imprisonment;

¹¹Satjipto Rahardjo, 2014. Building a Just Legal Pattern. Yogyakarta: Genta Publishing, p. 22.

¹²Barda Nawawi Arief, 2013. Anthology of Criminal Law Policy. Jakarta: Kencana, p. 71

Declaring that the Defendant VIGO PRAYOGI BIN SUJITO ALIAS VIGO remain detained;

Stating evidence in the form of:

- a. 1 (one) plastic bag containing narcotics in the form of crystal methamphetamine weighing ± 0.21 (zero point twenty one) grams, weighed along with its packaging;
- b. 1 (one) used glass pipette for crystal methamphetamine which still had some crystal methamphetamine residue weighing ± 1.84 (one point eighty four) grams was weighed along with the pipette;
- c. 1 (one) black sling bag;
- d. 1 (one) black wallet;
- e. 1 (one) piece of black straw;
- f. 1 (one) blue iPhone brand cellphone with WhatsApp number 081228885004; Confiscated for destruction.

Also determining that the Defendant Vigo Prayogi bin Sujito alias Vigo is burdened with paying court costs of Rp 2,500.00 (two thousand five hundred rupiah). After hearing the defense note submitted by the Defendant's Legal Counsel which in essence requested the lightest possible verdict, with the consideration that the Defendant admitted guilt and regretted his actions, the Defendant was frank and did not beat around the bush in providing information so as to facilitate the trial, the Defendant is still young so that he can be directed to become a better person in the future, After hearing the Public Prosecutor's response to the defense note submitted by the Defendant's Legal Counsel which in essence stated that he would stick to his demands and the Defendant through his Legal Counsel stated that he would stick to his defense note;

Considering, that the Defendant was brought to trial by the Public Prosecutor and charged based on the following indictment:

First:

That the Defendant VIGO PRAYOGI BIN SUJITO ALIAS VIGO on Thursday, December 7, 2023 at around 22.00 WIB or at least around that time in December 2023 at the edge of Jalan Raya Simpang Tiga Cemengkalang, Sidoarjo District, Sidoarjo Regency, or at least in another place still within the jurisdiction of the Sidoarjo District Court, which has the authority to examine and try this case, without rights or against the law, offered for sale, sold, bought, acted as an intermediary in the sale and purchase, exchanged, handed over, or received

Class I Narcotics, which actions were carried out by the Defendant in the following manner:

- That starting from the Defendant getting to know Witness Muhammad Wildan Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file), the Defendant knew that Saki Muhammad Wilda Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file) provided goods in the form of narcotics in the form of crystal methamphetamine, so the Defendant started buying the crystal methamphetamine from Saki Muhammad Wildan Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file) where in carrying out the transaction the Defendant first contacted Witness Muhammad Wildan Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file), if the goods that the Defendant ordered were ready then the Defendant met Saki Muhammad Wildan Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file) and carried out the transaction directly;

That then on Thursday, December 7, 21:3 "the defendant contacted Saki Muhammad Wildan Riyadillah Alias ntu.ig Bin H. Muhammad Najid (in another case file) to order 1 (one) pocket of crystal methamphetamine for Rp. 150,000.00 (one hundred and fifty thousand rupiah), then Witness Muhammad Wildan Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file) borrowed Rp. 50,000.00 (fifty thousand rupiah) to additionally buy the crystal methamphetamine from the seller so that the Defendant agreed;

Then the Defendant went to meet Witness Muhammad Wildan Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file) at his boarding house in the Bangsri area, Sukodono District, Sidoarjo Regency and handed over Rp. 200,000.00 (two hundred thousand rupiah) to Saki Muhammad Wilda Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file), then the Defendant and Witness Muhammad Wildan Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file) went together to Inde ria. 't in the Sukodono area, Sidoarjo to transfer the money to buy the type of crystal methamphetamine and then waited;

That not long after the Defendant was invited by Witness Muhammad Wildan Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file) to pick up the methamphetamine narcotics in the Suruh area, Sukodono District, Sidoarjo Regency and then take it to the boarding house of Witness Muhammad Wildan Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file), after the Defendant got the methamphetamine narcotics from Witness Muhammad Wildan Riyadillah Alias Entong Bin H. Muhammad Najid (in another case file), then the Defendant went to work until on the same day at around 22.00 WIB when the Defendant was on the side of Jalan Raya Simpang Tiga Cemengkalang, Sidoarjo District, Sidoarjo Regency, the Defendant was arrested by several Police

Officers in plain clothes. Furthermore, the Defendant was questioned and searched.

Evidence was found in the form of 1 (one) plastic containing narcotics in the form of crystal methamphetamine weighing ± 0.21 (zero point twenty one) grams weighed along with its packaging, 1 (one) used glass pipette for crystal methamphetamine that still had soap residue weighing ± 1.84 (one point eighty four) grams weighed along with its pipette, 1 (one) black wallet, 1 (s~ piece of black straw and 1 (one) blue 'oh brand cellphone with WhatsApp number 081228885004 which is. did i.am 1 (one) black shoulder bag belonging to the Defendant, then "era. 'wa and all the evidence were taken to the Polesta Noario Office for further examination;

Based on the Criminalistic Laboratory Examination Report No. LAB: 09895 / NNF / 2023 dated December 28, 2023, evidence with number = 31775 / 2023 / NNF.-: in the form of 1 (one) plastic bag containing white crystals with a net weight of + 0.058 (zero point zero fifty eight) grams is true Methamphetamine crystals, registered in Group | (one) Number rut 61 Attachment | Law of the Republic of Indonesia Number 3 of 2009 Concerning Narcotics = 31776 / 2023 / NNF.-: in the form of 1 (one) glass pipette containing white crystals with a net weight of ± 0.014 (zero point zero fourteen) grams is true Methamphetamine crystals, registered in Group I (one) Number rut 61 Attachment I Law of the Republic of Indonesia Number 35 of 2009 Concerning Narcotics; That the Defendant knew that buying, receiving, being involved in the sale, exchange or delivery of narcotics in the category of crystal methamphetamine was prohibited by the Government and was a criminal act, however the Defendant still did it; the Defendant's actions as regulated and subject to criminal penalties in accordance with Article 114 paragraph (1) of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics.

The results of the trial TO JUDGE: Declare that the Defendant Vigo Prayogi Bin Sujito alias Vigo has been proven legally and convincingly guilty of committing the crime of "Without rights or against the law possessing Class I Narcotics other than plants"; To sentence the Defendant therefore to imprisonment for 5 (five) years and a fine of Rp. 800,000,000 (eight hundred million rupiah) with the provision that if the fine cannot be paid then it is replaced with imprisonment for 6 (six) months. To determine that the period of arrest and detention that has been served by the Defendant is deducted entirely from the sentence imposed; and To determine that the Defendant remains in detention;

2) Legal Basis for Investigation

The implementation of the termination of investigations against drug addicts in Indonesia is based on several main regulations, namely:

- a. Law Number 35 of 2009 concerning Narcotics:

1) Article 54: Mandates that drug addicts and victims of abuse must undergo medical and social rehabilitation.

2) Article 127 paragraph (1) letter a: States that drug addicts who abuse drugs for their own use can be subject to criminal sanctions or undergo rehabilitation.

b. Supreme Court Circular (SEMA) No. 4 of 2010, Emphasizes the importance of a rehabilitative approach for addicts, not just criminal punishment.

c. Joint Regulation of 7 Institutions in 2014 Involving the Police, BNN, Prosecutor's Office, Supreme Court, Ministry of Health, Ministry of Social Affairs, and Ministry of Law and Human Rights. And establishes an integrated assessment mechanism as a basis for determining whether a suspect is eligible for rehabilitation.

3) Termination of Investigation of Drug Addicts

As regulated in Law Number 35 of 2009 concerning Narcotics, especially Article 54 and Article 127 paragraph (1) letter a, a drug addict who abuses narcotics for himself should not be immediately processed through the regular criminal route, but rather directed to the rehabilitation route. This provision is reinforced by SEMA No. 4 of 2010 and Joint Regulation of 7 Institutions of 2014, which emphasizes the importance of integrated assessment as an instrument to determine the status of the user as an addict.

Theoretically, this process allows for the termination of the investigation (discretionary prosecution) by investigators if the subject is truly an addict, not a dealer or courier. This step is an implementation of a progressive legal policy that is oriented towards restorative justice and recovery, not just deterrence. In practice, this approach has not been consistently implemented, especially against users who are found to be storing small amounts of narcotics. Many law enforcement officers still adhere to a formal legalistic approach, which considers possession of narcotics to be a pure crime that must be processed through the courts, without considering the personal and social context of the perpetrator.

The Vigo Prayogi case illustrates the problem in real terms. In this case, Vigo was found to have narcotics in a very small amount and was strongly suspected of being for personal use. However, investigators continued the case to the prosecution stage, without considering a rehabilitative approach or conducting a comprehensive integrated assessment. This shows that law enforcement officers in this case did not apply the principle of discretionary prosecution optimally, and ignored the spirit of progressive law that places addicts as victims who must be restored, not punished.

4) Implications for Justice and the Purpose of Punishment

The rejection of the termination of the investigation in the Vigo Prayogi case has serious implications for the criminal justice system, particularly in the context of handling cases of drug abuse by addicts, namely:

- a. First, it reflects the criminalization of addicts who should be placed as subjects who need recovery through rehabilitation, not as criminals who deserve to be imprisoned. In fact, Law Number 35 of 2009 concerning Narcotics explicitly opens up space for a rehabilitative approach for drug users for themselves.
- b. Second, a repressive approach like this actually creates overlap in case handling, which ultimately burdens the judicial and correctional institutions with cases that should be able to be resolved outside the courts through rehabilitation mechanisms.
- c. Third, the rigid application of the law without considering the social background and mental condition of the perpetrator shows a denial of the principle of substantial justice, namely that the law should place humans and human values at the center of its considerations.

In this framework, a legal approach that is solely based on formal legal aspects will lose its true value of justice, as exemplified in the Vigo Prayogi case.

3.2. Weaknesses in the Implementation of Termination of Investigation in Current Drug Addict Cases

The implementation of the termination of investigations against drug addicts who use it for themselves has been regulated in various legal instruments, such as Articles 54 and 127 of Law Number 35 of 2009 concerning Narcotics, Circular Letter of the Supreme Court (SEMA) No. 4 of 2010, and Joint Regulation of 7 Institutions in 2014. However, in practice this policy faces a number of weaknesses that cause the implementation of the rehabilitative approach as an alternative to punishment to be less than optimal. The following are some of the main weaknesses, as clearly illustrated in the case of Vigo, a young man who uses marijuana for personal gain. The author explains below:

1) Lack of Understanding and Commitment from Law Enforcement

In Vigo's case, the police and prosecutors continued the legal process despite the results of an assessment by the National Narcotics Agency (BNN) stating that Vigo was an active addict and a personal user. Instead of implementing a rehabilitative approach as mandated in the Narcotics Law, law enforcement officers interpreted his actions as a narcotics crime that must be resolved through a criminal process up to the courts.

2) Integrated Assessment Not Implemented Optimally

The assessment process for Vigo has actually been carried out by an integrated assessment team, but its implementation is a formality. The assessment results were not used as the main consideration in making the decision to terminate the investigation. This shows that the assessment which should be an objective measuring tool is instead positioned as an administrative complement, not as a substantive guide.

3) Lack of Rehabilitation Facilities Available

In the confession of law enforcement officers, the reason for the refusal to divert Vigo's legal process to rehabilitation is one of the limitations of rehabilitation institutions in his area. The concern that Vigo will "get out of control" if not detained and tried also reflects the lack of alternative rehabilitation places available and reliable for law enforcement.

4) Fear of Officials Regarding Abuse of Authority Assessment

Investigators in the Vigo case said the decision not to stop the investigation was based on caution to avoid being accused of abuse of authority. This reflects a bureaucratic culture that is still strong among law enforcement, where decisions based on substantive justice are often avoided for the sake of career and position security.

5) No Sanctions Against Officers Who Ignore Rehabilitation Paths

Although it is clear in the regulation that addicts must be rehabilitated, law enforcement officers who ignore this provision are not subject to sanctions. In the Vigo case, there were no legal consequences for investigators or prosecutors who ignored the assessment results. This absence of sanctions reinforces the gap between legal norms and practices in the field.

6) Absence of Operational Technical Guidelines

In the implementation of the Vigo case, it is clear that law enforcement officers do not have detailed technical references regarding the procedure for terminating the investigation based on a rehabilitative approach. This causes a lack of direction in the implementation of more humanistic legal principles, and finally the law is implemented again in a procedural-formalistic manner.

7) Dominance of Penal Approach over Non-Penal Approach

The decision to continue to prosecute Vigo is a clear reflection that the culture of criminalization still dominates. Although in substance Vigo is a victim of drug abuse who needs treatment, the legal system actually places him as a perpetrator of the crime. This is a form of failure to distinguish addicts from dealers.

8) Lack of Periodic Evaluation of Policy Effectiveness

The Vigo case should be able to be a material for evaluation that the policy of stopping investigations is not running effectively. However, until now there has been no official report or national evaluation system that evaluates obstacles of this kind to be used as a reference for policy updates. Vigo is only one of many similar cases that are not documented as material for systemic correction.

9) The Existence of Social Stigma towards Addicts

The stigma against addicts is strong in the narrative of the authorities and the community around Vigo. They are considered criminals, not patients who need treatment. This also causes a lack of public support for rehabilitation alternatives, and also strengthens the resistance of law enforcement officers to the policy of stopping investigations.

By considering these weaknesses, and tracing them in concrete cases such as the Vigo case, it can be concluded that the implementation of the termination of investigations against drug addicts has not been carried out consistently and comprehensively. The policy that should represent a humanitarian and justice approach is actually defeated by rigid procedures and a repressive legal culture. Therefore, a comprehensive update is needed, starting from technical regulations, training of officers, to a paradigm shift in viewing drug addicts, so that substantive justice can truly be realized.

3.3. Effectiveness of Implementing Termination of Investigation in Drug Addict Cases Based on Restorative Justice

Restorative Justice is a legal approach that aims to resolve criminal cases by prioritizing the recovery of the perpetrator, victim, and community, rather than simply imposing criminal penalties. In the context of drug cases, especially for addicts who use for themselves, this approach is very relevant because it recognizes that addicts are individuals who need recovery, not merely subjects who must be punished.

According to Law Number 35 of 2009 concerning Narcotics, specifically Article 54 and 127 paragraph (3), and Joint Regulation of 7 Institutions of 2014, drug addicts should receive rehabilitation through an integrated assessment mechanism. Herein lies the opportunity for the application of restorative justice: the state is present to restore the condition of addicts so that they can function again in society, not to add to the burden through imprisonment.

However, in practice, the effectiveness of the implementation of the termination of investigations against drug addicts based on the principle of restorative justice still faces many challenges. This is clearly illustrated in the case of Vigo, a young man who uses marijuana who should have been directed to rehabilitation

through the termination of the investigation. Although the assessment results stated that Vigo was a user for himself and was included in the category of active addicts who needed rehabilitation, investigators continued the investigation process to the prosecution stage. This shows that the spirit of restorative justice has not become the main guideline in making legal decisions. Law enforcers tend to maintain a repressive paradigm, namely processing the law for every perpetrator of a crime without distinguishing between users, addicts, and dealers.

The effectiveness of restorative justice in Vigo's case can be said to be low, because the main goal of Restorative Justice was not achieved, namely the recovery of the perpetrator through a non-penal approach. Vigo was not given the opportunity to be rehabilitated medically and socially, but instead had to undergo a criminal process that had the potential to worsen his psychological and social conditions. This is contrary to the basic principle of Restorative Justice which prioritizes recovery over revenge.

Furthermore, the lack of coordination between agencies such as the police, prosecutors, and rehabilitation institutions is a major obstacle. The BNN, which has provided rehabilitation recommendations, does not have the authority to force other law enforcement officers, so that the recommendations are only administrative supplements, not binding legal guidelines. This situation causes the implementation of the termination of investigations to be ineffective even though the legal instruments are available.

Effectiveness is also influenced by the social stigma that is still strongly attached to addicts. In the eyes of the authorities and the general public, addicts like Vigo are still seen as dangerous criminals, not individuals who need recovery. This perception influences the legal process which ultimately does not reflect the values of social justice and humanity. From a legal perspective, the failure to implement the termination of the investigation against Vigo reflects the failure to internalize the progressive legal approach, as proposed by Satjipto Rahardjo, that the law should live and develop in accordance with social reality, not just rigid procedures. In this context, the spirit of recovery should be prioritized over the formality of the legal process.

Thus, it can be concluded that the effectiveness of the implementation of the termination of investigation in drug addict cases based on restorative justice is still very limited. The Vigo case shows that even though the legal framework is available, its implementation is still hampered by a repressive legal culture, minimal understanding of restorative justice, and a weak inter-institutional coordination system. In order for the termination of investigation based on restorative justice to run effectively, there needs to be:

- a. Increasing the understanding of law enforcement officers regarding the spirit and principles of Restorative Justice.
- b. Improving the quality and capacity of objective and binding integrated assessments.
- c. Strengthening the role of the BNN and rehabilitation institutions in the investigation and prosecution process.
- d. Preparation of technical guidelines for the operational implementation of Restorative Justice.
- e. Regulatory updates so that assessment results become a binding legal basis for terminating investigations.

With these steps, Indonesia's criminal law approach to drug addicts can be more just, humane, and in line with the goals of social recovery, as expected within the restorative justice framework.

4. Conclusion

Based on the results of research and legal analysis of Decision Number 87/Pid.Sus/2024/PN Nab in the case that ensnared Vigo Prayogi as a drug addict, it can be concluded that the implementation of the termination of investigation in drug addict cases which should be directed at a restorative justice approach, has not been running optimally. This can be seen from the still dominant penalistic approach that leads to the criminalization of addicts, even though regulations have provided space for efforts to terminate investigations for rehabilitation. The legal facts found show that law enforcement officers have not consistently applied the principles of humanity and substantial justice as mandated in Law Number 35 of 2009 concerning Narcotics and its implementing regulations.

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