

Analysis Of Criminal Responsibility In Cases Of Possession Or Control Of Narcotics Study Of Decision Number 22/Pid.Sus/2025/PN Pso.

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Abstract. *Particularly in sentencing, which does not reflect substantive justice. This study analyzes Decision Number 22/Pid.Sus/2025/PN Pso against defendant Piter Tanjaya, who was sentenced to five years in prison and a fine of IDR 800,000,000 for possession of 1.0742 grams of methamphetamine. The results show that the application of the law is more repressive than rehabilitative, thus being less in line with the principles of justice and humanity. Reformulation of drug sentencing policies is needed to make them more proportional and oriented towards social recovery.*

Keywords: *Criminal; Justice; Law; Narcotics; Restorative.*

1. Introduction

The distribution and abuse of narcotics in Indonesia has become a serious threat, undermining national stability and social order. This crime is classified as an extraordinary crime due to its systematic nature and the involvement of complex transnational networks. Indonesia's strategic geographic location in Southeast Asia, particularly in the Golden Triangle (Laos, Myanmar, and Thailand), makes it a prime target and transit route for international narcotics trafficking.¹

In response, the government enforced strict legal policies through Law Number 35 of 2009 concerning Narcotics. This regulation aligns with President Prabowo Subianto's Asta Cita program, which emphasizes strengthening the rule of law and protecting young people from the dangers of narcotics.² However, its implementation faces various obstacles, especially the lack of uniformity in sentencing and the application of sanctions that are not yet proportional to the

¹National Narcotics Agency. (2023). BNN Annual Report on Narcotics Abuse Statistics in Indonesia. Jakarta: BNN Press.

²Gunarto, H. (2021). National Criminal Law Reform. Semarang: UNISSULA Press.

level of the perpetrator's guilt.³

Article 54 of the Narcotics Law actually provides rehabilitation opportunities for users, but its implementation is often neglected. Many users with little evidence are still sentenced to prison, which actually exacerbates the problem of overcrowding in correctional facilities.⁴This overly repressive approach is considered not to reflect substantive justice and human rights.⁵

In this context, Decision Number 22/Pid.Sus/2025/PN Poso against defendant Piter Tanjaya serves as a concrete example of the application of narcotics criminal law. The defendant was found guilty of possessing 1.0742 grams of methamphetamine and sentenced to five years in prison and a fine of Rp 800,000,000.00.⁶The panel of judges assessed that all elements of Article 112 Paragraph (1) of the Narcotics Law were fulfilled without justification or excuse.

An analysis of this verdict is important because it highlights the tension between a repressive legal approach and the need for more humane justice through rehabilitation. According to Wahyuningsih (2021), the criminal justice system should not only punish but also rehabilitate perpetrators so they can return to productive life in society.⁷In addition, Nur Azizah's (2020) research shows that rehabilitation can reduce recidivism because it helps the recovery and social reintegration of former users.⁸

Data from the National Narcotics Agency (BNN) (2023) reveals that over 55% of prisoners in Indonesia are drug offenders, the majority of whom use small amounts. This indicates the need for reformulation of criminal justice policies that balance repressive and rehabilitative aspects. Therefore, research into this case is expected to contribute to the development of a more just, humane, and contextual national criminal law.

2. Research Methods

The research method in this study uses a normative juridical and empirical juridical approach as the primary basis for understanding legal reality comprehensively. The normative juridical approach focuses on literature review, namely examining relevant laws and regulations, court decisions, and legal doctrine. This approach views law as a written norm that must be understood systematically and logically.

³Soekanto, S. (2007). *Factors Influencing Law Enforcement*. Jakarta: Raja Grafindo Persada.

⁴Supreme Court of the Republic of Indonesia. (2010). SEMA No. 4 of 2010 concerning the Placement of Narcotics Abusers in Medical and Social Rehabilitation Institutions. Jakarta: Supreme Court of the Republic of Indonesia.

⁵Rahardjo, S. (2009). *Progressive Law: Law that Liberates*. Jakarta: Kompas.

⁶Poso District Court Decision Number 22/Pid.Sus/2025/PN Pso.

⁷Wahyuningsih, SE (2021). *Substantive Justice in Judges' Decisions*. Yogyakarta: Deepublish.

⁸Azizah, N. (2020). *Drug User Rehabilitation Policy from a Modern Criminal Law Perspective*. Journal of Legal Studies.

Meanwhile, the empirical juridical approach views law as something that lives within society, so this research also pays attention to the practice of legal application in the field and its impact on social life. To deepen the analysis, this study uses three approaches: a statute approach, which examines the laws and regulations related to narcotics; a case approach, which examines the application of the law in Decision Number 22/Pid.Sus/2025/PN Pso; and a conceptual approach, which explores the basic concepts of law and justice that serve as the basis for enforcing criminal law. The data sources used consist of primary and secondary data. Primary data were obtained from official documents, particularly court decisions that are the object of this research. Secondary data, meanwhile, came from books, legal journals, and relevant laws and regulations. Data were collected through two main techniques: document study and literature review. Document study was conducted by examining the contents of the decisions in detail, while literature review was used to strengthen the theoretical framework and legal analysis. Data analysis was conducted using a qualitative descriptive-analytical method, which systematically describes legal facts and norms and then links them through legal reasoning to draw objective and logical conclusions. This approach aims not only to discover formal truth in legal texts but also to understand the substantive meaning of justice in the application of criminal law. With this method, the research is expected to provide an understanding of law that is not only academic but also humane and relevant to social reality.

3. Results and Discussion

3.1. What is the criminal responsibility of the perpetrator in cases of possession or control of narcotics based on Decision Number 22/Pid.Sus/2025/PN Pso

In Decision Number 22/Pid.Sus/2025/PN Pso, defendant Piter Tanjaya was found guilty of violating Article 112 paragraph (1) of Law No. 35 of 2009 for possessing class I narcotics in the form of crystal methamphetamine weighing 1.0742 grams without a permit. The judge considered that the elements of “without rights” and “against the law” were fulfilled, so that the defendant could be held criminally responsible based on the principle of *geen straf zonder schuld*.

The judge's considerations included valid evidence under Article 183 of the Criminal Procedure Code (KUHP) as well as aggravating and mitigating factors. The judge sentenced the defendant to five years in prison and a fine of Rp 800 million. This ruling affirms the firm enforcement of narcotics laws, yet remains repressive. Going forward, a rehabilitative approach must be prioritized so that the law reflects justice and humanity.

Criminal liability for the perpetrator in the case of Decision Number 22/Pid.Sus/2025/PN Pso is an implementation of the principle of criminal law which emphasizes that anyone who commits a criminal act with a mistake must

be held legally responsible. In this case, the defendant Piter Tanjaya was accused of violating the provisions of Article 112 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, because he had “without rights or against the law possessed and controlled class I narcotics in the form of crystal methamphetamine weighing 1.0742 grams”. The elements of “without rights” and “against the law” were proven because the defendant did not have permission from the competent authority to store or use the narcotics. Thus, all elements of the article have been fulfilled legally and convincingly.

In its deliberations, the panel of judges stated that the defendant's possession and control of narcotics falls under the category of an absolutely prohibited act (*delictum commune*) because it poses a significant danger to society. The judges determined that the defendant had *mens rea* (evil intent) because he was aware of his possession of the illicit substance, and there was no evidence that he was a victim of drug abuse or dependence. Therefore, there was no justification or excuse that could eliminate the defendant's guilt.

Criminal liability in this case demonstrates the application of the principle of “*geen straf zonder schuld*” or “no punishment without fault,” as outlined by Moeljatno (2008), which emphasizes that a penalty can only be imposed on a person if it can be proven that there is an element of fault in his actions. The judge then sentenced him to five years in prison and a fine of Rp. 800,000,000.00, with the provision that if the fine is not paid it will be replaced with imprisonment. This decision shows that possession of narcotics, even in small quantities, is still seen as a serious act that poses a widespread social danger to society.

In handing down the verdict, the judge considered both aggravating and mitigating factors. The aggravating factor was that the defendant's actions did not support the government's anti-narcotics program and had the potential to cause negative social impacts in the community. Meanwhile, mitigating factors included the defendant's polite demeanor during the trial, his frank admission of his actions, and his lack of prior convictions. These considerations demonstrate the judge's effort to balance retributive justice and legal expediency.

However, it is critical to note that the judge in this decision failed to prioritize a rehabilitative approach, as enshrined in the Narcotics Law, particularly for perpetrators who only act as users or personal drug dealers. As stated by Gunarto (2021), a modern criminal justice system should emphasize not only deterrence but also social recovery to break the chain of drug dependence and distribution in society. Therefore, although this decision is normatively in accordance with positive law, from a substantive justice perspective, a more humanitarian and rehabilitative sentencing policy is needed.

Thus, it can be concluded that criminal liability for perpetrators in Decision Number 22/Pid.Sus/2025/PN Pso has been applied based on applicable criminal

law principles, with an emphasis on proving the elements of guilt and violation of positive law. However, from the perspective of justice and the purpose of punishment, there is room for improvement to make law enforcement policies in the narcotics sector more proportional, just, and oriented towards social recovery, rather than solely on punishment.

3.2. What are the legal considerations of the judge in deciding the case of possession or control of narcotics in the decision

In Decision Number 22/Pid.Sus/2025/PN Pso, the panel of judges provided comprehensive legal considerations by taking into account the juridical, sociological, and philosophical aspects as the basis for handing down the verdict against the defendant Piter Tanjaya, who was proven to have possessed and controlled class I narcotics in the form of crystal methamphetamine weighing 1.0742 grams without permission from the authorities. These legal considerations reflect the application of the principles of justice, certainty, and legal benefit, as the main foundation in every criminal justice process in Indonesia.

From a legal perspective, the judge assessed that all elements in Article 112 paragraph (1) of Law Number 35 of 2009 concerning Narcotics had been fulfilled. The element of “every person” was proven by the defendant’s clear identity as a legal subject; the element of “without rights or against the law” was proven because the defendant did not have an official permit to possess or use the narcotics; and the element of “possessing, storing, controlling, or providing class I narcotics” was proven based on the results of the search and the statement of the laboratory expert who stated that the evidence positively contained methamphetamine. Thus, from a normative perspective, the defendant’s actions had fulfilled the qualifications of a criminal act as regulated in the article.⁹

The judge's legal considerations also take into account the evidence presented by the public prosecutor, namely witness statements, the defendant's statement, laboratory test results, and narcotics evidence. Based on Article 183 of the Criminal Procedure Code, the judge can only issue a verdict if there are two valid pieces of evidence and the judge's belief that the defendant has indeed committed a crime. In this case, all the evidence has met the formal and material requirements, and strengthens the judge's belief that the defendant knowingly and intentionally possessed the illicit goods.

In addition, the judge also considered non-legal factors, namely mitigating and aggravating factors. The aggravating factors were that the defendant's actions did not support the government's program to eradicate drug abuse and could harm the younger generation and social stability. Meanwhile, mitigating factors included the defendant's polite behavior during the trial, his confession, and his

⁹Law Number 35 of 2009 concerning Narcotics

prior convictions.¹⁰This consideration shows that there is a balance between the aspects of formal justice and substantive justice, where the judge is not solely oriented towards severe punishment, but also pays attention to the personality and social background of the defendant.

The judge's legal considerations also reflect the application of the principle of proportionality in sentencing, as stated by Barda Nawawi Arief, that the aim of sentencing must be directed towards achieving a balance between protecting society and protecting the individual perpetrator.¹¹In this context, the judge sentenced the defendant to five years in prison and a fine of Rp 800,000,000.00, with the condition that if the fine is not paid, it will be replaced with further imprisonment. This decision was deemed proportional, considering the gravity of the crime, the type of narcotics, and the relatively small amount of evidence, but still emphasized the deterrent effect on the perpetrator.

Philosophically, judges base their considerations on the values of justice and humanity. As Satjipto Rahardjo (2009) emphasized, law should not be interpreted merely as a rigid text, but rather as an instrument for bringing about vibrant justice in society.¹²The judge in this case attempted to uphold the law humanely, still punishing the perpetrator while considering the defendant's social and personal context. This demonstrates that substantive justice is part of the judge's considerations when determining a verdict.

On the other hand, the judge also rejected the defendant's defense, which stated that the narcotics were only for personal consumption, because there was no medical evidence or expert testimony to support that the defendant was an addict. Therefore, the judge was of the opinion that the defendant's actions were more appropriately qualified as possession or control of narcotics, not abuse for personal use as regulated in Article 127 of the Narcotics Law. This consideration demonstrates the judge's thoroughness in interpreting the relevant articles to avoid errors in the application of the law.¹³

Based on all these considerations, the judge found the defendant legally and convincingly guilty of committing the crime of unauthorized possession or control of Class I narcotics and sentenced him to a sentence in accordance with applicable law. The legal considerations used in this decision reflect the application of the principle of integral justice, namely, a balance between legality, morality, and humanity.¹⁴

¹⁰Poso District Court Decision Number 22/Pid.Sus/2025/PN Pso.

¹¹Arief, Barda Nawawi. (2010). Criminal Law Policy. Jakarta: Kencana

¹²Rahardjo, Satjipto. (2009). Progressive Law: Law that Liberates. Jakarta: Kompas

¹³Marzuki, Peter Mahmud. (2017). Legal Research. Jakarta: Kencana.

¹⁴Soekanto, Soerjono. (2007). Factors Influencing Law Enforcement. Jakarta: Raja Grafindo Persada.

Thus, the judge's legal considerations in Decision Number 22/Pid.Sus/2025/PN Pso reflect law enforcement efforts that are not only oriented toward legal certainty but also grounded in the values of justice and social benefit. This decision reflects the fact that in narcotics cases, judges serve not only as mouthpieces of the law but also as guardians of morality and the conscience of justice within society.

3.3. What are the implications of this decision for the development of narcotics criminal law in Indonesia

The implications of Decision Number 22/Pid.Sus/2025/PN Pso on the development of narcotics criminal law in Indonesia can be seen from two main perspectives: the consistent application of legal norms and the strengthening of a more humane and proportional sentencing paradigm. This decision serves as a concrete example of how criminal justice in Indonesia strives to maintain a balance between firm law enforcement against narcotics perpetrators and the protection of humanitarian values as stipulated in Law Number 35 of 2009 concerning Narcotics.

From a legal perspective, this decision confirms that any act of possession or control of class I narcotics without a valid right remains a serious crime that must be subject to strict sanctions. The judge in this case used Article 112 paragraph (1) of the Narcotics Law as a clear legal basis and in accordance with the principle of legality (*nullum crimen sine lege, nulla poena sine lege*). Thus, this decision provides a positive precedent for other courts in enforcing narcotics laws consistently and without creating legal uncertainty.¹⁵

However, this ruling also provides important insights into the direction of drug criminal law policy in Indonesia. Although the defendant was sentenced to prison and fined, the judge did not direct him to undergo rehabilitation because he was not considered a drug addict or victim of drug abuse. This demonstrates that the Indonesian criminal justice system remains oriented toward a repressive approach (penal policy) toward drug offenders, rather than a rehabilitative approach that emphasizes recovery and social reintegration.¹⁶

An important implication of this ruling is the need to reorient criminal justice policy in narcotics cases, allowing for a proportional distinction between users, addicts, and dealers. According to Barda Nawawi Arief (2010), criminal law policy should be directed toward an integrated criminal policy that addresses both community protection and the development of perpetrators.¹⁷ Therefore, this decision is a reminder that the application of Article 112 paragraph (1) of the Narcotics Law

¹⁵Law Number 35 of 2009 concerning Narcotics

¹⁶Supreme Court of the Republic of Indonesia. (2010). Circular Letter of the Supreme Court Number 4 of 2010 concerning the Placement of Narcotics Abusers in Medical and Social Rehabilitation Institutions. Jakarta: Supreme Court of the Republic of Indonesia.

¹⁷Arief, Barda Nawawi. (2010). Criminal Law Policy. Jakarta: Kencana.

must always be accompanied by an in-depth analysis of the perpetrator's intentions and role, so that there is no excessive criminalization of users who should be rehabilitated.

Furthermore, the social implications of this ruling demonstrate that the judiciary still positions criminalization as the primary instrument for eradicating narcotics, even though the Narcotics Law also provides space for restorative justice approaches and medical rehabilitation for drug abusers. As Satjipto Rahardjo (2009) emphasized, ideal law must be able to "bring justice to life," not simply enforce the text of the law.⁴¹⁸ This decision demonstrates the need to update the criminal law paradigm to be more in line with the spirit of substantive justice and humanity.

From a legal perspective, this ruling has a normative impact on criminal justice practice, affirming the legal position that anyone found in possession of narcotics, even in small quantities, can still be punished, provided there is evidence of intent and unauthorized use. However, in the future, such rulings can serve as a reflection for policymakers and law enforcement officials to expand the application of diversion and rehabilitation for users or owners of limited quantities, so that the legal objectives of justice, benefit, and certainty can be achieved in a balanced manner.¹⁹

Thus, the implications of Decision Number 22/Pid.Sus/2025/PN Pso not only strengthen the application of positive legal norms but also foster a new awareness that narcotics law enforcement must be carried out with due regard for the social context, humanity, and values of substantive justice. This decision reflects the dynamics of Indonesian criminal law, which is transforming from a system that is solely punitive to one that is more just, humane, and oriented towards social recovery.

4. Conclusion

The criminal liability of the perpetrator in Decision Number 22/Pid.Sus/2025/PN Pso demonstrates the application of the principle of *geen straf zonder schuld*, which states that anyone who wrongfully possesses or controls narcotics without the right must be held legally responsible for their actions. The panel of judges assessed that all elements of Article 112 paragraph (1) of Law Number 35 of 2009 had been legally and convincingly proven, taking into account the evidence, the element of intent, and the absence of justification or forgiveness. In imposing the sentence, the judge balanced the aspects of justice, expediency, and legal certainty by imposing a five-year prison sentence and a fine of IDR 800,000,000.00, while taking into account aggravating and mitigating factors. This decision

¹⁸Rahardjo, Satjipto. (2009). *Progressive Law: Law that Liberates*. Jakarta: Kompas.

¹⁹Soekanto, Soerjono. (2007). *Factors Influencing Law Enforcement*. Jakarta: Raja Grafindo Persada.

emphasizes that possession of narcotics, even in small quantities, is still considered serious because it endangers society. However, critically, the decision also reflects the limitations of the application of a rehabilitative approach to perpetrators who are not dealers, thus demonstrating a tendency towards a repressive criminal system. The legal implications strengthen the application of positive norms while simultaneously encouraging the need for a reorientation of narcotics criminal law policy towards a more humane, proportional, and social recovery-oriented direction in accordance with the spirit of substantive justice and humanity.

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