

Legal Analysis Of Judicial Discretion In Deviation Of Special Minimum Sentence Imposition In Narcotics Criminal Cases From The Perspective Of Justice (Case Study Of Supreme Court Decision Number 1306 K/Pid.Sus/2025)

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Abstract. *From a sociological and jurisprudential perspective, narcotics crimes in Indonesia are not merely legal violations but also manifestations of social deviance closely related to structural and socio-economic conditions. Indonesian narcotics law classifies such crimes as extraordinary crimes, accompanied by rigid sentencing policies, including mandatory minimum sentences. However, in judicial practice, the application of these minimum sentences often conflicts with substantive justice, particularly in cases involving small quantities of narcotics and defendants who function primarily as users or low-level distributors. This tension places judges at the intersection of legal certainty, justice, and the social purpose of punishment. This normative juridical research analyzes the judicial discretion to deviate from mandatory minimum sentences in narcotics cases, focusing on the implementation of Supreme Court Circular Letter (SEMA) Number 3 of 2023. The findings indicate that sentencing in narcotics cases reflects an ongoing shift from a rigid retributive approach toward a more corrective and rehabilitative paradigm. Although the defendant's actions formally fulfilled the elements of narcotics trafficking, the minimum quantity of evidence and the defendant's limited role justified judicial deviation from the mandatory minimum sentence. The Supreme Court's correction of the appellate decision demonstrates an effort to balance individual justice with systemic consistency and to prevent excessive sentencing disparities. This study concludes that mandatory minimum sentences should not be applied as absolute commands that negate judicial conscience. Judicial discretion, guided by Supreme Court policy and grounded in substantive justice, is essential to ensure proportional, humane, and socially meaningful punishment within Indonesia's narcotics criminal justice system.*

Keywords: *Judge; Narcotics Crime; Judicial Activism; Special Minimum Sentencing.*

1. Introduction

The ideals of the Indonesian nation as stated in the Preamble to the 1945 Constitution are to protect all Indonesians and all of Indonesia's homeland and to advance general welfare, to educate the nation, and to participate in implementing world order based on eternal freedom and social justice. To achieve these ideals and to maintain the continuity of national development in a safe, peaceful, orderly, and dynamic atmosphere both nationally and internationally, it is necessary to increase control over matters that can disrupt national stability, including the abuse and illicit trafficking of narcotics and psychotropic substances.¹

Narcotics comes from the Greek word "narke" which means to be drugged so that you don't feel anything.² Meanwhile, according to Article 1 number 1 of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics, what is meant by narcotics is a substance or drug derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of feeling, reduce or eliminate pain, and can cause dependence. Narcotics are substances or drugs that are very useful and necessary for the treatment of certain diseases. However, if misused or used not in accordance with treatment standards, they can have very detrimental consequences for individuals or society, especially the younger generation. This will be more detrimental if accompanied by abuse and illicit trafficking of narcotics which can result in greater danger to the life and cultural values of the nation which will ultimately weaken national resilience.

¹General Section Explanation of the Law of the Republic of Indonesia Number 7 of 1997 concerning the Ratification of the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (United Nations Convention on the Eradication of Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988)

²Adrianus Eliasta Meliala, *Narcotics Trade and Illicit Distribution: A Criminological Review*, Jakarta: Kencana, 2021, p. 459.

Narcotics crimes in society show an increasing trend both quantitatively and qualitatively with widespread victims, especially among children, adolescents, and the younger generation in general. From data presented by the National Narcotics Agency (BNN) in handling narcotics cases per year, it is clear that the handling of narcotics cases has experienced a significant upward trend since 2009 until it peaked in 2018. In 2009, the number of cases handled was only 5 cases. This number continued to increase from year to year, with a major spike starting in 2014 (384 cases), and reaching 1,039 cases in 2018, which was the highest number during the observed period. After 2018, there was a gradual decline until 2021 (766 cases), but then rose again in 2022 (879 cases) and 2023 (924 cases). However, in 2024 there was a significant decrease to 651 cases. So in general, although there were fluctuations after 2018, the long-term trend from 2009 to 2023 shows a very sharp increase in the handling of narcotics cases.³ Furthermore, in the 2025 Drug Report of the National Narcotics Agency (BNN), the most frequently uncovered narcotics were methamphetamine (36,060 cases), followed by marijuana (3,814 cases), and ecstasy (1,274 cases). Of the uncovered cases, 7,652,248.24 grams of methamphetamine, 9,232,022.09 grams of marijuana, and 4,576,655.03 ecstasy pills were seized.⁴ Narcotics crimes have become transnational in nature, carried out using high-tech *modus operandi*, advanced technology, supported by extensive organizational networks, and have caused many victims, especially among the nation's young generation, which is very dangerous for the lives of society, the nation, and the state. Narcotics crimes are no longer carried out individually, but involve many people together, even forming an organized syndicate with a wide network that works neatly and very secretly both at the national and international levels.⁵ According to the National Narcotics Agency (BNN) in the 2025 Drug Report, many foreign nationals were caught in connection with narcotics, for example, 61 Malaysian citizens, 25 United States citizens, 22 Papua New Guinea citizens and citizens of other countries.⁶

From a sociological perspective, the increasing phenomenon of drug abuse and illicit trafficking is not only understood as a violation of the law, but also as a form of social deviation related to the structural conditions of society. Within the framework of Roscoe Pound's sociological jurisprudence, law cannot be seen solely as a written norm, but must be understood as an instrument of social engineering that must be sensitive to realities on the ground. The large number of perpetrators who are users or small-time offenders shows that the drug problem does not stand alone, but is interconnected with social factors such as economic pressure, social environment, access to rehabilitation, and the labeling process by law enforcement officials. Through the lens of labeling theory, some users are actually "over-criminalized" when labeled as dealers due to the rigid minimum provisions, thus giving rise to substantive injustice. This condition demands that the judicial system, especially judges, not only view drug cases textually but also consider social realities and the proportionality of punishment.

2. Research Methods

An approach is defined as an attempt to establish a relationship with people or methods to achieve an understanding of the research problem. An approach is also defined as a means of understanding and directing the problem being researched.⁷ According to Peter Mahmud Marzuki, there are five approaches used in legal research, namely: a. statute approach, b. case approach, c. historical approach, d. comparative approach, and e. conceptual approach.⁸

The author used a case-based approach in this study. This approach involves examining cases related to the issue at hand that have become legally binding court decisions.⁹

3. Results and Discussion

3.1. The Panel of Judges' Considerations in Supreme Court Decision Number 1306 K/Pid.Sus/2025 in conjunction with Pontianak High Court Decision Number 295/Pid.Sus/2024/PT PTK in conjunction with Sambas District Court Decision Number 85/Pid.Sus/2024/PN Sbs in Imposing a Special Below Minimum Sentence

From the source of the decision that has permanent legal force (*incraht van gewijsde*), namely the Supreme Court Decision Number 1306 K/Pid.Sus/2025 in conjunction with the Pontianak High Court Decision Number 295/Pid.Sus/2024/PT PTK in conjunction with the Sambas District Court Decision Number 85/Pid.Sus/2024/PN Sbs, the author describes the case of the position and considerations of the panel of judges only related to the theme chosen by the author, namely regarding the application of special minimum sentences.

The position of the case regarding the verdict is that on Wednesday, January 10, 2024 at around 15.30 WIB, the Defendant was arrested by witnesses Tri Darsono, witness Suwandi, and other members of the Sambas Police Narcotics Unit at the house occupied by the Defendant in Melati Hamlet RT 001/RW 003, Sebus Village, Paloh District, Sambas Regency. Prior to the arrest, since 08.00 WIB the Defendant and witness Iwan Bin Rusmadi had been working loading trawls at Liku Fish Market, Paloh District. After finishing work at around 14.00 WIB, the two returned to witness Iwan's house to eat and shower, then witness Iwan accompanied the Defendant home to the Defendant's house. Upon arriving at the Defendant's house, witness Iwan bought two packages of methamphetamine

⁷Ibid, p. 55.

⁸Ibid, p. 56.

⁹Wiwik Sri Widiarty, *Textbook of Legal Research Methods*, Yogyakarta: Publika Global Media, 2024, p. 119.

from the Defendant for Rp. 500,000.00 which were then handed over directly by the Defendant. After the transaction, Witness Iwan and the Defendant rested in the Defendant's room for approximately 30 minutes until the Narcotics Unit officers came to make an arrest and search.

During the search, officers found several pieces of evidence in the form of one package of methamphetamine in the Defendant's wallet, two packages of methamphetamine under the fan, two packages of methamphetamine on the floor, and one black Infinix X688B brand cellphone in the Defendant's room. The Defendant admitted that all of the evidence belonged to him. The Defendant also explained that he obtained the methamphetamine from someone named Wandi who is currently a fugitive, by ordering via his cellphone and paying Rp1,800,000.00 for 1.5 (one point five) grams of methamphetamine through the DANA application. After the payment was made, Wandi directed the Defendant to pick up the methamphetamine which had previously been placed at Bunda Marsea Beach, Paloh District, and the Defendant picked it up himself.

The defendant admitted that he possessed the methamphetamine for his own use and for sale. Furthermore, he did not have a permit from the relevant authorities and did not possess the methamphetamine for health or scientific purposes.

The panel of judges at the Sambas District Court issued the following verdict:

1. Declaring that the Defendant TRI FEBRIANDI alias FEBRI Bin APOK (Alm) was legally and convincingly proven guilty of committing the crime of "Without rights or against the law being an intermediary in the sale and purchase of Class I Narcotics, not plants" as stated in the primary indictment of the public prosecutor;
2. Therefore, to sentence the Defendant to 7 (seven) years imprisonment and a fine of Rp. 1,000,000,000.00 (one billion rupiah) with the provision that if the fine is not paid, it will be replaced with 3 (three) months imprisonment;
3. Determine that the period of arrest and detention that has been served by the Defendant is deducted in full from the sentence imposed;
4. Determine that the Defendant remains in detention;
5. Determine the evidence in the form of:
 - 5 (five) transparent plastic clip packages containing crystal methamphetamine-type narcotics granules, which based on the Narcotics Confiscation Determination Letter Number: B-83/O.1.17/Enz.1/01/2024 dated January 17, 2024, of the 5 (five) packages with a net weight of 0.29 grams, a net of 0.05

grams has been set aside for testing at BPOM and a net of 0.24 grams for use in the trial;

Seized for destruction.

- 1 (one) black INFINIX X688B brand cellphone;

Confiscated for the state.

6. Charge the Defendant with paying court costs of IDR 5,000.00 (five thousand rupiah);

In handing down the verdict, the Panel of Judges at the Sambas District Court considered that the Defendant, Tri Febriandi alias Febri Bin Apok, had violated the Public Prosecutor's primary charge, namely Article 114 Paragraph (1) of Law of the Republic of Indonesia No. 35 of 2009 concerning Narcotics. The Panel of Judges also considered that the Defendant, Tri Febriandi alias Febri Bin Apok, had not been found to have anything that could eliminate criminal responsibility, either as a justification or excuse, so that the Defendant must be held responsible for his actions. Because the Defendant is capable of being responsible, he must be declared guilty and sentenced to a criminal penalty.

The Sambas District Court Decision Number 85/Pid.Sus/2024/PN Sbs was then appealed to the Pontianak High Court registered under Number 295/Pid.Sus/2024/PT PTK with the following appeal decision:

- Accepting the appeal request from the Defendant TRI FEBRIANDI alias FEBRI Bin APOK (Alm)/his Legal Counsel.
- Changing the Decision of the Sambas District Court Number 85/Pid.Sus/2024/PN Sbs dated July 15, 2024, which was requested for appeal, only corrects the length of the sentence imposed and the status of the evidence with the following full ruling:
 1. Declaring that the Defendant TRI FEBRIANDI alias FEBRI Bin APOK (Alm) has been legally and convincingly proven guilty of committing the crime of selling Class I Narcotics without rights or against the law as stated in the Primary indictment;
 2. Therefore, to sentence the Defendant to imprisonment for 1 (one) year and 6 (six) months and a fine of Rp. 1,000,000,000.00 (one billion rupiah) with the provision that if the fine is not paid, it will be replaced with imprisonment for 2 (two) months;

3. Determining that the period of arrest and/or detention that the Defendant has served is deducted in full from the sentence imposed.
4. Determine that the Defendant remains in detention;
5. Establishing evidence in the form of:
 - 5 (five) transparent plastic clip packages containing crystal methamphetamine-type narcotics, with a net weight of 0.29 (zero point two nine) grams;
 - 1 (one) black INFINIX X688B brand cellphone;

Seized for destruction;

6. Charges the Defendant with paying court costs at both levels of court, which at the appeal level amount to Rp. 5,000.00 (two thousand rupiah).

The Panel of Judges at the Appeal Level considered that the legal considerations of the Panel of Judges at the First Level in its decision regarding the proof of the crime committed by the Defendant as regulated in Article 114 paragraph (1) of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics in the Primary indictment of the Public Prosecutor which stated that the Defendant Tri Febriandi alias Febri Bin Apok (Alm) was legally and convincingly proven guilty of committing the crime as charged, was based on legal reasons that were correct and true according to the law because they were in accordance with the legal facts revealed at the trial, therefore they were used as legal considerations by the Panel of Judges at the Appeal Level in deciding this case at the appeal level, except regarding the sentence imposed on the Defendant, with the consideration that the Panel of Judges at the High Court studied the legal considerations of the Court of First Level in terms of sentencing and the status of evidence, the Panel of Judges at the High Court did not agree even though before imposing the sentence on the Defendant, the Court of First Level had considered everything in accordance with the facts revealed at the trial. According to the Panel of Judges of the High Court, although the Panel of Judges of First Instance before sentencing the Defendant had considered the aggravating and mitigating circumstances for the Defendant, there was an additional consideration regarding mitigating circumstances for the Defendant, namely that the Defendant had never been convicted before.

The Panel of Appeal Judges also considered the purpose of sentencing, namely that the imposition of a prison sentence on the Defendant was not intended as an attempt to take revenge for what he had done, but rather that sentencing was an attempt to make the Defendant aware so that he regretted his actions, and to return him to being a good citizen, obeying the law, upholding moral, social and religious values so that a safe and law-abiding community life could be achieved,

therefore the Panel of Appeal Judges would impose a sentence that reflects justice, both for the Defendant and for society in general, besides that, imposing a sentence that is too long will make it difficult for the Defendant to adapt to the community environment;

The Appellate Panel of Judges based its considerations on the Legal Formulation of the 2023 Criminal Chamber Plenary Meeting (SEMA Number 03 of 2023) which stated that in the case of a Defendant who is charged with Article 114 paragraph (1) of Law Number 35 of 2009 concerning Narcotics with evidence of Narcotics according to the Circular of the Supreme Court (SEMA) Number 4 of 2010 in conjunction with SEMA Number 3 of 2015 in conjunction with SEMA Number 1 of 2017, the judge can impose a sentence by deviating from the special minimum criminal threat while the fine remains in accordance with the threat of Article 114 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. The evidence in this case is under 1 (one) gram of crystal methamphetamine, namely 5 (five) plastic clip packages containing white crystals suspected to be narcotics of the methamphetamine type with a total net weight of 0.29 (zero point twenty nine) grams (Based on the Weighing Report Number: 22/10857/XI/2023 Dated January 10, 2024 from PT. Pegadaian Sambas Unit signed by Siti Dahniar, the weighing results obtained for 5 (five) transparent plastic clip packages containing white crystal granules suspected to be narcotics of the methamphetamine type confiscated from the defendant Tri Febriandi Alias Febri Bin Apok (Alm) with a gross weight of 0.73 (zero point seven three) grams and a net weight of 0.29 (zero point two nine) grams, with details:

- The first package has a net weight of 0.07 (zero point zero seven) grams;
- The second package has a net weight of 0.07 (zero point zero seven) grams;
- The third package has a net weight of 0.06 (zero point zero six) grams;
- The fourth package has a net weight of 0.05 (zero point zero five) grams;
- The fifth package has a net weight of 0.04 (zero point zero four) grams.;

That based on the POM Agency Test Results Report Number: LHU.107.K.05.16.24.0039 dated January 12, 2024 signed by Florina Wiwin, S.Si., Apt with the following test results: 1 (one) transparent plastic clip bag suspected of containing methamphetamine (including Class I Narcotics according to the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics);

The Panel of Appeal Judges considered the sentence imposed on the Defendant with a prison sentence of 7 (seven) years and a fine of Rp. 1,000,000,000.00 (one billion rupiah) with the provision that if the fine is not paid it will be replaced with a prison sentence of 3 (three) months, according to the Panel of Appeal Judges that the sentence is too heavy and does not reflect a sense of justice, because currently the punishment has shifted from retributive or retentionist punishment to abolitionist, namely punishment that prioritizes the principles of corrective,

rehabilitative and restorative justice as adopted in Indonesian criminal justice according to the provisions of Law Number 1 of 2023 concerning the new Criminal Code (KUHP).

which will be in effect on January 1, 2026, meaning that the punishment must prioritize or prioritize giving the Defendant the opportunity to correct his actions and improve himself to be better so that he is not in prison for too long and after completing his sentence he returns to society by not repeating his actions violating the law or preventing further criminal acts, so that according to the Panel of Appeal Judges the sentence imposed on the Defendant of 7 (seven) years imprisonment and a fine of Rp. 1,000,000,000.00 (one billion rupiah) with the provision that if the fine is not paid it will be replaced with imprisonment for 3 (three) months is too heavy because the Defendant based on legal facts in the trial is categorized only as a Narcotics abuser where the Narcotics type of crystal methamphetamine weighing 0.29 (zero point two nine) grams) net weight which the Defendant bought from Witness Iwan (DPO) for Rp. 1,800,000.00,- (one million eight hundred and eighty

hundred thousand rupiah) with the aim of being used personally, so that according to the Panel of Judges at the Appeal Level, the Defendant should have been charged with violating Article 127 paragraph (1) letter a of Law Number 35 of 2009 concerning Narcotics, but was not charged, therefore in this case the Defendant was still sentenced based on the Article charged by deviating from the minimum limit of the special criminal threat in Article 114 paragraph (1) of Law Number 35 of 2009 concerning Narcotics in accordance with the results of the formulation of the Criminal Chamber of the Supreme Court of the Republic of Indonesia which has been implemented with Circular Letter of the Supreme Court of the Republic of Indonesia Number 3 of 2015 in conjunction with Circular Letter of the Supreme Court of the Republic of Indonesia Number 1 of 2017 in conjunction with Circular Letter of the Supreme Court of the Republic of Indonesia Number 3 of 2023 in conjunction with Circular Letter of the Supreme Court of the Republic of Indonesia Number 4 of 2010, therefore for the sake of justice the Defendant's sentence must be reduced as stipulated in this decision.

3.2. Analysis of Judges' Considerations in Imposing Criminal Sentences by Deviating from Special Minimum Criminal Provisions According to the Principles of Justice and Legal Certainty

Sentencing in narcotics cases always faces a tension between two major interests: the state and society's need to firmly eradicate narcotics trafficking, and the individual interests of the defendant as a human being with rights, a future, and the potential for improvement. This tension becomes even more pronounced when positive law imposes rigid minimum sentences, while the concrete facts of the case demonstrate the complexity of the perpetrator's role, which is not always

synonymous with organized crime or large-scale narcotics trafficking. It is in this context that Supreme Court Decision No. 1306 K/Pid.Sus/2025 is interesting to analyze in depth, as it reflects the value struggle between legal certainty, substantive justice, and the utility of sentencing.

Criminalization is essentially the entire process of sentencing by a judge, not simply the act of imposing a sentence. This view aligns with the thinking of Barda Nawawi Arief, who views the criminal justice system as a unified whole encompassing substantive criminal law, criminal procedure law, and criminal enforcement law. From this perspective, criminalization cannot be understood narrowly as state revenge against criminals, but rather as a social mechanism to restore order, protect society, and treat criminals humanely.

In the case of Tri Febriandi alias Febri bin Apok, the author is of the opinion that the criminal process shows complex dynamics from the first level to the cassation level. The defendant was charged with subsidiary charges of Article 114 paragraph (1) of Law Number 35 of 2009 concerning Narcotics and Article 112 paragraph (1) of Law Number 35 of 2009 concerning Narcotics. The trial facts revealed that the defendant was caught with evidence of crystal methamphetamine weighing a net of 0.29 (zero point twenty nine) grams, some of which was used personally and some was sold in a limited scope. From a formal legal perspective, the defendant's actions did fulfill the elements of Article 114 paragraph (1) of Law Number 35 of 2009 concerning Narcotics, namely without the right to be an intermediary in the sale and purchase of class I narcotics. However, sociologically and criminologically, the defendant's position is far from the typical image of a narcotics dealer who is the main target of the state's repressive policies.

The Sambas District Court's decision to sentence the perpetrator to 7 years in prison and a fine of Rp1,000,000,000.00 (one billion rupiah) reflects, according to the author, a strong approach to criminal justice that is still oriented towards absolute or retributive theory. In this theory, punishment is understood as an appropriate retribution for the crime that has been committed, without considering in depth the benefits of punishment for the perpetrator or society. This approach does have normative legitimacy within the framework of legal certainty, especially because Article 114 paragraph (1) of Law Number 35 of 2009 concerning Narcotics contains a special minimum sentence as a form of legislative policy to address narcotics crimes that are considered extraordinary (extraordinary crime).

However, according to the author, an overly rigid retributive approach has the potential to ignore the objectives of criminal punishment as formulated in Article 51 of Law Number 1 of 2023 concerning the Criminal Code. This article explicitly states that criminal punishment aims not only to prevent criminal acts and protect society, but also to socialize the convicted person, resolve conflicts, restore social

balance, and foster remorse and absolve the convict of guilt. It is even emphasized that criminal punishment does not aim to degrade human dignity. Therefore, criminal punishment that solely emphasizes the length of imprisonment without considering the proportionality of the offense and the opportunity for rehabilitation may be contrary to the spirit of modern criminal law.

According to the author, the appellate ruling marks a paradigm shift in sentencing from retributive to corrective and rehabilitative. The Panel of Appellate Judges firmly stated that sentencing is not a means of revenge, but rather an effort to make the defendant regret his actions and return to being a good citizen. This consideration demonstrates the application of the relative or utilitarian theory, which views punishment as a means of protecting society through crime prevention, both in the form of specific and general prevention.

In the context of specific deterrence, the sentence imposed must be able to deter the perpetrator from repeating their actions. However, a sentence that is too long has the potential to have the opposite effect, namely worsening the resocialization process and increasing the risk of recidivism. Therefore, the High Court deemed a seven-year sentence too harsh for the defendant, who is young, has no prior convictions, and has a limited role in drug trafficking. On the other hand, general deterrence is maintained by imposing a prison sentence and a fine, so that the message that drug trafficking is prohibited remains conveyed to the public.

The High Court's move to deviate from the special minimum sentence in Article 114 paragraph (1) cannot be separated from the role of the Supreme Court Circular Letter (SEMA) as an instrument of judicial policy. SEMA No. 4 of 2010, SEMA No. 3 of 2015, SEMA No. 1 of 2017, SEMA No. 3 of 2023 and SEMA No. 1 of 2025 provide room for judges to deviate from the special minimum sentence in narcotics cases if the trial facts indicate that the defendant is more appropriately qualified as an abuser or perpetrator with a low level of culpability. In this case, although the Defendant was formally proven to have sold narcotics, the very small weight of the evidence and the admission that the narcotics were also used by himself became a rational basis for the judge not to apply the special minimum sentence rigidly. In addition, currently in its course the provisions of the special minimum sentence related to narcotics crimes have been abolished through the issuance of Law Number 1 of 2026 concerning Criminal Adjustments.

This is where the role of judicial independence, as guaranteed by Article 24 of the 1945 Constitution and Law Number 48 of 2009 concerning Judicial Power, becomes clearly apparent. Judges should not be positioned as "mouthpieces of the law" who merely read normative texts without considering concrete justice. Judges are instead required to explore, follow, and understand the legal values and sense of justice that exist in society. The judge's task is not merely to mechanically apply the law, but rather to discover the law (*rechtvinding*) to

achieve substantive justice in every concrete case. From the perspective of legal discovery theory, the attitude of the Pontianak High Court judges reflects autonomous legal discovery, namely the courage to actively interpret and apply the law for the sake of substantive justice.

However, judicial independence is not absolute. Judicial independence must remain within the law. Therefore, the Supreme Court's corrections at the cassation level are important to analyze. The Supreme Court rejected the Public Prosecutor's appeal but also revised the High Court's decision by increasing the prison sentence from 1 year and 6 months to 3 years. According to the author, this correction demonstrates the Supreme Court's effort to maintain a balance between individual justice and the systemic interests of criminal justice.

The Supreme Court considers that excessively lenient sentences have the potential to create disparities in sentencing for similar cases with similar weight of evidence. This disparity in sentencing is one of the primary reasons legislators implemented special minimum sentences. Therefore, while the Supreme Court recognizes the authority of the *judex facti* to determine the severity of a sentence, corrections are still made when the sentence is deemed disproportionate and has the potential to undermine the consistency of the penal system.

According to the author, the Supreme Court's ruling reflects the application of a combined theory of punishment, which integrates elements of retribution and community protection. The three-year prison sentence still reflects the state's condemnation of drug trafficking, but is no longer on the spectrum of excessive punishment for offenders with a low level of culpability. Therefore, according to the author, the sentence is relatively proportional, fair, and beneficial for both the offender and society. This ruling also demonstrates an effort to balance the interests of society, the offender, and the victim (in the context of narcotics, the victim is broad and abstract). Punishment is not only aimed at intimidation, but also at fostering and protecting. This approach aligns with the direction of national criminal law policy, which increasingly prioritizes rehabilitation, correctional facilities, and social integration.

Overall, according to the author, the Tri Febriandi case demonstrates that special minimum sentences cannot be understood as absolute commands that eliminate the role of a judge's conscience. Special minimum sentences are legislative policy for general conditions, while judges are tasked with ensuring that their implementation does not compromise individual justice. The dialectic between legal certainty and justice in this case found a meeting point through the Supreme Court's correction, which ultimately reflected the balance of values as formulated by Gustav Radbruch: justice, legal certainty, and expediency.

4. Conclusion

First, this case clearly shows that sentencing in narcotics crimes cannot be separated from the dialectic between legal certainty and substantive justice. The application of Article 114 paragraph (1) of Law Number 35 of 2009 concerning Narcotics is legally and formally correct because all elements of the crime have been proven. However, the concrete facts of the case show that the Defendant is not a large-scale narcotics trafficker, but rather an individual with a limited role who is also a drug abuser. This confirms that a purely textual approach to narcotics articles has the potential to result in disproportionate sentencing. Second, the Sambas District Court's decision reflects the still-dominant retributive sentencing paradigm, emphasizing retribution and the deterrent effect through the application of special minimum sentences. This approach does provide legal certainty, but it fails to address the broader objectives of sentencing as outlined in Article 51 of Law Number 1 of 2023 concerning the Criminal Code, particularly the objectives of development, rehabilitation, and protection of human dignity. The Pontianak High Court's decision and the Cassation Decision demonstrate a shift in the sentencing paradigm toward a corrective and rehabilitative approach. The Panel of Judges at the Appellate Level and the Cassation Decision explicitly positioned sentencing as a means of raising awareness and self-improvement for the Defendant, rather than as a tool of revenge. By utilizing the discretionary space opened up by various Supreme Court Circulars, the High Court dared to deviate from the special minimum sentences to achieve substantive justice, while remaining bound by the limits of the Public Prosecutor's indictment. In this context, judicial independence remains maintained as long as it operates within the legal framework and judicial policy established by the Supreme Court.

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