

PIDANA BERSYARAT TERHADAP TINDAK PIDANA KECELAKAAN LALU LINTAS YANG DIPIDANA LEBIH DARI SATU TAHUN

(Studi Putusan Nomor 62/Pid.Sus/2017/PN. Amp)

Oleh:

ALIFA TIARA CANDRAKANTHI

E1A019315

ABSTRAK

Kitab Undang-Undang Hukum Pidana (KUHP) telah mengatur tentang alternatif dari sanksi pidana penjara dalam praktek peradilan pidana yaitu pemidanaan bersyarat sebagaimana diatur dalam Pasal 14a sampai dengan Pasal 14f KUHP. Salah satu putusan yang berkaitan dengan penjatuhan pidana bersyarat adalah Putusan Nomor 62/Pid.Sus/2017/PN. Amp tentang tindak pidana kecelakaan lalu lintas karena kelalaian menyebabkan kematian. Berdasarkan Pasal 14a KUHP, pidana bersyarat dapat dijatuhkan apabila hakim memutus pidana penjara paling lama 1 (satu) tahun, sedangkan dalam kasus tersebut hakim memutus lebih dari 1 (satu) tahun. Penelitian ini bertujuan untuk mengetahui penerapan pidana bersyarat dan pertimbangan hukum hakim dalam menjatuhkan pidana bersyarat terhadap tindak pidana kecelakaan lalu lintas. Penelitian ini menggunakan tipe penelitian hukum secara yuridis normatif, dengan metode pendekatan undang-undang (*statute approach*) dan pendekatan kasus (*case approach*). Spesifikasi penelitian ini adalah preskriptif, dengan jenis dan sumber data sekunder, dan analisis data dilakukan secara deskriptif kualitatif. Berdasarkan hasil penelitian dan pembahasan, menunjukkan bahwa penerapan pidana bersyarat terhadap tindak pidana kecelakaan lalu lintas yang karena kelalaian menyebabkan kematian diputus oleh Majelis Hakim Pengadilan Negeri Amlapura dengan pidana penjara selama 1 (satu) tahun dan 6 (enam) bulan. Hal tersebut dinilai kurang tepat, karena dasar hukum mengenai pidana bersyarat dalam KUHP adalah hakim memutus selama-lamanya 1 (satu) tahun. Adapun jika berpedoman pada KUHP maka seharusnya pidana bersyarat tidaklah dapat diterapkan dalam putusan tersebut. Putusan Pengadilan Negeri Amlapura Nomor 62/Pid.Sus/2017/PN. Amp tidak memberikan kepastian hukum. Hal tersebut dikarenakan hakim tidak mengikuti ketentuan mengenai penjatuhan pidana bersyarat dalam KUHP. Putusan Majelis Hakim Pengadilan Negeri Amlapura menimbulkan benturan antara kepastian hukum dan keadilan dengan kemanfaatan hukum. Hakim dalam perkara tersebut lebih mengedepankan nilai kemanfaatan hukum bagi Terpidana, namun mengesampingkan nilai kepastian hukum dan keadilan.

Kata kunci : Pidana Bersyarat, Tindak Pidana, Kecelakaan, Lalu Lintas

**CONDITIONAL CRIMINAL FOR A TRAFFIC ACCIDENT CONVICT THAT
IS CONVICTED BY MORE THAN ONE YEAR**

(Study of Decision Number 62/Pid.Sus/2017/PN. Amp)

By:

ALIFA TIARA CANDRAKANTHI

E1A019315

ABSTRACT

The Criminal Code (KUHP) has regulated an alternative to imprisonment criminal sanctions in the practice of criminal justice, namely conditional punishment as stipulated in Article 14a to Article 14f of the Criminal Code. One of the decisions related to conditional criminal conviction is Decision Number 62/Pid.Sus/2017/PN. Amp about the criminal act of a traffic accident due to negligence causing death. Based on Article 14a of the Criminal Code, conditional penalties can be imposed if the judge decides a maximum imprisonment of 1 (one) year, while in that case the judge decides more than 1 (one) year. This research aims to determine the application of conditional crimes and the judge's legal considerations in imposing conditional crimes against traffic accident crimes. This research uses a normative juridical type of legal research, with a statute approach and a case approach. The specification of this research is prescriptive, with secondary data types and sources, and data analysis is carried out qualitatively descriptively. Based on the results of research and discussion, it shows that the application of conditional crimes against traffic accident crimes due to negligence causes death to be decided by the Panel of Judges of the Amlapura District Court with imprisonment for 1 (one) year and 6 (six) months. This is considered inappropriate, because the legal basis regarding conditional crime in the Criminal Code is that the judge decides forever 1 (one) year. As for if it is guided by the Criminal Code, conditional crimes should not be applicable in the decision. Decision of Amlapura District Court forever 1 (one) year. As for if it is guided by the Criminal Code, conditional crimes should not be applicable in the decision. Decision of Amlapura District Court Number 62/Pid.Sus/2017/PN. Amp does not provide legal certainty. This is because the judge does not follow the provisions regarding the conditional criminal conviction in the Criminal Code. The decision of the Panel of Judges of the Amlapura District Court caused a clash between legal certainty and justice with legal benefits. The judge in the case prioritizes the value of legal benefit for the Convict, but overrides the value of legal certainty and justice.

Keywords: Conditional Criminal, Criminal Act, Accident, Traffic