

ABSTRAK

Disparitas putusan hakim anak terhadap anak pelaku tindak pidana masih menjadi problema hukum di Indonesia. Mutlaknya kewenangan Hakim seiring dengan dituntutnya kemandirian Hakim dalam memeriksa dan memutus suatu perkara menyebabkan disparitas penjatuhan sanksi semakin meluas, banyak anak pelaku tindak pidana yang dijatuhi sanksi pidana penjara merasakan ketidakadilan. Masalah penelitian: 1) Mengapa terjadi disparitas pidana antara Putusan Pengadilan Negeri Denpasar Nomor 3/Pid.Sus.Anak/2014/PN.Dps. dengan Putusan Pengadilan Negeri Denpasar Nomor 14/Pid.Sus.Anak/2015/PN.Dps. ?; 2) Apakah akibat adanya disparitas pidana terhadap anak pelaku tindak pidana Narkotika antara Putusan Pengadilan Negeri Denpasar Nomor 3/Pid.Sus.Anak/2014/PN.Dps. dengan Putusan Pengadilan Negeri Denpasar Nomor 14/Pid.Sus.Anak/2015/PN.Dps. ?. Penelitian ini menggunakan metode penelitian yuridis normative. Simpulan Tesis: 1) terjadinya disparitas antara Putusan Pengadilan Negeri Denpasar Nomor 3/Pid.Sus.Anak/2014/PN.Dps. dengan Putusan Pengadilan Negeri Denpasar Nomor 14/Pid.Sus.Anak/2015/PN.Dps. karena Hakim Anak ada yang mempertimbangkan Hasil Penelitian Kemasyarakatan Pembimbing Kemasyarakatan dari Balai Pemasyarakatan, yakni sebagaimana di pertimbangkan oleh Hakim perkara nomor 14/Pid.Sus.Anak/2015/PN.Dps. sementara putusan Hakim perkara nomor 3/Pid.Sus.Anak/2014/PN.Dps. tidak mempertimbangkannya, seharusnya Hakim Anak dalam perkara nomor 3/Pid.Sus.Anak/2014/PN.Dps. mempertimbangkan Litmas PK Bapas, karena pelaku Anak hanyalah sebagai pengguna, namun justru Hakim Anak pada perkara nomor 14/Pid.Sus.Anak/2015/PN.Dps. yang mempertimbangkan Litmas PK Bapas, padahal pelaku Anak dalam perkara ini terbukti sebagai pengedar; 2) Disparitas pidana terhadap anak pelaku tindak pidana Narkotika antara Putusan Pengadilan Negeri Denpasar Nomor 3/Pid.Sus.Anak/2014/PN.Dps. dengan Putusan Pengadilan Negeri Denpasar Nomor 14/Pid.Sus.Anak/2015/PN.Dps. berimplikasi terhadap terbaikannya perlindungan terhadap anak. Saran: 1) Seharusnya para penegak hukum di Indonesia lebih bijaksana dalam menjalankan wewenangnya ketika menangani kasus yang melibatkan anak. Sebab anak belumlah mampu untuk membela dirinya dan sangat membutuhkan orang dewasa untuk membela kepentingannya sendiri. 2) Seharusnya para pembentuk undang-undang mengatur secara tegas tentang sanksi untuk menjamin kepastian hukum, supaya setiap sanksi yang dijatuhkan masing-masing hakim tidak berbeda terlalu jauh karena dapat menimbulkan persoalan ditengah masyarakat.

Kata Kunci: Disparitas, Putusan Hakim, Anak, Tindak Pindana, Narkotika

ABSTRACT

Disparity in the decisions of juvenile judges against children who commit criminal acts is still a legal problem in Indonesia. The absolute authority of the Judge along with the demands of the independence of the Judge in examining and deciding a case causes the disparity in the imposition of sanctions to be widespread, many children who have been convicted of criminal sanctions imprisonment in prison feel injustice. Research issues: 1) Why criminal disparities occur between the Decision of the Denpasar District Court Number 3 / Pid.Sus.Anak / 2014 / PN.Dps. with the Decision of the Denpasar District Court Number 14 / Pid.Sus.Anak / 2015 / PN.Dps. ?; 2) Is the result of a criminal disparity in children of narcotics offenders between the Decision of the Denpasar District Court Number 3 / Pid.Sus.Anak / 2014 / PN.Dps. with the Decision of the Denpasar District Court Number 14 / Pid.Sus.Anak / 2015 / PN.Dps. ? This study uses normative juridical research methods. Thesis Conclusions: 1) Disparities between Denpasar District Court Decision Number 3 / Pid.Sus.Anak / 2014 / PN.Dps. with the Decision of the Denpasar District Court Number 14 / Pid.Sus.Anak / 2015 / PN.Dps. because there are Child Judges who consider the results of the Community Guidance Community Research Results from the Penitentiary, which is as considered by Judge case number 14 / Pid.Sus.Anak / 2015 / PN.Dps. while the Judge's decision on case number 3 / Pid.Sus.Anak / 2014 / PN.Dps. not considering it, it should be the Child Judge in case number 3 / Pid.Sus.Anak / 2014 / PN.Dps. consider Litmas PK Bapas, because the child offender is only a user, but instead the Child Judge in case number 14 / Pid.Sus.Anak / 2015 / PN.Dps. who consider Litmas PK Bapas, whereas the perpetrators of Children in this case are proven to be dealers; 2) Criminal disparity in children of Narcotics offenders between the Decision of the Denpasar District Court Number 3 / Pid.Sus.Anak / 2014 / PN.Dps. with the Decision of the Denpasar District Court Number 14 / Pid.Sus.Anak / 2015 / PN.Dps. has implications for neglected protection of children. Suggestions: 1) Law enforcers in Indonesia should be wiser in exercising their authority when handling cases involving children. Because children have not been able to defend themselves and really need adults to defend their own interests. 2) The legislators should strictly regulate sanctions to ensure legal certainty, so that each sanction imposed by each judge does not differ too greatly because it can cause problems in the community.

Keywords: Disparity, Judge's Decision, Children, Criminal Acts, Narcotics