

ABSTRAK

Tindak pidana penadahan, merupakan tindak pidana yang dilarang dilakukan oleh hukum, karena penadahan diperoleh dengan cara kejahatan, dapat dikatakan menolong atau memudahkan tindakan kejahatan si pelaku. Rumusan masalah dalam penelitian ini yaitu: Bagaimana proses pemidanaan terhadap pelaku tindak pidana penadahan di Pengadilan Negeri Kendal? Apakah kendala yang dihadapi hakim dalam memeriksa dan memutus perkara tindak pidana penadahan di Pengadilan Negeri Kendal dan bagaimana solusinya? Bagaimana pertimbangan hakim dalam memutus perkara tindak pidana di Pengadilan Negeri Kendal.?

Metode yang digunakan peneliti adalah pendekatan hukum secara yuridis sosiologis dan spesifikasi dalam penelitian ini adalah termasuk deskriptif analitis. Adapun sumber dan jenis data dalam penelitian ini adalah data primer yang diperoleh dari studi lapangan wawancara dengan Hakim Pengadilan Negeri Kendal. Dan data sekunder diperoleh dari studi kepustakaan. Data dianalisa secara kualitatif menggunakan teori penegakan hukum, teori pemidanaan Perspektif Hukum Islam dan teori keadilan dalam perspektif Islam.

Berdasarkan hasil dari penelitian bahwa proses pemidanaan terhadap pelaku tindak pidana penadahan di Pengadilan Negeri Kendal adalah terdakwa dijerat Pasal 480 ke-1 KUHP Jo Pasal 55 ayat (1) ke-1 KUHP tentang tindak pidana bersama-sama melakukan penadahan. Setelah memeriksa segala fakta-fakta yang terungkap di persidangan kemudian Majelis Hakim berkeyakinan bahwa terdakwa secara sah dan meyakinkan terbukti bersalah melanggar ketentuan Pasal 480 ke-1 KUHP Jo Pasal 55 ayat (1) ke-1 KUHP tentang tindak pidana bersama-sama melakukan penadahan. Setelah itu Majelis Hakim menimbang apakah ada alasan yang dapat menjadi dasar untuk menghapuskan pidana atas diri terdakwa, baik alasan pemaaf maupun alasan pembenar. Pemidanaan terhadap pelaku tindak pidana di Pengadilan Negeri Kendal pada perkara ini putusan yang dijatuhkan Majelis Hakim terhadap terdakwa lebih ringan dari tuntutan. Hambatan yaitu penjatuhan pidana yang dilakukan oleh hakim yang kemungkinan dianggap ringan oleh beberapa masyarakat pada umumnya, beberapa dari masyarakat yang penulis wawancarai berpendapat bahwa pemberian sanksi 1 (satu) tahun 3 (tiga) bulan dan 2 (dua) bulan 15 (lima belas) hari bulan kepada terdakwa tindak pidana penadahan itu termasuk ringan dikarenakan dilihat dari penadahan menjadi salah satu pemicu maraknya tindak pidana pencurian, penipuan dll, dan penjatuhan pidana yang ringan memberi pengaruh besar. Solusinya adalah upaya pencegahan tindak pidana dalam masyarakat, seperti yang diketahui pemberian efek jera melalui pemberian sanksi. Pertimbangan Hakim Dalam Memutus Perkara Tindak Pidana Di Pengadilan Negeri Kendal sudah tepat, karena berdasarkan alat bukti yang dihadirkan dalam persidangan menunjukkan bahwa terdakwa terbukti bersalah melakukan tindak pidana penadahan dan mencocoki semua unsur dalam Pasal 480 Ke-1 KUHP. Hanya saja, pidana penjara yang dijatuhkan majelis hakim relatif lebih ringan daripada tuntutan penuntut umum yang mana tuntutan penuntut umum juga dinilai ringan untuk bisa memberikan efek jera bagi pelaku tindak pidana penadahan.

Kata kunci : Pemidanaan, Pelaku Tindak Pidana, Penadahan

ABSTRACT

The criminal act of detention, is a criminal act that is prohibited from being committed by law, because detention is obtained by means of a crime, it can be said to help or facilitate the crime of the perpetrator. The formulation of the problem in this research is: What is the process of convicting the perpetrators of criminal acts of detention at the Kendal District Court? What are the obstacles faced by judges in examining and deciding cases of criminal detention at the Kendal District Court and what are the solutions? What is the judge's consideration in deciding criminal cases at the Kendal District Court?

The method used by researchers is a sociological juridical legal approach and the specifications in this study include descriptive analytical. As for the sources and types of data in this study are primary data obtained from field studies interviews with Kendal District Court Judges. And secondary data obtained from literature study. Data were analyzed qualitatively using law enforcement theory, criminal theory from Islamic law perspective and justice theory from Islamic perspective.

Based on the results of the research that the criminal process against the perpetrator of detention at the Kendal District Court was the defendant charged under Article 480 1 of the Criminal Code in conjunction with Article 55 paragraph (1) 1 of the Criminal Code regarding the criminal act of jointly carrying out detention. After examining all the facts revealed in the trial, the Panel of Judges was convinced that the defendant was legally and conclusively proven guilty of violating the provisions of Article 480 1 of the Criminal Code in conjunction with Article 55 paragraph (1) 1 of the Criminal Code concerning the criminal act together to carry out detention. After that, the Panel of Judges considers whether there are reasons that can become the basis for abolishing the crime against the defendant, either for forgiving reasons or justification. The convictions of the perpetrators of criminal acts at the Kendal District Court in this case the verdict handed down by the Panel of Judges against the defendant was lighter than the charges. The obstacle is the imposition of crimes committed by judges who are likely to be considered light by some people in general, some of the people interviewed by the writer think that the sanction is imposing 1 (one) year 3 (three) months and 2 (two) months 15 (fifteen) days months for the accused of the criminal act of detention was considered light because it was seen from the point of view that detention was one of the triggers for rampant criminal acts of theft, fraud, etc., and the imposition of minor crimes had a major impact. The solution is to prevent criminal acts in society, as is known to be a deterrent effect through imposing sanctions. Judges' considerations in Deciding Criminal Cases at Kendal District Court are correct, because based on the evidence presented at the trial it shows that the defendant is found guilty of committing a criminal act of detention and matching all the elements in Article 480 1 of the Criminal Code. However, the imprisonment imposed by the panel of judges is relatively lighter than the demands of the public prosecutor in which the demands of the public prosecutor are also considered light so that they can have a deterrent effect on the perpetrators of criminal detention.

Keywords: Criminalization, Perpetrators of Crime, Detention