

ABSTRAK

Hukum pidana memiliki alasan penghapus pidana yaitu alasan pembeda dan alasan pemaaf. Alasan pemaaf adalah alasan yang menghapus kesalahan dari si pelaku suatu tindak pidana. Sedangkan perbuatannya tetap melawan hukum. Jadi, di dalam alasan pemaaf dilihat dari sisi orang/pelakunya (subjektif). Misalnya, lantaran pelakunya tidak waras atau gila sehingga tidak dapat di mintakan atas perbuatannya (Pasal 44 KUHP). Gangguan jiwa lebih mengarah kepada alasan pemaaf, yang berhubungan dengan keadaan jiwa si pelaku. Penulisan ini bertujuan untuk mengetahui alasan penghapus pidana dan pertanggungjawaban pidana terhadap terdakwa tindak pidana pencurian yang mengalami gangguan jiwa di Pengadilan Negeri Demak.

Metode penelitian dalam penelitian ini adalah pendekatan yuridis sosiologis. Pendekatan yuridis sosiologis adalah pendekatan dengan melihat sesuatu kenyataan hukum di dalam masyarakat. Sumber data yang diperoleh adalah data primer dan data sekunder, kemudian metode pengumpulan datanya menggunakan literatur, lapangan, dan dokumentasi.

Hasil penelitian menunjukkan bahwa Pengadilan Negeri Demak dalam perkara terdakwa Dwi Ardi Kurniawan Bin Paryadi berdasarkan putusan Nomor 29/Pid.B/2020/PN Dmk sudah menerapkan apa yang terkandung dalam Pasal 44 KUHPidana tentang alasan penghapus pidana karena berdasarkan putusan Nomor 29/Pid.B/2020/PN Dmk menyebutkan bahwa alasan majelis hakim mengabulkan atau menjatuhkan pidana terhadap terdakwa dengan pidana melepaskan terdakwa dari segala tuntutan hukum berkaitan dengan alasan penghapus pidana berdasarkan Pasal 44 KUHP dan dalam hal tersebut hakim memutuskan perkara itu berkaitan adanya keterangan surat Visum Et Repertum Psychiatrum Nomor:445.1/3032/RHS yang dikeluarkan oleh RSJD Dr. Amino Gondohutomo. Terdakwa Dwi Ardi Kurniawan Bin Paryadi tidak dapat dimintakan pertanggungjawaban pidana dan tidak dapat dijatuhi pidana. Maka dari itu terdakwa harus dilepaskan dari segala tuntutan hukum. Majelis hakim harus memulihkan hak Terdakwa dalam kemampuan, kedudukan dan harkat serta martabatnya seperti dalam keadaan semula.

Kata Kunci: Alasan Penghapus Pidana, Pencurian, Gangguan Jiwa

ABSTRACT

The science of criminal law has a reason for eliminating criminals, namely justifying reasons and forgiving reasons. Forgiving reasons are reasons that remove the guilt of the perpetrator of a crime, while his actions are still against the law. So, the reason for forgiveness is seen from the side of the person / perpetrator (subjective). For example, because the perpetrator is insane or insane so he cannot be held accountable for his actions (Article 44 of the Criminal Code). Mental disorders are more directed to forgiving reasons, which are related to the condition of the perpetrator. This writing aims to find out the reasons for the eradication of criminal and criminal liability for the defendants of the crime of theft who have mental disorders in the Demak District Court.

The research method in this study is a sociological juridical approach. The sociological juridical approach is an approach by looking at a legal reality in society. Sources of data obtained are primary data and secondary data, then the data collection method uses literature, field, and documentation.

The results showed that the Demak District Court in the case of the defendant Dwi Ardi Kurniawan Bin Paryadi based on the decision Number 29/Pid.B/2020/PN Dmk had implemented what was contained in Article 44 of the Criminal Code regarding the reasons for eliminating the crime because it was based on the decision Number 29/Pid.B /2020/PN Dmk stated that the reason for the panel of judges granting or imposing a sentence against the defendant with a criminal release of the defendant from all lawsuits is related to the reason for eliminating the crime based on Article 44 of the Criminal Code and in that case the judge decided the case was related to the statement of Visum Et Repertum Psychiatrium letter number :445.1/3032/RHS issued by RSJD Dr. Amino Gondohutomo. The defendant Dwi Ardi Kurniawan Bin Paryadi cannot be held criminally responsible and cannot be sentenced, so the defendant must be released from all legal charges. The panel of judges must declare to restore the rights of the accused in his ability, position and dignity as well as in his original state.

Keywords: *Reasons for Criminal Elimination, Theft, Mental Disorders*