

Implementation of Sanctions for Abuse of Narcotics Reviewed from Circular Letter of the Supreme Court Number 4 of 2010 Concerning the Placement of Victims of Abuse and Drug Administration into Medical Rehabilitation and Social Rehabilitation Institutions: 56/Pid.Sus/2019/PN/SDA

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ABSTRACT

The State of Indonesia is one of the countries with the concept of the Supremacy of Law, namely the law is above all, the law is used as the superiority of the rules of the game in a country or can be called a state of law (rechtsstaat). Therefore, Indonesia is a legal state that obeys the rules contained in the laws and regulations that apply in Indonesia. Law is an absolute thing owned by a country regardless of the system used by the country, as stated in Article 1 Paragraph (3) of the 1945 Constitution of the Unitary State of the Republic of Indonesia stating that the Indonesian State is based on law, not based on mere power. Based on the contents of this thesis, there are problems, namely How to Implement Rehabilitation Sanctions for Narcotics Criminals in Indonesia Judging from Law Number 35 of 2009 in conjunction with the Circular Letter of the Supreme Court Number 4 of 2010 Rehabilitation Sanctions for Indonesian Narcotics Crime Perpetrators Judging from Law Number 35 of 2009 in conjunction with the Circular Letter of the Supreme Court Number 4 of 2010. Based on the research data as follows: That he is the defendant ARDIANSAH BIN Alm. ARIFUDDIN, on Monday 05 November 2018 at around 23.00 WIB or at least in November 2018 or at least sometime in 2018.

Keywords: *The Reason For The Eradication Of The Criminal Law, The Unlawful Nature Of The Material In Its Negative Function, Narcotics.*

1. INTRODUCTION

The law that is above all, the law that is used as the superiority of the rules of the game in a country or can be called a state of law (rechtstaat) is the concept of the rule of law of the Indonesian state. [1]

One of the studies of law or the field of law in Indonesia is criminal law. Indonesian Criminal Law stipulates that a person can be convicted of an act he has committed. Sudarto's definition of suffering is a criminal offense according to Sudarto. [2] Criminal law is regulated in the Criminal Code (KUHP), in criminal law there are special crimes, one of which is the Narcotics Crime. [3]

Abuse of illegal drugs in Indonesia such as narcotics, psychotropics and other addictive substances has developed and made Indonesia a drug emergency country. In the field of medicine and health, it is necessary to have sufficient availability of narcotics, but if misused it will

have a dangerous impact, so strict supervision and control must be carried out.[4]

However, in one case, criminal law shows a difference from other laws in general, namely that in it people recognize a gap to give a legal consequence in the form of a bijzondere leed or a special suffering in the form of a punishment to them. who has committed a violation or the prohibitions specified in it. [5]

Narcotics are substances or drugs derived from plants or non-plants, both synthetic and semi-synthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate pain, and can cause dependence, which are divided into groups as attached. in this law. [6] Narcotics are divided into 3 groups which are regulated in the Narcotics Law no. 35 of 2009 concerning Narcotics Article 6, namely group 1, group 2 and group 3.[7]

Still as a form of realization of the ideals of the Indonesian state, in Law Number 35 of 2009 concerning Narcotics one of the considerations for making this law is to create a

prosperous, just and prosperous Indonesian society that is materially and spiritually evenly distributed based on Pancasila and the Law In the 1945 Constitution of the Republic of Indonesia, the quality of Indonesian human resources as one of the national development capital needs to be maintained and improved continuously, including their health status.[8]

The use of narcotics in Indonesian society that is not for health (medical) purposes has been constructed as a criminal behavior. Indications of the definition of narcotics use as a crime can at least be seen from the many regulations that have emerged regarding narcotics. The form of criminalization of narcotics use in Indonesia is reflected in Law no. 22 of 1997 concerning Narcotics, which explains that narcotics on the one hand are drugs or materials that are useful in the field of treatment or health services and the development of science, and on the other hand can also cause dependence which is very detrimental if misused. [9]

Law Number 35 of 2009 concerning Narcotics actually regulates the opportunity for medical rehabilitation and social rehabilitation, as explained in Article 54 which reads "Narcotics addicts and victims of Narcotics abuse are required to undergo medical rehabilitation and social rehabilitation", and in Article 103 paragraph: (1) The judge who examines the case of Narcotics Addicts may: (a) Decide to order the person concerned to undergo treatment and/or treatment through rehabilitation if the Narcotics Addict is proven guilty of committing a Narcotics crime; or PRESIDENT OF THE REPUBLIC OF INDONESIA, (b) bDetermine to order the person concerned to undergo treatment and/or treatment through rehabilitation if the Narcotics Addict is not proven guilty of committing a Narcotics crime.[10]

[2] The confinement sentence for drug abuse is differentiated according to the class contained in Article 127 of Law no. 35 of 2009 concerning Narcotics. Narcotics addicts and victims of narcotics abuse are required to undergo medical and social rehabilitation if the classification of evidence obtained does not exceed the regulated provisions, the classification of the application of the arrest of the evidence in question must be in accordance with the Circular Letter of the Supreme Court Number 4 of 2010 concerning Placement of Abuse, Victims of Abuse and Addicts Narcotics Into Medical Rehabilitation And Social Rehabilitation Institutions. The Circular Letter of the Supreme Court Number 4 of 2010 states that the classification of sanctions for medical rehabilitation and social rehabilitation to be given to narcotics addicts must be in accordance with the weight of the evidence. [11] Rehabilitation itself has been regulated in Article 54 to Article 59 of Law Number 35 of 2009 concerning Narcotics.[12]

Rehabilitation for narcotics addicts really needs to be given, because narcotics addicts are people who use or abuse Narcotics and are in a state of dependence on Narcotics, both physically and psychologically.[13] Rehabilitation of narcotics addicts is a treatment process that aims to free addicts from dependence and the rehabilitation period itself is equated with the period of

servicing a sentence. Rehabilitation is the improvement of limbs with individual disabilities, such as disaster victims, hospital patients, so that they become useful human beings and have a place in society. Rehabilitation is one of the government's efforts in tackling drug abuse. In this regard, Article 54 of Law no. 35 of 2009 concerning Narcotics.[14] If the addict is not rehabilitated, it is very likely that a crime will be committed in the future. Rehabilitation can also be used as an alternative so that correctional institutions or often called prisons which are considered no longer able to accommodate prisoners can be included in the rehabilitation institution and the policy is considered quite effective in solving problems related to narcotics abuse and illicit trafficking in Indonesia. Based on Article 127 Paragraph 3 of the Narcotics Law, abusers can be subject to medical rehabilitation and social rehabilitation sanctions if they are proven or can be proven as victims of Narcotics abuse. Article 112 Paragraph 1 of the Narcotics Law is very often used by the police against anyone accused of possessing narcotics because it is interpreted that the meaning of possessing, keeping, controlling or providing means when the person is arrested the person is in a state of carrying. So that this article is also vulnerable to being criminalized to people who do not know anything about the existence of narcotics in them..

As a case study in this writing where the defendant Ardiansah Bin Alm. Arifuddin was caught red-handed by members of the Sidoarjo City Resort Police regarding Narcotics. Evidence was found in the form of a black bag used by the defendant which contained 1 (one) glass pipette containing the rest of the methamphetamine weighing ± 1.20 , weighed with the pipette wrapped in cigarette grates and 5 (five) empty plastic clips 1 (one) piece of blue plastic hose, 1 (one) gas lighter, 1 (one) piece of plastic straw (scrap) and 1 (one) white Iphone brand cell phone used by the defendant to communicate related to ordering narcotics.

Based on the Minutes of the Criminalistic Laboratory Examination No. LAB.: 10936/NNF/2018 Thursday 29 November 2018 signed by Imam Mukti S.Si, Apt., M.Si, Dra. Fitriyana Hawa, Titin Ernawati, S. Farm. apt. As an examiner at the Criminal Investigation Agency of the Central Police Forensic Laboratory Surabaya Branch, it was concluded that evidence No. 12371/2018/NNF in the form of a glass pipette still contained white crystals with a net weight of 0.006 grams, it was true that Methamphetamine crystals were listed in Group I serial number 61 Appendix I of Law. RI. No. 35 of 2009 concerning Narcotics.

2. METHOD

The methods used in writing this proposal are as follows: (1) Type of Research:The type of research in this legal research is normative or doctrinal legal research. [13] Doctrinal or normative research is research that provides a systematic explanation of the rules governing a category. [14], (2) Nature of Research:the nature of legal research

has a distinctive character, namely its prescriptive nature. As a prescriptive science, jurisprudence studies the purpose of law, values of justice, validity of the rule of law, legal concepts, and legal norms. As an applied science, legal science establishes standard procedures, provisions, and signs in carrying out legal activities, (3). Data Source: (a) Primary Legal Material: Primary legal materials are materials used consisting of statutory regulations, official records, minutes of making legislation and judges' decisions. In this study the primary legal materials used are the 1945 Constitution of the Republic of Indonesia, the Criminal Code (KUHP), Law Number 35 of 2009 concerning Narcotics, Circular Letter of the Supreme Court of the Republic of Indonesia Number 7 of 2009 concerning Placing Drug Users Into Therapy And Rehabilitation Homes, (b) Secondary Legal Material: Secondary legal materials are defined as legal materials that provide an explanation of primary legal materials. In this case, it consists of laws, scientific books and research results, (c) Tertiary Law Material: Tertiary legal materials are materials that provide instructions or explanations for primary and secondary legal materials. In this study the tertiary legal materials used include dictionaries (laws), encyclopedias. (4). Data Analysis Techniques: The data analysis used in this study is qualitative data analysis techniques, namely the efforts made by collecting data, synthesizing, searching and finding important patterns. (5). Research Approach: In legal research, there are several approaches. With this approach, researchers will get information from various aspects regarding the issue that is being tried to find answers to. There are 2 (two): (a) statute approach: The statutory approach is an approach taken by reviewing all laws and regulations related to the legal issues being handled, (b). Case Approach: The case approach is an approach that is carried out by examining cases related to the issues at hand which have become court decisions that have permanent legal force, namely: the 1945 Constitution of the Republic of Indonesia, the Criminal Code (KUHP), Law Number 35 of 2009 concerning Narcotics, Circular Letter of the Supreme Court of the Republic of Indonesia Number 7 of 2009 concerning Placing Drug Users in Therapy and Rehabilitation Institutions

3. DISCUSSION

3.1. Issue

Based on the things that have been described in the background above, the authors formulate the main problems related to the writing which is carried out as follows: How to Implement Rehabilitation Sanctions for Narcotics Criminal Acts in Indonesia Judging from Law Number 35 of 2009 concerning Narcotics Jo Circular Letter of the Supreme Court Number 4 of 2010 concerning Placement of Abuse, Victims of Abuse and Narcotics Addicts in Medical Rehabilitation and Social Rehabilitation Institutions?

3.2. Implementation Of Sanction For Narcotics Abuse

Regulations are made to strive for the achievement of an order and so that a country can run well. In addition, the establishment of a regulation is also so that the public can understand the limitations of the various interests attached to them. Rules for the country are made to be obeyed not to be broken. The State of Indonesia applies regulations related to drug and drug addicts through the Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics.

Article 112 paragraph 1 of Law No. 35 of 2009 concerning Narcotics confirms that a person who without rights or against the law, possesses, keeps, controls or provides Narcotics Category 1 may be subject to criminal sanctions. But in the Supreme Court Circular No. 4 of 2010 concerning Placement of Abuse, Victims of Abuse and Narcotics Addicts into Medical Rehabilitation Institutions and Social Rehabilitation Institutions, a person may be subject to medical rehabilitation and social rehabilitation sanctions if the evidence does not exceed the provisions stipulated in the Supreme Court Circular. The details of the evidence are regulated in point paragraph 2 (two) point B as follows: (1) Group of methamphetamine (shabu): 1 gram, (2). MDMA (ecstasy) group : 2.4 grams, (3). Heroin Group: 1.8 grams, (4). Cocaine Group: 1.8 grams, (5). Cannabis Group: 5 grams, (6) Coca leaves: 5 grams, (7). Mescaline: 5 grams, (8). Psilosybin group: 3 grams, (9). LSD group (d-lysergic acid diethylamide): 2 grams, (10). PCP group (phencyclidine): 3 grams.

Based on the classification above, everyone who possesses, controls, stores narcotics of the type methamphetamine (shabu) weighing less than 1 gram, and is arrested by Polri or BNN investigators in a condition caught red-handed still has the right to carry out rehabilitation. In this case, there is a law enforcement process that needs to be analyzed with the following cases: That he is the defendant ARDIANSAH BIN Alm. ARIFUDDIN, on Monday 05 November 2018 at around 23.00 WIB or at least in November 2018 or at least sometime in 2018, in front of the house of Perumtas 3 Blok I 6 No. 22 Village Grabagan Kec. Kab. Sidoarjo or at least in other places that are still included in the legal area of the Sidoarjo District Court which has the authority to try and examine this case, without right or against the law owns, keeps, controls or provides Narcotics Category I, not plants in the form of methamphetamine which is still in a glass pipette with a weight of ± 1.20 (one point twenty) grams and is weighed with the pipette.

That initially on November 5, 2018 at around 21.00 WIB the defendant called Rojak (not yet caught) to order Supra's package of methamphetamine and Rojak agreed (not caught) and will be delivered to the defendant's house when he returns from work, around 23.00 Wib Rojak (not caught) agreed to meet in the alley near the defendant's house after meeting Rojak (not caught) handed over 1 (one) package of shabu-shabu and the defendant handed over Rp. 400,000, - (four hundred thousand rupiah) after

the methamphetamine was received the defendant took it home and consumed it at home, finished consuming the remaining methamphetamine that was in the defendant's glass pipette, wrapped it with cigarette grenjeng then stored it in the box of the former Samporna Mild cigarette pack and put it in the box. in the defendant's bag. Furthermore, on Thursday, November 08 2018, the defendant contacted Rojak (not caught) again to order crystal meth and an appointment to meet with Rojak (not caught) However, before meeting the defendant, he was visited by a member of the Sidoarjo Police who had previously received information related to narcotics, then a search was carried out and evidence was found in the form of a black bag used by the defendant in it containing 1 (one) glass pipette containing heavy shabu-shabu. ± 1.20 (one point twenty) is weighed with the pipette wrapped in cigarette grates and 5 (five) empty plastic clips, 1 (one) piece of blue plastic hose, 1 (one) gas lighter, 1 (one) one pieces of plastic straws (scrap) and 1 (one) Iphone brand white cell phone used by the defendant to communicate related to ordering narcotics.

Whereas based on the Minutes of the Criminalistic Laboratory Examination No. LAB.: 10936/NNF/2018 Thursday 29 November 2018 signed by Imam Mukti S.Si, Apt., M.Si, Dra. Fitriyana Hawa, Tititn Ernawati, S. Farm .Apt. as Investigator at the Criminal Investigation Agency of the Central Police Forensic Laboratory Surabaya Branch, it was concluded that evidence No. 12371/2018/NNF in the form of a glass pipette still contained white crystals with a net weight of 0.006 grams, it was true that Methamphetamine crystals, registered in Group I serial number 61 Appendix I of Law. RI. No. 35 of 2009 concerning Narcotics. That based on the certificate of urine sample examination Number B/skbn/02/XI/2018/Urkes Polresta dated November 13, 2018 signed by dr. Luluk Norwulan against the defendant obtained the following results: (a) Methamphetamine (+), (b) Amphetamines (+), (c) Cocaine, (d) Morphen, THC/Marijuana (-).

Based on the above case, the evidence that was weighed with a net weight of 0.006 grams was Crystal Methamphetamine which was included in the list of Group I serial number 61 Attachment I of the Law. RI. No. 35 of 2009 concerning Narcotics. Which is based on the regulation, the perpetrator still has the opportunity to be rehabilitated, but on the other hand in the Sidoarjo Court decision Number 56/Pid.Sus/2019/PN.SDA. sentenced to imprisonment for four years and six months. The decision deviates from justice. According to the KBBI, justice has the meaning of not being arbitrary, impartial, and impartial. Fair means that the assessment of a problem is based on objective views. The offender should have had the opportunity to be rehabilitated.

Ardiansyah's actions have violated the law but according to Moeljatno in his book Principles of Criminal Law, translating the term criminal act is an act that is prohibited by a prohibition law which is accompanied by threats (sanctions) in the form of certain crimes, for anyone who violates the prohibition. It can also be said that a criminal act is an act which by a rule is prohibited and is punishable

by punishment, provided that at the same time it is remembered that the prohibition is aimed at an act, namely a condition or event that is determined by the behavior of people. While the criminal threat is aimed at the person who caused the incident. In the case of Ardiansyah, it has been regulated regarding the evidence contained in the Circular of the Court Supreme No. 4 of 2010 concerning Placement of Abuse, Victims of Abuse and Narcotics Addicts into Medical Rehabilitation Institutions and Social Rehabilitation Institutions, a person can be subject to medical rehabilitation and social rehabilitation sanctions if the evidence does not exceed the provisions stipulated in the Supreme Court Circular Letter Number 4 of 2010. Such cases should be subject to rehabilitation sanctions.

Based on the results of interviews in chapter III of the thesis regarding the research data as follows: (1) According to Mr. Vincent Aloysius Baraputra S.H, he is an advocate saying that: The rise of abuse of various types of narcotics among the community, including teenagers, adults, and the elderly, of course, the state should not be permissive in dealing with it. The state must present an integrated and integrated prevention system and mechanism, especially in rehabilitating narcotics addicts/abusers as one of the objectives of the birth of Law No. 35 of 2009 concerning Narcotics. Of course, the course of a legal process cannot be separated from the role of the relevant law enforcement officers, so that the function of the law is in accordance with the applicable provisions. In this case, in my opinion, the judge should consider in making a decision, of course by looking at the contents of Article 54 of Law 35 of 2009 concerning Narcotics which reads "Narcotics addicts and victims of Narcotics abuse must undergo medical rehabilitation and social rehabilitation". This is also supported by the explanation of Article 103 (1) Judges who examine cases of Narcotics Addict scan: a. decide to order the person concerned to undergo treatment and/or treatment through rehabilitation if the Narcotics Addict is proven guilty of committing a Narcotics crime; or THE PRESIDENT OF THE REPUBLIC OF INDONESIA, b. stipulates to order the person concerned to undergo treatment and/or treatment through rehabilitation if the Narcotics Addict is not proven guilty of committing a Narcotics crime. So far, law enforcement officers still view that the Narcotics Law is oriented towards imprisonment for drug users or addicts, so that they are considered like criminals. In the decision NUMBER: 56/Pid.Sus/2019/PN.SDA, it is explained that there is a certificate of the results of the criminalistics lab which states that "the defendant abused narcotics class I for himself in the form of shabu which was still in a glass pipette" of course this is highly correlated with the contents of article 127 paragraph 2 so that the role of the state is responsible for restoring drug users through rehabilitation to run optimally. There should be no obstacles for rehabilitation programs, including infrastructure or recovery facilities for drug addicts. This rehabilitation can later restore mental conditions, and dependence on drug addicts. Drug rehabilitation consists of three stages. Namely the stage of medical rehabilitation

(detoxification), the stage of social or non-medical rehabilitation, and the stage of advanced development.

The stage of medical rehabilitation is carried out under the supervision of a doctor. Users will have a physical and mental examination, including an examination for sexually transmitted infections, and decide whether certain medications are needed to reduce withdrawal symptoms. With this, the state must be more serious and focus on eradicating drugs, not all drug addicts are part of the dealer group. If you refer to this case, the defendant is still within a reasonable range of drug abuse, of course there must be careful consideration because the defendant is not included in the category of criminals who spread the word. The defendant only consumed for himself with several reasons that the judge had to consider.

The government also issued Government Regulation Number 25 of 2011 concerning the Implementation of Obligatory Reporting of Narcotics Addicts to obtain therapy and rehabilitation services, then the Minister of Health also issued Decree of the Minister of Health Number HK. in 33 provinces and along with regulations that strengthen these regulations, such as the Joint Regulations of the Chairman of the Supreme Court of the Republic of Indonesia, the Minister of Law and Human Rights of the Republic of Indonesia, the Minister of Health of the Republic of Indonesia, the Minister of Social Affairs of the Republic of Indonesia, the Attorney General of the Republic of Indonesia, the Chief of the Police of the Republic of Indonesia, the Chief of the Indonesian National Police. National Narcotics Agency of the Republic of Indonesia Number: 01/PB/MA/III/2014, Number: 03 of 2014, Number 11 of 2014, Number 03 of 2014, Number: PER-005/A/JA/03/2014, Number: 1 In 2014, Number PERBER/01/III/2014/BNN concerning Handling Narcotics Addicts and Victims of Narcotics Abuse in Rehabilitation Institutions. Thus, narcotics addicts and abusers no longer lead to imprisonment, but end up on the spot rehabilitation, because sanctions for addicts and narcotics abusers are agreed in the form of rehabilitation.

According to BRIPDA Abdul Salam Mukadar, a member of the Ambon Police Satnarkoba, said that: There are many factors that can cause a person to start abusing narcotics, which in turn can lead to dependence. There are several factors that cause people to abuse narcotics, namely: (a) Family Factor: Family factors, are important in the occurrence of early use of illegal drugs. The family has an important role in early development and protects from the beginning of drug use. If there is a conflict in the family where the problem is too difficult to solve, causing depression, this can trigger a person to use narcotics in order to feel a sense of calm and away from the problems experienced, (b) Economic Factor: Economic factors are the root of the problem of every crime. Someone will do things that violate the law if their needs are not met. The high needs of life force humans in general to seek additional income. This they only do to meet the needs of their lives and their families. Narcotics control. Currently, it cannot be said to be optimal and has not achieved the expected results.

The problem of overcoming narcotics abuse is not handled so that cases of abuse are increasing, especially among the community. In general, the obstacles in overcoming drug abuse are as follows: (a) Lack of cooperation between the apparatus and the community in uncovering Narcotics syndicates, (b) The mode used by narcotics dealers is increasingly varied and organized so that the authorities experience obstacles in their disclosure, (c) The indecisiveness of sanctions given by the government to perpetrators of narcotics abuse. When the Police are Familiar with Drugs, (d) People's ignorance about the dangers of consuming Narcotics if they already understand the dangers of consuming it why are they still using it.

The definition contained in Law Number 35 of 2009 concerning Narcotics, actually for narcotics addicts and victims of narcotics abuse can or can be sentenced to criminal rehabilitation, both medical rehabilitation and social rehabilitation.

Rehabilitation for narcotics addicts is a treatment process to free addicts from dependence, and the period of undergoing rehabilitation is calculated as a period of serving a sentence. Judges can consider what type of punishment is most appropriate for the case by knowing the effects of various criminal sanctions. For appropriate punishment, it is still necessary to know more about the maker. This requires sufficient information not only about the person of the author, but also about the circumstances accompanying the alleged act. The use of crime as a means to influence a person's behavior will not simply succeed, if it is completely unknown about the person who is the object. The most desirable thing from the crime is to prevent the maker from repeating his actions.

According to Doctor. Andri Bandarsyah as a police doctor said that: The term drug is an abbreviation of narcotics and drugs/dangerous substances. Over time, it was realized that the drug stands for wrong because the term "dangerous" drugs in medical science are drugs that should not be sold freely, because their administration can be dangerous if not through medical considerations. Many types of narcotics and psychotropics provide great benefits when used properly and correctly in the medical field. In the Law of the Republic of Indonesia No. 35 of 2009 concerning Narcotics, the definition of 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 taste, reduce to eliminate pain, and can cause dependence. The effects of drug abuse include (a) Hallucinogens, the effects of drugs can result when consumed in certain doses can cause a person to hallucinate by seeing things / objects that don't really exist / are not real, for example cocaine & LSD, (b) Stimulants, the effects of drugs that can cause the work of organs such as the heart and brain to work faster than usual, resulting in a person being more energetic for a while, and tending to make a user happier and happier for a while, (c) Depressants, the effects of drugs that can suppress the central nervous system and reduce the body's functional activity, so that the user feels calm and can even make the user sleep and become unconscious. For example putaw, (d) Addictive, Someone who has consumed drugs will

usually want and want more because certain substances in drugs cause a person to tend to be passive, because drugs indirectly decide the nerves in the brain, for example: marijuana, heroin, putaw.

According to the Circular Letter of the Supreme Court No. 04 of 2010 concerning Placement of abuse, abuse victims and narcotics addicts into medical rehabilitation and social rehabilitation institutions, to reduce the length of the rehabilitation process, so that expert information is required and as a standard in the therapy and rehabilitation process is as follows:

- a) Detoxification and Stabilization Program: 1 (one) month duration.
- b) Primary Program: duration of 6 (six) months
- c) Re-Entry Program: length of 6 (six) months.

Assessment is an important part of the rehabilitation series for addicts or drug abusers. The assessment process which consists of interviews, observations, physical and psychological examinations of drug abusers will determine the rehabilitation therapy plan that will be undertaken by drug abusers. In the field of assessment, the role of the Indonesian Police Medical and Health Sector (Dokkes Polri), is quite strategic. This is in accordance with one of the duties of the Dokkes function in accordance with Law No. 2 of 2002, which states that the National Police is tasked with maintaining security and order, enforcing the law, providing support, protection, and services to the community. One of the roles of police medicine (Dokpol) in maintaining order is to carry out health checks for suspected drug abusers which are carried out in an integrated, cross-sectoral manner, taking into account security, confidentiality, and effectiveness factors.

In addition, if viewed from the medical aspect, the reasons for narcotics addicts need rehabilitation, among others, that a person who is addicted to narcotics will experience anxiety or depression when his body is no longer consuming narcotics. So they need rehabilitation. If addicts are not rehabilitated, they will return to using narcotics when anxiety or depression arises. So it must be rehabilitated and treated with drugs by a doctor. Apart from medical treatment and/or rehabilitation, the healing of Narcotics Addicts can be carried out by government agencies or the community through religious and traditional approaches.

4. CONCLUSION

Based on the description above, it can be concluded that in practice the data found in Article 112 paragraph (1) tends to be applied either alternatively or as a subsidiary to narcotics addicts and abusers. For the decision itself, it is returned to the wisdom of the judge to assess which article is appropriate to be imposed. Narcotics addicts and abusers are perpetrators of crimes but at the same time become victims. From a victim logical perspective, the perpetrators of such crimes are mutual victimization or self-victimizing victims, because the perpetrator is not aware that he is a

victim of his own crime, the victim participates fully in the crime because the victim is the perpetrator at the same time. The problem with article 112 paragraph (1) is because this article does not refer to whom it is addressed and it is written to "everyone". The element of possessing, controlling, storing or providing is an alternative element which the addict or abuser at the time of being caught must have or have had. The element of fighting without rights or against the law must also be fulfilled because addicts and abusers must have narcotics without according to the rules of the game in Law Number 35 of 2009. Ardiansah actually still has the opportunity to be rehabilitated, because of the evidence found and weighed by the Criminalistics Laboratories No.LAB.: 10936/NNF/2018, in the form of a glass pipette still has white crystals with a net weight of 0.006 grams, is a true Methamphetamine crystal, registered in Group I serial number 61 Attachment I of the Law RI. No. 35 of 2009 concerning Narcotics. While SEMA Number 4 of 2010 has regulated the Placement of Abuse, Victims of Abuse and Narcotics Addicts in Medical Rehabilitation and Social Rehabilitation Institutions. Because it has regulated the classification of the weight of the evidence after being arrested by the investigator or the police on duty.

Based on the conclusions above, the author suggests several things, including the following:

- a) Awareness of investigators and public prosecutors in the form of binding rules that narcotics abusers and addicts are not pure criminals but rather victims and if they have to go through a legal process then rehabilitation is the best choice for narcotics users. Investigators should focus on criminal penalties for illicit trafficking and narcotics precursors so that the application of articles on criminal offenses can be targeted.
- b) In law enforcement, the Public Prosecutor should be expected to be more thorough in providing instructions, so that later in the evidence at trial there will be no difficulty in determining the criminal qualifications committed by the defendant. And there needs to be a separation of regulated norms in the Law between Abusers and Addicts. Abusers are more appropriately included in the Health Act, while dealers are more appropriate in the Narcotics Law.

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