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An Analysis of The Probative Value of Police Investigators Testimony in Narcotics Criminal Trials

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Abstract: This research aims to analyze the position of the testimony of a police investigator in narcotics criminal prosecutions, as well as finding out how judges assess the objectivity of witness testimony from police investigators. This study uses a normative-empirical approach. Using data obtained from legal regulations, jurisprudence and interviews with judges to provide a more in-depth picture of the position of testimony from police investigators and to see how judges assess testimony from a police investigator in a narcotics crime trial. The results of this study indicate that although witness testimony from a police investigator can be used in a narcotics crime trial, the testimony given by a police investigator as a factual witness has minimal evidentiary value. This is because the interests of the investigator in the case being handled can affect the objectivity of his statement and his statement is free and considered by the judge in accordance with the objectivity and credibility of the witness. The presence of investigators as witnesses in court is generally verbal, especially when the defendant states that the Examination Report (BAP) was made under pressure or coercion. In addition, the testimony of the investigator's witness cannot be the main witness in the trial because the existence of the police investigator's witness does not have a clear legal basis that can regulate the existence of the witness as a legitimate witness. Then, the strength of the testimony from the Polri investigators is weak.

Keyword: Evidentiary Value, Witness, Witness Testimony, Police Investigator.

INTRODUCTION

Former Deputy Chief Justice of the Constitutional Court, Mr. Aswanto, said in the LBH Anak Negeri Paralegal Training event that Indonesia is a country based on law or in Latin is called *rechtsstaat*. Lilik Mulyadi describes legal science as a very broad field like a large and shady tree. Law has various related elements, the number of these elements reflects that there are aspects that can be studied, starting from the principles, sources, differences, to their classification. Ideally, law functions to protect all people without exception, therefore, law must be enforced so that this protection is realized. In the process of law enforcement, there are three main aspects that need to be considered, namely legal certainty, benefit, and justice (Sumardiana, 2015)

Similar has been regulated in Article 1 paragraph (3) of the 1945 Constitution which emphasizes that Indonesia is a country based on law. Therefore, Indonesia is a unitary state based on law. The law is the basis for the movement of law and as a reference for law enforcement officers to be in accordance with the state's outlook on life and philosophy. The characteristics of a country based on law are Supremacy of Law; Equality Before the Law; Appropriate Legal Process (Syaiful Bakhri, 2012)).

The judicial process is a benchmark for the state to demonstrate success in providing legal guarantees and certainty. Reflected in the pre-trial mechanism which provides an opportunity for both suspects who have the right to file objections to their determination as suspects, and for victims who have the right to be protected by law in the form of recovery from the losses they have suffered. The criminal justice system in Indonesia is a judicial system that involves 4 subsystems, namely the investigation subsystem which aims to find the initial facts of a crime, the investigation which reviews the results of the investigation in more depth, the prosecution which brings the case to court, and the examination in court which is the final stage to decide a case. The four subsystems are interrelated and form a complete system in law enforcement with the main goal of achieving justice and legal certainty in handling criminal cases (M. Yahya Harahap, 2010)

The process of proof is the main heart of every criminal case, in this process of proof can determine whether a suspect can be declared guilty or not in court. In the process of proof the material truth of a case must be revealed. Both the public prosecutor and legal counsel will try to bring evidence that strengthens to convince the judge to support each of their positions. The truth in a criminal case is very dependent on the quality of the evidence that will be presented before the judge. Therefore, the proof process must be carried out objectively, transparently, and in accordance with applicable legal provisions.

At the stage of proof in a criminal case is a series of activities that have been strictly regulated by legal provisions. The law has determined the types of evidence that are valid and can be used in court, in order to prove the guilt charged to the perpetrator (M. Yahya Harahap, 1985). Law No. 8 of 1981 concerning the Criminal Procedure Code strictly regulates the types of evidence that can be used in a criminal case. Article 184 of the Criminal Procedure Code stipulates that there are only five types of evidence that are valid and recognized by law, namely witness and expert statements, defendant statements, letters, and instructions. Among the five types of evidence that have been listed in the Criminal Procedure Code. Witness testimony is indeed a central point in proving a criminal act. Witness testimony is a very important evidence in the process of proving the defendant's guilt, because the witness is the party who directly knows or even sees the criminal act occur. Witness testimony can provide very valuable information for the judge in assessing the truth of an event and determining whether the defendant is guilty or not. Therefore, the value of the strength of a witness's testimony must be observed by a judge very carefully because witness testimony also has requirements that have been determined by law. If the evidence in the form of witness testimony cannot meet the requirements as determined by law, then the witness's testimony is invalid.

Although in general, every human being can provide information as a witness, the criminal procedure law has clearly regulated who has the right to be a witness. The criminal procedure law has also regulated groups of people who are not allowed or are exempted from their obligation to be witnesses. If a crime occurs, it will directly involve a number of people as witnesses who have knowledge of the crime being investigated. Based on this, Article 1 Number 26 of the Criminal Procedure Code regulates who may and can be called to provide testimony in court. Article 168 of the Criminal Procedure Code has clearly prohibited certain groups of people from being heard as witnesses, namely blood relatives, in-laws, siblings, and ex-husbands or wives of the accused). To maintain objectivity and avoid conflicts of interest (Amin et al., 2019).

Article 170 of the Criminal Procedure Code also provides an exception for those who have certain professions to refuse to be witnesses if the information requested is related to the confidentiality of their position and violates their professional code of ethics. Therefore, witnesses who are presented in court, either at the request of the public prosecutor or the defendant, are obliged to provide true and honest information in accordance with the oath or promise that has been made.

Narcotics are chemical substances that can come from plants, non-plants or laboratory synthesis results that have a strong psychoactive effect on the human central nervous system (UU Nomor 35 Tahun 2009, n.d.). Narcotics crime cases have their own legal rules as stated in Law Number 35 of 2009. This law recognizes the dual nature of narcotics that are contradictory to each other. On the one hand, narcotics play an important role in the medical world, there are various types of drugs in the medical field that come from or are inspired by narcotic compounds, such as pain relievers, and drugs to treat various chronic diseases. However, on the other hand, the potential of narcotics is very high. When used outside medical supervision and in inappropriate and excessive doses, it can have a strong impact on dependence, both physically and psychologically. The mode of operation of narcotics crimes is increasingly sophisticated, involving a wide, organized network, and these narcotics crimes are transnational in nature. This makes Law Number 22 of 1997 no longer relevant. The high level of narcotics crime violations requires law enforcement officers to work harder in overcoming the abuse and distribution of narcotics, but must remain within the framework of fair and unbiased law enforcement (due process of law).

In the criminal justice system, narcotics crime cases are given priority in handling cases (Article 74 paragraph (1), Law No. 35, 2009.) narcotics abuse is a case that is quite serious and threatens society. The law enforcement process against people suspected of being involved in narcotics crime cases must be based on initial evidence that has been obtained and take into account the elements that have been fulfilled, to be able to determine whether the individual is a user or a seller.

The fact that handling drug crime cases often uses operational modes such as raids, sting operations, or undercover buys (Lazuardi & Handayati, n.d.)). This model of operational mode, if not carried out carelessly and not in accordance with procedures, will cause various deviations that can cause losses in fulfilling the rights of the suspect. Such as actions of planted evidence, the existence of false informants, or even to a more extreme stage, namely the practice of swapping heads or swapping bodies, practices like this are called trapping tricks.

Understanding that in handling narcotics cases, the evidence obtained by Polri investigators is often very limited, so that in order to meet the requirements of evidence, investigators often use their personal statements as witnesses to strengthen the evidence in the case. However, if an investigator is made a witness in a case, especially a narcotics case, it can raise public questions about the potential for interests so that the case he is handling is successful, this also raises the potential for bias in an investigator's witness in giving his statement, where the investigator's witness will be more inclined to side with conclusions that benefit his party. This is reinforced by the statement of Yusril Ihza Mahendra, who said that an arresting police officer (investigator) is not appropriate if presented as a fact witness, because the testimony of the investigator's witness will certainly only justify the results of his investigation. Then, the information provided by the investigator who is made a fact witness should not be considered by the judge as evidence. In accordance with Decision Number 1531 K/Pid.Sus/2010 dated July 27, 2010. On behalf of the defendant KET SAN alias CONG KET KHIONG, which in its decision acquitted the defendant because the elements of the criminal act charged could not be proven legally and convincingly in court. Based on the assessment of the panel of judges, it is as follows:

- In providing testimony, the police officers who are witnesses in this case can be said to have the potential for bias because of the interest so that the case they are handling ends with a

decision that benefits their party in court. This condition can affect the objectivity of the information provided, where there is the possibility of providing information that incriminates the defendant or even does not correspond to the actual facts. Meanwhile, in a fair trial process, witness testimony is needed that is truly independent, impartial, based on facts, and which is delivered honestly without any particular interest.

- The presence of police witnesses in the trial, viewed from the aspect of procedural law, in principle is limited only to providing verbal information, namely explaining the process and results of the examination that has been carried out during the investigation stage.

Furthermore, does the testimony of an arresting witness have sufficient testimony? The question of the strength of the testimony of an investigator's witness is the main problem that will be studied by the author. Although, the testimony of an investigator's sanction still has legal value, the position of this arresting witness still raises doubts. In addition, if the testimony of this investigator's witness is used as the only evidence in a criminal case, especially a narcotics crime case, is it considered to violate the principle of justice that has been guaranteed in Law Number 35 of 2009 concerning Narcotics?.

METHOD

This research uses empirical juridical research methods which focus on the analysis of witness statements from investigative elements in narcotics crime trials. This research approach uses normative and empirical aspects, where the normative approach will examine court decisions and statutory regulations. Meanwhile, the empirical approach here functions as additional data to enrich the data sources that will be used in studying this research. An empirical approach will be used to study the practical implementation of a police investigator's witness testimony in narcotics criminal justice. The data source used in the empirical approach is an interview of a judge which was conducted offline and in bold and only one judge was interviewed in this research. The location of the research carried out offline was the Semarang District Court and bravely used the zoom application.

RESULTS AND DISCUSSION

The Role of Police Investigators in Proving Narcotics Crimes

Achmad Ali stated that the elements in the legal system include 3 main elements. First, the legal structure where all legal institutions and their apparatuses, such as the police with their police, the prosecutor's office with their prosecutors, and the court with its judges. Second, the legal substance that includes all rules, norms, and legal principles, both written and unwritten, including court decisions. Third, the legal culture that reflects opinions, beliefs, habits, mindsets and actions, both from law enforcers and the community (B. Sumardiana, 2017a))

The process of proving in narcotics trafficking cases is very complicated because it requires the collection of various types of evidence that must be carried out by law enforcement officers. Their main task is to ensure that the evidence against the perpetrator is carried out objectively, legally, and does not violate human rights(Sofyan, Andi Muhammad, 2020).This proof process involves collecting valid evidence that can be used in court to determine the punishment for the perpetrator. Some important steps in this process include the stages of investigation, inquiry, prosecution, and trial in court.

The police are tasked with revealing the truth and investigating the facts by taking various actions necessary to collect evidence and enforce the law(B. Sumardiana, 2017). Some of the steps permitted in the investigation process include arrest, detention, search, and seizure. In addition, the police also have the authority to examine evidence and witnesses in order to obtain information that can reveal facts relevant to the case being handled. (Indoensia, 2002). These steps are taken to collect valid evidence and strengthen the charges against the perpetrator. In carrying out their duties, the police must follow applicable legal procedures to ensure that every step taken is legal and does not violate individual rights. Actions such as

searches and seizures, for example, must be carried out with permission from the authorities or based on sufficient evidence. The police are obliged to carry out their duties by following existing legal principles, such as the principles of legality and proportionality (Nelson et al., 2022).

This means that every step taken by the police in the investigation and inquiry process must be in accordance with applicable regulations, not exceed the limits, and still respect the rights of the individuals involved. Therefore, the evidence collected must be in accordance with the provisions of criminal procedure law and must not violate human rights. In cases of drug trafficking, evidence plays a very crucial role, because it depends on the existence of valid and legally acceptable evidence. Article 184 of the Criminal Procedure Code (KUHP) explains that valid evidence includes various elements, such as witness testimony, expert opinions, documents, clues, and evidence. (Indonesia, 1981). This evidence is very important in the trial process, because they are the basis for determining whether the charges against the defendant can be legally proven. The system of evidence applicable in Indonesia refers to the theory of negative legal evidence (B. Sumardiana, 2017), which is stated in Article 183 of the Criminal Procedure Code. In this system, the judge can only impose a sentence if there is at least two valid pieces of evidence that can convince the judge that the crime charged actually occurred and the defendant is proven guilty (Indonesia, 1981). Suspects or defendants are treated as subjects in the trial, which means their position is considered equal to that of the public prosecutor and judge. Thus, suspects or defendants have equal rights in all stages of the trial, both during the preliminary examination and during the trial in court.(B. Sumardiana, 2017b)

Evidence in drug trafficking cases generally involves narcotics confiscated during the investigation and inquiry process (Suhardianto & Arafat, 2022). In addition, witness statements that can strengthen the role of the perpetrator in the drug trafficking network are also very important. The police often use witnesses from among the perpetrators who have been caught and are willing to provide information to uncover the drug network. Pharmacists or toxicologists also provide information explaining the type, dosage, and impact of narcotics in the case, which can strengthen the charges and provide a deeper understanding. Letters found in the investigation, such as transaction documents or communications between the perpetrator and his/her distribution network, can also be evidence that supports the proof. Clues found during the investigation can provide additional information to dig deeper into the drug trafficking being investigated.

The police, as the first law enforcement agency involved in the investigation and prosecution of criminal acts, have a very important role in the criminal justice system in Indonesia, including in narcotics cases(Hartanto, 2023). The duties and authorities of the police are regulated by various regulations, including Law Number 2 of 2002 concerning the Indonesian National Police and the Criminal Procedure Code (KUHP). Article 13 of the Police Law states that the police are responsible for maintaining security, enforcing the law, and providing protection and services to the community (Indoensia, 2002). As investigators, the police are given the authority to investigate and prosecute criminal acts, including those related to narcotics. In accordance with Article 6 paragraph (1) letter a of the Police Law, the police have the right to investigate suspected criminal acts, while Article 1 number 2 of the Criminal Procedure Code defines investigators as officials who are authorized to conduct investigations into a criminal case(Indoensia, 2002). The investigation process itself involves a series of steps taken by the police to collect evidence and information in order to reveal material facts from a criminal case. Thus, the police have a very vital role in exposing and prosecuting perpetrators of drug trafficking and enforcing the law.

As investigators, the police have the authority to take various actions necessary to collect evidence, such as arrest, detention, search, confiscation, and examination of evidence and witnesses (Sidabutar et al., 2024). Article 14 of the Police Law provides a legal basis for the police to carry out these actions with the aim of obtaining valid and accountable evidence

in court (Akmadi et al., 2022). Arrest and detention can be carried out if the police have sufficient evidence indicating a person's involvement in a crime, while searches and confiscations aim to find and secure evidence relevant to the case being investigated.

The authority of the police as investigators has a very vital role in law enforcement, especially in efforts to eradicate narcotics. Investigations carried out in accordance with applicable legal procedures are very important to ensure the achievement of justice, by ensuring who is responsible for narcotics crimes (Lazuardi & Handayati, 2023). Therefore, the police must carry out their duties with full responsibility, respect human rights, and comply with applicable legal principles, such as the principles of legality, proportionality, and protection of individual rights. Investigations that are carried out fairly and transparently will result in a good judicial process and decisions that are in line with the principles of justice.

Success in eradicating narcotics is greatly influenced by effective coordination between law enforcement officers in various institutions, both at the national and international levels. Therefore, the police as investigators must carry out their duties professionally and work together with other institutions to uncover the increasingly complex narcotics distribution network. In addition, technological advances also support success in investigations, where the police need to utilize information and communication technology to obtain more precise and relevant evidence. Thus, the police as investigators play an important role in the criminal justice system and the eradication of narcotics, which must be carried out with full professionalism and prioritizing the principles of justice that apply in Indonesia.

Position of Testimony of a Police Investigator in Criminal Justice

Criminal justice is part of the legal system that focuses on finding material truth, namely the actual truth related to criminal events (Saragih, 2024). In this process, the role of the police is very important, both as investigators and as witnesses in the legal process, including in narcotics cases. Therefore, it is important to analyze the position of the police as witnesses in the Indonesian criminal procedure law procedures regulated in the Criminal Procedure Code (KUHAP).

As witnesses, the police have a unique position because they are often directly involved in the investigation and prosecution of criminal acts. This raises questions about the credibility, objectivity, and role of the police in the evidentiary process in court (Pangestu & Hanim, 2021).

In the Indonesian criminal justice system, the police serve as investigators, witnesses, and sometimes experts. As investigators, the police are responsible for conducting investigations and inquiries, collecting evidence, and ensuring that the legal process is carried out fairly and in accordance with the rules. In narcotics cases, the police have a primary role in uncovering drug trafficking networks, arresting suspects, and securing evidence (Tuanany, 2021). The police are also tasked with collecting evidence, examining witnesses, suspects, and evidence, and compiling investigation reports that will later be used by prosecutors in the prosecution process. Although the police have great authority in investigations, they can also act as witnesses who provide testimony in court related to the case being handled.

According to Article 183 of the Criminal Procedure Code, a judge can only decide on a sentence for a defendant if there are at least two valid pieces of evidence that can convince the judge of the truth of the crime committed and the defendant's guilt. The valid pieces of evidence, in accordance with the provisions of Article 184 of the Criminal Procedure Code, include witness statements, expert opinions, documents, clues, and confessions from the defendant (Wibowo, 2022). Therefore, the information provided by the police as a witness is one of the valid pieces of evidence, but must be supported by other evidence. Police statements cannot stand alone, but must be part of the entire series of evidence in the case to ensure a court decision that reflects justice. There are several things that need to be considered when the police act as witnesses, including:

1. Obligation of Witnesses to Take an Oath or Promise

Originally, Article 160 paragraph (3) of the Criminal Procedure Code stipulates that before giving testimony, witnesses must take an oath or promise, to ensure that the statement given is honest, objective, has integrity, and can be accounted for (Indonesia, 1981).

2. Witness Statement

Based on Article 1 number 27 of the Criminal Procedure Code, witness statement is a statement given by a person regarding a criminal incident that he knows about, either based on direct observation, hearing, or personal experience. In this case, the police involved in handling narcotics cases can provide testimony regarding the arrest process, searches, and evidence that was successfully confiscated (Hendar Soetarna, 2023).

3. Witness Statement Must Be Given at Trial

According to Article 185 paragraph (1) of the Criminal Procedure Code, witness statement must be delivered directly in the courtroom and recorded in the trial minutes. In order to be valid, the statement must be delivered in front of the panel of judges presiding over the trial (Indonesia, 1981).

4. The principle of "Unus Testis Nullus Testis"

In the criminal procedure system in Indonesia, the principle of *unus testis nullus testis* is applied, which states that the testimony of one witness is not enough to prove the guilt of a defendant. Therefore, police testimony as a witness in a narcotics case needs to be supported by other relevant evidence to strengthen the accusation against the defendant (Suhardianto & Arafat, 2022)

The police have an important role, both as investigators and witnesses who provide testimony in court. Provisions regarding the role of the police as witnesses are regulated in the Criminal Procedure Code which emphasizes that witnesses, including the police, are required to provide valid and relevant information to help the court reveal the material truth (Beny Abukhaer Tatara, 2024). Article 184 of the Criminal Procedure Code states that testimony is one of the valid pieces of evidence. In this context, police involved in the investigation or inquiry into narcotics cases can provide testimony based on facts that they witnessed or experienced directly, such as when conducting searches, arrests, or collecting evidence.

The process of proof in criminal justice is based on principles that aim to ensure that the trial is fair, transparent, and leads to material truth. One of the main principles is legality, which emphasizes that any evidence presented in court must be valid and in accordance with applicable regulations. The police as witnesses are also required to provide valid information in accordance with criminal procedure procedures, as stated in Article 160 of the Criminal Procedure Code, which requires witnesses to take an oath or promise before giving testimony (Indonesia, 1981). This aims to ensure that the testimony given has legal integrity and does not violate existing provisions. In addition, the principle of *unus testis nullus testis*, which emphasizes that one witness is not enough to prove a case, strengthens that police testimony needs to be supported by other relevant and strong evidence to strengthen the charges (Herlambang & Bridges, 2024).

Objective Analysis of the Testimony of Investigators' Witnesses in Drug Crime Trials

1. Case Position

The defendant, Ramadhon Adi Pamungkas, the defendant works as a private employee who was arrested by the police next to the Kamar Alila Semarang clothing store on Jl. Fatmawati, Pedurungan Kidul Village, Pedurungan District, Semarang City. Starting on March 26, 2024 at around 23.50 the defendant rode a motorbike and moved strangely by using the movement of taking an item then not long after that the defendant left while throwing away a pack of cigarettes next to the Kamar Alila clothing store on Jl. Fatmawati, Pedurungan Kidul Village, Pedurungan District, Semarang City. The defendant was found to have narcotics in the form of crystal methamphetamine weighing 0.23452 grams wrapped in black tape, in a waist bag when carried out by the Semarang Police Narcotics Unit. Other evidence confiscated

included a mobile phone, a motorbike and a plastic tube containing urine belonging to the defendant.

Witness Statement

Riyadhi Nugroho

The witness made the arrest on Tuesday, March 26, 2024 at around 23.50 WIB of cigarettes next to the Kamar Alila clothing store on Jl. Fatmawati, Pedurungan Kidul Village, Pedurungan District, Semarang City, together with witness Roy Roby Suprpto. The witness is a member of the Semarang Police who was assigned to conduct observations in areas prone to narcotics. According to the witness, the defendant showed suspicious behavior before being arrested, including throwing away a package which was later discovered to be methamphetamine.

The witness confirmed that a package had been found containing an object in the form of white crystal powder which was known to be methamphetamine. The narcotics found were wrapped in black tape weighing 0.23452 grams, one black waist bag, one Vivo brand cellphone with the Y51 type in blue with a Simpati SIM card with the number 0812229380864

Based on witness statements, namely witness Riyadi Nugroho and witness Roy Roby received information about narcotics transaction activities along Jalan Fatmawati, Pedurungan Kidul, Semarang. Following up on this information, the two witnesses patrolled the area on March 26, 2024 at around 23.00 WIB.

The witness confirmed that based on the defendant's statement, the defendant admitted that the narcotics he had came from someone named Rizki who was a DPO. Starting from March 14, 2024 at around 21.00, the defendant was offered narcotics in the form of crystal methamphetamine weighing half a gram for Rp400,000 (four hundred thousand rupiah). Then, at around 22.54 WIB, the defendant agreed to buy crystal methamphetamine in a half gram package for Rp400,000 and paid through the Dana application numbered 089637366597. Then, Rizki (DPO) provided information regarding the location of the crystal methamphetamine narcotics that had been purchased by the defendant by photographing the location and then sending it to the defendant with the information in front of the Lamper area alley, South Semarang District, Semarang City. The defendant immediately went to the place that Rizki (DPO) had informed him of, but when the defendant arrived at the location, the defendant did not find the crystal methamphetamine in question and the defendant asked for the money that had been given to Rizki (DPO) to be returned. However, Rizki (DPO) promised to replace the crystal methamphetamine. Then, on Tuesday, March 26, 2024, Rizki (DPO) provided new instructions, namely on Jalan Fatmawati, Kec. Pedurungan, Semarang City. The defendant followed the instructions given via Whatsapp message in the form of a photo marking the exact location of the crystal methamphetamine hidden in an old cigarette pack. Upon arriving at the location, the defendant immediately found and took the cigarette pack containing the crystal methamphetamine and immediately put it into the defendant's waist bag.

Roy Roby Suprpto bin Agung Tri Suprpto

In his statement, the witness stated that when arresting the defendant Ramadhon Adi Pamungkas at the location of the incident, namely next to the Kamar Alila clothing store on Jl. Fatmawati, Pedurungan Kidul Village, Pedurungan District, Semarang City. Several pieces of evidence were found in the form of one clip containing 0.23452 grams of coir narcotics, one black waist bag, and one Vivo brand telephone unit with the Y51 type in blue with the SIM card number 0812229380864.

Based on the witness' statement, namely witness Riyadi Nugroho who is a member of the Semarang Police Narcotics Investigation Unit, has received intelligence information that Jl. Fatmawati, Pedurungan Kidul Village, Pedurungan District, Semarang City, is often used as a place for narcotics transactions. Following up on this information, the two police officers

conducted a routine patrol in the area at night, precisely on March 26, 2024 at around 23.00 WIB. While on patrol, at around 23.50 WIB, the two witnesses observed someone very suspicious, namely the defendant who was riding a black Suzuki Satria FU motorcycle with the police number H-6557-GC. The defendant was seen taking something from his bag or pocket, then the defendant threw away a cigarette pack next to the Kamar Alila Shop located on Jalan Fatmawati, Kel. Pedurungan Kidul, Kec. Pedurungan, Semarang City. Seeing the defendant's very suspicious behavior, the two witnesses immediately arrested the defendant. Then, a search was conducted and several pieces of evidence were found in the form of a clip containing an object in the form of white crystals that could be identified as narcotics of the type of crystal methamphetamine weighing 0.23452 grams, and a Vivo brand telephone type Y51 blue in color with a Simpati SIM card with the number 081229380864. Based on these findings, the defendant along with all the evidence were then secured at the Semarang Police Headquarters for further examination.

The witness explained that based on the defendant's statement, the defendant admitted that the narcotics he had came from someone named Rizki who was a DPO. Starting from March 14, 2024 at around 21.00, the defendant was offered narcotics of the type of crystal methamphetamine weighing half a gram for Rp400,000 (four hundred thousand rupiah). Then, at around 22.54 WIB, the defendant agreed to buy crystal methamphetamine in a half gram package for Rp400,000 and paid through the Dana application numbered 089637366597. Then, Rizki (DPO) provided information regarding the location of the crystal methamphetamine narcotics that had been purchased by the defendant by photographing the location and then sending it to the defendant with the information in front of the Lamper area alley, South Semarang District, Semarang City. The defendant immediately went to the place that Rizki (DPO) had informed him of, but when the defendant arrived at the location, the defendant did not find the crystal methamphetamine in question and the defendant asked for the money that had been given to Rizki (DPO) to be returned. However, Rizki (DPO) promised to replace the crystal methamphetamine. Then, on Tuesday, March 26, 2024, Rizki (DPO) provided new instructions, namely on Jalan Fatmawati, Kec. Pedurungan, Semarang City. The defendant followed the instructions given via Whatsapp message in the form of a photo marking the exact location of the crystal methamphetamine hidden in an old cigarette pack. Upon arriving at the location, the defendant immediately found and took the cigarette pack containing the crystal methamphetamine and immediately put it into the defendant's waist bag.

Letter

Based on the results of the forensic laboratory examination with lab number: 957/NNF/2024 conducted on March 28, 2024, it was confirmed that the evidence confiscated from the defendant Ramadhon Adi Pamungkas tested positive for methamphetamine. The evidence was in the form of a plastic package containing a white crystal-shaped object previously known as a narcotic type of crystal methamphetamine. This laboratory examination was carried out by a team of experts consisting of Bowo Nurcahyo and Eko Fery Prasetyo, under the supervision of the Head of the Forensic Laboratory Division of the Central Java Regional Police, Budi Santoso.

Defendant's Statement

The defendant explained that this incident began on Thursday, March 14, 2024 at around 21.00 WIB. At that time, the defendant received a message via the WhatsApp application from someone named Rizki (DPO) offering a package of crystal methamphetamine weighing half a gram for Rp. 400,000. After considering the offer from Rizki (DPO) the defendant agreed to buy one package of crystal methamphetamine at the price offered. At around 22.54 WIB, the defendant then made a payment by transferring Rp400,000 through the BCA M-Banking service from his personal cellphone to Rizki's (DPO) DANA account with the number

089637366597. As proof of payment, the defendant sent proof of the transfer to Rizki (DPO) via the Whatsapp application.

After that, Rizki (DPO) sent a photo to the defendant showing the location where the crystal methamphetamine was hidden. In the photo, Rizki (DPO) marked the crystal methamphetamine hiding place in front of an alley in the Lamper area, South Semarang. Getting directions to the location, the defendant immediately drove to the marked location by riding his motorbike. However, after arriving at the location, the defendant did not find the item. Feeling aggrieved, the defendant then contacted Rizki (DPO) to ask for his money back or to ask for a replacement crystal methamphetamine. Rizki (DPO) promised to replace the crystal methamphetamine. A few days later, on March 26, 2024 at around 20.00 WIB, Rizki (DPO) contacted the defendant again to inform him that the crystal methamphetamine used as a replacement the previous Saturday was ready. Not long after, at around 23.45 WIB, Rizki (DPO) sent a photo to the defendant again. In the photo, Rizki (DPO) gave a sign at a more specific location, namely in a used cigarette pack wrapped in black duct tape, in a 50-meter alley on Jalan Fatmawati, Semarang. According to the instructions given, the defendant immediately drove to the location, then the defendant found a used cigarette pack, the defendant immediately checked the package and found a black plastic package wrapped in black duct tape. Without hesitation, the defendant immediately put the black plastic package into the waist bag he was carrying. However, before he had time to move far from the location where the goods were taken, while walking in front of the Kamar Alila Shop on Jalan Fatmawati, the defendant was stopped by police officers who were patrolling the area. The defendant was then searched and a black plastic package was found that the defendant had previously hidden in his waist bag. Inside the package was found a white crystal-shaped object which after being tested in the laboratory was declared positive as narcotics in the form of crystal methamphetamine weighing 0.23452 grams. Officers also secured the defendant's cellphone. Based on these findings, the defendant was taken to the Semarang Police Headquarters along with the evidence and will undergo further investigation.

Evidence

Evidence confiscated from the defendant consists of various items related to the narcotics crime that occurred, namely:

- One package containing a white crystal object known as methamphetamine, weighing 0.23452 grams.
- A black waist bag used by the defendant to store the methamphetamine package.
- One tube containing the defendant's urine sample.
- One Vivo brand cellphone, type Y51, blue in color with SIM card number 081229380864.
- One Suzuki brand motorcycle, type Satria Fu, black in color with police number H-6557-GC.

Based on the evidence that has been collected, the judge concluded that the actions committed by the defendant had fulfilled the elements of a crime regulated by law. Specifically, the judge was of the opinion that the defendant had committed an unlawful act by offering, selling, or possessing class I methamphetamine. The actions committed by the defendant violated Article 112 Paragraph (1) of Law Number 35 of 2009 concerning Narcotics.

Legal Review

Witness testimony in court is one of the valid evidence according to the Criminal Procedure Code. Based on Article 184 of the Criminal Procedure Code, witnesses are included in the types of valid evidence in criminal trials (Indonesia, 1981). Witnesses can provide information related to criminal acts that they witnessed, heard, or experienced directly (Jamba, P., Darlisma, D., Prakasa, R. S., Runtunuwu, Y. B., Sihombing, G. K. H. P., Siagian, A. A., ... & Irwansyah, 2023). Witness testimony is part of the evidence whose validity is recognized by

law. In practice, most of the evidence process always relies on the results of witness testimony examination (Syaiful Bakhri, 2012). The definition of a witness itself is someone who has knowledge of a criminal case and will provide his statement for the purposes of investigation, prosecution, and trial regarding a criminal act that he heard, saw, and experienced himself. However, the constitutional court has expanded the definition of a witness itself. In Constitutional Court Decision Number 65/PUU-VII/2020, it states that a witness is not only someone who hears, sees, and experiences a crime directly. However, a witness is also a person who has knowledge that is directly connected to a crime, this person must be heard as a witness. Then, regarding whether or not a police investigator can be made a witness in a narcotics crime trial, before that the author will first explain who is an exception to being a witness, as well as who can refuse to be a witness, namely:

- All family members or in-laws who have blood or direct marriage relations with the defendant up to the third degree, both in the direct line of descent upwards and downwards.
- All siblings, both biological and half-siblings of the defendant including cousins up to the third degree, and all people who have marital relations with the defendant's siblings' families up to the third degree.
- Spouses who are legally (former) or currently bound by marriage to the defendant.
- The people mentioned may be sworn in and their statements may be heard, provided that they and other parties related to the crime mutually agree, if there is a party who does not agree then they can give their statements without being sworn in. Therefore, it can be concluded that there is no obstacle for an investigator to testify in court.

Investigators Who are Made Witnesses in Narcotics Crimes

That in the decision of case Number 447/Pid.sus/2024 PN Smg on behalf of the defendant Ramadhon Adi Pamungkas, the investigator included 2 (people) witnesses who were members of the Police who gave their statements in the Examination Report (BAP) against the defendant who is suspected of violating Article 112 paragraph (1) of Law of the Republic of Indonesia Number 35 of 2009 concerning Narcotics.

That the 2 (two) police officers who served as investigators in this case were verbal witnesses. They should have been witnesses in this criminal case because the defendant claimed that the Examination Report (BAP) was prepared under pressure or coercion. However, in this case, the two witnesses from the National Police investigators only heard the defendant's confession regarding his involvement in the sale and purchase of methamphetamine. Meanwhile, based on the facts stated in the verdict, the two witnesses only found evidence in the form of 1 (one) pack of cigarettes containing methamphetamine, 1 (one) Vivo brand cellphone type Y51 in blue, a black waist bag, 1 (one) tube containing the defendant's urine sample, 1 (one) Suzuki brand motorcycle type Satria Fu in black with police number H-6557-GC. Meanwhile, the party suspected of selling methamphetamine to the defendant has not/has not been found. Thus, the two witnesses in this case are not only verbal witnesses, but the two witnesses from the police are also witnesses "testimonium de auditu" or witnesses whose statements come from statements from other people.

Objective Analysis

The principle of no proof without evidence emphasizes the importance of clear and valid evidence in determining the guilt of the accused. Therefore, even though the police provide testimony as witnesses, the testimony must be supported by other evidence, such as evidence of narcotics, statements from other witnesses, or clues that support the truth of the charges.

Article 183 of the Criminal Procedure Code and Article 24 of the HIR have clearly stated that a judge may not give a guilty verdict to a defendant if there is insufficient evidence to convince the judge that the crime actually occurred and was committed by the defendant (B. Sumardiana, 2017). This system is called a negative evidentiary system which also reflects the principle of the presumption of innocence, where the burden of proof lies with the public

prosecutor(KITAB UNDANG-UNDANG, n.d.) . The difference between these two articles lies in the emphasis on the requirements for proof. Article 183 of the Criminal Procedure Code clearly provides the requirement for "two valid pieces of evidence" in determining the imposition of a sentence. This can also be interpreted in the provisions of evidence that can be sufficient in imposing a criminal sentence on a defendant, namely "there must be at least two valid pieces of evidence" (M. Yahya Harahap, 2000). Therefore, Article 183 of the Criminal Procedure Code has emphasized that in determining the element of guilt of a defendant and in order to impose a sentence, the following provisions must be met:

- The guilt can be proven by at least two valid pieces of evidence.
- If it can be proven by at least two valid pieces of evidence, the public prosecutor must obtain a conviction from the judge that the crime has actually occurred and that the defendant is responsible for the crime that occurred.

The negative evidentiary system is considered to be the right system to provide legal certainty, as well as uphold justice. By combining the principle of the judge's belief (conviction in time system) with positive legal provisions (positive wettelijk stelsel), the evidentiary system is able to provide a balance between the interests of prosecuting the perpetrator and protecting the rights of the accused. Article 184 paragraph (1) of the Criminal Procedure Code states that there are only five types of evidence that are valid and legally recognized, namely:

- Witness statements
- Expert statements
- Letters
- Instructions
- Defendant's statements

This article is related to the provisions of Article 183 of the Criminal Procedure Code where the defendant can only be sentenced to criminal penalties if the elements of his guilt can be proven with at least two types of evidence listed in Article 184 paragraph (1). Therefore, the minimum standard of proof that is considered sufficient to prove the defendant's guilt is to present at least two valid pieces of evidence.

Article 185 paragraph (2) of the Criminal Procedure Code stipulates that testimony from only one witness cannot be used to prove the defendant's guilt without additional evidence. This principle is known as *unus testis nullus testis*, which means that testimony from one party cannot be used as the sole basis for proving a case. Therefore, even if the police provide testimony, the statement must be supported by other more valid evidence, such as evidence, documents, or testimony from other witnesses. In addition, Article 160 paragraph (3) of the Criminal Procedure Code stipulates that a witness, including a police investigator, must take an oath or promise before giving his testimony to ensure that the information given is in accordance with the truth (Pangestu & Hanim, 2021). This aims to ensure that the statements given are true and in accordance with the facts, and that the testimony is valid and can be accounted for in court.

The principle of objectivity is also a principle that must be applied in the process of providing evidence in court. The investigator's statement as a witness must not be subjective or influenced by personal interests, either to defend himself or to increase the weight of the charges(Nugraha & Antonio, 2022). The investigator as a witness must answer questions honestly and objectively in accordance with the facts found during the investigation. The principle of equality before the law also requires that the investigator's statement must be examined in the same way as other witnesses, without any special treatment that could affect the fairness of the trial process. As explained in Article 184 paragraph (1) of the Criminal Procedure Code, valid evidence in criminal cases is witness testimony, expert testimony, letters, instructions, and the defendant's confession. Therefore, police investigators who provide testimony as witnesses not only play a role in providing information on discoveries or actions taken during the investigation, but must also comply with all applicable provisions related to

the delivery of information in court. One of the provisions that must be met is regarding the taking of an oath or promise as a witness before providing information, which is stated in Article 160 of the Criminal Procedure Code.

Article 184 paragraph (1) of the Criminal Procedure Code stipulates that valid evidence must be submitted in accordance with applicable legal procedures (Irawan et al., 2023). If the investigator submits information that is not in accordance with legal provisions, such as information that is irrelevant or not based on existing evidence, then the information can be considered invalid or does not have sufficient evidentiary force.

Therefore, even though investigators have direct access to the facts of the investigation, their statements must still meet the standards of evidence stipulated in the Criminal Procedure Code. Police investigators have a very strategic role in the process of proving narcotics crimes. They are responsible for collecting evidence, examining witnesses, and compiling case files that will be submitted to the court. As witnesses, investigators provide information related to the steps they took in the investigation, including how the evidence was found, who was questioned, and how they managed the information available. However, the statements of investigators as witnesses must be examined carefully and must not be accepted without additional evidence. Proof in criminal cases does not only rely on witness statements, but must involve various types of evidence that support each other.

In practice, the biggest challenge in the position of the police as witnesses is the potential for conflict of interest and bias, considering that the police are directly involved in the investigation. Therefore, in the trial process, police statements must be strictly filtered and supported by other evidence that does not only rely on their statements alone. Therefore, in the context of narcotics cases, the position of the police as witnesses must be maintained so that they remain objective and accountable in order to ensure the achievement of the fairest possible justice. Thus, the statement of the police investigator as a witness in a narcotics crime case cannot be viewed as stand-alone evidence. It must be seen as part of a larger evidentiary process, which involves the use of various valid evidence, and follows strict legal procedures as stipulated in the Criminal Procedure Code. Valid and procedural evidence will provide confidence for the judge in making a fair decision and in accordance with applicable law.

CONCLUSION

From the analysis that has been described, several things can be concluded related to the case of Ramadhon Adi Pamungkas who was charged with violating Article 112 paragraph (1) of the Narcotics Law. The strength of the testimony of the Polri investigator in this case is considered very weak, considering that the investigator who gave the testimony is the same party as the one handling the case and has an interest in ensuring that the prosecution is successful in court.

The presence of the police in narcotics crime trials should be limited to providing verbal information, especially when the defendant states that the Examination Report was made under pressure or coercion. The use of investigators' statements as witnesses also has the potential to conflict with the principle of justice as regulated in Article 3 of Law No. 35 of 2009 concerning Narcotics. This is due to a conflict of interest where the investigator who gave the testimony has certain motivations and interests in the case they are handling.

The police, who are the first party involved in the investigation and inquiry stage, have a great responsibility to collect various types of evidence that are valid and acceptable in court. Actions such as arrests, searches, and seizures must be carried out with reference to applicable legal regulations, so that the entire process runs in accordance with legitimate and recognized procedures. A fair evidentiary process does not only rely on one-sided evidence, but must involve a variety of comprehensive evidence, such as statements from witnesses, experts, relevant documents, clues, and evidence that can strengthen the charges. All of this must be done while maintaining basic legal principles, respecting human rights, and complying with the

provisions contained in the Criminal Procedure Code (KUHP). Although police statements as witnesses have a significant influence on the evidentiary process in narcotics cases, these statements must be supported by other relevant and legitimate evidence so that the trial process can take place with transparency, objectivity, and justice.

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