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

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Abstract: This study aims to analyze the position of a police investigator's testimony in a narcotics crime trial, and to analyze how judges assess the objectivity of witness statements from investigators. The phenomenon of the presence of investigators as witnesses raises debates about objectivity and potential conflicts of interest that can affect the value of the testimony given in court. This study uses an empirical legal research method and uses a qualitative approach. Using data obtained from laws and regulations, jurisprudence and interviews with judges to provide a more in-depth picture of the position of police investigator witness statements and to see how judges assess police investigator witness statements in narcotics crime trials. The results of this study indicate that investigator witness statements are valid evidence in accordance with Article 184 of the Criminal Procedure Code and their position is the same as that of witnesses in general. However, in practice, judges must carefully assess the objectivity of investigator witness statements. This assessment includes the conformity between witness statements and other evidence, the chronology of events, and the conformity between the Examination Report and statements in court. The results of the comparative analysis between the two court decisions show that the investigator's statement can be accepted if supported by other valid and convincing evidence, but can be set aside if it is considered not neutral or there are indications of fabrication. Thus, the investigator's witness statement cannot stand alone and must be tested together with other evidence to ensure justice and maintain the integrity of the criminal justice process.

Keyword: Witness, Witness Statement, Value of Witness Statement by Investigator

INTRODUCTION

Lilik Mulyadi describes legal science as a very broad field like a large and shady tree. Law has various interrelated elements, the number of these elements reflects the existence of aspects that can be studied, starting from principles, sources, differences, to classifications. Ideally, law functions to protect all people without exception, therefore the 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. (Benny Sumardiana, 2015)

As regulated in Article 1 paragraph (3) of the 1945 Constitution, which emphasizes that Indonesia is a country of 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 of law are Supremacy of Law; Equality Before The Law; Due Process of Law (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, 2000).

The process of proof is an important aspect in every criminal case, in this proof process the material truth of a case must be revealed, both the public prosecutor and legal counsel will try to bring evidence that supports their arguments to meet the minimum requirements of evidence and to convince the judge. The truth in a criminal case is very dependent on the quality of the evidence, 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, to prove the defendant's guilt (M. Yahya Harahap, 2000). 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 paragraph (1) of the Criminal Procedure Code regulates that there are only five types of evidence that are valid and recognized by law, namely witness statements, expert statements, letters, clues, and statements from the accused. Witness testimony is a very important evidence in the proof process, because witnesses are parties who directly know or see and hear directly the criminal act that occurred, witness testimony can provide very valuable information for judges in assessing the truth of an event.

Criminal procedure law strictly regulates who has the right to be a witness and regulates groups of people who are not permitted or exempted from their obligation to be witnesses. Article 168 of the Criminal Procedure Code strictly prohibits certain groups of people from having their statements heard as witnesses, namely blood relatives, in-laws, and ex-husbands or ex-wives of the accused. To maintain objectivity and avoid conflicts of *kepentingan* (Amin et al., 2019). Article 170 of the Criminal Procedure Code provides an exception for those who have certain professions to refuse to be witnesses if the information requested relates 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's legal counsel, are obliged to provide true and honest information in accordance with the oath or promise that has been made.

In narcotics crimes, witness statements play a very important role in explaining how the narcotics crime occurred, considering that narcotics crimes are very dangerous because they carry a high risk of causing addiction and many other negative effects. Narcotics are chemical substances that 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.).

Law Number 35 of 2009 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 for very high narcotic abuse when used outside medical supervision and in inappropriate and excessive doses can have a strong impact on dependence, both physically and psychologically. Therefore, the use of narcotic compounds must be carried out carefully and under the supervision of competent medical personnel. Strict control of the production, distribution, and use of narcotics is very important in maximizing their use for health, while minimizing the risk of abuse.

Drug abuse is a serious case and threatens society. Based on data from the National Narcotics Agency (BNN), there are 9,348 narcotics cases being handled. The high level of drug crime violations requires law enforcement officers to work harder in overcoming drug abuse and distribution, 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 case handling (*UU Nomor 35 Tahun 2009*, n.d.) The law enforcement process against people suspected of being involved in narcotics crime cases must be based on the initial evidence that has been obtained and take into account the elements that have been fulfilled, in order to determine whether the individual is a user or a seller.

The fact is that handling narcotics crime cases often uses operational methods such as raids, sting operations, or undercover buys (Lazuardi & Handayati, n.d.). The mode of operation of this model if carried out carelessly and not in accordance with the procedure will cause various deviations that can cause losses in fulfilling the rights of the suspect. Such as the action of planted evidence, the existence of false informants, or even to a more extreme stage, namely the practice of swapping heads or swapping bodies, this kind of practice is called a trap trick.

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 statements from people involved in the process of arrests, raids, and the process of finding evidence to strengthen the evidence in the case. However, if an investigator is made a witness in a narcotics case, it can raise public questions about the potential for a conflict of interest, namely so that the case being handled is successful, it also raises the potential for bias in the testimony of an investigator's witness in giving his statement. 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 confirm the results of his investigation. In accordance with Decision Number 1531 K / Pid.Sus / 2010 dated July 27, 2010 (Putusan No. 1531 K/Pid. Sus/2010, n.d.) 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:

- Supreme Court is of the opinion that the statements of the investigator's witnesses, namely Pranoto and Sugiarto, cannot be accepted and their truth is doubtful. This is due to the police's interest in handling the case which has the potential to fabricate statements to incriminate the defendant. In accordance with Article 185 paragraph (6) of the Criminal Procedure Code, witnesses who are presented should provide statements freely, neutrally, objectively and honestly. This cannot be fulfilled by either witness Pranoto or witness Sugiarto.
- The Supreme Court noted that the testimony of the other three witnesses showed the witnesses' ignorance regarding the ownership of the items found. This raises doubts about the truth of the evidence presented by the public prosecutor. In addition, there are

indications that the owner of the items is unclear, and the defendant was allegedly forced to admit to being the owner of the items through violence by witnesses Pranoto and Sugiarto.

- The Supreme Court also highlighted the distance between the evidence found and the defendant's position, where no witnesses saw the defendant storing or throwing the items. The Supreme Court questioned the possibility that the evidence had been previously stored by the police which was then used to ensnare the defendant.

Next, how can the investigator's witness's statement be considered to have sufficient evidentiary power? The question of the objectivity value of the investigator's witness's statement is the main problem that will be analyzed by the author. Although, this witness's statement remains valuable in the evidentiary process, the position of this investigator's witness is still considered doubtful considering the conflict of interest in his case.

METHOD

This study uses an empirical legal research method which is carried out by examining library materials (secondary data) and using a qualitative research approach. The focus of this study is to understand how the position and objectivity of the investigator's witness statement are by reviewing court decisions and laws and regulations, in addition, the data sources used in this study are generated from observing and conducting interviews with judges and prosecutors directly. In testing the validity of this study using the source triangulation technique where the research data is obtained from various different sources with the same data collection technique. (Sugiyono, n.d.)

RESULTS AND DISCUSSION

The Role of Police Investigators in Proving Narcotics Crimes

The elements in the legal system include 3 main elements. First, the legal structure that includes all legal institutions and their apparatus, such as the police with its apparatus, the prosecutor's office with its prosecutors, and the courts with their 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 the opinions, beliefs, habits, mindsets, and actions, both from law enforcers and the community (B. Sumardiana, 2017a)

The main task of legal institutions is to ensure that the evidence against the perpetrator is carried out objectively, legally and does not violate human (Sofyan, 2020). This evidentiary 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.

Investigators are tasked with revealing the truth and investigating facts by taking various actions necessary to collect evidence and enforce the law (B. Sumardiana, 2019). Some of the steps permitted in the investigation process include arrest, detention, search, and seizure. In addition, investigators also have the authority to examine evidence and witnesses in order to obtain information that can reveal facts relevant to the case being handled (UNDANG-UNDANG REPUBLIK INDONESIA NOMOR 2 TAHUN 2002 TENTANG KEPOLISIAN NEGARA, n.d.). These steps are taken to gather valid evidence and to strengthen the charges. In carrying out their duties, investigators must follow applicable legal procedures to ensure that every step taken is valid. Actions such as searches and seizures, for example, must be carried out with permission from the authorities or based on sufficient evidence (Nelson et al., n.d.). This means that every step taken by the police in the investigation and inquiry process must be in accordance with applicable regulations, not exceed limits, and still respect the rights of the individuals involved.

In cases of drug trafficking, evidence plays a very crucial role, because it depends on the existence of valid and legally acceptable evidence (KUHAP, n.d.). Such evidence is very

important in the trial process, because it is the basis for determining whether the charges against the defendant can be proven. The system of evidence applicable in Indonesia refers to the theory of negative legal evidence, which is stated in Article 183 of the Criminal Procedure (O. B. Sumardiana et al., n.d.) 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 (KUHP, n.d.). The suspect or defendant is treated as a subject in the trial, meaning that his position is considered equal to the prosecutor and judge. Thus, the suspect or defendant has the same rights in all stages of the trial (B. Sumardiana, 2017b)

Evidence in narcotics trafficking cases generally involves narcotics confiscated during the investigation and inquiry process (Dhanis Taufiqurrahman Suhardianto et al., 2022). In addition, witness statements that can strengthen the role of the perpetrator in the drug trafficking network are also very important. Police often use witnesses from among the perpetrators who have been caught and are willing to provide information to uncover the drug network.

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 investigators 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 (UNDANG-UNDANG REPUBLIK INDONESIA NOMOR 2 TAHUN 2002 TENTANG KEPOLISIAN NEGARA, n.d.). As investigators, the police are given the authority to investigate and investigate 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 (UNDANG-UNDANG REPUBLIK INDONESIA NOMOR 2 TAHUN 2002 TENTANG KEPOLISIAN NEGARA, n.d.). The investigation process itself involves a series of steps taken by the police to collect evidence and information to reveal the facts of 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 carry out various actions necessary to collect evidence, such as arrests, detention, searches, confiscations, 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 preliminary evidence, the preliminary evidence referred to is based on Article 1 paragraph (21) of the Chief of Police Regulation No. 14 of 2012, namely that preliminary evidence is evidence in the form of a police report and one other valid piece of evidence which can indicate a person's involvement in a crime (Kepala Kepolisian Negara Republik Indonesia, 2019). Meanwhile, searches and seizures 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 the crime (Lazuardi & Handayati, n.d.). Therefore, the police must carry out their duties responsibly, respect human rights, and comply with applicable legal principles. Investigations that are conducted fairly and transparently will result in a good judicial process and decisions that are in line with the principles of justice.

Position of Testimony of a Police Investigator in Criminal Justice

Criminal justice is part of the legal system that focuses on finding the actual truth related to criminal events (Ade et al., n.d.). In this process, the role of the police is very important, both as investigators and as witnesses in the course of the legal process, including in narcotics cases. Therefore, it is important to analyze police investigators as witnesses in the Indonesian criminal procedure law procedures regulated in the Criminal Procedure Code (KUHP).

As witnesses, investigators 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 process of providing evidence in court (Nanang Pangestu & Hanim, 2021). In the Indonesian criminal justice system, the position of the investigator's testimony plays an important role. The investigator's testimony has the same position as a witness in general. When handling a narcotics case, the investigator is the law enforcement officer who first interacts directly with the crime from uncovering the drug trafficking network, arresting the suspect, and securing evidence (Anisya & Hafrida, n.d.). Investigators are also tasked with collecting evidence, examining witnesses, suspects, and evidence, and compiling investigative reports that will later be used by prosecutors in the prosecution process. Although the police have great authority in investigations, they also act as witnesses who provide information in court related to the case being handled (Rika & Tuanany, 2021).

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. Such 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, n.d.). Therefore, the information provided by the police as a witness is one of the valid evidences. Police information cannot stand alone, but must be part of the entire series of evidence in the case to ensure a court decision that reflects justice.

In practice, investigators can be presented as fact witnesses in trials of narcotics crime cases, especially if their statements can strengthen the evidence that has been collected or to explain the methods and procedures of the investigation that has been carried out, such as when conducting searches, arrests, or collecting evidence. It should be underlined that witnesses, including investigators, are required to provide valid and relevant information to help the court reveal the material truth (Tatara, n.d.) However, the position of the investigator's testimony cannot be directly used as the main reason for the judge in making a decision because the investigator's statement must still be tested together with other evidence in the trial of narcotics crimes. If the information provided has the potential to cause a conflict of interest or the statement is proven not to be objective, then the witness's statement is considered invalid and irrelevant.

The process of proof in criminal justice is based on principles that aim to ensure that the trial is conducted fairly, transparently, and leads to the truth. One of the main principles is legality, which emphasizes that investigators as witnesses are also required to provide valid information in accordance with criminal procedure law, 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 submitted 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 (Herlambang & Bridges, 2024).

Objective Analysis of the Testimony of Investigators' Witnesses in Drug Crime Trials 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 (*Putusan_447_pid.Sus_2024_pn_smg_20250123161824*, n.d.).

Facts Revealed at the Trial

In the trial of the Ramadhon Adi Pamungkas case, it was revealed that on March 26, 2024, the defendant was arrested by police officers next to the Kamar Alila clothing store, Semarang. After receiving information from the public about drug transactions around the location. Witnesses, namely Bripka Riyadhi Nugroho and Bripka Roy Bobby Suprpto explained that when they were patrolling the area, they saw the defendant's very suspicious behavior. Therefore, they immediately arrested the defendant. During the arrest process, the police found evidence in the form of a clip containing white crystal powder which turned out to be narcotics of the methamphetamine type weighing 0.23452 grams, as well as other evidence in the form of a waist bag, the defendant's cellphone, a motorbike and a plastic tube containing the defendant's urine.

The second fact that was revealed was the defendant's confession regarding the ownership of the crystal methamphetamine. During the trial, the defendant admitted that the crystal methamphetamine found belonged to the defendant and the defendant bought it from someone named Rizki through a money transfer. On March 14, 2024, the defendant was contacted by Rizki via a WhatsApp message offering a ½ gram package of crystal methamphetamine for Rp400,000. Then, the defendant agreed to buy a ½ gram package for Rp400,000. The sale and purchase transaction was carried out through a BCA M-Banking transfer to Rizki's DANA account. This confession shows that the defendant had no intention of selling the narcotics, even though the act of possessing and using narcotics was still against the law.

The third fact that was revealed was the results of the laboratory examination of the evidence. Based on the Criminalistic Laboratory Examination Report No. Lab: 957/NNF/2024 signed by 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. It was found that the crystal powder was proven to contain Methamphetamine which is listed in group I in accordance with Law No. 35 of 2009 concerning Narcotics. In addition, the results of the defendant's urine examination showed negative, meaning it did not contain narcotics or psychotropics. This fact strengthens the charges against the defendant regarding possession of narcotics.

The next fact in the trial of the Ramadhon Adi Pamungkas case is the testimony of the witnesses presented to provide a clear picture of the chronology of the defendant's arrest. Witness Riyadhi Nugroho and Witness Roy Suprpto, who are members of the Semarang Police Narcotics Unit, explained that when they were patrolling along Jl. Fatmawati, Pedurungan Kidul Village, Pedurungan District, Semarang City after they received information from the public about a narcotics transaction. When conducting surveillance, they saw the defendant who looked very suspicious, so they immediately made the arrest. During the arrest, evidence was found in the form of a clip containing white crystal powder which was proven to be a type of crystal methamphetamine. Then the defendant immediately admitted that the crystal methamphetamine belonged to him which he got from someone named Rizki (DPO) for Rp. 400,000. The defendant admitted that he planned to consume it himself and had no intention of reselling it. This means that even though the defendant admitted to owning the narcotics, he

had no intention of being involved in drug trafficking. The statements of these witnesses also include information about the situation at the scene of the crime and the defendant's attitude when arrested. Witness Riyadh Nugroho explained that they made the arrest after seeing the defendant take something and then throw away the cigarette pack. Witness Roy Suprpto added that the arrest was made based on information received about drug trading activities in the area.

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

That in the decision of case Number 447/Pid.sus/2024 PN Smg on behalf of the defendant Ramadhon Adi Pamungkas, violated Article 112 paragraph (1) of the Republic of Indonesia Law Number 35 of 2009 concerning Narcotics which regulates the prohibition of possessing, controlling, providing, or storing class I narcotics that are not plants.

In this decision, all elements in the article have been fulfilled, namely that the defendant is "any person" who without rights or against the law has narcotics of the type of crystal methamphetamine. 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.

Investigators included 2 (persons) witnesses who were members of the Indonesian National Police who provided statements in the Investigation 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 only provided information based on what happened at the scene of the crime, and heard the defendant's confession regarding his involvement in the sale and purchase of narcotics in the form of crystal methamphetamine.

Based on the facts stated in the verdict, the two investigator witnesses found evidence in the form of 1 (one) pack of cigarettes containing crystal 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 crystal methamphetamine to the defendant has not/has not been found.

Thus, in addition to the two witnesses from the police officers being factual witnesses who directly experienced the process of arrest and search of the defendant, these two witnesses

can also be categorized as "testimonium de auditu" witnesses or witnesses whose statements come from statements from other people.

In legal considerations, the panel of judges also considered the aggravating and mitigating circumstances of the defendant. Aggravating circumstances included the fact that the defendant had been convicted of theft and embezzlement, and the defendant's actions did not support the government's efforts to eradicate narcotics.

On the other hand, mitigating circumstances were the defendant's polite attitude during the trial and his confession and regret for his actions. The panel of judges decided to sentence him to 5 years in prison and a fine of Rp800,000,000.00.- with the provision that if the fine was not paid, it would be replaced with 4 months in prison.

Objective Analysis

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 type of valid evidence in criminal trials (Indonesia, 1981).

Witnesses can provide information relating 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 according to the Law. In practice, most of the evidence process always relies on the results of examining witness testimony (Syaiful Bakhri, 2012)

The definition of a witness itself is someone who has knowledge of a criminal case and will provide information for the purposes of investigation, prosecution, and trial regarding a crime that he/she heard, saw, and experienced himself/herself. However, the constitutional court has expanded the definition of a witness itself.

In the 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 used as a witness in a narcotics crime trial, before that the author will first explain who is made an exception to become 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 may give their statements without being sworn in. Therefore, it can be concluded that there is no obstacle for an investigator to testify in court.

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 investigator provides testimony as a witness, 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 clearly stipulate that a judge may not give a guilty verdict to a defendant if there is not sufficient 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 proof system which also reflects the principle of the presumption of innocence, where the burden of proof lies with the public

prosecutor umum (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 (Nanang Pangestu & Hanim, 2021)

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 themselves or to increase the weight of the charges (Nugraha & Antonio, 2022).

Investigators as witnesses must answer questions honestly and objectively according to the facts found during the investigation. The principle of equality before the law also requires that investigators' statements must be examined in the same manner as other witnesses, without any special treatment that could affect the fairness of the trial process.

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

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 what was successfully confiscated (Hendar Soetarna, 2023).

3. Witness Statement Must Be Tried in 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 submitted 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 law 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 (Dhanis Taufiqurrahman Suhardianto et al., 2022)

Therefore, police investigators who provide information as witnesses not only play a role in providing information on findings or actions taken during the investigation, but must also comply with all applicable provisions related to the submission of information in court.

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 provides 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 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. Referring to the provisions of Article 185 paragraph 6 of the Criminal Procedure Code, in assessing the level of objectivity of witness statements, the panel of judges is required to consider the following aspects:

- a. Consistency and conformity between the statements of one witness and another;
- b. Conformity between the statements of witnesses and other evidence and physical evidence;
- c. By seeing whether the statements of the witnesses explain the chronology of the crime committed and the process of arresting the defendant;
- d. The lifestyle and morality of the witness and everything that can generally affect whether or not the statement can be believed.

Then, in addition to the four factors that have been regulated in Article 185 paragraph 6 of the Criminal Procedure Code, the author will add additional points that the author obtained from the results of the interview with the judge, namely:

- a. Conformity of the witness's statement in the Examination Report with the witness's statement at the trial.
- b. The judge will ask about the defendant's response, if the defendant objects to the investigator's statement, the judge will ask the investigator's witness again to change his statement or stick to his statement. If the investigator's witness wants to stick to his statement, then what will determine it is the judge's own belief.

Next, the author will describe the results of the analysis of two court decisions that both present investigator witnesses as one of the evidence in the trial. Although presenting similar types of witnesses, these two decisions resulted in two different verdicts. Therefore, the author

will describe the factors that influence the judge's assessment in influencing the judge's assessment based on the analysis of the two decisions in question, namely:

- a. In Decision 1531 K/Pid.Sus/2010, the Supreme Court doubted the truth of the investigator's witness's statement. The Supreme Court was of the opinion that the witnesses presented came from the police who had an interest in the success of the case, so their statements were potentially fabricated and not objective. This is based on the principle that evidence must be provided freely, neutrally, and honestly. On the other hand, in Decision 447/Pid.Sus/2024/PN, the judge's considerations did not mention doubts about the investigator's witness's statement, but instead concluded that all elements of the crime had been fulfilled based on the facts of the trial.
- b. The Supreme Court's analysis of evidence in Decision 1531 K/Pid.Sus/2010 emphasized that there was no sufficient, valid, and convincing evidence to declare the defendant guilty. Moreover, there were no laboratory test results that supported the accusation of narcotics use by the defendant. This strengthens the acquittal based on the principle of *in dubio pro reo* (doubt must benefit the defendant). On the other hand, in Decision 447/Pid.Sus/2024/PN, evidence of methamphetamine, as well as other relevant evidence, was deemed to have met the requirements of proof so that it was used as a strong basis to prove the defendant's guilt legally and convincingly.
- c. In the decision 447/Pid.Sus/2024/PN Smg, the investigator's witness statement was very detailed regarding the chronology of the arrest, the investigation process, and supporting evidence such as digital evidence that strengthened the charges against the defendant. The investigator's witness explained directly how the evidence was found and the defendant's relationship with the DPO through electronic communication.
- d. Decision 447/Pid.Sus/2024/PN Smg, the witness's statement includes the defendant's actions in detail, including evidence of money transfers and WhatsApp communications that support his statement. In Decision 1531 K/Pid.Sus/2010. The investigator's witness's statement tends to focus on the discovery of evidence in the form of narcotics and the arrest process alone without explaining the discovery of supporting evidence such as digital evidence or communications between the defendant and other supporting parties.
- e. In Decision 1531 K/Pid.Sus/2010 there is potential for abuse of authority by law enforcement officers, including the possibility of fabricating evidence and forcing confessions through violence. Meanwhile, Decision 447/Pid.Sus/2024/PN Smg considers that the defendant's involvement has been proven, so the defendant was sentenced according to the facts and evidence found.

The main difference lies in the approach to the truth of the witness, the analysis of evidence, and the final result of the verdict. Decision 1531 K/Pid.Sus/2010 rejected the testimony of the investigator's witness as evidence because it was considered doubtful, the testimony was fabricated, and not objective. Meanwhile, Decision 447/Pid.Sus/2024/PN Smg accepted the testimony of the investigator's witness and other evidence as sufficient evidence to prove the defendant's guilt.

In practice, the biggest challenge in the position of investigators 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 statements of police investigators as witnesses in narcotics crime cases 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 regulated in the Criminal Procedure Code. Valid and procedural evidence

will provide confidence for judges in making fair decisions and in accordance with applicable laws.

CONCLUSION

In the criminal justice system in Indonesia, investigators have an important position not only in the investigation and inquiry process. However, investigators can also be presented as witnesses in trials. Investigators' testimony in drug crime trials is recognized as valid evidence according to criminal procedure law in Indonesia. Investigators can be presented as witnesses, and formally their position is the same as other witnesses in general, namely providing statements under oath regarding what they saw, heard, and experienced themselves related to their case. However, this position is often considered a problem because investigators are often considered to have an interest in the cases they handle. The potential for a conflict of interest can raise doubts about the objectivity and neutrality of the statements given by investigators in court.

Then, in terms of objectivity, the investigator's witness statement still has evidentiary value in the trial process, but the evidentiary value is often doubted if there are indications of bias or certain interests. This can be seen from the Supreme Court Decision Number 1531/K/Pid.Sus/2010, where the investigator's witness statement was declared inadmissible because it was considered not objective and there were indications of fabrication to incriminate the defendant.

The judge emphasized that the witness's statement must be free, neutral, objective, and honest. In addition, the judge in assessing the objectivity of the investigator's witness statement also needs to carefully consider important aspects as regulated in Article 185 paragraph (6) of the Criminal Procedure Code, including conformity with other evidence, chronology of events, and in practice, there are additional aspects such as a comparison between the investigator's witness statement in the Examination Report and Statement at the Trial also become important considerations for the judge..

Thus, although it is legally permissible to present investigators as witnesses in criminal cases, especially in narcotics cases. However, the testimony of investigators' witnesses should not be the sole basis for judges in passing sentences. The role of judges in testing the objectivity and consistency of such testimony is the main determinant in maintaining the integrity of the judicial process and ensuring that the verdicts handed down are truly based on fair and accountable legal facts.

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