

ABSTRAK

Eksibisionisme adalah bentuk penyimpangan seksual dalam golongan parafilia dimana pelaku memiliki kecenderungan untuk mempertontonkan ketelanjangan di muka umum untuk mendapatkan kepuasan seksual. Pengadilan seringkali memberikan putusan pidana pada pelaku eksibisionisme, namun terdapat perbedaan pendapat dalam hukum mengenai pertanggungjawaban pidana pelaku yang mengidap eksibisionisme. Penelitian ini dilatarbelakangi oleh adanya disparitas putusan antara putusan Nomor 865/K.Pidsus/2013 dengan putusan Nomor 254/Pid.B/2019/PN Mjk mengenai bentuk pertanggungjawaban pidana pelaku eksibisionisme. Selain itu, putusan berupa pidana penjara dianggap kurang efektif digunakan kepada pelaku eksibisionisme. Sehingga dibutuhkan pengaturan yang ideal kedepannya guna menjamin keadilan bagi pelaku, korban, dan masyarakat. Tujuan penelitian adalah untuk mengetahui, menjelaskan dan menganalisis dasar pertimbangan Hakim dalam putusan Nomor 254/Pid.B/2019/PN Mjk hingga putusan pemidanaan, pertanggungjawaban pidana terhadap pelaku eksibisionisme serta pengaturan pemidanaan yang ideal terhadap pelaku eksibisionisme di masa yang akan datang. Metode penelitian menggunakan metode pendekatan yuridis doktrinal, yang disajikan secara deskriptif menggunakan data sekunder kemudian diolah secara analisis kualitatif. Hasil penelitian adalah dalam putusan nomor 254/Pid.B/2019/PN Mjk hakim mempertimbangkan bahwa pelaku mempunyai kemampuan bertanggung jawab dan perbuatannya telah memenuhi unsur-unsur tindak pidana dalam Pasal 36 UU Pornografi sehingga menjatuhkan pidana. Pertanggungjawaban pidana bagi pelaku eksibisionisme masih kontroversial karena tidak ada peraturan yang secara khusus mengatur perilaku eksibisionisme. Hakim memegang peran penting dalam menentukan pertanggungjawaban pidana pelaku eksibisionisme berdasarkan Pasal 44 KUHP. Pidana penjara kurang efektif bagi pelaku eksibisionisme karena ketidakmampuan dirinya untuk mengontrol perbuatannya. Oleh karena itu, hakim dapat memberikan sanksi tindakan berupa rehabilitasi selain sanksi pidana yang dikenal dengan konsep *double track system* (sistem dua jalur).

Kata kunci : Pertanggungjawaban Pidana, Pelaku Eksibisionisme, Double Track System.

ABSTRACT

Exhibitionism is a form of sexual deviation within the paraphilia group where the perpetrator has a tendency to display nudity in public to obtain sexual satisfaction. Courts often hand down criminal decisions to exhibitionism, but there are differences of opinion in the law regarding the criminal liability of exhibitionist. This research was motivated by the disparity in decisions between decision Number 865/K.Pidsus/2013 and decision Number 254/Pid.B/2019/PN Mjk regarding the form of criminal liability for exhibitionism perpetrators. Apart from that, the sentence in the form of imprisonment is considered less effective for perpetrators of exhibitionism. So ideal arrangements are needed in the future to ensure justice for perpetrators, victims and society. The aim of the research is to find out, explain and analyze the basis of the Judge's considerations in decision Number 254/Pid.B/2019/PN Mjk up to the sentencing decision, criminal liability for exhibitionism perpetrators as well as ideal sentencing arrangements for exhibitionism perpetrators in the future. The research method uses a doctrinal juridical approach, which is presented descriptively using secondary data and then processed using qualitative analysis. The results of the research are that in decision number 254/Pid.B/2019/PN Mjk the judge considered that the perpetrator had the ability to be responsible and his actions had fulfilled the elements of a criminal act in Article 36 of the Pornography Law, thereby imposing a crime. Criminal liability for perpetrators of exhibitionism is still controversial because there are no regulations that specifically regulate exhibitionist behavior. Judges play an important role in determining the criminal liability of perpetrators of exhibitionism based on Article 44 of the Criminal Code. Imprisonment is less effective for perpetrators of exhibitionism because of their inability to control their actions. Therefore, the judge can impose sanctions in the form of rehabilitation in addition to criminal sanctions known as concepts double track system (two-lane system).

Keywords : Criminal Liability, Perpetrators of Exhibitionism, Double Track System.