

Judicial Reasoning in Rendering Criminal Convictions Under Provisions Beyond the Public Prosecutor's Indictment in Narcotics Cases: A Juridical Analysis of the Supreme Court Decision No. 6087 K/Pid.Sus/2024

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ABSTRACT

*This study examines the juridical issue concerning the authority of judges to render criminal convictions by applying legal provisions that were not included in the public prosecutor's indictment, particularly in narcotics-related criminal cases. Under the principle of *litis contestatio*, the indictment serves as a fundamental limitation on the scope of judicial examination and adjudication. However, in practice, the Supreme Court Decision No. 6087 K/Pid.Sus/2024 demonstrates a legal anomaly in which the panel of cassation judges found the defendant guilty under Article 127 Paragraph (1) Letter a of Law No. 35 of 2009 on Narcotics, despite the fact that this provision was not included in the prosecutor's indictment, which was structured as a hierarchical subsidiary indictment under Articles 114 and 112 of the Narcotics Law. This normative legal research employs both a statutory approach and a case approach. The analysis reveals that convictions rendered beyond the scope of the indictment are inconsistent with the principle of legal certainty as embodied in Article 191 Paragraph (1) of the Indonesian Criminal Procedure Code (KUHP) (or Article 244 Paragraph (2) of the New Criminal Procedure Code), under which the complete failure to prove the charges must result in an acquittal (*vrijspraak*). The legal implications of such deviation include the dysfunction of the indictment as a procedural instrument, the violation of the defendant's right to defense, the potential abuse of judicial authority (*ultra vires*), and the erosion of public trust in the criminal justice system. The judges' reasoning, which relied solely on the facts established during trial, disregarded both the attributed authority of the judiciary and the normative limitations imposed by criminal procedural law.*

Kata Kunci: Criminal Conviction, Indictment, Narcotics Crime, Legal Certainty, Judicial Authority.

INTRODUCTION

Article 1 Paragraph (3) of the 1945 Constitution of the Republic of Indonesia explicitly stipulates that "Indonesia is a state based on the rule of law." This constitutional postulate provides a normative foundation requiring that all aspects of social, national, and governmental life be governed by prevailing positive law. Within the context of the criminal justice system, law enforcement activities must adhere to formally codified procedures in order to prevent arbitrariness by state authorities (Ali, 2022). Criminal procedural law, as embodied in the Indonesian Criminal Procedure Code (KUHP), functions as a regulatory framework that safeguards the rights of suspects and defendants while ensuring that law enforcement officials act within the limits of their legal authority.

Judicial power constitutes a crucial institution within a democratic state governed by the rule of law. Courts and judges represent independent guardians of constitutional order (Monteiro, 2007). Nevertheless, judicial independence in examining and deciding cases, as guaranteed under Article 24 of the 1945 Constitution, does not imply unlimited discretion. Judges remain bound by normative legal constraints, one of which is the obligation to examine, adjudicate, and decide

cases based on the indictment formulated by the public prosecutor. The indictment serves as the foundation of judicial examination (*litis contestatio*), meaning that the scope of trial proceedings and evidentiary assessment is strictly limited to the charges contained therein (Purwoleksono, 2015).

Within the legal framework of narcotics offenses governed by Law No. 35 of 2009 on Narcotics, overlapping and complex statutory provisions are frequently encountered. The nature of narcotics-related conduct often creates ambiguity in legal classification, particularly regarding distinctions between narcotics dealers or possessors under Articles 112 and 114 and narcotics users for personal consumption under Article 127. Public prosecutors possess discretionary authority in formulating indictments and commonly employ a hierarchical subsidiary charging structure. Legal problems arise when the facts established during trial demonstrate that the defendant's conduct more appropriately falls within the category of personal narcotics use under Article 127, while the prosecutor has failed to include that provision in the indictment.

Pursuant to Article 191 Paragraph (1) of the former Criminal Procedure Code subsequently maintained under Article 244 Paragraph (2) of the New Criminal Procedure Code where the charges brought against the defendant are not proven legally and convincingly, the court is obligated to render an acquittal (*vrijspraak*). However, empirical judicial practice reveals deviations from this normative imperative. The primary object of analysis in this study is Supreme Court Decision No. 6087 K/Pid.Sus/2024. In this decision, the Supreme Court assumed jurisdiction over the case and rendered its own judgment by imposing a sentence of one year and six months' imprisonment under Article 127 Paragraph (1) Letter a of the Narcotics Law. Notably, this provision was never included in the prosecutor's indictment, which was limited to Article 114 Paragraph (1) as the primary charge and Article 112 Paragraph (1) as the subsidiary charge.

Previous studies, including those conducted by Eko Hartanto of Jambi University concerning judgments rendered beyond the indictment from a statutory perspective, and Laksmi Amrita of Lampung University regarding judgments outside the indictment in sexual violence cases, have examined the existence of *ultra petita* decisions in criminal proceedings. Nevertheless, the present study offers a distinct contribution by specifically analyzing Supreme Court Decision No. 6087 K/Pid.Sus/2024. It critically examines the reasoning employed by the cassation panel in disregarding the formal legality principles embedded within the Criminal Procedure Code and evaluates the doctrinal implications of such reasoning in light of Supreme Court Circular Letter No. 3 of 2015.

Based on the foregoing background, this study focuses on three principal issues: (1) the legal regulation governing the limits of judicial authority in applying statutory provisions not included in an indictment; (2) the theoretical and practical legal implications arising from criminal convictions rendered beyond the scope of the indictment; and (3) a critical juridical analysis of the judicial reasoning adopted in Supreme Court Decision No. 6087 K/Pid.Sus/2024 from the perspective of attributed judicial authority.

METHODS

This study employs a normative legal research method, which focuses on the examination of legal principles, legal norms, and the systematic structure of legislation through

documentary analysis (Soekanto & Mamudji, 2022). The research applies a statutory approach to analyze positive legal instruments, including the Indonesian Criminal Procedure Code and the Narcotics Law, combined with a case approach to examine the *ratio decidendi* underlying Supreme Court Decision No. 6087 K/Pid.Sus/2024 (Gunardi, 2022).

The legal materials utilized in this research are classified into three categories. First, primary legal materials consist of binding legal instruments, including the 1945 Constitution of the Republic of Indonesia, Law No. 8 of 1981 on the Criminal Procedure Code (former KUHAP), Law No. 1 of 2023 on the National Criminal Code, Law No. 35 of 2009 on Narcotics, and the jurisprudential product embodied in Supreme Court Decision No. 6087 K/Pid.Sus/2024. Second, secondary legal materials comprise scholarly literature, academic journals, and criminal law doctrines relevant to the principles of legal certainty, justice, and judicial authority. Third, tertiary legal materials include explanatory references such as legal dictionaries and the *Kamus Besar Bahasa Indonesia* (Indonesian Dictionary).

Legal materials were collected through library research and subsequently analyzed using a qualitative descriptive-analytical method. This approach was employed to identify, interpret, and evaluate relevant legal norms and doctrines in order to formulate objective and prescriptive normative conclusions concerning the legal issues under investigation (Ibrahim, 2006).

RESULT AND DISCUSSION

Legal Regulation of Court Judgments in Relation to the Indictment

The Indonesian legal system, which historically derives from the civil law tradition of Continental Europe, places legal certainty as a fundamental pillar of the rule of law. Gustav Radbruch asserted that law must be obeyed and applied with certainty and predictability, reflecting the principles of legal positivism and statutory supremacy (Raharjo, 2012). Consequently, adherence to formal procedural requirements binds all law enforcement institutions, including the judiciary.

The enactment of Law No. 35 of 2009 on Narcotics has generated particular legal complexities due to the intersecting nature of several criminal provisions. The penal provisions contained in Articles 112 (possession/control), 114 (sale or purchase), and 115 (transportation) frequently overlap with the factual elements associated with narcotics abuse for personal use as regulated under Article 127. Empirically, a narcotics user must ordinarily pass through the stages of purchasing narcotics (Article 114) and possessing or transporting them (Articles 112 and 115) before ultimately consuming the substance as contemplated by Article 127. This overlap among statutory provisions creates broad prosecutorial discretion in drafting indictments. Public prosecutors may therefore employ cumulative, alternative, or subsidiary indictments to encompass the entire chain of material conduct from acquisition to consumption.

The indictment (*tenlastelegging*) occupies a central position as the jurisdictional foundation of criminal proceedings. For judges, the indictment functions as a prescriptive instrument that determines and limits the scope of judicial examination and serves as the basis for deliberation in reaching a verdict (Hamid & Husein, 1992). This principle is expressly affirmed in Article 182 Paragraph (4) of the former Criminal Procedure Code, which provides that judicial deliberations in rendering a decision must be based upon the indictment and all facts

proven during trial. An equivalent provision is maintained in Article 232 Paragraph (3) of the New Criminal Procedure Code.

The principle of *litis contestatio* requires that judicial examination remain strictly confined to the legal construction alleged by the public prosecutor and prohibits expansion beyond the scope of the indictment (Purwoleksono, 2015). Criminal procedural law thereby establishes a clear normative consequence: where the charged offense cannot be proven lawfully and convincingly, the court must render an acquittal. This requirement is explicitly stipulated in Article 191 Paragraph (1) of the former Criminal Procedure Code and reaffirmed in Article 244 Paragraph (2) of the New Criminal Procedure Code.

These normative provisions place judges in a difficult position when adjudicating narcotics cases in which the indictment is limited to Articles 112 or 114, while the evidence presented at trial unequivocally demonstrates conduct that more appropriately constitutes personal narcotics abuse under Article 127, a provision not included in the indictment. As a pragmatic response to this dilemma, the Supreme Court issued Supreme Court Circular Letter (SEMA) No. 3 of 2015. The circular instructs judges to maintain a conviction based on the provisions contained in the indictment, namely Articles 112 or 114, while allowing deviation from the statutory minimum sentence prescribed by those provisions when the facts of the case indicate personal narcotics use involving a relatively small quantity of narcotics.

SEMA No. 3 of 2015 implicitly affirms the supremacy of the indictment as the procedural foundation of criminal adjudication. The circular does not authorize judges to substitute the charged offense with Article 127 when that provision is absent from the indictment. Accordingly, the imposition of criminal liability based on a statutory provision that was never alleged by the public prosecutor constitutes a procedural anomaly. Such a practice undermines the principle of formal legal certainty, weakens the procedural function of the indictment, and raises fundamental concerns regarding the limits of judicial authority within Indonesia's criminal justice system.

Legal Implications of Applying Criminal Provisions Beyond the Scope of the Indictment

Judicial independence in adjudicating cases constitutes a fundamental doctrine of constitutional governance, as reflected in the Explanatory Notes to Articles 24 and 25 of the 1945 Constitution. Nevertheless, such independence is not absolute; it remains constrained by procedural law in order to ensure the realization of legally grounded justice. Hans Kelsen's theory of justice conceptualizes justice as legality, whereby justice is achieved when valid legal norms are applied consistently and in accordance with established legal procedures (Asshiddiqie & Safa'at, 2006). Accordingly, disregarding the limitations imposed by an indictment may result in constitutionally problematic judgments and generate a series of systemic legal consequences.

1. Diminution of the Essential Function of the Indictment

An indictment is not merely an administrative or procedural formality. It constitutes a substantive prerequisite for the commencement of judicial examination, the existence of which is guaranteed under Article 143 Paragraphs (2) and (3) of the Criminal Procedure Code. If judges are permitted to independently select and apply criminal provisions beyond those alleged by the State through the public prosecutor, the prosecutorial filtering function becomes effectively meaningless. A judgment rendered outside the scope of the

indictment undermines prosecutorial discretion and transforms the judiciary from a passive adjudicative institution (*judex*) into an institution that effectively assumes a prosecutorial role. Such a development disrupts the structural balance of authority within the criminal justice system.

2. Violation of the Defendant's Right to Defense

The principle of *due process of law* requires that legal proceedings be transparent, predictable, and procedurally fair. The indictment is formally presented at the outset of the trial to ensure that the defendant is fully informed of the specific criminal conduct alleged against him or her. This procedural safeguard enables defense counsel to formulate objections, evidentiary strategies, and final pleadings in a targeted and effective manner (Asshofa et al., 2022). Where a court ultimately convicts a defendant under a statutory provision that was never included in the indictment, the defendant is deprived of a fundamental opportunity to challenge the constituent elements of that offense. Such a practice is inconsistent with the principle of a fair trial, which constitutes one of the core foundations of modern criminal justice.

3. Potential Abuse of Judicial Authority (*Ultra Vires*)

Within both public and private law, actions undertaken by state institutions beyond the jurisdiction conferred upon them by law are generally categorized as *ultra vires* (Widjaja, 2003). In the judicial context, Article 191 Paragraph (1) of the Criminal Procedure Code explicitly mandates an acquittal when the charges set forth in the indictment cannot be proven legally and convincingly. Consequently, imposing criminal liability through a legal construction independently formulated by the court rather than contained in the indictment may be regarded as an exercise of authority beyond the limits prescribed by procedural law. Such judgments risk shifting judicial power from the application of law toward the arbitrary creation of criminal liability, thereby undermining the principle of legality and the separation of procedural functions within criminal proceedings.

4. Erosion of Public Confidence in the Administration of Justice

Criminal law enforcement is not an isolated mechanical process; rather, it functions as a public manifestation of the state's commitment to justice and legal certainty (Rahardjo, 1993). Procedural inconsistencies, such as convicting a defendant on the basis of an offense not charged by the prosecutor, may create a public perception that criminal proceedings operate under a presumption of guilt rather than a presumption of innocence supported by lawful proof. Such perceptions can weaken the legitimacy of judicial institutions and diminish public trust in the predictability and integrity of the legal system.

5. Grounds for Extraordinary Legal Remedies Through Judicial Review

As a cassation judgment, a Supreme Court decision possesses final and binding legal force (*inkracht van gewijsde*). Nevertheless, the manifest misapplication of law, particularly where procedural limitations imposed by the indictment are disregarded, may provide substantial grounds for the defendant to pursue an extraordinary legal remedy in the form of Judicial Review (*Peninjauan Kembali*). Pursuant to Article 263 Paragraph (2) Letter b of the Criminal Procedure Code, a judicial review may be sought where there has been a clear error in the application of law. The prolongation of legal proceedings resulting from methodological errors in judicial reasoning not only burdens the parties

involved but also undermines the principle of a simple, expeditious, and cost-efficient administration of justice.

Juridical Analysis of Judicial Reasoning in Supreme Court Decision No. 6087 K/Pid.Sus/2024

Supreme Court Decision No. 6087 K/Pid.Sus/2024 presents a significant doctrinal debate concerning the attributed authority of the judiciary within Indonesia's criminal justice system. The facts of the case indicate that the defendant, Riski Ananda Nasution alias Riski, was apprehended shortly after purchasing a package of methamphetamine for IDR 100,000 and subsequently discarding the evidence during a police operation conducted by the Mandailing Natal Regional Police. The Public Prosecutor before the Mandailing Natal District Court charged the defendant under Article 114 Paragraph (1) of the Narcotics Law as the primary charge and Article 112 Paragraph (1) as the subsidiary charge. However, at the cassation stage, the panel of Supreme Court justices concluded that the defendant had been lawfully and convincingly proven guilty of "Abuse of Category I Narcotics for Personal Use" under Article 127 Paragraph (1) Letter a of the Narcotics Law and imposed a sentence of one year and six months' imprisonment.

From the perspective of the Theory of Authority advanced by Philipus M. Hadjon, every exercise of governmental power, including judicial authority, must derive its legitimacy from statutory authorization that is both formal and limited in nature (Hadjon, 2002). The attributed authority of criminal judges is therefore strictly regulated by the Law on Judicial Power and the Criminal Procedure Code. Judicial discretion cannot be exercised beyond the procedural boundaries established by legislation. The reasoning of the *Judex Juris* in the present case centered upon the interpretation of Article 182 Paragraph (4) of the former Criminal Procedure Code. The cassation panel argued that judges are required to consider not only the indictment but also the facts revealed during trial. Based on this interpretation, the Court concluded that judges possess the authority to depart from the indictment where a substantial discrepancy exists between the formal charges brought by the prosecutor and the material facts established in court. The panel further relied upon the principle of *in dubio pro reo* and the sociological consideration of avoiding the mischaracterization of a narcotics user as a narcotics trafficker or dealer.

From a normative legal perspective, this interpretation of Article 182 Paragraph (4) is problematic. The phrase "based upon the indictment and all matters proven at trial" establishes a cumulative and mandatory requirement rather than an alternative one. Facts proven during trial must be assessed within the framework of the legal elements contained in the indictment. Where the evidence instead demonstrates conduct falling under a different statutory provision—namely Article 127—which was not included in the indictment, the proper juridical conclusion is that the indictment has not been proven. Such circumstances do not authorize the court to seek alternative criminal provisions beyond the scope of the *litis contestatio*. The authority to engage in judicial law-finding (*rechtsvinding*) is intended to address gaps or ambiguities in substantive law, not to override clear procedural requirements established by criminal procedural law.

The Court's reliance on prior jurisprudence also raises concerns regarding doctrinal consistency. Indonesian criminal procedural law contains earlier Supreme Court precedents that adhered more closely to the principle of congruence between the indictment and the judgment. One such example is Supreme Court Decision No. 1174 K/Pid.Sus/2012. In that case, the

defendant was charged under Articles 114 and 111 of the Narcotics Law, while the facts proven at trial more appropriately corresponded to Article 127. The Supreme Court consistently rendered an acquittal on the ground that the prosecutor's failure to include Article 127 in the indictment necessarily required a verdict of *vrijspraak*. An institutional paradox emerges from the fact that the presiding justice who endorsed the acquittal in Decision No. 1174 K/Pid.Sus/2012 was the same justice who later chaired the panel in Decision No. 6087 K/Pid.Sus/2024 and adopted the opposite legal reasoning.

Furthermore, the decision reveals the existence of a highly significant dissenting opinion. Justice Noor Edi Yono argued that the Court should have remained within the framework of Article 114 Paragraph (1), consistent with the indictment, while exercising judicial discretion to impose a sentence below the statutory minimum. This approach is firmly grounded in the normative framework of criminal procedural law and is consistent with the institutional guidance provided by Supreme Court Circular Letter (SEMA) No. 3 of 2015. Consequently, the dissenting opinion represents a more coherent juridical construction, as it preserves the attributed authority of the judiciary without undermining the existence, function, and procedural limitations of the indictment.

Accordingly, the majority opinion in Supreme Court Decision No. 6087 K/Pid.Sus/2024 reflects an expansive interpretation of judicial authority that prioritizes substantive factual findings over procedural legality. While such reasoning may be motivated by considerations of substantive justice, it raises serious concerns regarding legal certainty, procedural due process, and the fundamental principle that criminal convictions must remain confined to the charges formally advanced by the prosecution. In a state governed by the rule of law, judicial efforts to achieve substantive justice must remain subject to the procedural guarantees that constitute the foundation of fair criminal adjudication.

CONCLUSION

Based on the normative analysis conducted in this study, judicial authority is procedurally restricted from rendering criminal convictions based on statutory provisions that are not included in the public prosecutor's indictment. This limitation is consistent with the mandatory provisions of Article 191 Paragraph (1) of the former Criminal Procedure Code and Article 244 Paragraph (2) of the New Criminal Procedure Code, both of which require an acquittal whenever the charges contained in the indictment cannot be proven legally and convincingly. The imposition of criminal liability through an *ultra petita* or *ultra vires* approach carries significant adverse consequences for the criminal justice system, including the erosion of the defendant's right to defense, the undermining of procedural legality, and the creation of procedurally defective judgments that remain vulnerable to extraordinary legal remedies such as Judicial Review (*Peninjauan Kembali*).

With respect to Supreme Court Decision No. 6087 K/Pid.Sus/2024, the reasoning adopted by the cassation panel in convicting the defendant under a statutory provision absent from the indictment, through an autonomous interpretation of Article 182 Paragraph (4) of the Criminal Procedure Code, constitutes an expansion beyond the limits of attributed judicial jurisdiction. By contrast, the dissenting opinion, which maintained reliance on the primary charge while permitting deviation from the statutory minimum sentence, represents a more coherent and

normatively sound legal construction. Such reasoning remains consistent with Supreme Court Circular Letter (SEMA) No. 3 of 2015, the principle of *litis contestatio*, and the fundamental requirement that criminal adjudication remain confined to the scope of the indictment.

In order to strengthen legal certainty within Indonesia's criminal justice system, the Supreme Court should consider issuing a regulatory instrument that explicitly prohibits the application of criminal provisions beyond those contained in the indictment at all levels of judicial proceedings. Such regulation should also reaffirm the mandatory nature of acquittal where the prosecution fails to prove the charges advanced by the State. This policy should be accompanied by institutional oversight and judicial supervisory mechanisms that treat inconsistencies in the application of the *litis contestatio* principle as an object of managerial evaluation, thereby reducing procedural anomalies and enhancing uniformity in judicial interpretation.

Furthermore, the Public Prosecution Service should optimize pre-prosecution mechanisms through the preparation of comprehensive subsidiary or alternative indictments from the earliest stages of case development. In narcotics cases, this includes the systematic inclusion of Article 127 Paragraph (1) Letter a of the Narcotics Law whenever supported by the factual circumstances of the case. Such an approach would minimize procedural deficiencies, enhance prosecutorial accuracy, and prevent criminal offenders from escaping legal accountability due to defects in the formulation of indictments.

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