

**TINJAUAN YURIDIS TERHADAP TINDAK PIDANA KELALAIAN DALAM
PELAKSANAAN TUGAS PADA TERBITNYA IZIN PENGEDAR DALAM NEGERI
TUMBUHAN LIAR YANG TIDAK DILINDUNGI
(Studi Putusan Nomor 36/Pid.B/Lh/2022/Pn Tjk)**

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ABSTRACT

The purpose of this study is to discuss the factors causing the perpetrators to commit a criminal act in carrying out a license for domestic distribution of wild plants that are not protected in Decision Number 36/Pid.B/LH/2022/PN Tjk and the legal consequences in the case of a criminal act of carrying out a permit for domestic distribution of wild plants that are not protected (Study of Decision Number 36/Pid.B/LH/2022/PN Tjk). The research method uses a normative. The factors causing the perpetrators to commit the crime of carrying out the permit for domestic distribution of wild plants that were not protected in Decision Number 36/Pid.B/LH/2022/PN.Tjk were based on factors within the perpetrators who did not take into account the consequences of their negligent actions and the perpetrators did not know that their actions had the potential to cause unlawful consequences. The act of the perpetrator who does not show the necessary caution according to law means that the perpetrator does not carry out research, weighing, skill, prevention or wisdom in carrying out an action. This is the basis for the perpetrators to commit criminal acts in granting permits not in accordance with statutory provisions. The legal consequences arising from the defendant's actions have been determined to violate the fourth alternative indictment as stipulated in Article 106 of the Law of the Republic of Indonesia Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, the elements of which are elements of every official and element of negligence in carrying out tasks as referred to in article 28 letter H is fulfilled according to law. The defendant's actions violated the fourth alternative indictment as stipulated in Article 106 of the Law of the Republic of Indonesia Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction As a result of the defendant's actions, the panel of judges sentenced the Defendant to imprisonment for 7 (seven) months and a fine an amount of Rp. 200,000,000.00 (two hundred million rupiahs) provided that if the fine is not paid it is replaced by imprisonment for 1 (one) month.

Keyword : Crime; Official Negligence; Permissions; Wild Plants

1. INTRODUCTION

The government continues to improve the management of natural resources in a fair, transparent and equitable manner, addressing inequality, injustice and damage to nature. For this

reason, permits for mining, forestry and land use continue to be carefully evaluated. Permits that cannot be implemented, are not effective, are transferred to other parties and do not comply with indications and regulations

will be revoked in 2022. The government also revoked no less than 192 permits in the forestry sector with an area of 3,126,439 ha. This is stated in the ministerial decree. Environment and Forestry of the Republic of Indonesia No.:

SK.01/MENLHK/SETJEN/KUM.1/1/2022 Concerning revocation of forest area concession permits, the permit was revoked due to inactivity, failure of activity planning and neglect. Reforming and monitoring these permits is an integral part of improving the management of mining and forestry permits, as well as other permits. The government continues to improve the provision of business licensing facilities that are transparent and accountable, but permits that are misused will be permanently revoked. In accordance with the constitution, land, water and the natural resources contained therein are controlled by the state and used for the greatest prosperity of the people.

In this case, it was caused by the negligence of BKSDA officials who deliberately neglected to carry out their duties and falsified data permission resulting in the criminal act of falsifying permit data due to negligence. The incident occurred in 2018, starting from the initial witness YAP as the Director of PT. SKI submitted an application for a permit for Domestic Distributor of Wild

Plants Not Protected by Law Including Appendix Cites of the Sonokeling type (*Dalbergia Latifolia*) to the Head of the Bengkulu Natural Resources Conservation Center, before applying for the permit, witness YAP first consulted with the accused as staff at the Bengkulu BKSDA SKW III Lampung regarding the utilization of Sonokeling wood in Lampung Province, after witness YAP consulted with the defendant.

Then, in the Minutes of Examination of Potential Sonokeling Wood (*Dalbergia latifolia*) stands on behalf of the distributor, PT. SKI Number: BA.812/K.10/SKW3/PPN/09/2019 dated 13 September 2019 which was made by the perpetrator as an official for PT. SKI with the results of examining the potential for sonokeling stands include 8 locations in Pringsewu Regency, Lampung Province which have potential for Sonokeling stands of around 312 stems, 2 locations in Way Kanan Regency, Lampung Province, the potential for Sonokeling wood stands at this location is around 200 stems, 1 location in West Lampung, Lampung Province the potential for Sonokeling wood stands in this location is around 130 stems, which turned out to be not in accordance with the actual situation, because when the defendant was measuring and testing the potential of the wood stock stands, the defendant was just

shooting games so that the checking was not optimal and in carrying out checking the potential of the Sonokeling type wood stock the defendant never questioned the witness GE as the applicant Regarding the basis of ownership rights to the land, the potential for Sonokeling stands was examined, while the potential for Sonokeling wood stands was owned by PT. SKI in 2019 is no longer there .

Based on the description of the background above , the writer wants to raise and examine the factors that cause perpetrators to commit crimes implementation of permits for domestic distribution of unprotected wild plants (Decision Study Number 36/Pid.B/LH/2022/PN Tjk) and legal consequences in cases of criminal acts of carrying out domestic distribution permits for wild plants that are not protected (Decision Study No. 36/Pid.B/LH/2022/PN Tjk) .

2. RESEARCH METHODS

This paper uses normative legal research methods because the focus of the study departs from the blurring of norms, using approaches: *statute approach*, *conceptual approach* , and *analytical approach* . The technique of tracing legal materials uses document study techniques,

as well as analysis of studies using qualitative analysis.

3. RESULTS AND DISCUSSION

1. Factors Causing Perpetrators in Committing the Crime of Executing Permits for Domestic Distribution of Unprotected Wild Plants (Study of Decision Number 36/Pid.B/LH/2022/PN Tjk)

Factors that cause perpetrators to commit crimes The falsification of permits for domestic distribution of wild plants that are not protected in Decision Number 36/Pid.B/LH/2022/PN Tjk is based on factors within the perpetrator who committed negligence in carrying out his duties. During the trial the defendant explained that the defendant admitted that he had committed negligence in signing the Minutes of Inspection of Plant Stock Warehouses Not Protected by Law Including Appendix II Cites Sonokeling (*Dalbergia Latifolia*) Number: BA-256/K.10/SKW3/PPN/03/ 2020 following the attachment to the List of Logs (Logged Results) and when checking the stock of Sonokeling type wood that enters the Warehouse of PT. INDONESIAN WOOD ART located in Hamlet III Margosari RT.06 RW.03 Pekon Jatiagung, Ambarawa District, Pringsewu Regency,

Lampung Province, totaling 604 (six hundred and four) pieces from 101 (one hundred and one) trees belonging to the witness SAHID, because the defendant only received an explanation from the witness JONI ISKANDAR without checking directly. Based on the defendant's negligence, the public prosecutor gave his indictments as stated in the indictment as follows:

- 1) First indictment the actions of the defendant as stipulated and subject to appropriate punishment Article 87 paragraph (1) letter A in conjunction with Article 12 letter K Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction jo Article 55 paragraph (1) to 1 of the Criminal Code.
- 2) Or second the actions of the defendant as stipulated and subject to appropriate punishment Article 104 of RI Law No. 18 of 2013 concerning Prevention and Forest Destruction Eradication.
- 3) Or third the actions of the defendant as stipulated and subject to appropriate punishment Article 105 letter g Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction *in conjunction with* Law Number 11 of 2020 concerning Job Creation.

- 4) Or fourth the actions of the defendant as stipulated and subject to appropriate punishment Article 106 Law Number 18 of 2013 concerning Prevention and Forest Destruction Eradication.
- 5) Or fifth the actions of the defendant as stipulated and subject to appropriate punishment Article 78 paragraph (6) of Law Number 41 of 1999 concerning Forestry *in conjunction with* Law Number 11 of 2020 concerning Job Creation jo Article 55 paragraph (1) to 1 of the Criminal Code.

As a result of the defendant's negligence in carrying out his duties as a BKSDA official. So the public prosecutor gave his claim by:

1. Declare the accused guilty commit a criminal act "Officer Who Commits Negligence In Carrying Out The Duties As Intended In Article 28 letter H", as stipulated and punishable by the Criminal Code Article 106 of RI Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction, as in the fourth indictment.
2. Sentenced punishment against the defendant in the form of imprisonment for 10 (ten) months reduced while the accused is in custody, by order they the defendant

remains detained and a fine of Rp. 200,000. 000,- (two hundred million rupiah) subsidiary 1 (one) month imprisonment.

3. State the evidence in the form of:
 - a) Sonokeling wood with the size of a can block is 1415 (one thousand four hundred and fifteen) sticks;
 - b) Processed Sonokeling wood with a total of 2,423 stems and Volumes 5.1407m³;
 - c) (three) pieces of sonokeling wood in the shape of a balcony;
4. Pay court fees of Rp. 2. 000, - (two thousand rupiah).

Based on the explanation above, the actions of the defendant as regulated and punished accordingly Article 106 Law Number 18 of 2013 concerning Prevention and Forest Destruction Eradication. The accused is guilty commit a criminal act "Officer Who Commits Negligence In Carrying Out The Duties As Intended In Article 28 letter H", as stipulated and punishable by the Criminal Code Article 106 of RI Law Number 18 of 2013 concerning Prevention and Eradication of Forest Destruction. There are several factors that cause perpetrators to commit crimes, among others, individual psychological factors themselves can cause crimes such as emotional power, low

mentality, and negligence due to a person's lack of intention in carrying out their duties. The factor of ignorance is also a cause of criminal acts. This lack of socialization/counseling to BKSDA officials is what causes working employees to lack understanding of their duties and functions according to their work profession.

Agree with Hendro Wicaksono, Judge of the Tanjung Karang District Court , the component that caused the perpetrator to make a mistake because he misinterpreted the permit for the distribution of wild plants that was not guaranteed in the Household in Option Number 36/Pid.B/LH/2022/PN Tjk that in general there are 2 (two) conditions that must be met to classify a violation of law are carelessness in criminal law, namely:

1. Not considering matters that are important according to law, usually related to perpetrators who do not care about the consequences of their careless actions . There are two possible consequences that cause the perpetrator to think that way, namely the perpetrator thinks that the results of his actions will not result in anything that violates the law or the perpetrator thinks there is a possibility of abuse. law but he accepts that the results of his activities will not occur.

Usually the premise to decide is recklessness in law. Even though at that time it made sense, the perpetrators did not know at all that their activities had the potential to cause unlawful consequences.

2. Disappointment to show due care required by law Conditions when carelessness in law does not show caution, which indicates that the perpetrator did not carry out investigation, weighing, ability, anticipation or intelligence in carrying out an activity. The present state is to look at the doer's activity, not his state of mind and with passion.

PT Seni Kayu Indonesia gave power of attorney to Abu Soleh to take care of licensing for PT Seni Kayu Indonesia in Lampung but did not continue, and after PT. Wood Art Indonesia obtains a Domestic Distribution Permit for Wild Plants Which are not protected by law Including *Appendix Cites* species Sonokeling (*Dalbergia Latifolia*) on August 4 2018 and Permit Withdrawal/Collection effective from 24 August 2018 to December 31 2018, then witness Yoseph Ali Purnama acted as Director of PT. Indonesian Wood Art with Letter Number : 001/SKI/LPG/VIII-18 dated 26 August 2018 filed an application Document for Domestic Transport of Wild

Plants and Animals (SAT-DN) type Sonokeling (*Dalbergia Latifolia*) as many as 635 (six hundred and thirty five) pieces, volume 10.2188 M3, upon request for a Letter of Transport Domestic Wild Plants and Animals (SATS-DN) Sonokeling species (*Dalbergia Latifolia*).

Next is the Resource Conservation Agency Alam Bengkulu issues a Transport Certificate for Wild Plants and Animals State (SATS-DN) Number: 71/SATS-DN/K.10/SKW3/PPN/09/2018 dated September 19 2018 to September 25 2018 with the amount of Sonokeling wood transported was 1,414 (one thousand four hundred fourteen) pieces, volume 20.2534 M3 signed by Dr. SUHARNO, S.sos, M.Si as Head of Center and by the defendant as Inspector, but the amount of Sonokeling wood has exceeded letter of request that further after there is a power of attorney from Yosef Ali Purnama as Director of PT Seni Kayu Indonesia to Mr Georgy Cheremisin then made Minutes of Examination and published SATS- DN Sonokeling wood business PT. Indonesian Wood Art in Lampung, while the defendant knew that the Decree of the Head of the Bengkulu Natural Resources Conservation Agency Number: SK.1403/K.10/TU/PPN/08/2018 dated 24 August 2018 concerning Permit for

Domestic Collection/Collection of Wild Plants Not Protected by Law Including Appendix II Cites of Sonokeling Type (*Dalbergia Latifolia*) on behalf of PT. The Indonesian Wood Art, which is valid from 24 August 2018 to 31 December 2018, may not be transferred or assigned to a third party or other party.

Defendant as Head of Examination Team and witness Joni Iskandar representing PT. Indonesian Wood Art made appendix List of Logs (Logged) Sonokeling Type for above Sutiyo's name became the name of witness Tamyis, while witness Tamyis never had Sonokeling type wood and total number of wood types Sonokeling belongs to Sutiyo who is Tamyis' only witness-in-law as many as 7 (seven) trees, so the Minutes of Stock Inspection Plants Warehouse Not Protected By Law Including Appendices II Cites Sonokeling Type (*Dalbergia Latifolia*) Number: BA-256/K.10/SKW3/PPN/03/2020 along with the attached List of Sonokeling Type Logs (Logged) made by the defendant did not match the actual situation.

Based on the explanation above, the factors that cause the perpetrator to

commit a crime the implementation of permits for domestic distribution of wild plants that are not protected in Decision Number 36/Pid.B/LH/2022/PN Tjk has been listed and is in accordance with the elements negligence in carrying out the task as intended in article 28 letter H has been fulfilled according to law. Because all the elements of Article 106 Law Law of the Republic of Indonesia Number 18 of 2013 concerning Prevention and The Eradication of Forest Destruction has been fulfilled, then the Defendant must declared to have been legally and convincingly proven to have committed an act crime as charged in the fourth alternative indictment of the Prosecutor the general.

Based on the explanation above, based on the factors that cause the perpetrators to commit crimes based on internal and external factors. The internal factors of unprofessional actors in carrying out the main tasks and functions of work units in the environment as officials who have authority in issuing permits for distribution of plants that are not protected by law. Officials who have duties and functions as someone who is authorized to issue permits should be based on their professionalism in issuing permits. Following procedures and not doing anything that is not in accordance with the provisions in the permit issuance process.

While the external factor, supervision from the leadership as a reduction in the risk of negligence cases of officials who issue distribution permits is not in accordance with the procedures regulated in the provisions of the legislation. Supervision from the leadership affects the performance of both workers who are indoors and outdoors. Because if there is no supervision then things like this case will often happen and lead to applicable criminal sanctions. It is expected that internal and external factors can be implemented so that the risk reduction in the implementation of tasks does not occur again.

2. Legal Consequences in Cases of Crime of Executing Permits for Domestic Distribution of Wild Plants That Are Not Protected in Decision Number 36/Pid.B/LH/2022/PN Tjk.

Discussing the legal consequences for the perpetrators of criminal acts of transferring fiduciary guarantee objects from the point of view of criminal law studies is closely related to the existence of someone's criminal responsibility because of his mistakes. Where someone who made a mistake in criminal law must be held accountable for their actions through the criminal justice process.

Accountability criminal is something deed Which must be held accountable Which has done, that is deed Which despicable by public And That be held accountable by si maker with say other awareness soul person Which can evaluate, determine his will, about deed follow criminal Which done based on decision Which strength law Which still. For exists accountability criminal must clear especially formerly Who Which can be held accountable, This means must confirmed formerly Which stated as maker For something follow criminal. Regulation legislation has There is considered No adequate And Not yet capable handle eradication in a manner effective to destruction forest Which organized; based on consideration the arranged And invite Constitution Number 18 Year 2013 about Prevention And Eradication destruction Forest. Prevention destruction forest is all effort Which done For remove chance happening destruction forest, whereas Eradication destruction forest is all effort Which done For take action in a manner law to perpetrator destruction forest Good direct, No direct, nor Which related other. Based on explanation on process drop decision Which done judge is something process Which complex And difficult, so that need training, experience, And wisdom. Process drop decision the, a judge must believes is a defendant do follow criminal or No, with

still guided on proof For determine error from deed Which done by perpetrator criminal. After accept And inspect something case, furthermore judge will drop decision, Which named with decision judge, statement judge Which is as statement official country Which given authority For decision That. So decision judge no solely based on provision juridical just, but Also based on heart conscience. According to Hendro Wicaksono Judge Court Country Cape Coral decision Judge is crown And peak from something case Which currently checked And on trial by Judge the. By Because That, Judge in drop decision must notice all aspect in inside, start from necessity caution, avoided A little Possible carelessness, Good Which characteristic formal nor Which characteristic material until with exists prowess technique make it. If things negative can avoided, Of course just expected in self judge born, grow, And develop exists attitude or characteristic satisfaction If Then the verdict That can become reject measuring For case Which The same, or can become material reference for circles theoretical nor practitioner law as well as satisfaction conscience Alone If the verdict strengthened And No canceled Which more high. According Hendro Wicaksono Judge Court Country Cape Coral consideration judge in decide case follow

criminal Counterfeiting permission Which caused by negligence official Defendant has indicted by Prosecutor General with indictment Which shaped alternative, so that Assembly Judge with notice facts law the on choose direct indictment alternative fourth as arranged in Chapter 106 Constitution Republic Indonesia Number 18 Year 2013 about Prevention And Eradication destruction Forest, Which the elements is as following :

- a) Elements of Each Official;
- b) Elements of committing negligence in carrying out the duties referred to referred to in Article 28 letter H is fulfilled according to law;

From Article 106 of the Law of the Republic of Indonesia Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction which has been fulfilled, the Defendant must be declared legally and convincingly proven to have committed a crime as charged in the fourth alternative indictment of the Public Prosecutor. In the trial the panel of judges did not

find things that can eliminate criminal responsibility either as justification reasons and or reasons for forgiveness, the Defendant must

take responsibility for his actions. Because the Defendant is capable of being responsible, he must be found guilty and sentenced to death. In this law, in addition

to being sentenced to imprisonment, the defendant is also sentenced to a fine.

To impose a sentence on the Defendant, it is necessary to consider in advance the aggravating and mitigating circumstances of the Defendant;

a. Aggravating circumstances:

1) The defendant acted to re-examine the supporting data provided by PT Seni Kayu Indonesia;

b. Mitigating circumstances:

1) The defendant is polite in court;

2) The accused has never been convicted;

Based on the above explanation, Prosecutor General on attorney Country Lampung South say that Judge state His opinion about What Which has considered And What Which become amar the verdict. In penalty criminal, Judge must have consideration Juridical Which consists from indictment prosecutor general, information witness, goods proof, And Articles deed law criminal And consideration Non juridical Which consists from background behind deed defendant, plus Judge must believes is defendant do deed criminal or No as Which loaded in elements follow criminal Which charged to her. Taking decision very exchanged decision Which will dropped to defendant. Judge must can manage And process data Which obtained during process the judge in matter evidence, information witness,

defense, as well as demands prosecutor Prosecutor General nor payload psychological. So that Which will dropped to defendant can based on by not quite enough answer, justice, wisdom, And professionalism. Based on explanation in on, consequence law Which generated by deed defendant, violation to demands alternative fourth determined based on Chapter 106 Constitution Republic Indonesia No. 18 Year 2013 about Prevention And Deletion Forest degradation. Which the elements is element every official, And sign negligence in implementation task the in Chapter 28 (H) fulfilled according to Constitution.

Based on the explanation of the elements of this article, it is explained that the meaning of "officer" in Article reservoirmenayang paragraph (16) of the Law of the Republic of Indonesia Number: 18 of 2013 concerning the Prevention and Eradication of Forest Destruction are either people who are ordered or people who because of their position have the authority, duties and responsibilities. In the aquo case, on behalf of the defendant Dodot Iryanto container Sukarmin, a civil servant with the position of Head of PPN Part III of the Bengkulu BKSDA who was assigned by the Head of Section III of the Bengkulu BKSDA to carry out this task of

securing the potential of rosewood wood and its identity, which was explained by the Public Prosecutor in his indictment along with the attached files. Meanwhile, the element of negligence in carrying out the duties referred to in Article 28 letter H involved was a civil servant who was given the task of inspecting the potential of rosewood wood owned by PT Seni Kayu Indonesia. The defendant Dodot Iryanto Canister Sukarmin mentioned above, was legally and convincingly proven guilty of committing the crime of "Officials who delay carrying out their duties as referred to in Article 28 letter H", in the elective indictments of the four applicants. As a result of this guilty act, the panel of judges sentenced the Defendant to imprisonment for 7 (seven) months and a fine of Rp . .) months.

4 CLOSING

The legal consequences arising from the act of defense have determined the violation of the fourth alternative axis of indictment stipulated in Article 106 of the Law of the Republic of Indonesia Number 18 of 2013 concerning the Prevention and Eradication of Forest Destruction, the elements of which are the elements of each official and the elements the executor of the shaft task as referred to in Article 28 letter H in accordance with the law. This legal action violated the fourth alternative

axis of indictment stipulated in Article 106 of the Law of the Republic of Indonesia Number 18 of 2013 concerning the Prevention and Eradication of Destruction of the Axis Elok Forest as a result of a crime, the panel of judges sentenced the Defendant to 7 (seven) months imprisonment and a fine Rp. 200,000,000.00 (two hundred million rupiah) with the provision that if the fine is not paid it is replaced by a (one) month reservoir.

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