

Analisis Penerapan Pasal 12 Ayat (4) Juncto Pasal 71 KUHP: Studi Kasus Perkara Robert Tantular = Analysis of The Application of Article 12 Paragraph (4) Juncto Article 71 Criminal Code in Indonesia: Case Study of Mr. Robert Tantular

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Abstrak

Skripsi ini menyajikan hasil penelitian atau kajian mengenai Analisis Penerapan Pasal 12 ayat (4) juncto Pasal 71 KUHP dalam studi kasus Robert Tantular. Masalah yang dijadikan obyek penelitian dalam skripsi ini berkaitan dengan 3 (tiga) masalah pokok, yakni : pertama, bagaimana pemaknaan tentang Gabungan Tindak Pidana/Concursus/Samenloop dalam Pengaturan Hukum Pidana di Indonesia ; kedua, bagaimana kaitan Pasal 71 KUHP tentang Delik Tertinggal dengan ketentuan maksimum total pidana penjara, terkhususnya Pidana penjara sementara waktu sebagaimana diatur dalam Pasal 12 ayat (4) KUHP ; ketiga, Bagaimana ketepatan Penerapan 2 Pasal tersebut dalam perkara-perkara di Indonesia, terkhususnya perkara Robert Tantular. Penelitian ini berbentuk yuridis-normatif, dengan tipe deskriptif-analitis. Simpulan yang didapat dari penelitian ini adalah bahwa banyak penegak hukum di Indonesia tidak memahami penerapan 2 Pasal tersebut dan cenderung mengabaikan ketentuan pada Pasal 12 ayat (4) dan Pasal 71 KUH Pidana pada beberapa Perkara di Indonesia. Seperti yang terjadi pada perkara yang dihadapi oleh Robert Tantular yang menghadapi 4 proses adjudikasi/persidangan, dimana total pidana yang dijatuhkan terhadap dirinya berjumlah 21 tahun, dimana total vonis ini telah melampaui batas maksimum pidana penjara selama waktu tertentu, yakni 20 tahun. Sehingga kesalahan Penegak Hukum dalam menerapkan 2 Pasal tersebut, mengakibatkan ketidak pastian dalam penjatuhan total vonis pidana bagi Robert Tantular karena telah bertentangan dengan ketentuan jumlah maksimum pidana penjara selama waktu tertentu, yakni telah melampaui 20 tahun dan juga telah bertentangan dengan penerapan Pasal-Pasal tentang Gabungan Tindak Pidana.

.....This thesis presents the results of research or studies regarding the Analysis of the Application of Article 12 paragraph (4) in conjunction with Article 71 of the Criminal Code in the Robert Tantular case study. The problem which is used as the object of research in this thesis is related to 3 (three) main problems, namely: first, how is the meaning of Combined Crime / Conc discourse / Samenloop in Criminal Law Arrangements in Indonesia; secondly, how does Article 71 of the Criminal Code on Delicacy Offense with the maximum provision of total imprisonment, especially temporary imprisonment as regulated in Article 12 paragraph (4) of the Criminal Code; third, how is the accuracy of the application of these 2 articles in cases in Indonesia, especially in the case of Robert Tantular. This research is in the form of juridical-normative, with descriptive-analytical type. The conclusion from this research is that many law enforcers in Indonesia do not understand the application of these 2 Articles and tend to ignore the provisions in Article 12 paragraph (4) and Article 71 of the Criminal Code in several cases in Indonesia. As happened in the case faced by Robert Tantular, who faced 4 adjudication / trial processes, where the total number of crimes imposed against him was 21 years, where the total sentence has exceeded the maximum imprisonment limit for a certain time, namely 20 years. So that the Law Enforcement's mistake in applying the 2 Articles, resulted in uncertainty in the imposition of the total criminal sentence for Robert Tantular because it had contradicted the maximum number of imprisonment provisions for a certain period of time, which had exceeded 20 years and was also

contrary to the application of the Articles on Combination. Criminal act.