



Analysis Of The *Vrijspraak* Decision Of The Bireuen District Court Number : 202/Pid.Sus/2024/Pn Bir And Examination Of The Public Prosecutor's Cassation Decision Number: 7506 K/Pid.Sus/2025

Muhammad Iqbal Mannur Putra¹, Agus Ariadi²

^{1,2} Faculty of Law, Social Sciences, and Political Sciences, Universitas Terbuka

¹ e-mail : iqbalmanna123@gmail.com

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Abstract. This study aims to analyze in depth the dynamics of criminal procedural law in narcotics cases through a case study of the Bireuen District Court's *Vrijspraak* Decision Number : 202/Pid.Sus/2024/PN Bir and an examination of the Cassation decision submitted by the Public Prosecutor, namely the Supreme Court Decision Number : 7506 K/Pid.Sus/2025. This study uses a normative legal research method, which analyzes court decisions as positive rules. The case approach is used to critically compare the ratio decidendi of two court decisions at different levels. The results of the study indicate that the Bireuen District Court erred in applying the doctrine of limited negative evidence by prioritizing the lack of physical control of narcotics (insufficient valid evidence), which resulted in the failure to form a conviction in the judge. The Public Prosecutor challenged the decision by arguing an error in the application of the law (*onjuiste toepassing van het recht*). The Supreme Court, as *judex juris*, corrected the error in the ruling by confirming that the element of "intermediary" had been fulfilled through the defendant's functional role in the criminal network, even though evidence was found on another party. This correction affirmed the Supreme Court's role as guardian of the unity of substantive law.

Keywords: *Cassation Of Acquittal; Onjuiste Toepassing Van Het Recht; Vrijspraak Ruling; Judex Juris; Limited Negative Evidence.*

INTRODUCTION

Law enforcement against narcotics crimes in Indonesia is a crucial issue that faces complex challenges, particularly regarding the evidentiary aspect in court. The principle of the presumption of innocence is the main foundation of criminal law enforcement. This principle is internalized in the limited negative evidentiary system (*negatief wettelijk stelsel*), which requires two cumulative elements for conviction: a minimum of two valid pieces of evidence and conviction in time (Harahap, 2018). If one of these elements is not met, then the verdict that must be handed down is an acquittal (*vrijspraak*), as emphasized by M. Y. Harahap (2018). An acquittal (*vrijspraak*) is a logical consequence of the application of the principle of *In Dubio Pro Reo*.

The case of Defendant ABDUL GHAFUR bin BADRUDDIN at the Bireuen District Court who was charged with the first alternative charge as regulated in Article 114 paragraph (2) of Law Number 35 of 2009 concerning Narcotics and the second alternative charge of Article 112 paragraph (2) of Law Number 35 of 2009 concerning Narcotics, which was not legally and convincingly proven guilty as charged by the Public Prosecutor so that he was acquitted (Decision No. 202/Pid.Sus/2024/PN Bir) is a relevant legal discourse. The acquittal decision was then appealed by the Public Prosecutor and granted by the Supreme Court (MA) (Decision

No. 7506 K/Pid.Sus/2025). This contradictory situation raises fundamental questions regarding the interpretation and application of the doctrine of proof in the context of Narcotics crimes.

According to E. O. S. Hiariej (2022), the theory and law of evidence are at the heart of the criminal process. The failure of the First Instance Panel of Judges to correctly apply the theory of evidence, which was later corrected by the Supreme Court, demonstrates a lack of uniformity in judicial reasoning, particularly in interpreting elements of crimes related to organized crime (Mulyadi, 2023).

Based on this background, this study will analyze in detail the legal considerations underlying these differences in verdicts. Based on this background, this study's primary objective is to examine and thoroughly examine the criminal justice process from the first instance to the cassation level in cases involving acquittals.

The issues to be discussed in this research are:

1. What were the considerations of the First Instance Panel Judge (*judex facti*) in deciding case No. 202/Pid.Sus/2024/PN Bir with a free-for-all decision against the Defendant?
2. What legal remedies did the Public Prosecutor pursue in case No. 202/Pid.Sus/2024/PN Bir, and what legal basis did they use to challenge the acquittal?
3. What were the considerations of the Supreme Court's cassation decision (*judex juris*) in case No. 7506 K/Pid.Sus/2025, which resulted in the acquittal being declared a misapplication of law (*onjuiste toepassing van het recht*)?

This scientific article focuses its analysis on a concrete case, namely the Bireuen District Court's Free Decision Number: 202/Pid.Sus/2024/PN Bir which acquitted the defendant of all narcotics crime charges. This case is interesting because it was followed by legal efforts made by the Public Prosecutor, which culminated in the issuance of the Supreme Court's Cassation Decision Number: 7506 K/Pid.Sus/2025.

The study of these two decisions is important to analyze in order to comprehensively understand how the doctrine of evidence and elements of unlawfulness are applied by judges at the first instance, as well as how the Supreme Court responded to the Cassation efforts against the acquittal decision.

METHODS

This research employs a normative legal research method, which analyzes court decisions as positive rules. A case approach is used to critically compare the legal reasoning (*ratio decidendi*) of two court decisions at different levels. The primary legal materials analyzed are Bireuen District Court Decision No. 202/Pid.Sus/2024/PN Bir and Supreme Court Decision No. 7506 K/Pid.Sus/2025.

Secondary legal materials include relevant legal literature, doctrine, and scientific journals. Data analysis was conducted using grammatical and systematic interpretation techniques of the elements of the offense, as well as a logico-juridical examination of the consistency of the judge's reasoning with the principles of criminal procedure law.

RESULTS AND DISCUSSION

The case of Defendant ABDUL GHAFUR bin BADRUDDIN at the Bireuen District Court, who was charged by the Public Prosecutor with :

The first alternative charge as stipulated in Article 114 paragraph (2) of Law Number 35 of 2009 concerning Narcotics, which reads "In the case of the act of offering for sale, selling, buying, acting as an intermediary in the sale and purchase, exchanging, handing over, or receiving Class I Narcotics as referred to in paragraph (1) in plant form weighing more than 1 (one) kilogram or more than 5 (five) tree trunks or in non-plant form weighing 5 (five) grams, the

perpetrator shall be punished with the death penalty, life imprisonment, or imprisonment for a minimum of 6 (six) years and a maximum of 20 (twenty) years and a maximum fine as referred to in paragraph (1) plus 1/3 (one-third), with the following elements:

1. Any Person;
2. Without the right or against the law, offering for sale, selling, receiving, acting as an intermediary in the sale and purchase, exchanging or recommending Class I narcotics whose weight exceeds 5 (five) grams.

The second alternative charge is Article 112 paragraph (2) of Law Number 35 of 2009 concerning Narcotics, which reads: "In the case of the act of possessing, storing, controlling, or providing Class I Narcotics that are not plants as referred to in paragraph (1) weighing more than 5 (five) grams, the perpetrator shall be punished with life imprisonment or imprisonment for a minimum of 5 (five) years and a maximum of 20 (twenty) years and a maximum fine as referred to in paragraph (1) plus 1/3 (one third)", with the following elements:

1. Every person;
2. Without the right or against the law, possesses, stores, controls, or provides Class I Narcotics that are not plants weighing more than (5) grams.

First-Instance Judge's Considerations in the Free-Act Decision

The Bireuen District Court panel of judges issued a free-acquittal decision due to the failure to prove the elements of the crime charged against the Defendant. This acquittal decision can be traced to two crucial points in the judge's considerations.

1. Narrow Interpretation of the "Being an Intermediary" Element

Although the Public Prosecutor presented evidence showing a promise of Rp 10,000,000 in compensation from IH (a fugitive) and the Defendant's agreement to facilitate the sale of methamphetamine to Silan (a fugitive), the Bireuen District Court argued that the element of "being an intermediary" (Article 114 paragraph (2) of the Narcotics Law) was not convincingly met. This was due to:

a. Lack of Bezitsdader (Physical Control)

1,012.74 grams of narcotics were found on the witness Nazaruddin (separate file), not on the Defendant. Judex facti judges tend to interpret the intermediary literally, as if it requires the Defendant to have physical possession of the goods at the time of arrest.

b. Incomplete Act

The Panel of Judges at the Bireuen District Court, referring to the doctrine that the Suspect's/Defendant's Acts Do Not Constitute a Criminal Act (M. Irsan Arief, 2021), could conclude that the Defendant's actions were still in the preparatory or consensual stage, which had not yet reached the stage of perfect execution of the intermediary offense.

2. Failure to Meet the Judge's Conviction (Conviction Intime)

As outlined by Susanto & Hidayat (2024) regarding the Limited Negative Evidence System Doctrine, a conviction must be supported by at least two valid pieces of evidence and the judge's conviction. The Bireuen District Court Panel of Judges' doubts regarding the physical evidence of narcotics on the Defendant automatically invalidated the conviction.

Consequently, the Panel of Judges applied the legal principle "*in dubio pro reo*" (Indrajaya, 2022). Without a unanimous conviction, the Defendant must be acquitted of the charges, which embodies the protection of the Defendant's human rights.

Legal Remedies and Basis for Filing a Cassation Appeal by the Public Prosecutor

The Public Prosecutor followed up on the Bireuen District Court's acquittal by filing a cassation appeal on March 17, 2025. This is a legitimate but limited measure.

1. Legal Limitations of Appealing an Acquittal

An appeal against an acquittal is a legal remedy with specific legal characteristics. Andi Erlangga Hamzah (2020) explains that filing a cassation appeal against an acquittal for a drug abuser must be approached with great care. The legal basis is Article 253 paragraph (1) of the Criminal Procedure Code, which allows for a cassation appeal if the acquittal is "not based on proper and correct reasons." According to Hamzah (2020), these inappropriate reasons essentially refer to:

- a. Exceeding authority;
- b. Misapplication or violation of the law;
- c. Failure to comply with statutory requirements.

2. Argument of Error in Application of Law (Onjuiste Toepassing van het Recht)

In its cassation memorandum, the Public Prosecutor argued that the Bireuen District Court committed an error in application of law (*onjuiste toepassing van het recht*). This means the Public Prosecutor believes that the Bireuen District Court judge made a fatal error in interpreting the elements of a material criminal offense in light of facts that had actually been proven at trial. The Public Prosecutor demanded that the Supreme Court reconsider the interpretation of the element of "acting as an intermediary."

Considerations of the Supreme Court's Cassation Decision Number 7506 K/Pid.Sus/2025

The Supreme Court (MA) examined the Public Prosecutor's appeal and decided to grant the cassation and overturn the Bireuen District Court's acquittal. This action indicated that the MA found a fundamental legal violation by the *judex facti*.

1. *Judex Juris* Assessment of the Application of the Law

In its consideration, the MA explicitly stated that the Bireuen District Court's decision had "misapplied the law." The MA adhered to broader jurisprudential principles in interpreting narcotics crimes, according to the MA:

a. Functional Interpretation of the Intermediary Element

The MA is of the opinion that the element of "acting as an intermediary in the sale and purchase" does not require proof of physical possession of narcotics by the Defendant. Defendant Abdul Ghafur's role in accepting the promise of payment and acting as a liaison/facilitator for the delivery of narcotics (even though the narcotics were found in Nazaruddin's possession) is sufficient to fulfill the *actus reus* of an intermediary. The Supreme Court viewed the Defendant's actions as an active role in a criminal network (Sharif et al., 2024), not merely preparation.

b. Correction for Ignoring Clueless Evidence

The Supreme Court corrected the Bireuen District Court for ignoring indicative evidence (the Defendant's and witness statements) that cumulatively and logically proved the Defendant's malicious intent (*mens rea*) and actions structured within the narcotics distribution chain.

2. Implications of the Annulment of the Acquittal

The Supreme Court's decision to annul the Bireuen District Court's free-standing decision and adjudicate the Defendant's case itself has implications for expanding the jurisdiction of the judicial reviewer (*judex juris*). Although Kurniawan & Sembiring (2023) discuss the limitations of the Supreme Court's authority, this decision demonstrates that the Supreme Court can enter the realm of factual assessment, namely reviewing the factual assessment by the judicial reviewer that resulted in errors in the application of substantive law. This Supreme Court action aims to ensure substantive legal certainty and maintain legal unity throughout the Republic of Indonesia.

CONCLUSION

1. The Bireuen District Court's (No. 202/Pid.Sus/2024/PN Bir) considerations were based on a narrow interpretation of the elements of the narcotics crime, which failed to establish a conviction due to the lack of evidence of physical possession. This resulted in the application of the *in dubio pro reo* principle, which the Supreme Court deemed a misapplication of the law.
2. The Public Prosecutor's legal remedy was to file an appeal, using the fundamental argument of an error in the application of the law (*onjuiste toepassing van het recht*) by the judicial reviewer, which violated Article 253 of the Criminal Procedure Code.
3. The Supreme Court's cassation considerations (No. 7506 K/Pid.Sus/2025) expressly granted the Public Prosecutor's appeal. The Supreme Court stated that the element of "acting as an intermediary" had been fulfilled through the Defendant's functional role in facilitating the narcotics transaction. The Supreme Court overturned the acquittal and handed down a criminal sentence, emphasizing that the Supreme Court's duty was to correct errors in the application of material law made by the first instance court.

LIMITATION

The limitations of this research are divided into two main categories: methodological limitations and substantive-data limitations.

1. Methodological Limitations

a) Normative and Doctrinal Nature of the Research

This research uses a normative legal research method, meaning the focus of the analysis is on positive legal rules, legal principles, and court decisions (*law on the books*).

This research does not involve field research or in-depth interviews with the Public Prosecutor, the Panel of Judges, or the Defendant (*sociological/empirical legal research*). Therefore, this study cannot measure the practical effectiveness of the Supreme Court's cassation decision in the field or the non-legal motivations that may influence the Bireuen District Court's *judex facti* considerations.

b) Limitations of Primary Data Sources

The analysis relies heavily on copies of the Bireuen District Court Decision and the Supreme Court's cassation decision available in the decision directory. This research did not have direct access to the police report, trial minutes, or the prosecutor's cassation memorandum, which might contain more detailed factual arguments.

Therefore, the reconstruction of the Bireuen District Court's argumentation and *ratio decidendi*, particularly regarding the failure of conviction in time, is conducted through an interpretation of the Supreme Court's decision, which has corrected it.

2. Substantive Limitations and Generalization

a) Single Case Focus (Case Specificity)

This research is a single case study focusing on cases No. 202/Pid.Sus/2024/PN Bir and No. 7506 K/Pid.Sus/2025. The findings regarding the Supreme Court's interpretation of the element of "being an intermediary" and the limitations of *onjuiste toepassing van het recht*, although relevant, cannot automatically be generalized to all narcotics cases or all cassation cases against acquittals, considering that each case has a unique factual structure.

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