

# Juridical analysis of the position of laboratory results in proving narcotics crimes in the military environment (Juridical Review in Decision Number 12-K/PMT-II/AU/V/2021)

Syawaluddin Sarumpaet  
Military Law College, Indonesia  
[syawalpaet@gmail.com](mailto:syawalpaet@gmail.com)



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## Abstract

**Purpose:** This study aims to analyze the Juridical Position of Laboratory Results in Proving Narcotics Crimes in the Military Environment (Juridical Review in Decision Number 12-K/PMT-II/AU/V/2021).

**Research/methodology:** This research is a type of normative juridical research using a descriptive analytical approach. The analysis relies on the examination of legal sources and court documents related to the case.

**Results:** Laboratory results serve as very strong and absolute evidence because they are based on measurement and weighing, which contain certainty compared to witness statements. It is impossible to identify narcotic content in blood or urine by visual observation; thus, laboratory tests are indispensable. According to the minutes of the Criminal Laboratory Examination No. LAB 5743/NNF/2020, various items were tested and confirmed to contain methamphetamine. In this context, a negative urine test alone is insufficient to acquit a defendant. Judges must consider all the evidence presented, and a decision must be based on a minimum of two valid pieces of evidence.

**Conclusion:** Even if the urine test result is negative, a guilty verdict can still be rendered if there is other valid evidence supporting the charges.

**Limitation:** This study is limited to a normative juridical review and does not include empirical data from field studies or interviews with legal practitioners.

**Contribution:** This study contributes to the understanding of the evidentiary value of laboratory results in military narcotics trials and provides a juridical framework for evaluating evidence beyond urine test outcomes.

**Keywords:** *Evidence, Laboratory Results, Military, Narcotics*

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## 1. Introduction

One of the crimes that often occurs in Indonesia is the crime of narcotics. From January 2023 to April 2024, 19,452 narcotics cases were decided within the scope of the Supreme Court. Likewise, within the Jakarta Military Court, there were 169 cases of narcotics abuse in 2023 (Zulfa, Raharjo, & Shafira, 2022). The crime of narcotics abuse refers to Law Number 35 of 2009 concerning Narcotics, which stipulates that narcotics are substances or drugs derived from plants or non-plants, both synthetic and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduce to eliminate

pain, and can cause dependence on them. Narcotics are distinguished into groups as attached to Law Number 35 of 2009 concerning Narcotics, namely:

1. Class I narcotics can only be used for the purpose of developing science and are not used in therapy. They have a very high potential to cause dependence.
2. Class II narcotics are narcotics that have medicinal properties, are used as a last resort, can be used in therapy and for the purpose of developing science, and have a high potential to cause dependence.
3. Class III narcotics are narcotics that have medicinal properties, are widely used in therapy, and are used for scientific development and have a mild potential to cause dependence (Alim, Triono, & Yudhi, 2023; Bismar et al., 2022; Pradwipta Brianaji, Robertus Bima, & Ardyanto Imam, 2015).

Narcotics abuse and trafficking are not new issues in Indonesia. Narcotics crimes are a form of violation of the law and social norms that have existed for a long time. Narcotics abuse is an extraordinary crime that is strongly condemned worldwide because its impact can touch almost all aspects of people's lives, from economic to psychological aspects.

Narcotics abuse has had a wide impact on all levels of society. From the perspective of age, all age groups from children to adults are entangled in narcotics abuse cases. From the perspective of the profession starting from the State Civil Apparatus (ASN), the Police, and even the TNI, there are also narcotics abusers, even though the TNI is one of the institutions known by the public, its members are very obedient and disciplined to the applicable rules. If a member of the Indonesian National Army commits a criminal act, he will still be punished without any privileges, starting from the process of examination, investigation, and prosecution until the judiciary follows the military judicial procedure law as stipulated in Law Number 31 of 1997 concerning Military Justice (Suartama & Dewi, 2023; Wulansari, 2023; Zahrani, Nurmayani, & Deviani, 2022).

The handling of narcotics cases in a military environment requires a comprehensive and effective approach, including the use of laboratory results as evidence in legal proceedings. The position of laboratory results in proving narcotic crimes in the military environment is a major concern because several factors affect it. First, the existence of narcotics is often difficult to identify directly by investigators or security forces; therefore, laboratory results are needed to confirm the type and amount of narcotics found. Second, the accuracy and reliability of laboratory results are key to determining mistakes or crimes committed by military personnel involved in narcotics abuse. Third, in the legal context, laboratory evidence has a strong weight in trials and can be a determining factor in the judge's decision.

Several cases/cases of crimes committed by TNI-AD soldiers, such as drug abuse, which in the investigation process requires *the Scientific Crime Investigation* method, which is a method that emphasizes analysis based on science in the disclosure of a criminal case. One of the most important in the method of proving narcotics abuse is forensic science, which is a science using multi disciplines to apply natural sciences, chemistry, medicine, biology, psychology and criminology (Bustomi, 2023; Rachmad, 2019). One of the narcotics crimes committed by the military, the author is interested in researching a decision from the Jakarta High Military Court II Number 12-K/PMT-II/AU/V/2021, where the verdict is based on the testimony of witnesses under oath justified by the defendant that it is true that the defendant has consumed methamphetamine-type narcotics together with witness 1 and witness 2 on November 9, 2020, which the defendant bought from Mr. Jeff (DPO) for Rp. 700,000 (seven hundred thousand rupiah) taken by the defendant in front of the village office.

This confession was also strengthened by the defendant's own testimony at the investigation level and the examination in court, which stated that the defendant had previously used methamphetamine-type narcotics together with other witnesses, namely two to three times. However, what attracted attention in this verdict, based on the examination of the results of the urine and blood samples of the defendant at the Criminal Investigation Center of the National Police, was that they showed negative results. This was due to the grace period for the defendant to consume methamphetamine-type narcotics with witness-1 and witness-2, namely on November 9, 2020, while the defendant's urine and blood tests at the National Police Criminal Investigation Center were carried out on January 6, 2021, or for a long

period of time after the defendant consumed methamphetamine, resulting in no more methamphetamine-type narcotics.

This is in line with the information submitted by witness-8, who is the head of the Sub-Division of the Laboratory of the National Police Criminal Investigation Center, who examined urine and blood samples based on the BAP on behalf of the defendant. He explained that according to the theory of examining urine samples for methamphetamine narcotics abuse, the drug only lasts 1 to 4 days. If it is more than 5 days or 1 month, the urine or blood test will expire due to metabolism in the human body, and the results will be negative.

This is based on the Supreme Court Cassation Decision Number 1386 K/Pid. Sus/2011 of 2011, the Formulation of the Results of the Plenary of the Military Chamber of the Supreme Court of the Republic of Indonesia in 2013 (SEMA Number 4 of 2014), and the Formulation of the Results of the Plenary of the Military Chamber of the Supreme Court of the Republic of Indonesia in 2018 (SEMA Number 3 of 2018) which are interrelated, a guideline was obtained that to prove the element of possession or possession of narcotics of class I, whether in order to prove Article 112 Paragraph (1) or Article 127 Paragraph (1) letter a, One of the determining factors is the existence of narcotics evidence that weighs no more than 1 (one) gram, then the possession or possession of narcotics is in the context of proving Article 127 Paragraph (1) letter a, while if the weight is more than 1 (one) gram and not more than 5 (five) grams, then the possession/possession is in order to prove Article 112 Paragraph (1) of UURI Number 35 of 2009, Likewise, the next factor is *mens rea*, that the Gol I narcotics are to be used for oneself and not for others.

This means that if these two factors are not met, Article 112 (1) can be applied. If there is no evidence of Goal I narcotics, then Article 112 Paragraph (1) cannot be applied. On this basis, in the *A quo case*, there are several legal facts, including that the weight of narcotics/methamphetamine possessed/stored/controlled/provided before use will be a determining factor in whether or not the indictment of the High Military Inspector is proven, whether it is as referred to in Article 112 Paragraph (1) or Article 127 Paragraph (1) letter a in the *A quo case*. Then, the evidence of methamphetamine narcotics obtained by the Defendant from Mr. Jeff in front of the Lubang Buaya Village Office in East Jakarta, the methamphetamine narcotics the Defendant took in a trash can near the Lubang Buaya Village Office in East Jakarta on November 9, 2020, and was used by the defendant with Witness-1 and Witness-2 until it ran out, so that it was not weighed down because no evidence of methamphetamine narcotics was found in the *A quo case*. Finally, because it is known from the legal facts that the defendant possesses/possesses/stores/provides methamphetamine-type narcotics clearly for use/consumption, the next element, namely the weight of the methamphetamine-type narcotics possessed, cannot be ascertained to weigh more than 1 (one) gram because in the *case of a quo*, no evidence was found in the form of methamphetamine and a letter from laboratory tests on the narcotics. Therefore, the Panel of Judges was of the opinion that the criminal act that could be applied was Article 127 Paragraph (1) letter a. According to the provisions of Article 183 of the Criminal Procedure Code, a valid proof contains at least two pieces of evidence specified in article 184 of the Criminal Procedure Code accompanied by the judge's conviction, even though, in the theory of proving the law negatively, it is not mentioned that the judge is completely bound only to absolute evidence. Meanwhile, in the provisions, the power of proof from evidence is free of charge.

The results of the forensic laboratory urine test are a type of evidence that is not mentioned in article 184 of the Criminal Code, but the assessment is the same as *Visum et repertum*, and it is the result of expert knowledge of the oath of office stated in the form of a letter. Furthermore, Article 174 of Law Number 31 of 1997 concerning Military Courts states that expert testimony as evidence is the testimony of an expert who is declared an expert at the court hearing. Furthermore, Article 176 of this Law stipulates that a letter is valid evidence if made on an oath of office or corroborated by oath, one of which is at point c in the form of a certificate from an expert that contains an opinion based on his expertise regarding a matter or a situation that is formally requested from him. The expert in question is, of course, not only related to general criminal acts but also closely related to experts who have competence in their fields, be it weapons (*alutsista*), ballistic/*metallurgy*, chemistry/*dactiloscropy*,

physics/*photography*, pharmacy (narcotics), and others that are closely related to an unlawful act that may occur in the military (Saputro, Ismail, & Iryani, 2023).

On this basis, the panel of judges was of the opinion that there was not enough evidence to convince the defendant that he was guilty of not meeting the elements of the criminal article as charged by the High Military Inspectorate in the first and second alternative indictments. The panel of judges decided on a verdict of acquittal for all charges. Based on the background that has been described above, the author considers that there are irregularities in the handling of the case, thus motivating the author to research more deeply on the problem through the preparation of a thesis entitled "**Juridical Analysis of the Position of Laboratory Results in Proving Narcotics Crimes in the Military Environment (Juridical Review in Decision Number 12-K/PMT-II/AU/V/2021)**"

### **1.1. Problem Formulation**

Berdasarkan latar belakang in atas, makang mang menjadi permasalahan yang akan dibahas dalam this researchan, as follows:

1. What is the position of laboratory results as evidence against narcotics crimes in the military environment in Decision Number 12-K/PMT-II/AU/V/2021?
2. What is the position of laboratory results as evidence for narcotics crimes in the military justice environment?

## **2. Literature Review**

### **2.1. Military**

The formal definition of military or army is contained in Article 46 of Law No. 39 of 1947. Article 46 states that:

- 1) The term army refers to the following:
  - 1st: those who are tied to voluntary service in the Armed Forces and are obliged to be in service continuously during the service period.
  - 2nd: all other volunteers in the armed forces and military personnel are obliged, as long as they are in the service, as well as those who are outside the service, as well as if they are outside the actual service within the time limit, as long as they can be called to enter the service, to perform one of the actions formulated in Articles 97, 99, and 139 of the Criminal Code.
- 2) Every military must be informed that they are subject to military orders.

The Armed Forces of the Republic of Indonesia are an integral part of the Indonesian people. The Armed Forces of the Republic of Indonesia consist of the Army, Navy, and Air Force. The three have different duties, which are listed in Articles 8 to 10 of Law Number 34 of 2004 concerning the Indonesian National Army.

### **2.2. Military Crimes**

This type of criminal act is called a pure military crime (*zuiver militaire delict*). A purely military crime is a criminal act committed only by a military person because it is special for the military. Criminal acts committed by members of the TNI are purely military, based on regulations related to the military. Violations of discipline by TNI members in accordance with the provisions of Article 5 of the Military Discipline Law include violations of pure and impure discipline laws. A violation of pure discipline is any act that is not a criminal offense but is contrary to official orders or official regulations or acts that are not in accordance with the soldier's order of life, for example, being late for apples, dressing poorly/clothes are not buttoned or dirty, long hair, and shoes are not polished.

### **2.3. Law of Proof**

According to Hiariej (2013), there are at least 6 (six) theories regarding the evidentiary parameters consisting of *bewijstheorie*, *bewijsmiddelen*, *bewijsvoering*, *bewijslast*, *bewijskracht*, and *minimum bewijs*:

- a. *Bewijstheorie*

- Bewijstheori is a theory of proof used by judges as the basis for proof in court. There are 4 (four) theories of proof known in the history of the law of proof, namely Positive Wettelijk Bewijstheori, Conviction Intime, Conviction Raisonne, and Negatief Wettelijk Bewijstheorie.
- b. Bewijsmiddelen  
Bewijsmiddelen is a theory that explains the evidence that can be used in court to prove that a legal event has occurred. This theory explains what can be used as evidence in a study. Based on the criminal procedure law in Indonesia, the evidence used to prove that a legal event has occurred is generally the same as that used by many countries worldwide to prove a legal event.
  - c. Bewijsvoering  
Bewijsvoering is a theory that explains how to present evidence to a judge in a court. The way these pieces of evidence are presented is quite important and deserves attention, especially for countries that use the due process model in their criminal justice systems. According to Hiariej (2013), "In the due process model, the state highly upholds human rights, especially the rights of a suspect, so that a suspect is often acquitted by a court judge at a pretrial examination because the evidence is obtained in an unlawful way or commonly referred to as unlawful legal evidence."
  - d. Bewijslast  
The bewijslast or burden of proof is a theory that regulates the division of the burden of proof required by law to prove a legal event. Universally, based on the context of criminal law that applies in the world, the burden of proof to prove the charges against the suspect is the obligation of the public prosecutor. This is a consequence of the principle of functional differentiation in the criminal process, which leaves the functions of investigation, investigation, prosecution, and court to competent institutions such as the police, prosecutor's office, courts, and correctional institutions.
  - e. Bewijskracht  
Bewijskracht is a theory about the evidentiary power of each piece of evidence in a series of assessments of the provenness of an indictment. Regarding the assessment of the strength of a proof, it is the authority of the judge. The assessor who determines the suitability between one piece of evidence and the other is under the authority of a judge. In addition to being the authority of the judge, this evidentiary power also lies in the evidence presented (Damaiyanti, Nofrial, & Erniyanti, 2022; Sagita, 2017). This means that if the evidence submitted is relevant or related to what is charged, then the evidentiary strength determines whether the evidence is admissible.
  - f. Bewijs Minimum  
Bewijs Minimum is a theory that discusses the minimum evidence required in proof to bind the judge's freedom. The criminal procedure law stipulates that there is a minimum limit on the evidence that can be used to prove the guilt of the defendant. In the context of criminal procedure law in Indonesia, to impose a criminal sentence against the defendant, there must be at least two pieces of evidence with which the judge is convinced that the defendant is guilty of committing a criminal act, as stipulated in Article 183 of the Criminal Code. This means that to impose a criminal sentence against a defendant, the minimum evidence is two pieces of evidence.

## 2.4. Punishment

According to Roeslan Saleh, crime is a reaction to the delicacy, and this is in the form of a misery deliberately inflicted by the state on the perpetrator of the delicacy .(Saleh (1978), as cited in Sundari (2024). Furthermore, Soedarto emphasized that "a crime is a crime imposed by the State on a person who violates the provisions of the law, deliberately so that it is perceived as a crime" (Sudarto, 1996). Meanwhile, Muladi and Barda Nawawi Arief, have expressed several opinions on the definition of crime, including the opinion of Alf Ross, that crime is a social reaction, namely:

- a. It occurs in connection with the violation of a legal rule.
- b. It is imposed and carried out by those in power in connection with the order of the law that has been violated.
- c. Contains suffering or at least other unpleasant consequences
- d. Declaring reproach against the violator.

Judging from several opinions about the definition of crime, according to the author, in essence, the crime is the imposition of suffering or punishment as a form of reproach in connection with the occurrence of a criminal act based on the applicable law. However, along with the development of

criminal law, especially after the emergence of criminal sanctions in the form of actions, as a result of the influence of modern schools, the definition of crime as the imposition of suffering must be reviewed.

### **2.5. Criminalization**

Criminalization as an act against a criminal can be justified normally, not mainly because the punishment contains positive consequences for the convict, the victim, and other people in society. Therefore, this theory is also known as consequentialism. Crimes are imposed not because they are evil but so that the perpetrators of crimes no longer do evil and others are afraid to commit similar crimes. Reflecting on the above explanation, criminal acts are the basic meaning in criminal law (normative juridical) related to acts that violate criminal law. It can be seen that a criminal act is an act of doing or not doing something that has an element of guilt as an act that is prohibited and threatened with a crime, where the criminal imposition of the perpetrator is for the sake of maintaining legal order and ensuring the public interest.

### **2.6. Narcotics Crime**

Narcotics Crimes are a series of acts prohibited by law and are reprehensible in relation to the use and circulation or trade of drugs or chemical substances that function to reduce the level of memory or physical consciousness and even cause problems and disorders of a person's mental health. In certain situations and conditions, perpetrators can be subject to physical and moral sanctions and even the deprivation of wealth. Furthermore, narcotics are substances or drugs derived from plants or non-plants, both sentient and semisynthetic, which can cause a decrease or change in consciousness, loss of taste, reduction to the loss of pain, and dependence.

One of the urgencies of the establishment of a law on narcotics is to improve the situation and conditions of public safety and order as well as a means of social control of the community if the abuse of certain types of drugs or chemical substances, which has been declared prohibited to be used, possessed or controlled or to be circulated in trade traffic by the Government, is for the purpose of health protection and education as well as peace for the current generation and the generation that will date. For perpetrators of narcotics crimes, there are certain reasons to aggravate the punishment because the acts committed are classified as very dangerous to the interests of the community. The purpose of imposing punishment is not seen as retaliation against the perpetrator but is intended to educate the perpetrator to become a deterrent so that he no longer repeats his actions.

### **2.7. Laboratory Tests**

To determine drug use in an individual, drug tests are often carried out using various biological specimens, such as blood, urine, oral fluids, sweat, or hair. Urine is the most commonly used specimen for routine drug testing because of its large availability and high drug levels, making it easier to detect drugs compared to other specimens. The technology used in drug tests on urine has developed significantly. Another advantage of urine specimens is that they are non-invasive and can be collected by non-medical personnel. Urine is a stable matrix that can be stored frozen without damaging its integrity. Medications in urine can usually be detected after 1-3 days. The disadvantage of urine tests is that they can be easily counterfeited by substituting them with other materials or being diluted so that they mess up the test results (Ling, Kaplan, & Berryessa, 2021).

The drug examination panel depends on the type of drug that is widely used but usually includes five types of drugs: amphetamines, cannabinoids, cocaine opiates, and PCP. Other drugs that are often abused, such as *benzodiazepines*, are also often checked. In drug examinations for both screening and confirmation, cutoff standards have been set by the NIDA to determine positive limits on examination results. Compared to other specimens used for drug testing, urine is the easiest specimen to manipulate. The manipulation aimed to change the examination results.

## **3. Research Methodology**

### **3.1. Type of Research**

This research is a type of normative juridical research, using secondary data as the main material, consisting of basic norms or rules, basic provisions or regulations, and laws and regulations (Soekanto,

2006). This normative research is also elaborated with primary data in the form of interview results, especially on the standard of taking questionnaires for research purposes.

### **3.2. Data Collection**

Data collection is carried out through document studies on secondary data with the collection of data from library materials related to the problem being researched and by analyzing these documents that are directly related to the problem being researched.

### **3.3. Data Analysis**

The data analysis in this thesis research is descriptive analytical according to Soerjono Soekanto, which aims to carefully describe the characteristics of facts (individuals, groups, or circumstances) and to determine the frequency with which something happens (Soekanto, 2006). The intended analysis is based on the picture, and the facts obtained will be carefully analyzed to answer the research questions. This study used a deductive to inductive thinking method that describes the position of laboratory results in proving narcotics abuse in the military environment.

### **3.4. Drawing conclusions**

Drawing conclusions is used using deductive logic, namely by drawing specific conclusions from questions that are general, conclusions are answers to the problems raised based on the results of tests and discussions convincingly to the extent that research is carried out.

### **3.5. Interview Results regarding the Decision of the Jakarta High Military Court Number: 12-K/PMT-II/AU/V/2021**

Reading the Decision of the Jakarta High Military Court II Number: **12-K/PMT-II/AU/V/2021** dated September 1, 2021, which is as follows:

1. Declaring that the Defendant mentioned above, namely Colonel Pom NRP 521862, was not legally and convincingly proven guilty of committing a criminal act as charged by the High Military Inspector.
2. Acquittal of the Defendant of all High Military Prosecutor's Charges.
3. Restoring the Defendant to his rights in his ability, position, dignity as before
4. Determining evidence (Attached) in the case file
5. Charging the Defendant a case fee of Rp25,000;.00 (twenty-five thousand rupiah).

The stages of law enforcement that are directly related to law enforcement against narcotics crime in the military court environment are in accordance with the decision of the Jakarta High Military Court Number 12-K/PMT-II/AU/V/2021, dated September 1, 2021. Interview with Legal Practitioner, namely Dr. Agustinus S.H, M.H, on June 12, 2024, at 10.00 WIB and interview with Waka Otmilti II Jakarta, namely Marine Colonel (H) Wensus Lus Kapo, S.H. as Waka Otmilti II Jakarta at the office of the Higher Military Inspectorate II Jakarta on June 8, 2024 at around 14.00 WIB, as well as an interview with Dr. Drs Jayadi, S.H, M.H. as the quality management system and the use of the National Police Headquarters Labfor, on July 20, 2024 at approximately 12.00 WIB. which basically disagrees with the decision, in this case it should refer to the Code of Criminal Procedure contained in article 184 concerning evidence and also article 183 says "to be able to decide guilt a judge based on two valid evidences so that he obtains confidence that a criminal act really occurred and that the defendant is guilty of committing it" then related to the case should be convicted, but back to what kind of judge the judge believes.

The application that has been clearly mentioned in this stage of law enforcement agencies in the Military Justice system is the Military Police, the Military Auditorate, and the Military Court. The law enforcement officials mentioned above in enforcing the law against soldiers who commit a criminal act have their respective roles and functions. The Military Police carry out law enforcement in the field of investigation, the Military Inspectorate enforces law enforcement in the field of prosecution, and acts as an executor of judges' decisions. Judges have a very noble role in law enforcement, namely deciding a case wisely and wisely based on justice (Scurich, Faigman, & Albright, 2023). The Military Police, after receiving the police report from the complainant, conducts an investigation and, after completion,

the case file from the Military Police is transferred to the Military Inspectorate, which then conducts a study of the case file. After the formal and material requirements are complete, the Military Inspector sends a Legal Opinion Suggestion (SPH) to the Case Submission Officer (Papera) so that Papera issues a Case Submission Decision (Keppera), Case Closure Decision (Keptupra), or Disciplinary Punishment Decision (Kepkumplin). If Papera decides to settle the case through a Military Court trial by issuing the next Keppera on the basis of the Keppera.

#### **4. Results and Discussions**

##### ***4.1. The position of laboratory results as evidence against narcotic crimes in the military environment in Decision Number 12-K/PMT-II/AU/V/2021.***

Laboratory results can be used as evidence in legal proceedings to determine a person involved in narcotics abuse. There are several factors that need to be considered regarding the position of laboratory results as evidence.

1. **Validity of Laboratory Results:** Laboratory results must be highly valid and reliable to be used as evidence.
2. **Analysis Procedure:** The laboratory must use proper analytical procedures in accordance with international standards to determine the presence of narcotics in a person's body.
3. **Sample Quality:** The biological sample should be of good quality and in accordance with international standards for the analysis.
4. **Authenticity:** Laboratory results must be authentic and not misused for legal purposes.

Testing of biological specimens suspected of containing narcotics can be carried out for the purposes of proving the case (pro justitia), rehabilitation, science and technology, and education and training, as regulated in Article 2, Paragraph 1 of the Regulation of the Head of the National Narcotics Agency Number 5 of 2010 concerning Technical Guidelines for the Implementation of Drug Testing Laboratory Services at the National Narcotics Agency. In Article 6, Paragraph 2, Letter a of the Regulation of the Head of the National Narcotics Agency Number 5 of 2010 concerning Technical Guidelines for the Implementation of Drug Testing Laboratory Services at the National Narcotics Agency, it states that the results of laboratory testing for the purpose of proving the case are stated in the form of test minutes. The maximum limit for a urine test is only three days because the substances contained in the user's kidneys will dissolve quickly because the perpetrator has drunk a lot of water so that it will quickly disappear or cannot be detected again in the urine.

Test results, such as DNA, hair, and other body parts tests, can reveal that the suspect has consumed narcotics, even if the consumption occurred long before. Every suspect involved in a narcotics case must undergo a urine test at the BNN. Once the results are known, the suspect is taken to a forensic laboratory for a more detailed urine test to ensure the accuracy of the results.

This process ensures that the results of urine tests conducted by the BNN do not conflict with the results of forensic laboratories. Urine tests in forensic laboratories are performed to corroborate existing evidence and confirm the results of previous tests. Thus, these measures ensure that legal processes related to narcotics cases are conducted fairly and transparently and that the evidence obtained can be scientifically and legally accounted for.

Based on the results of an interview with legal practitioner Dr. Agustinus. S. H. and M. H. stated that the S. H. and M. H., all for practitioners is a criminal, procedure code (KUHP) and not a special criminal law but a state administrative law. The law on special crimes includes procedural laws that deviate from the Criminal Code. The strength of the laboratory results as valid evidence in narcotics crimes in the military environment is a letter. Even if it is positive or negative, it is still valid as a letter, but in this case, it should refer to the Criminal Procedure Code Number 8 of 1981 contained in article 184 concerning evidence and also article 183 as well as in the Military Criminal Procedure Code Number 31 of 1997 in article 72 concerning evidence and article 71 says "to be able to decide guilt a judge is based on two valid evidences So that he gains confidence that a criminal act really occurred and that the defendant is guilty of committing it" Then related to the case, the case should be punished, but back to what kind of judge the judge believes.



Based on the Supreme Court (MA) circular (SEMA Number 1 of 2017) and the 2017 Criminal Chamber legal formulation, the results of laboratory tests that state that the defendant's urine (-) does not contain the substance methamphetamine are not absolutely binding on the judge in drawing conclusions in considering the case. The comparison of cases related to narcotics crimes at the Aceh Military Court in terms of the content of the judge's consideration is that in imposing a criminal sentence on a defendant, it is not enough to review it only as "*materiele daad*" or "grammatically based on the *principle of legality* only" or in this case it is not just proving "*Urine and Positive Defendant's Blood Contains Narcotics*" but must also include proving the existence of guilt on the Defendant which is a very important element in the punishment by relying on the *principle of* "No crime without guilt" (*Geen straf zonder schuld*). This is in line with the **Supreme Court Circular Letter Number 4 of 2016 concerning the Implementation of the Formulation of the Results of the 2016 Supreme Court Chamber Plenary Meeting as a Guideline for the Implementation of Duties for the Court**, especially in the **Legal Formulation of the Military Chamber** on page 12 which states, "*In the examination of criminal cases of narcotics users, judges must seriously pay attention to the provisions of articles 183 and 184 of the Criminal Procedure Code not solely based on one piece of evidence, namely the results of laboratory tests that state that the Defendant's urine/blood is positive for narcotic substances/narcotics*" Thus, the judge of the Military Court 1-01 Aceh Considered that because the indictment of the Military Inspector was not legally and convincingly proven, the defendant must be acquitted of the indictment of the Military Inspector.

That imposing a criminal sentence must be supported by other evidence. In this case, the author agrees with the results of interviews with legal practitioners and the Decision of the 1-01 Aceh Military Court, which says that it should first refer to applicable laws such as the Criminal Procedure Code, where in the event of deciding a case at least two valid pieces of evidence, the judge can decide a case, as well as strengthened by the circular letter of the Supreme Court (MA) (SEMA Number 1 of 2017) the legal formulation of the criminal chamber in 2017 that the laboratory results that issued by the Forensic Police Headquarters stating that the Defendant's urine was negative, then the judge in this case stated that the Defendant on behalf of Colonel Pom Supriyadi NRP 521862 not legally and convincingly proven guilty of committing a criminal act, in this case the judge decided to be free from all charges of the High Military Inspectorate.

As for other factors, namely the factor of facilities or facilities that help law enforcement, Soekanto (2006) himself stated that it is impossible for law enforcement to run smoothly without adequate facilities or facilities. These adequate facilities include educated and skilled human resources, good organization, adequate equipment, and sufficient finances. If this is not fulfilled, it is impossible for law enforcement to achieve its goals. We can imagine how the enforcement of regulations will run while the enforcement officials have inadequate education, poor organizational governance, and minimal finances.

In terms of using narcotics in accordance with the provisions of Article 75 letter 1 of Law Number 35 of 2009 concerning Narcotics, even though the test using this urine test has many weaknesses, namely the urine test has a time limit to find out whether or not there is narcotic content contained in the urine (1-7 days can still be known while more than 7 days the results are doubtful), so that when a suspect/examinee who uses narcotics for more than 7 days so that the results of the urine test conducted on him cannot be a benchmark whether the suspect has used narcotics or not and the urine test has the lowest level of accuracy when compared to other tests.

From the results of the analysis, it is possible that the results of the urine test can be manipulated by certain individuals, depending on the ethics of each party. The meaning is manipulated; that is, it is possible that the urine test results are positive using narcotics, but it is changed to negative using narcotics or vice versa. An effort to overcome obstacles to the implementation of proof using urine test results is that the police are constantly trying to find other ways to determine narcotics crimes because urine tests only last for less than seven days, which can hinder the evidentiary process in determining narcotics crimes.

The Position of Proving Urine Test Results in Determining Narcotics Crimes, from the description mentioned above, the author argues that what is meant by a drug urine test is one of the activities to find out whether there is drug content in a person's body by conducting an examination through a urine test in accordance with science and technology. Narcotics content can be examined through urine tests, in addition to blood tests, hair tests, and DNA tests. However, in its application, which is often carried out by investigators, namely through a urine kit test (a test to test water content, can be used for urine tests) to find out whether it is positive or negative. Remarks: positive (step one positive), negative (step two negative).

Urine tests are very important for every suspect involved in a narcotics case because they determine whether a person has used narcotics and identify the type of drugs contained in a person's body. It is important to know if those involved are abusers, addicts, or dealers. If evidence has been found then the urine test result is positive, there are 2 (two) possibilities that he is a dealer or user, but if only the urine result is positive and there is no evidence, he can also be a user or abuser, to determine whether a person is a dealer, abuser, or user, then the next step is left to the integrated assessment team or Thematic Apperception Test (TAT) at BNNP who determines and in this case the task is to revealing the dynamics of personality that manifest themselves in interpersonal relationships and in the perception of the environment that is meaningful,

The investigators only recommend that the person be assessed. Assessment is (an interview activity to determine the extent to which he uses narcotics and what rehabilitation measures can be applied to those involved). The results of the urine kit test conducted by the investigator will be re-tested by experts in the forensic laboratory, and the results of the forensic laboratory test from the expert will be poured into the laboratory test minutes, and with the minutes that will be attached by the investigator for the purpose of proving at the trial, which is included in the evidence of expert testimony. The results of the urine kit test examined by experts are not sufficient to be used as evidence because the examination is only limited to the initial indication that a person is positive or negative for using narcotics.

If the urine test results are positive and evidence is found but not up to 1 g, then Article 127 concerning narcotics abuse is imposed. However, if the urine test results are positive and evidence above 1 g is found for methamphetamine, then the Distribution and Abuse Article is imposed. The examination is through a urine test, because it is used to confirm those involved as users, dealers, or victims of abuse. If a person is found carrying evidence of methamphetamine, they will still be tested in the urine to find out if they are using methamphetamine for themselves, if they are just a dealer, or if they are a victim of narcotics abuse. The handling carried out by investigators to be able to find out whether someone has consumed drugs or not is one of them by conducting examinations through urine tests, blood tests, hair tests or dioxynucleic acid (DNA) tests,

This is based on the results of the research and interviews with Dr. Agustinus. S.H, M.H as a legal practitioner on June 12, 2024 took place at the office of the Supreme Court (MA) which basically explained that the procedural law for narcotics crimes is a criminal procedure code (KUHP) and not a special criminal law but a state administrative law. The law on special criminal acts has additional procedural laws that deviate from the Criminal Code. The strength of the laboratory results as valid evidence in narcotics crimes in the military environment is a letter. Even if it is positive or negative, it is still valid as a letter, but in this case, it should refer to the Code of Criminal Procedure contained in article 184 concerning evidence and also article 183 says "to be able to decide guilt, a judge bases himself on two valid evidences so that he obtains confidence that a criminal act really occurred and that the defendant is guilty of committing it" then related to the case should be convicted, but it comes back to what kind of judge the judge believes.

Associated with the Supreme Court (MA) circular (SEMA Number 1 of 2017), the 2017 Criminal Chamber legal formulation states that the results of laboratory tests that state that the defendant's urine (-) does not contain the substance methamphetamine are not absolutely binding on the judge in drawing conclusions in considering the case. In this case, the author agrees with the results of the interview with

the legal officer who said that it should first refer to the applicable law such as the Criminal Procedure Code, where in the case of deciding a case at least two valid pieces of evidence, the judge can decide a case, as well as strengthened by a letter

Based on the results of research and interviews with Marine Colonel (H) Wensus Lus Kapo, S.H. as Waka Otmilti II Jakarta at the Jakarta High Military Inspectorate II office which basically explained that related to laboratory evidence that the implementation of the narcotics law has not been completed and returned to each judicial judiciary, even though in the military justice law there is no specific discussion that for example the form of the criminal act is a mechanism and the procedure for its completion, so what is in Law 31 of 1997 concerning Military Justice, we analogize ourselves because it only applies to general crimes in the Criminal Code and the same crimes in the Criminal Code, the rest beyond that we interpret in our own way, so whenever we talk about the eradication of narcotics and so on, if it is in the civilian realm, it must be complete, because at the time of the laboratory test there was no problem, but we in the Military Court have our own hospital which is classified as very good and adequate equipment but none of them are included in the list of the Decree of the Minister of Health regarding the performance of laboratories recognized in Indonesia in determining the results of the laboratory, especially in narcotics and psychotropic examinations.

Based on the results of the interview with Dr. Drs Jayadi, S.H, M.H. Regarding the legal basis of the laboratory examination results as evidence, if you refer to article 184 of the Criminal Procedure Code, there is expert testimony and a letter; the minutes are categorized as such. Thus, the results of the laboratory examination carried out by experts are in the category of expert certificates, and the laboratory results are valid in letter form. Narcotic substances can survive in the body of a person who consumes narcotics depending on the type of drug; some last 1 d, some 3 days, some 72 hours, and even many years, depending on the type, whether it is used, or the user is different. However, if the fastest can lose substances in a person's body is 72 hours, both urine, blood, and hair are usually those that have been washed, but it again depends on the substance, because the compound enters the body there will be a metabolism and it will be broken down into smaller compounds, depending on whether the compound is soluble in water or soluble in fat. If it is soluble in water, it will be easier to pass through urine, but if it is soluble in fat, it will stick to body fat, depending on the chemical compounds and narcotics whether it is soluble in water or fat.

This is associated with the position of laboratory results as evidence that should be very absolute and very strong because it cannot be disputed that the laboratory results are the results of measurement and weighing, because something measured that is weighed contains certainty rather than just a statement, because it is impossible for people to know the content of blood, the urine contains narcotics if you only look at urine and blood (Albright, 2023). Therefore, in this case, the laboratory results are very strong compared to witness statements and witnesses in general.

The judge in deciding a criminal case of narcotics case brought by the author ruled free from all charges based on one piece of evidence, namely in the form of a letter of laboratory results from the Forensic Police Headquarters which stated that the results were negative plus the judge's own conviction, in this case contrary to the Criminal Procedure Law No. 8 of 1981 article 184 concerning evidence and article 183 and article 172 concerning evidence and article 171 of Law 31 of 1997 About the Military Criminal Procedure Law says, 'To be able to decide guilt, a judge bases himself on two pieces of valid evidence so that he gains confidence that a criminal act really occurred and that the defendant is guilty of committing it.'

It was then reaffirmed in the facts of the trial that several witnesses under oath had admitted to consuming narcotics with the defendant, corroborating the defendant himself, coupled with the tools used to consume narcotics in the form of tools used by the defendant, which positively contained Mathapitamindalam. According to the minutes of the Criminal Laboratory Examination No. LAB 5743/NNF/2020, dated December 3, 2020, Evidence No. 3312/2020/NF to 3316/2020/NF, in the form of cups, plastic clips, plastic bottles with straws, plastic bottle caps with straws, and aluminum foil containing methamphetamine. The authors argue that a negative urine test result as the only evidence

is not enough to acquit the defendant of all charges; the judge must consider all the evidence presented, and the decision must be based on a minimum of two valid evidence (Kha & Ahad, 2018). If there is no other evidence sufficient to support the charges, the defendant may be acquitted. However, if there is other strong evidence, the defendant can still be found guilty, even if the urine test is negative.

#### ***4.2. The position of Laboratory results as evidence against narcotics crimes in the military justice environment that should be***

Some differences in the use of narcotics in and outside the military are as follows:

1. Position of evidence: In a military environment, evidence, including forensic laboratory results, is considered very important in the evidentiary process. This evidence must meet the formal and material requirements to be used as valid evidence in the trial. This is regulated by Law Number 31 of 1997 concerning Military Courts, which states that valid evidence cannot be easily set aside by judges.
2. Use of Witnesses: Outside the military, often the evidence used in the process of proving narcotics cases is two witnesses, evidence of a number of drugs, urine test results, or blood tests belonging to the defendant. However, in the military environment, evidence such as forensic laboratory results and physical evidence such as syringes and bongs (methamphetamine inhalers) is also used.
3. Judges in military settings must consider the psychological aspects of the defendant when imposing sanctions. This is different from outside the military, where judges' considerations focus more on the formality and materiality of evidence.
4. Investigation Procedures: In a military environment, investigation procedures must be carried out in accordance with the rules set forth in the Act. This is different from outside the military, where the investigation procedure can be more flexible, but it still has to meet formal and material requirements

Special regulations on the use of narcotics as evidence in military settings. It covers several important points.

1. Law Number 31 of 1997 concerning Military Courts: This law regulates five types of evidence, including material evidence such as narcotics. Valid evidence must meet both formal and material requirements and cannot be easily dismissed by a judge.
2. Additional Criminal Penalties: In a military setting, additional criminal penalties, such as dismissal from military service, may be enforced. This is regulated in the Military Criminal Code (KUHPM), which states that TNI members can be sentenced to additional penalties in the form of dismissal from military service, in addition to other principal crimes.
3. Use of Clue Evidence: Clue evidence, such as forensic laboratory results and the defendant's confession, is considered valid and should be considered in the evidentiary process. Judges cannot easily dismiss this evidence.
4. Consideration of Psychological Aspects: In imposing sanctions, judges must consider the psychological aspects of the defendant. This is so that the defendant can convert and return to the right path, as well as to educate and prevent similar acts in the future.
5. Purpose of Proof: The purpose of proof in the military environment is not only to convict the guilty, but also to educate the defendant so that he can convert and return to the right path, in accordance with the philosophy of Pancasila and Sapta Marga

The military court process for handling narcotics abuse cases in Indonesia involves several special steps and rules regulated by various legal provisions. The following is an explanation of the military court process for handling narcotics abuse cases:

1. Initial Investigation: The initial investigation process is carried out by the Investigating Inspector, who is responsible for collecting evidence and making minutes that will be handed over to the Military Court.
2. Preliminary Inspection: A preliminary examination is conducted at the Military Court to determine whether the defendant should be tried. This examination is carried out by a judge and can be in the form of an examination of the defendant, collection of evidence, and determination of whether the defendant should be tried.

3. Prosecution: After a preliminary examination, the Military Prosecutor can prosecute the defendant. This prosecution is carried out based on the evidence that has been collected and must meet the formal and material requirements.
4. Trial: The trial was conducted at the Military Court in the presence of the defendant, Military Prosecutor, and judge. This trial aims to defend or refute the evidence collected. Judges must consider aspects such as the defendant's consciousness, desire to improve themselves, and potential for rehabilitation.
5. Dismissal from Military Service: TNI members who are proven to have abused narcotics can be sentenced to an additional penalty in the form of dismissal from the military service. This dismissal is regulated by the Military Criminal Code (KUHPM) and aims to educate and prevent similar acts in the future.
6. Psychological Aspects: Judges must consider the psychological aspects of the defendant when imposing sanctions. This is so that the defendant can convert and return to the right path, as well as to educate and prevent similar acts in the future.
7. Rehabilitation: Defendants proven to have abused narcotics can be required to undergo rehabilitation at the National Narcotics Agency's Rehabilitation Center. This rehabilitation aims to help the defendant overcome drug dependence and return to the right path of life.
8. Use of Evidence: Valid evidence, such as forensic laboratory results and the confession of the defendant, is considered evidence that must be considered in the evidentiary process. Judges cannot easily dismiss this evidence.

#### Position of Laboratory Results as Evidence

1. Obligation of Investigation and Evidence Collection: According to Article 1, Paragraph (1) of Law Number 5 of 1997 concerning Psychotropics and Narcotics (Narcotics Law), investigators must conduct investigations and collect sufficient and accurate evidence to determine the occurrence of narcotics crimes. Laboratory results are an important type of evidence in this investigation process.
2. Quality and Accuracy of Laboratory Results: Laboratory results produced by laboratories with good quality and accuracy are very important in determining the occurrence of narcotics crimes. Laboratories with international certifications and modern analytical equipment and methods can provide accurate and reliable results.
3. Use of Laboratory Results in Determining the Occurrence of Criminal Acts: Laboratory results can be used as evidence to determine the occurrence of narcotics-related crimes. For example, if laboratory results show the presence of narcotic substances in samples taken from military personnel, it can be considered that the personnel have committed a narcotics-related crime.
4. Governing Laws and Regulations: Various laws and regulations that regulate narcotics abuse in the military environment, such as the Regulation of the Minister of Defense Number 16 of 2019 concerning Narcotics Abuse in the TNI, regulate the procedures for investigation and evidence collection that investigators must carry out.

Example: Military personnel A is suspected of drug abuse. During the investigation, investigators collected blood samples from Military A and sent them to a laboratory with international certification for analysis. The laboratory results showed the presence of narcotic substances in blood sample A. With the results of this laboratory analysis, investigators can use the results as evidence to determine the occurrence of narcotic crimes.

#### Implications and Next Action

1. Determination of the Occurrence of the Criminal Offense: With laboratory results that show the presence of narcotic substances in the sample, the investigator can determine that a narcotics crime has occurred.
2. Subsequent Legal Action: After determining the occurrence of a crime, subsequent legal action may be taken, such as temporary detention, arrest, or prosecution in court.
3. Treatment and Rehabilitation: In cases of drug abuse, military personnel affected by legal action may be provided with treatment and rehabilitation to help them overcome the problem of drug abuse.

Based on the results of an interview with Waka Otmilti II Jakarta as a practitioner, namely Marine Colonel (H) Wensus Lus Kapo, S.H. as Waka Otmilti II Jakarta at the office of the Higher Military

Auditorate II Jakarta on June 8, 2024 at around 14.00 WIB said that the results of the Laboratory as evidence in narcotics crimes in the military environment must be arranged and updated both in the form of places and the rules as a Minister's decision on the appointment of places in Indonesia. In this case, laboratory places in the ranks of the TNI should be facilitated and included in the Ministerial Decree, at least at the Kodim level, to facilitate the settlement of narcotics crime cases, especially in the laboratory field.

## **5. Conclusion**

### **5.1. Conclusion**

Based on the description in the previous chapter, this study concludes as follows:

1. What is the position of laboratory results as evidence against narcotics crimes in the military environment in Decision No. 12-K/PMT-II/AU/V2021. The use of laboratory results to determine whether a person is using narcotics
  - a. Analysis of Biological Samples
  - b. Urine Test
  - c. Saliva Sample Analysis
  - d. Blood Test
  - e. Hair test
  - f. Use of Detection Tools
  - g. Use of Chromatography Methods
  - h. Use of Spectroscopy Methods
  - i. Use of Electrochromatography Method

The position and strength of laboratory results can be used as evidence in the form of a letter issued by a laboratory expert in the legal process to determine a person involved in narcotics abuse. The position of laboratory results as valid evidence in narcotics crimes in the military environment is valid as a letter. Even if it is positive or negative, it is still valid as a letter, but in this case, it should refer to the Code of Criminal Procedure contained in article 184 concerning evidence and also article 183 and the Military Criminal Code in article 72 concerning evidence and article 71 says "to be able to decide guilt, a judge bases on two valid pieces of evidence so that he obtains confidence that a criminal act it really happened and that the defendant was guilty of doing it"

Strengthened by the Supreme Court (MA) circular (SEMA Number 1 of 2017), the 2017 criminal chamber legal formulation stated that the results of laboratory tests stating that the defendant's urine (-) did not contain the substance methamphetamine, it was not absolutely binding on the judge in drawing conclusions in considering the case. In this case, the author agrees with the results of the interview with the legal team, who said that it should first refer to the applicable law, such as the Criminal Code, where, in the case of deciding a case with at least two valid pieces of evidence, the judge can decide a case.

2. What is the position of Laboratory results as evidence against narcotics crimes in the military justice environment that should be
  - a. Position of evidence: In a military environment, evidence, including forensic laboratory results, is considered very important in the evidentiary process. This evidence must meet the formal and material requirements to be used as valid evidence in the trial. This is regulated by Law Number 31 of 1997 concerning Military Courts, which states that valid evidence cannot be easily set aside by judges.
  - b. Use of Witnesses: Outside the military, often the evidence used in the process of proving narcotics cases is two witnesses, evidence of a number of drugs, urine test results, or blood tests belonging to the defendant. However, in the military environment, evidence such as forensic laboratory results and physical evidence such as syringes and bongs (methamphetamine inhalers) is also used.
  - c. Judges' Considerations: Judges in the military environment must consider the psychological aspects of the defendant when imposing sanctions. This is different from outside the military, where judges' considerations focus more on the formality and materiality of evidence.



- d. Investigation Procedure: In a military environment, investigation procedures must be carried out in accordance with the rules stipulated in the law. This is different from outside the military, where the investigation procedure can be more flexible, but it still has to meet formal and material requirements

## 5.2. Suggestions

Based on the conclusion above, this thesis is suggested as follows:

1. In the case of deciding a case, it should refer to the legal code that applies in a country, in the case of referring to the provisions of article 183 of the Criminal Procedure Code and not necessarily only the basis of the judge's belief.
2. In the decision of the minister of health regarding the appointment of laboratory places that apply in Indonesia, it should be revised again because there has been no appointment in the hospitals of the Indonesian National Army, the goal is to speed up the process of resolving cases, especially cases of narcotics crimes
3. To facilitate equipment about good laboratories in the ranks of the TNI, at least at the level of the Military Command in the ranks of the army, so that the military serving in areas that commit criminal acts, especially narcotics, can be realized properly, quickly, and easily in the process of resolving narcotics crime cases, in this case, for taking laboratory test results.

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