
Legal Journal "Examination of the Judge's Decision in the Acts of Online Football Gambling" (Case study 2864 / Pid.B / 2019 / PN.sby)

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ABSTRACT

The Criminal Code (KUHP) has criminal rules outside of the Law, namely Law Number 11 of 2008 concerning Electronic Information and Transactions (UU ITE), in the world of sports the name football is one of the most famous sports games where -where. In the world of football, players are familiar with good gambling, football or the audience and even the referee as a court also participates in a gamble, but in principle playing gambling as stipulated in Article 303 of the Criminal Code (KUHP) and Article 27 paragraph (2) of the ITE Law. appropriate in its application to the Surabaya Court Decision number 2864 / Pid.B / 2019 / PN sby regarding the Crime of Online Gambling from the problem the writer can formulate the problem namely What is the *decidendi ratio* for the High Court Decision Number 2864 / Pid.B / 2019 / PN sby? and Is the application of the judge's decision on Decision 2864 / Pid.B / 2019 / PN sby in accordance with the elements of material criminal law? The method used by the author is a normative type with a statutory approach, conceptual, case analysis. In this verdict, it turned out that the judge was not careful about his judgment. This is related to the indictment of the Public Prosecutor who only accused the defendant under Article 303 Paragraph (1) 2nd. In fact, when the indictment does not meet the requirements for an accurate, clear and complete description, the indictment letter will be null and void.

Keywords : Online Gambling, Judge's Consideration, Indictment

1. INTRODUCTION

In the world of football, gambling is no stranger to either the soccer player or the audience, even the referee as a court participates in a gamble, but in principle playing gambling as stipulated in Article 303 of the Criminal Code (hereinafter referred to as the Criminal Code) means as each game, the probability of winning generally depends on chance alone, also if the probability of winning increases because the player is smarter or more capable. Playing gambling includes all betting agreements regarding the decision of a race or other game not held by those participating in the race or playing, as well as all other bets (Asmuni et al., 2020).

Along with the increasingly rapid development of technology and information, gambling activities have also undergone a more practical and safer transition to online or online system gambling.

Online Gambling is a game where players will guess or choose a game among several choices where there is only one correct choice and is done by an online system. The phenomenon of online gambling that is now rife is online soccer gambling, which is widely found in the

community, especially in internet cafes, or by using laptops in carrying out these activities, or even via smartphones that have supporting facilities or supporting applications for playing online soccer gambling. . This gambling is done by guessing the score of the match. If the guess is correct, the buyer gets a prize several hundred or thousand times the amount staked.

Online gamblers take advantage of information and communication technology as a means of modern gambling. With computers on a large scale network and many websites that provide online gambling, this will certainly make a big advantage over conventional gambling. Apart from these conveniences, the safety factor is the reason and consideration for many people to switch from conventional to online systems. This is due to the fact that online betting is still difficult to do thoroughly. Online gambling is commonly found in the Surabaya, East Java area. Gamblers can be found easily in the cafes in the Surabaya area that carry out their gambling activities safely without feeling afraid of being caught by the police.

Gambling cases in the Surabaya area have started to flare up again since 2019. This was proven during that year, in early August 2019, Wednesday, August 7, 2019 at around 00.50 WIB. officers from the Tanjung Perak Harbor Resort Police received information from the public about someone playing an online soccer gambling game at the Boy Net cafe on Jalan Simo Kalangan Baru 2 No. 4 Surabaya where later the police made an arrest after a previous investigation into the Boy Net cafe at Jalan Simo Kalangan Baru 2 No. 4 Surabaya at that time, police officers saw gambling perpetrators in front of a computer screen playing online soccer gambling. At that time, evidence was also secured in the form of 1 (one) Mandiri Bank Central Asia Teller Machine (hereinafter abbreviated as BCA ATM),

From the description above, the authors are interested in examining criminal cases about online gambling that have been broken up in kracht or are still by the Surabaya District Court with Case Number: 2864 / Pid.B / 2019 / PN Sby

2. RESEARCH METHODS

In this thesis research, the type of research that will be used is legal research. This type of thesis research is a normative type which is also known as library research or document study because this research is conducted or aimed only at written regulations or other legal materials.

3. RESULTS AND DISCUSSION

Definition of Exammination

Etymologically, the meaning of examination comes from the English examination which means "to pay attention or examine something with great care and thoroughness". Referring to the meaning of the origin of the language vocabulary, which is then adjusted to the judicial process,



then examination means: an action against all judicial products at all levels. Examination according to the Oxford dictionary, Examination: inspection of something to if it works properly, meaning an examination of something to make sure it is functioning properly or according to a predetermined procedure,

Sudikno Mertokusmo argued: "Examination (examination of court decisions) is a study or withdrawal of a court decision by the judge who handed down the verdict in question. What is examined mainly is the evidence of events and qualifications, the verdict of the judge who has been handed down is accompanied by logical juridical reasons or not. The decision that has been passed has met the requirements or the procedure for imposing a decision or not ". According to Anton Suyata, examination is an effort to determine the extent of testing of a decision that has been issued by a judicial institution in a particular case (Thalib et al., 2017)

Definition of Gambling

Gambling is one of the oldest games in the world, almost every country recognizes it as a game of chance. Gambling is also a social problem because of the very negative impact it has on the national interest, especially for the younger generation because it causes youth to be lazy in working and the funds flowing in this game are large enough so that the funds that were originally used for development instead flow for gambling games. gambling is also against religion, morals and morals. Gambling games can also create dependency and cause losses both in terms of meter and immaterial not only for players but also for their families (Roesli et al., 2017).

In the interpretation of the Criminal Code gambling is defined as:

"The game of gambling means that it must be interpreted in a broader sense which includes all bets regarding the loss and win of a horse race or other competitions, or all bets, in competitions held between two people who do not participate alone in the competitions, for example. totalizers and others ”.

According to Constitution Number 11 of 2008 Regarding Electronic Information and Transactions (hereinafter referred to as the ITE Law) Article 27 Paragraph (2) defines gambling as "Everyone knowingly and without rights distributes and / or transmits and / or makes electronic information and / or electronic documents that contain gambling content accessible" .

According to the Criminal Code in Article 303 paragraph (3) defines gambling as:

"Every game which is based on the hope of winning generally depends on chance alone and also if that expectation gets bigger because of the cleverness and habits of the game. Including gambling is betting on the decision of a race or other game, which is not held by those who are competing or playing it, as well as all other games ”.

Definition of Online Gambling

Online gambling is a type of gambling that is currently very popular, because besides having many choices of types and being easy to play, it can also be done anywhere; at the office, at home, in a cafe, and in many other places. With only a laptop or smartphone, this gambling can be played. Online gambling began to exist in 1994. Starting with the passing of the Free Trade pact by the Caribbean country Antigua and Barbuda, so that with the pact, the Caribbean Antigua and Barbuda could grant permission for organizations to open online gambling. online game security guaranteed by software developed by CryptoLogic, the first company to develop online gambling security software (Naik & Peters, 2009).

In 1996 the Kahnawake Gaming Commission which regulates online gaming activities, was founded by the Mohawk Territory of Kahnawake. This commission then issued gaming licenses for many online casinos and poker around the world with the aim that the licenses granted allowed the managers to maintain transparency and fairness in running their business. A year after that, or 1997, online gambling was booming, so gambling websites, which originally had only 15 in 1996, increased to 200 in 1997. A report published by Frost & Sullivan in 1998 states, by that year the turnover of money in the online gambling business had reached US \$ 830 million. In the same year, online poker gambling was introduced for the first time. A year later, or in 1999, The United States (US) government enforced the Internet Gambling Prohibition Act, so that any company could no longer offer online gambling products to residents of Uncle Sam's country. However, the policy did not last long because the US government later revoked it.

In 1999, shortly after the Internet Gambling Prohibition Act ceased to exist, online casino games with a multiplayer system were introduced. This is the first time that people can gamble, chat and interact with fellow gamblers in an interactive environment. In 2000, the Federal Government of Australia became the first government to enforce the fact of the Moratorium on Interactive Gambling, so that for residents in that country, online casinos have become illegal activities because they have not received official permission from the local government. In 2001, the number of online gambling players was estimated to have reached 8 million people, and this number continues to increase from year to year, even though various regulations that prohibit the existence of this type of gambling appear one after another in many countries in the world. In 2008, H2 Gambling Capital estimates (Wahid & Labib, 2005).

Gambling, especially online gambling over the internet, is currently on the rise, according to Onno W. Purbo, what is referred to as online gambling or internet gambling (internet gambling) usually occurs because of placing bets on sports activities or casinos via the Internet. The real online game is the whole process, be it the stakes, the game or the collection of money via the internet. Gamblers will be required to make an upfront deposit before they can gamble online. This



means you have to transfer some money to the gambling website admin as an initial deposit. After the bettor sends money, he will get a number of coins for gambling games. If you win, the money from the bet will be sent via bank transfer and if you lose, the coins will be reduced (Pop-Eleches et al., 2013).

Knowing the existence of a criminal act of gambling via the internet, and to strengthen evidence of the existence of this gambling game, by registering a member with the admin of the website to get a username in participating in the game in question. If you already have a username, the admin will provide instructions in following the game and communicate about game procedures. Therefore, to transact between players or bettors and gambling managers, they also use bank transaction services with internet media. In addition to using the internet to communicate with members, the website admin uses a cell phone with a specific number that is used between members.

In its development, it turns out that the use of the internet does not only have a positive impact but can also bring a negative side, by opening up opportunities for anti-social actions and criminal behavior that have so far been deemed impossible. One example of a negative impact on the internet is online gambling. Meanwhile, the definition of online gambling is gambling through electronic media with internet access as an intermediary.

4. CONCLUSION

Based on the results and discussion of this research, it can be concluded as follows: Decidendi Ratio or Judge's Consideration of Decision 2864 / Pid.B / 2019 / PN sby regarding the crime of gambling. In deciding a case the judge considers: First, the indictment submitted by the Public Prosecutor through the indictment, namely Article 303 Bis Paragraph (1) 2nd of the Criminal Code. Second, the testimony of witnesses who had been sworn in saw the incident the defendant committed the act of online gambling. Third, the defendant's testimony had admitted his actions and regretted his actions. Fourth, evidence that has been secured. Fifth, the judge considers things that are both mitigating and burdensome for the defendants. With the elements of the article above the judge to impose sanctions on the defendant by being sentenced to 8 (eight) months imprisonment by the judge for being guilty of gambling.

The application of material criminal law to criminal cases of gambling in Decision 2864 / Pid.B / 2019 / PN sby it is correct based on the legal facts that occurred during the trial, both from the testimonies of witnesses, statements of the defendants, evidence, and evidence. And also based on the consideration of the judge who gave the verdict using the indictment, namely Article 303 paragraph (1) 1 of the Criminal Code which is in accordance with the actions of the perpetrators

who fulfill the elements of the Gambling Criminal act itself, namely the element of whoever, without permission, deliberately offers or provide the opportunity to play gambling or knowingly participate in a company for that. But the defendant had committed the act of making accessible information or electronic documents containing gambling content. The element makes it accessible in article 27 verse(2) The ITE Law is an element of action that is inseparable from the element of prohibited consequences. The application of article 27 paragraph (2) of the ITE Law is due to the fact that the defendant's actions have met the elements of the rule and the existence of Article 63 paragraph (2) of the Criminal Code which states, "If an act is included in a general criminal rule it is also regulated in a special criminal rule. , then only the special ones are worn. "

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