



Legal Review of the Return of Evidence to a Good Faith Third Party in a Narcotics Case

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Abstract

The return of evidence to a third party in good faith in a narcotics crime case is an important and complex legal issue. This study aims to analyze the application of the law to the status of evidence, judges' considerations in decision-making, and obstacles faced in returning evidence at the I-02 Medan Military Court, with a focus on Decision Number 16-K/PM. I-02/AD/II/2023. This research uses a qualitative method with a normative and empirical approach through document analysis, in-depth interviews, and literature reviews. The results of the study show that the application of the law refers to Article 46 of the Criminal Procedure Code and Law Number 35 of 2009 concerning Narcotics, with the main principle of protecting the rights of third parties in good faith. The judge's considerations include proof of legal ownership, the non-involvement of a third party in the crime, and the balance of justice. However, the obstacles faced include a lack of ownership documents, difficulty assessing good intentions, complicated administrative processes, and lack of legal understanding by third parties. The conclusion of this study emphasizes the importance of synergy between the application of fair, efficient, and responsive laws and the protection of individual rights. In addition, improvements are needed in the administrative process and education to the public to increase legal understanding. This research makes theoretical and practical contributions to the development of the criminal justice system in Indonesia, especially in the case of narcotics crimes.

Introduction

In law enforcement in Indonesia, narcotics crimes are one of the extraordinary crimes that require special attention (Dewi, 2019). This crime not only affects individuals but also the wider community, so its handling requires firm, professional, and in accordance with applicable legal rules. One of the important issues that often arise in narcotics cases is the return of evidence to a third party in good faith (Zen & SH, 2021). This issue poses its own challenges for law enforcement officials, because often evidence in narcotics crimes is related to the property rights of other parties who are not directly involved in the crime.

Evidence has a very important role in proving a criminal act (Monita & Wahyudhi, 2013). In the case of narcotics, evidence is often in the form of vehicles, money, or other objects that are indirectly used to support the occurrence of crimes. When the evidence is owned by a third party in good faith, legal issues arise about how to arrange the return (Pratama & Nursiti, 2019). This third party usually does not know that his belongings are being used for illegal activities.

The return of evidence to a third party in good faith is regulated in various regulations, including the Criminal Procedure Code (KUHAP). Article 46 of the Criminal Procedure Code expressly states that confiscated goods can be returned to those who are entitled to them, unless the goods are used for criminal acts or confiscated for the state (Makausi, 2019). However, in

practice, the implementation of this rule often faces obstacles, especially in distinguishing between third parties who are really in good faith and parties who may be indirectly involved in criminal acts (Indaryanti et al., 2023; Mazerolle & Ransley, 2006).

In the context of narcotics crimes, legal arrangements related to the return of evidence are increasingly complex due to the existence of Law Number 35 of 2009 concerning Narcotics (Gulo et al., 2022). This law gives special authority to law enforcement officials to confiscate items suspected of being related to narcotics crimes. However, there is often legal uncertainty regarding the fate of goods belonging to third parties who are not directly involved in the crime.

The issue of returning evidence also reflects the need for a balance between the protection of human rights and efforts to eradicate narcotics crimes (Chandler et al., 2009). On the one hand, the state has an obligation to ensure that items used in criminal acts cannot be reused for criminal purposes. On the other hand, a third party in good faith has the right to legal protection and legal certainty for its property.

At the implementation level, the role of the court is very important in determining whether an evidence can be returned to a third party. The judge has the responsibility to evaluate the evidence presented, including ensuring that the third party claiming the right to the goods is in good faith (Maharani et al., 2024; Burton, 1980). However, this is not always easy due to the many variables that need to be considered in each case.

One example of a case that attracts attention is the decision of a military court related to narcotics crimes. In these cases, it is often found that the confiscated evidence belongs to a family member or other party who is not aware of the involvement of the item in the criminal act. A case study of the decision of the Military Court I-02 Medan with Number 16-K/PM. I-02/AD/II/2023 provides an overview of how the court interprets the legal rules in returning evidence to a third party in good faith. The ruling shows how military courts consider various aspects of the law, including proof of ownership, the goodwill of third parties, and the role of the goods in the crime. This review of the verdict provides insight into how the law is applied in concrete cases and the extent to which the principle of justice is upheld in narcotics cases.

In addition, this case also highlights the importance of synergy between law enforcement officials, including police, prosecutors, and judges, in handling the issue of returning evidence. Good collaboration between various law enforcement agencies can help ensure that decisions taken truly reflect justice and protection for innocent parties. Through this study, it is hoped that solutions can be found to various obstacles faced in returning evidence to a third party in good faith. One of the main focuses is how to strengthen existing regulations so that they are able to provide legal certainty for all parties involved.

This study also aims to contribute to the development of criminal procedure law in Indonesia, especially related to the protection of third party rights in narcotics cases. Thus, it is hoped that the criminal justice system can become more responsive to the dynamics of society and the need for fair law enforcement. Ultimately, the study aims to identify steps that can be taken to improve the effectiveness of returning evidence to a third party in good faith. This step is important to create a balance between the eradication of narcotics crimes and the protection of human rights. Hopefully this research can provide practical benefits for stakeholders, as well as enrich legal literature related to the return of evidence in narcotics crimes.

Methods

This study uses a qualitative approach to deeply examine the return of evidence to a third party in good faith in narcotics crime cases. The qualitative approach was chosen because the focus of this research is to understand legal phenomena holistically based on legal perspectives,

principles of justice, and their implementation in the field. The following is a description of the research methods used:

This research uses normative juridical and empirical juridical approaches (Safa'at, 2013): a) Normative Juridical: Analyze relevant legal norms, such as laws and regulations, court decisions, and legal doctrines related to the return of evidence in narcotics cases; b) Empirical Juridical: Examining the application of legal norms in practice through case studies and interviews with related parties.

This research is descriptive-analytical, which aims to provide an in-depth picture of the return of evidence to a third party in good faith and analyze the application of the law in concrete cases, especially the decision of the Military Court I-02 Medan Number 16-K/PM. I-02/AD/II/2023.

This study uses two types of data: a) Primary Data: Obtained through interviews with judges, prosecutors, and other law enforcement officials involved in handling narcotics cases, as well as third parties who are the subject of cases of returning evidence; b) Secondary Data: Includes legal documents, such as laws and regulations (Criminal Procedure Code and Narcotics Law), court decisions, legal literature, scientific journals, and previous research reports.

Data Collection Techniques

The data in this study were collected through the following techniques (Miles & Huberman, 1992): a) Literature Studies: Reviewing legal documents, court decisions, and relevant literature; b) In-Depth Interview: Conducted with a resource person who has expertise or direct experience related to the return of evidence in narcotics cases, such as judges, prosecutors, and lawyers; c) Case Study: Analysis of the decision of the I-02 Medan Military Court to understand how the law is applied in concrete cases.

Data Analysis

The data obtained is analyzed qualitatively through the following stages (Saleh, 2017): a) Data Reduction: Filtering data that is relevant to the focus of the research; b) Data Presentation: Organize data in the form of narratives, tables, or diagrams to make analysis easier; c) Drawing Conclusions: Analyzing data to identify patterns, themes, and relationships between legal concepts and their implementation in returning evidence to third parties in good faith.

Data Credibility

To ensure the validity and reliability of the data, this study uses triangulation techniques, namely: a) Source Triangulation: Comparing information from various sources; b) Triangulation Techniques: Using various data collection techniques, such as interviews and document studies. Time Triangulation: Performing data collection at different times to identify information consistency.

Results and Discussion

Application of Law to the Status of Evidence in Narcotics Crime Cases at the Military Court I-02 Medan

In the case of narcotics crimes, the status of evidence is a very important issue because it has a major role in proof. Based on the results of the research, the I-02 Medan Military Court applies legal principles as stipulated in the Criminal Procedure Code and Law Number 35 of 2009 concerning Narcotics. Evidence used for the purpose of a criminal act, such as means of transportation, money, or other objects, is basically confiscated for the state. However, in certain cases, evidence belonging to a third party can be returned if it is proven that the third

party was not directly involved or did not know the involvement of the item in the criminal act. In the decision Number 16-K/PM. I-02/AD/II/2023, the court stipulates that the return of evidence must be based on: a) Third-party legal ownership; b) Strong evidence that the third party did not know the use of the goods for a criminal act; c) There is no third-party involvement in narcotics crimes.

Table 1. Principles of Law Application to Evidence

Aspects	Legal Basis	Implementation
Legal Ownership	Article 46 of the Criminal Procedure Code	Evidence can be returned if it is proven to belong to a third party with valid ownership documents.
Not Related to Criminal Acts	Law No. 35 of 2009	Evidence must be ensured that it is not used directly in narcotics crimes.
No Involvement	Court Decision	The third party must prove that he did not know or was not involved in the crime.

The results of the study show that the Military Court I-02 Medan refers to the provisions of Article 46 of the Criminal Code and Law Number 35 of 2009 concerning Narcotics in determining the status of evidence. The application of this law is in line with the theory of utilitarian law which emphasizes the balance between the public interest and the protection of the individual. As stated by Bentham in (Christian et al., 2025), the law aims to create the greatest benefit for society, but without sacrificing individual rights. Previous studies by (HERSI HARNOVERLIA, 2018) highlighting that the return of evidence in criminal cases is often constrained by a lack of clarity in distinguishing goods that are instruments of crime from goods owned by third parties. This is consistent with the findings in the study, where a military court confirmed that the returned evidence was not directly related to narcotics crimes.

Judge's Considerations in the Return of Evidence Belonging to a Good Faith Third Party in Narcotics Crimes at the Military Court I-02 Medan

In giving a decision regarding the return of evidence to a third party in good faith, the judge at the I-02 Medan Military Court considered several aspects, including: a) Ownership of Goods: The judge evaluates administrative evidence, such as certificates, receipts, or other ownership documents, submitted by a third party; b) Good Faith of Third Parties: The judge ensures that the third party has no bad faith or is unaware of the use of the goods in the crime; c) Balance of Justice: The decision is taken with regard to the balance between the state's interests in the eradication of narcotics and the protection of the rights of third parties.

Table 2. Judge's Considerations in Returning Evidence

Consideration	Assessment Criteria	Examples in Judgments
Ownership of Goods	Proof of valid ownership documents.	In the case of Number 16-K/PM. I-02/AD/II/2023, the third party shows the vehicle ownership certificate.
Third Party Goodwill	Not knowing that the goods were used in a criminal act	The vehicle owner did not know that the vehicle was used for narcotics transportation.
Balance of Justice	Consideration between the rights of third parties and the needs of the state in eradicating narcotics.	Decisions prioritize legal certainty and third-party protection.

In deciding on the return of evidence, the judge considers three main aspects, namely legal ownership, the good faith of a third party, and the balance of justice. This refers to the theory of distributive justice put forward by John Rawls, where justice must ensure that each individual gets his or her rights proportionately (Rawls, 1971). Judge, in decision Number 16-K/PM. I-02/AD/II/2023, emphasizes the importance of proof of ownership and non-involvement of third parties as the main basis for the return of evidence. Research by (Fremmy et al., 2022) reveals that judges' considerations are often based not only on legal texts, but also on social conditions and available evidence. This is reflected in this study, where the judge at the Military Court I-02 Medan assessed the context of the use of evidence and its impact on third parties claiming ownership.

Obstacles Found in the Return of Evidence Belonging to a Good Faith Third Party in Narcotics Crimes at the Military Court I-02 Medan

The process of returning evidence to a third party in good faith is inseparable from various obstacles, including: a) Lack of Proof of Ownership: Many third parties do not have complete documents to prove ownership of the goods; b) Difficulty Assessing Good Faith: Judges often face difficulties in ascertaining that third parties are completely unaware of the use of the goods; c) Complicated Administrative Process: The return of evidence is often hampered by lengthy and inefficient administrative processes; c) Lack of Legal Understanding by Third Parties: Third parties often do not understand the legal procedures required to file a claim for the return of evidence.

Table 3. Obstacles in Returning Evidence

Constraints	Explanation	Impact
Lack of Proof of Ownership	It is difficult for third parties to show complete documents.	The judge had difficulty deciding on the return of goods.
Difficult Goodwill Assessments	It is difficult to distinguish a third party in good faith from one that may be indirectly involved	Decisions can be subjective
Complicated Administrative Process	The process of claiming evidence requires a lot of paperwork and time.	Returns are often hampered.
Low Legal Understanding	Third parties often don't know the legal procedures to follow	Many claims of evidence are not accepted

The process of returning evidence often faces obstacles such as lack of ownership documents, difficulty assessing the goodwill of third parties, and complicated administrative processes. These findings corroborate the research conducted by (Taqiyyah & Winanti, 2020), which found that many third parties did not have an adequate understanding of the importance of ownership documents in legal proceedings. According to Weber's bureaucratic theory, efficiency in the administration of law depends largely on a well-structured system (Surur, 2019). However, in practice, this study finds that the administrative process in the return of evidence is often a major obstacle, especially for third parties who lack understanding of legal procedures. In addition, the assessment of the good faith of a third party is also a challenge, as revealed by Aulia (2019), who mentioned that the subjectivity of the judge can influence the verdict in this kind of case (Sipayung et al., 2023).

Relevance to Previous Research

This study reinforces previous findings about the importance of synergy between legal theory and its implementation in practice. For example, the criminal justice system in Indonesia often faces a dilemma between protecting individual rights and eradicating crime (Runtunuwu & Barakati, 2024). This is relevant to the findings in this study, where the court seeks to strike a balance between securing evidence for the benefit of the state and returning it to an entitled third party. In addition, the responsive legal theory of Nonet and Selznick, which emphasizes that the law must be responsive to the needs of society, is also reflected in the military court's approach to the return of evidence (Asa et al., 2021). Judges not only adhere to the written rules, but also consider the social context and the impact of the ruling on third parties.

Conclusion

Based on the results of the research and discussion, it can be concluded that the return of evidence to a third party in good faith in the case of narcotics crimes at the I-02 Medan Military Court has been carried out by referring to the applicable laws and regulations, such as Article 46 of the Criminal Code and Law Number 35 of 2009 concerning Narcotics. Military courts apply legal principles that emphasize the importance of balancing the public interest in the eradication of narcotics and the protection of the rights of third parties not involved in criminal acts. The judge's consideration in this case is based on three main aspects: proof of legal ownership, non-involvement of a third party in the crime, and balance of justice. This shows that the principle of distributive justice and responsive legal theory have become a reference in the decision-making process. Judges focus not only on compliance with the law, but also on the protection of human rights and social justice. However, this study also found several significant obstacles in the process of returning evidence. These obstacles include a lack of proof of ownership owned by third parties, difficulties in assessing the good intentions of third parties, complicated administrative processes, and lack of legal understanding from third parties. This obstacle shows that there are loopholes in the legal and administrative system that can affect the effectiveness of the return of evidence. In relation to previous research, these findings support the view that the law in Indonesia is often faced with challenges between the protection of individual rights and the state's interest in eradicating crime. This reflects the need for a more holistic and responsive approach in the justice system. Overall, this study underscores the importance of fair, efficient, and balanced application of the law in narcotics crime cases. In addition, improvements are needed in the aspects of legal administration and education to the public to increase their understanding of their rights, especially related to the return of evidence. This research is expected to make a positive contribution to the development of criminal procedure law and the protection of third party rights in Indonesia.

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