

THE ROLE OF THE PUBLIC PROSECUTOR AS AN IMPLEMENTER COURT DECISION IN A CASE THAT HAS BEEN PERMANENT LEGAL FORCE

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ABSTRACT

The implementation of a judge's decision that has permanent legal force is the most important part of the judicial process because this is where true justice is upheld. The role of the public prosecutor as the implementer of court decisions in criminal cases that have permanent legal force is to be able to carry out execution based on excerpts from court decisions. A copy of the decision or excerpt of the decision (criminal) that has been sent to the parties (defendant and prosecutor), then the excerpt of the criminal decision can be used as a basis for execution, because it contains the verdict or dictum of the decision, but the legal considerations are no longer included. The mechanism for implementing court decisions in criminal cases that have permanent legal force is that the clerk must send a copy of the decision to the prosecutor's office to be implemented by the public prosecutor. The obstacles faced by the public prosecutor in implementing court decisions in cases that have permanent legal force are the messengers who have permanent legal force but the copy of the decision has not been submitted to the prosecutor's office, the public prosecutor's efforts in facing obstacles in implementing court decisions that have permanent legal force are to coordinate with the relevant courts to immediately send a copy of the decision to the prosecutor's office.

Keywords: Public Prosecutor, Decision, Permanent Legal Force.

PERAN JAKSA PENUNTUT UMUM SEBAGAI PELAKSANA PUTUSAN PENGADILAN DALAM PERKARA YANG TELAH MEMILIKI KEKUATAN HUKUM YANG TETAP

ABSTRAK

Pelaksanaan putusan hakim yang telah memiliki kekuatan hukum tetap merupakan bagian terpenting dari proses peradilan karena di sinilah keadilan yang sesungguhnya ditegakkan. Peran jaksa penuntut umum sebagai pelaksana putusan pengadilan dalam perkara pidana yang telah memiliki kekuatan hukum tetap adalah untuk dapat melaksanakan eksekusi berdasarkan kutipan putusan pengadilan. Salinan putusan atau kutipan putusan (pidana) yang telah dikirimkan kepada para pihak (terdakwa dan jaksa), kemudian kutipan putusan pidana tersebut dapat digunakan sebagai dasar pelaksanaan, karena berisi putusan atau diktum putusan, namun pertimbangan hukumnya tidak lagi termasuk. Mekanisme pelaksanaan putusan pengadilan dalam kasus pidana yang telah memiliki kekuatan hukum tetap adalah bahwa panitera harus mengirimkan salinan putusan ke kantor jaksa penuntut umum untuk dilaksanakan oleh jaksa penuntut umum. Hambatan yang dihadapi jaksa penuntut umum dalam melaksanakan putusan pengadilan dalam kasus yang telah memiliki kekuatan hukum tetap adalah adanya putusan yang telah memiliki

kekuatan hukum tetap tetapi salinan putusan belum diserahkan ke kantor kejaksaan. Upaya jaksa penuntut umum dalam menghadapi hambatan tersebut adalah berkoordinasi dengan pengadilan terkait untuk segera mengirimkan salinan putusan ke kantor kejaksaan.

Kata Kunci: Jaksa Penuntut Umum, Putusan, Kekuatan Hukum Tetap.

INTRODUCTION

In relation to the components of the Court, it is regulated in Article 24 of the 1945 Constitution which states "judicial power is an independent power to administer justice to uphold law and justice" and as stated in Law Number 48 of 2009 which affirms "judicial power is an independent state power to administer justice to uphold law and justice based on Pancasila and the 1945 Constitution, for the sake of the implementation of the rule of law of the Republic of Indonesia". The implementation of the judicial power mentioned above is handed over to judicial bodies, especially Judges with their main duties, namely: receiving, examining and trying, and resolving every case submitted to them.

The product produced in the judicial process, especially criminal trials, is a judge's decision. Article 1 point 11 of the Criminal Procedure Code (hereinafter referred to as the Criminal Procedure Code) states that "A court decision is a judge's statement pronounced in an open court session, which can be in the form of a criminal sentence or acquittal or release from all legal charges in the case and according to the method regulated in this law."

The implementation of court decisions that have permanent legal force (execution) in the criminal justice system in Indonesia is part of criminal law enforcement. Legally or *in- concreto* implementation of the law by criminal law enforcement officials. It is generally known that the legal apparatus or institution that implements judge's decisions that have permanent legal force is the Attorney General's Office of the Republic of Indonesia. As regulated in Article 270 of the Criminal Code, which states, "The implementation of court decisions that have permanent legal force is carried out by the prosecutor, for which the clerk sends a copy of the decision letter to him."

This is also regulated in Article 30 paragraph (3) letter (b) of Law Number 16 of 2004 concerning the Republic of Indonesia Prosecutor's Office (hereinafter referred to as the Prosecutor's Office Law) which states: "In the criminal field, the prosecutor's office has the following duties and authorities: Implementing judges' decisions and court decisions that have permanent legal force." This is further regulated and emphasized in Article 54 paragraph (1) of Law Number 48 of 2009 concerning Judicial Power (hereinafter referred to as the Judicial Law) which states that: "The implementation of court decisions in criminal cases is carried out by the prosecutor."

In its implementation, the Prosecutor's Office must adhere to the values of humanity and justice as stipulated in the Judicial Law. Justice is difficult to define, but it can be felt and is an inseparable element of the law, a set of principles and rules that guarantee order and order in society. This justice must be considered in the implementation of executions, as execution is the ultimate goal of criminal procedure law.

Based on Article 48 paragraph (8) PER-036/A/JA/09/2011 concerning the Enforcement of General Criminal Cases, the complete implementation of court decisions (corporal punishment, fines, evidence, restitution and court costs no later than 7 (seven) days after receipt of the letter of implementation of the court decision order based on Article 48 paragraph (2) PER/036/A/JA/09/2011 concerning the Handling of General Criminal Cases shall be issued no later than 3 (three) days after receipt of the court decision.

RESEARCH METHODS

The object of this research is the role of the public prosecutor as the implementer of court decisions in cases that have permanent legal force. The nature of this research is descriptive. Descriptive research is intended to provide the most accurate data possible. In this case, the author will describe: the role of the public prosecutor as the implementer of court decisions in cases that have permanent legal force.

RESULTS AND DISCUSSION

The implementation of law can occur in society normally because each individual obeys with awareness, that what is determined by the law is either a necessity or something that is indeed best. The implementation of law is also an effort to realize ideas about justice, because in the process, society wants the implementation to be realized quickly according to the laws that have regulated it so that the sense of justice and the need for law can truly be fulfilled. A court decision is a judge's statement delivered in open court, which can take the form of a criminal conviction or acquittal from all legal charges in the cases and according to the procedures stipulated in this law. The judge's decision is the final stage of the criminal trial process at the district court examination stage. The judge may only sentence a defendant if guilt is legally proven according to applicable regulations.

In fact, the judge's decision must be accountable to the parties, namely the parties to the case, the public, the appellate court, the prosecutor's office, science, the state and the nation, and no less importantly, it must be accountable to God Almighty. Execution is the final stage of the case resolution process in the Integrated Criminal Justice System *adopted* by the Criminal Procedure Code. Criminal Procedure Law has 3 (three) functions, namely seeking and finding the truth in the decision given by the Judge and implementing the Judge's decision. The function of seeking and finding the truth is carried out through trials in court according to the methods regulated in the applicable criminal procedure law. Based on the results of the trial, the judge then issues a decision which is then implemented by the prosecutor. The process of resolving a criminal case is considered and assessed as successful in law enforcement if the execution of the judge's decision which has permanent force is carried out by the prosecutor correctly in accordance with the provisions of applicable laws and regulations.

Execution of a court decision is the implementation of a court decision that cannot be changed, and is voluntarily obeyed by the disputing parties. The meaning of the word execution is that the losing party must voluntarily obey the decision, so that the decision must be enforced

upon them with the help of general force.

A district court decision can only be implemented if it has received definite force, that is, if it is not possible or cannot be compared immediately when it is pronounced in public, unless the defendant requests a delay in implementing the decision for fourteen days within which time the defendant intends to submit a request for clemency to the President. Usually a decision can be executed against the accused only after the decision has become final, in other words if the usual legal measures have been exhausted.

The sentence imposed without the presence of the accused or *in absentia* (the absence of the accused in court) is an exception. If the summons has been delivered to the accused personally or where the accused is present at the trial within the specified time period in which the appeal must be filed, it begins with the declaration of the accused's guilt and the sentence imposed and there is no need for special notification regarding the court's decision. The implementation of court decisions by the prosecutor or public prosecutor is no longer in the prosecution such as detention, indictment, charges and others in this KUHAP clearly states the prosecutor, in contrast to prosecutions such as detention, indictment, charges and others are called public prosecutors. This automatically means that a prosecutor who is not the public prosecutor for a case may implement court decisions.

Prosecutors, as the implementers of legally binding judges' decisions, are required to possess professional technical skills in carrying out their duties and authorities as executors, in accordance with applicable regulations. In theory and practice, a court decision can be executed once it has become legally binding. Theoretically and practically, a court decision can be executed if the decision has permanent legal force. The definition of a decision that has permanent legal force is if the defendant or public prosecutor has accepted the decision or if legal remedies have not been used by the entitled party so that the grace period for filing legal remedies has passed or legal remedies have been filed by the entitled party but then the legal remedies that have been filed are then withdrawn or the Supreme Court decision is in the process of being examined for cassation.

The existence of legal action filed by the public prosecutor, indeed makes the court decision not yet have permanent legal force, which means that the court decision cannot be implemented. If in the court decision the panel of judges orders that the defendant be released from detention, then the prosecutor immediately carries out the order to release or release the defendant from detention. (Article 191 Paragraph (3), Article 192 Paragraph (1) and Paragraph (2), Article 197 Paragraph (1) k KUHAP). Even though the prosecutor releases the defendant from detention, it cannot be interpreted that the prosecutor is implementing the court decision that does not yet have permanent legal force, but must be interpreted that the prosecutor is implementing the order of the judge's determination in the relevant court decision.

may still engage in normal activities before or after a final and binding judge's decision . This occurs because the prosecutor's office has not implemented the sentence immediately. Before the prosecutor can enforce a court decision, a case must undergo the criminal process. This process begins with investigation, inquest, detention, prosecution, and court hearings,

ultimately resulting in a final and binding decision. Once the decision has become final and binding, the prosecutor can enforce it. The enforcement of a court decision for a convict who has previously been detained differs from the enforcement of a court decision for a convict who has not been detained.

After going through the examination process in court until the verdict is handed down by the judge against the convict, the next step is to implement the verdict through a process as shown in the diagram above. There are differences in the implementation of court decisions for convicts who have previously been detained and convicts who have not been detained. If the convict was previously detained, the implementation of the court decision is carried out by further detention according to the number of years of imprisonment imposed minus the number of years of the convict's previous detention. The implementation of court decisions will be different and receive more specific treatment if the convict was not previously detained. The prosecutor's office will summon the convict to appear before the prosecutor's office first.

Before the execution of a court decision is carried out, the decision must have permanent legal force, permanent legal force in practice, namely when the public prosecutor and the convict have received a copy of the decision and neither the prosecutor nor the convict has filed an appeal or other legal action. The implementation of execution for cases that require legal action, the execution will await the decision from the results of the legal action and after that the execution can be carried out with the provision that the prosecutor's office can only carry out the decision after a copy of the decision from the court is immediately made by the local head of the prosecutor's office.

CONCLUSION

The role of the public prosecutor as the implementer of court decisions in criminal cases that have permanent legal force is to be able to carry out execution based on excerpts from court decisions. The mechanism for implementing a court decision in a criminal case that has permanent legal force is that the clerk must send a copy of the decision to the prosecutor's office for implementation by the public prosecutor. The clerk is required to send a copy of the decision to the public prosecutor no later than 1 (one) week for cases of Ordinary Examination Procedure and no later than 14 (fourteen) days for cases of Short Examination Procedure. In the case of a Supreme Court decision because it has permanent legal force, the public prosecutor can execute it simply by issuing an excerpt of the decision, without waiting for a copy of the decision.

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