

ABSTRAK
AKIBAT HUKUM DIKABULKANNYA PERMOHONAN PRAPERADILAN
ATAS SURAT PEMBERHENTIAN
PENYIDIKAN TERHADAP TINDAK
PIDANA PENIPUAN
(STUDI PUTUSAN NOMOR: 51/PRA.PID/2015/PN.MDN)
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Pra artinya sebelum, atau mendahului, berarti “praperadilan” sama dengan sebelum pemeriksaan di sidang pengadilan. Di Eropa dikenal lembaga semacam itu, tetapi fungsinya memang benar-benar melakukan pemeriksaan pendahuluan. Jadi, fungsi hakim komisaris (*Rechter commissaris*) di negeri Belanda dan *Judge d’ Instruction* di Prancis benar-benar dapat disebut praperadilan, karena selain menentukan sah tidaknya penangkapan, penahanan, penyitaan, juga melakukan pemeriksaan pendahuluan atas suatu perkara, maka dalam penelitian ini penulis tertarik meneliti perkara Praperadilan yang di terima/dikabulkan Pengadilan Negeri Medan karena diketahui sepanjang data yang diperoleh dari tahun 2014-2016 dari tabel perkara menunjukkan persentasi perkara Praperadilan yang di terima atau dikabulkan sangatlah minim atau sedikit ketimbang perkara Praperadilan yang ditolak oleh Pengadilan Negeri Medan.

Metode penelitian yang digunakan adalah bersifat deskriptis analitis dan berjenis Yuridis normatif yang bersumber dari data sekunder, teknik pengumpulan data dengan cara kepustakaan (*library research*) dan studi dokumen (*field research*) dan analisa data yang digunakan metode deskriptif analitis.

Berdasarkan Yurisprudensi / Putusan Hakim Mahkamah Konstitusi atau MK nomor: 21/PUU-XII/2014 pada pokoknya menyatakan : penetapan tersangka merupakan objek Praperadilan. Berdasarkan ketentuan tersebut, untuk dapat mengajukan Praperadilan harus memenuhi ketentuan beberapa hal diantaranya tersangka sudah ditangkap, tersangka sudah ditahan dan menjalani penahanan, penyidik polisi menerbitkan surat pemberitahuan penghentian Penyidikan dengan alasan hukum, Jaksa Penuntut Umum menerbitkan surat pemberitahuan Penghentian penuntutan. Adanya proses perkara atas tersangka yang tidak diajukan ke persidangan di Pengadilan Negeri.

Demi keadilan dan kepastian hukum akibat Hukum dari pertimbangan Hakim memutuskan telah terjadi tindak pidana penipuan di mana pemberian cek kosong yang diberikan terlapor kepada pemohon yang dikliring dan terjadi penolakan dari Bank terkait karena saldo tidak mencukupi maka dengan demikian unsur penipuannya terdapat, dan menghukum penyidik polda Sumut untuk melanjutkan penyidikan hingga ke penuntut umum dan menyatakan surat perintah penghentian penyidikan Nomor SP.sidik/121a/VIII/2015 Disreskrimum 07 Agustus 2015 dinyatakan batal demi hukum dan tindakan termohon merupakan perbuatan melawan Hukum.

Kata kunci : Akibat Hukum, Praperadilan, pemberhentian penyidikan

ABSTRACT
THE LEGAL EFFECT OF THE REQUIREMENT OF THE PROPERTYLY
REQUIREMENTS FOR THE TERMINATION OF TERMINATION TO
CRIMINAL ACTS OF FRAUD
(CASE IN STATE COURT DECISION OF MEDAN)
NO : 51/PRA.PID/2015/PN.MDN
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Pre means before, or preceded, meaning "pretrial" is the same as before the trial in court. In Europe it is known to be such an institution, but its function really does conduct a preliminary examination. Thus, the function of commissioner judge (*Rechter commissaris*) in the Netherlands and Judge d 'Instruction in France can actually be called pretrial, because in addition to determining the validity of arrest, detention, seizure, also conducted a preliminary examination of a case, then in this study the author Interested in examining the case of Pretrial which received / granted by the Medan District Court as it is known as long as the data obtained from 2014-2016 from the case table shows the percentage of Pretrial cases received or granted is very minimal or a bit rather than the Pretrial cases rejected by the Medan District Court.

The research method used is analytical descriptive and normative juridical type that comes from secondary data, data collection technique by library research and document research (field research) and data analysis used analytical descriptive method.

Based on the Jurisprudence / Decision of the Constitutional Court Judge or Constitutional Court number: 21 / PUU-XII / 2014 principally states: the determination of the suspect is the object of the Pretrial. Under the provision, to be able to file a Pretrial must meet the provisions of several things including the suspect has been arrested, the suspect has been detained and under detention, the police investigator issued a notice of termination of the Investigation for legal reasons, the Public Prosecutor issued a notice of Termination of Prosecution. The existence of a proceeding of a case against a suspect who was not brought to trial at the District Court.

For the sake of justice and legal certainty due to the law of the judges' consideration there has been a criminal act of fraud in which the provision of a blank check given to the applicant has been cleared and the rejection of the relevant Bank due to insufficient balance, thereby the element of fraud exists, and punishes the investigator of the North Sumatra police To continue the investigation up to the public prosecutor and declare a warrant for termination of investigation No. SP.search / 121a / VIII / 2015 Disreskrimum 07 August 2015 is declared null and void and the action of the requested party is against the law.

Key note : Law Effect, Pretrial, Dismissal of investigation

