ABSTRAK

PENERAPAN PIDANA TAMBAHAN UANG PENGGANTI DALAM TINDAK PIDANA KORUPSI BERDASARKAN PERMA NOMOR 1 TAHUN 2020 DALAM PERSPEKTIF TEORI PENEGAKAN HUKUM

Oleh: Andika Kurniawan

Penelitian ini dilatarbelakangi oleh masih adanya persoalan dalam penerapan pidana tambahan uang pengganti pada tindak pidana korupsi, terutama ketika hakim harus menentukan apakah besaran uang pengganti didasarkan pada total kerugian keuangan negara atau pada nilai manfaat yang secara nyata dinikmati oleh pelaku. Persoalan tersebut menimbulkan problem kepastian hukum, proporsionalitas pemidanaan, dan efektivitas pemulihan kerugian negara, khususnya setelah berlakunya PERMA Nomor 1 Tahun 2020 sebagai pedoman pemidanaan perkara Pasal 2 dan Pasal 3 Undang-Undang Pemberantasan Tindak Pidana Korupsi. Penelitian ini bertujuan untuk menganalisis pertimbangan hakim dalam menentukan besaran pidana tambahan uang pengganti berdasarkan nilai yang dinikmati pelaku, serta menganalisis penerapannya berdasarkan PERMA Nomor 1 Tahun 2020 dalam perspektif teori penegakan hukum. Metode yang digunakan adalah penelitian hukum normatif dengan pendekatan perundang-undangan, pendekatan konseptual, dan pendekatan kasus, khususnya terhadap Putusan Nomor 1003 PK/Pid.Sus/2024 serta Putusan Nomor 5/Pid.Sus-TPK/2022/PN Tte jo. Putusan Nomor 6/Pid.Sus-TPK/2022/PT Tte. Hasil penelitian menunjukkan bahwa pertimbangan hakim dalam menentukan uang pengganti idealnya tidak cukup didasarkan pada nilai kerugian negara, tetapi harus bertumpu pada pembuktian konkret mengenai harta benda atau manfaat ekonomi yang diperoleh, dikuasai, atau dinikmati oleh terdakwa. Dalam Putusan Nomor 1003 PK/Pid.Sus/2024, penjatuhan uang pengganti masih dapat dikritisi karena dasar perhitungan dan pembuktian nilai manfaat yang dinikmati terdakwa belum sepenuhnya transparan, sedangkan dalam Putusan Nomor 5/Pid.Sus-TPK/2022/PN Tte jo. Putusan Nomor 6/Pid.Sus-TPK/2022/PT Tte, hakim lebih proporsional karena memilah terlebih dahulu sumber dana yang termasuk keuangan negara dan yang bukan keuangan negara. Kebaruan penelitian ini terletak pada analisis pidana tambahan uang pengganti berbasis nilai manfaat yang dinikmati pelaku dengan menghubungkan teori pertimbangan hakim, PERMA Nomor 1 Tahun 2020, dan teori penegakan hukum melalui tahapan formulasi, aplikasi, dan eksekusi. Penelitian ini menyimpulkan bahwa penerapan uang pengganti harus dilakukan secara proporsional, transparan, dan berbasis pembuktian konkret agar tidak hanya menjadi instrumen pemidanaan, tetapi juga efektif sebagai sarana pemulihan kerugian negara. Implikasi penelitian ini menegaskan perlunya konsistensi hakim dalam menguraikan aliran dana, nilai manfaat yang dinikmati pelaku, kategori kerugian negara, serta kemampuan aparat penegak hukum dalam menelusuri dan mengeksekusi aset hasil tindak pidana korupsi.

Kata Kunci: Pidana Tambahan, Uang Pengganti, Tindak Pidana Korupsi, Pertimbangan Hakim, Penegakan Hukum.

ABSTRACT

THE APPLICATION OF ADDITIONAL CRIMINAL SANCTIONS IN THE FORM OF SUBSTITUTE MONEY IN CORRUPTION CRIMES BASED ON SUPREME COURT REGULATION NUMBER 1 OF 2020 FROM THE PERSPECTIVE OF THE THEORY OF LAW ENFORCEMENT PATTERNS

By: Andika Kurniawan

This research is motivated by the continuing problems in the application of additional criminal sanctions in the form of substitute money payment in corruption cases, particularly when judges must determine whether the amount of substitute money should be based on the total state financial loss or on the actual benefit enjoyed by the offender. This issue raises concerns regarding legal certainty, proportionality in sentencing, and the effectiveness of state asset recovery, especially after the enactment of Supreme Court Regulation Number 1 of 2020 as a sentencing guideline for corruption offenses under Articles 2 and 3 of the Anti-Corruption Law. This study aims to analyze judges' legal considerations in determining the amount of substitute money based on the benefit enjoyed by the offender, and to examine its application under Supreme Court Regulation Number 1 of 2020 from the perspective of law enforcement theory. This research employs normative legal research with statutory, conceptual, and case approaches, particularly through the analysis of Decision Number 1003 PK/Pid.Sus/2024 and Decision Number 5/Pid.Sus-TPK/2022/PN Tte in conjunction with Decision Number 6/Pid.Sus-TPK/2022/PT Tte. The findings show that judges' considerations in determining substitute money should not merely rely on the amount of state financial loss, but must be grounded in concrete proof of assets, economic benefits, or proceeds actually obtained, controlled, or enjoyed by the defendant. In Decision Number 1003 PK/Pid.Sus/2024, the imposition of substitute money remains open to criticism because the basis of calculation and proof of the benefit enjoyed by the defendant were not fully transparent. By contrast, in Decision Number 5/Pid.Sus-TPK/2022/PN Tte in conjunction with Decision Number 6/Pid.Sus-TPK/2022/PT Tte, the judges adopted a more proportional approach by first distinguishing between funds categorized as state finances and those that did not constitute state finances. The novelty of this research lies in its analysis of substitute money payment based on the benefit enjoyed by the offender by connecting the theory of judicial consideration, Supreme Court Regulation Number 1 of 2020, and law enforcement theory through the stages of formulation, application, and execution. This research concludes that substitute money payment must be imposed proportionally, transparently, and on the basis of concrete evidence so that it functions not only as a sentencing instrument but also as an effective mechanism for recovering state losses. The implication of this research emphasizes the need for judicial consistency in explaining the flow of funds, the value of benefits enjoyed by offenders, the category of state financial loss, and the capacity of law enforcement officials to trace and execute assets derived from corruption offenses.

Keywords: *Additional Criminal Sanction, Substitute Money Payment, Corruption Crime, Judicial Consideration, Law Enforcement.*