

ABSTRAK

ANALISIS PENEGAKAN HUKUM PIDANA TERHADAP PERBUATAN MENGHALANG-HALANGI PROSES PERADILAN (*OBSTRUCTION OF JUSTICE*)

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Obstruction of justice merupakan suatu tindakan seseorang yang menghalangi proses hukum dan mengacaukan fungsi yang seharusnya dalam suatu proses peradilan. Tindakan *obstruction of justice* merupakan perbuatan melawan hukum yang menerabas dan menentang penegakan hukum. Secara normatif, tindakan menghalang-halangi proses peradilan sudah diatur banyak dalam peraturan, baik dalam KUHP maupun dalam hukum pidana khusus. Perbuatan *obstruction of justice* kerap terjadi pada proses *pra-adjudikasi*; sebelum perkara dilimpahkan kepengadilan, baik di tingkat penyidikan, maupun tingkat penuntutan dan pada tahap *adjudikasi* yaitu tahap pemeriksaan di persidangan. Permasalahan dalam skripsi ini adalah: Apasajakah bentuk perbuatan menghalang-halangi proses peradilan (*obstruction of justice*) yang diatur dalam Undang-Undang Pemberantasan Tindak Pidana Korupsi? Bagaimanakah penegakan hukum pidana terhadap perbuatan menghalang-halangi proses peradilan (*obstruction of justice*)?

Pendekatan Masalah yang digunakan pada penelitian ini adalah pendekatan yuridis normatif dan yuridis empiris. Sumber data: Studi kepustakaan dan studi lapangan. Analisis data: kualitatif. Narasumber: Jaksa pada Komisi Pemberantasan Korupsi, Advokat pada Kantor Hukum Zul Armain Aziz & Associates dan Hakim Tipikor pada Pengadilan Negri Jakarta Pusat.

Hasil penelitian dan pembahasan menunjukkan bahwa: bentuk perbuatan menghalang-halangi proses peradilan (*obstruction of justice*) dimuat dalam empat pasal, yakni Pasal 21, 22, 23 dan Pasal 24 Undang-Undang Pemberantasan Tindak Pidana Korupsi. Perbuatan yang dapat dikatakan sebagai *obstruction of justice* harus memenuhi unsur delik, yaitu tindakan dapat menyebabkan tertundanya proses hukum, pelaku mengetahui tindakannya atau menyadari perbuatannya, pelaku melakukan atau mencoba tindakan menyimpang dengan tujuan mengganggu atau mengintervensi proses atau administrasi hukum serta pelaku memiliki motif untuk melakukan tindakan menghalangi proses hukum. Penegakan hukum terhadap norma ini dapat dilakukan melalui tiga tahap yaitu tahap

formulasi, tahap aplikasi, dan tahap eksekusi.

Saran dalam penelitian ini adalah diharapkan bentuk perbuatan menghalang-halangi proses peradilan (*obstruction of justice*) lebih dirumuskan secara spesifik dalam Undang-Undang Pemberantasan Tindak Pidana Korupsi sehingga terciptanya kesepahaman bersama antara aparat penegak hukum baik Hakim, Jaksa dan Advokat. Selain itu, diharapkan aparat penegak hukum dalam penyelesaian perkara *obstruction of justice* dapat melaksanakan tugas secara baik, bertanggungjawab dan profesional melalui tahapan penegakan hukum yaitu tahap formulasi, tahap aplikasi dan tahap eksekusi sehingga tujuan hukum untuk memberikan kepastian, kemanfaatan serta keadilan kepada masyarakat dapat tercapai.

Kata Kunci : Penegakan Hukum Pidana, Perbuatan Menghalang-Halangi Proses Peradilan, *Obstruction of Justice*.

ABSTRACT

ANALYSIS OF CRIMINAL LAW ENFORCEMENT ON DEVOTION FOR PROVIDING JUSTICE (OBSTRUCTION OF JUSTICE)

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Obstruction of justice is an act of someone who obstructs the legal process and disrupts the functions that should be in a judicial process. An obstruction of justice is an act against the law which violates and opposes law enforcement. Normatively, actions to obstruct the judicial process have been regulated in many regulations, both in the Criminal Code and in special criminal law. Obstruction of justice often occurs in the pre-adjudication process; before the case is handed over to the court, both at the investigation level, and the level of prosecution and at the stage of adjudication, namely the examination stage at the trial. The problems in this thesis are: What are the forms of obstruction of justice that are regulated in the Law on the Eradication of Corruption? How does criminal law enforcement against conduct obstruct the trial process (obstruction of justice)?

Approach Problems used in this study are normative juridical and empirical juridical approaches. Data sources: Literature studies and field studies. Data analysis: qualitative. Speaker: Prosecutor at the Corruption Eradication Commission, Advocate at the Law Office of Zul Armain Aziz & Associates and Corruption Judge at the Central Jakarta District Court.

The results of the research and discussion show that: forms of conduct obstruct the judicial process (obstruction of justice) contained in four articles, namely Article 21, 22, 23 and Article 24 of the Law on the Eradication of Corruption Crimes. Actions that can be regarded as obstruction of justice must fulfill the element of offense, namely actions can cause delays in the legal process, the perpetrator knows his actions or is aware of his actions, the perpetrator performs or tries to deviate with the intention of interfering with or intervening in the legal administration obstructing the legal process. Law enforcement against this norm can be done through three stages, namely the formulation stage, the application stage, and the execution phase.

The suggestion in this study is that it is expected that the form of action obstructs the judicial process (obstruction of justice) is more specifically formulated in the Law on the Eradication of Criminal Acts of Corruption so that the mutual understanding between law enforcement officers, Judges and Advocates is created. In addition, it is expected that law enforcement officials in resolving cases of obstruction of justice can carry out their duties properly and professionally through the stages of law enforcement, namely the formulation stage, application stage and execution stage so that the legal objectives to provide certainty, benefit and justice to the community can be achieved.

Keywords: Criminal Law Enforcement, Acts Obstruct Judicial Process, Obstruction of Justice.