

ABSTRAK

PERBUATAN MELAWAN HUKUM ATAS LAPORAN POLISI YANG DIHENTIKAN DENGAN SURAT PERINTAH PENGHENTIAN PENYIDIKAN (SP3) (STUDI PUTUSAN MAHKAMAH AGUNG NOMOR 1206 PK/PDT/2023)

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Perbuatan melawan hukum sebagaimana diatur dalam Pasal 1365 Kitab Undang-Undang Hukum Perdata merupakan dasar pertanggungjawaban perdata atas setiap perbuatan yang melanggar hukum dan menimbulkan kerugian bagi pihak lain. Dalam praktik penegakan hukum pidana, permasalahan timbul ketika laporan polisi dihentikan melalui SP3 karena tidak cukup bukti, namun telah menimbulkan kerugian bagi terlapor. Hal ini menuntut penilaian mengenai bentuk upaya hukum terlapor serta pertimbangan hakim dalam menentukan terpenuhinya unsur perbuatan melawan hukum sebagaimana tercermin dalam rangkaian Putusan No. 1093/Pdt.G/2019/PN JKT.SEL jo. No. 60/PDT/2021/PT DKI jo. No. 1980 K/Pdt/2022 jo. No. 1206 PK/Pdt/2023 oleh karena itu, penelitian ini membahas perbuatan melawan hukum atas laporan polisi yang dihentikan.

Penelitian ini merupakan penelitian hukum normatif dengan tipe deskriptif yang menggunakan data sekunder melalui studi kepustakaan dan dianalisis secara kualitatif dengan pendekatan studi kasus terhadap putusan pengadilan.

Hasil penelitian menunjukkan bahwa penerbitan SP3 menegaskan tidak terpenuhinya unsur pidana, namun tidak secara otomatis membuktikan adanya perbuatan melawan hukum dalam ranah perdata. Upaya hukum terlapor melalui gugatan perbuatan melawan hukum untuk pemulihan hak dan ganti rugi. Analisis terhadap pertimbangan hakim menunjukkan adanya perbedaan penilaian pada setiap tingkat peradilan mengenai unsur kesalahan, kerugian, dan hubungan sebab akibat. Pada tingkat banding dan kasasi, laporan yang dihentikan melalui SP3 dinilai memenuhi unsur perbuatan melawan hukum, sedangkan pada tingkat peninjauan kembali Mahkamah Agung menyatakan bahwa pelaporan atas dugaan tindak pidana adalah hak setiap warga negara yang dilindungi oleh hukum, sehingga unsur perbuatan melawan hukum dinyatakan tidak terbukti. Dengan demikian, laporan polisi yang dihentikan melalui SP3 tidak dapat menimbulkan konsekuensi Perbuatan Melawan Hukum berdasarkan Pasal 1365 KUHPdt.

Kata Kunci: Perbuatan Melawan Hukum, Laporan Polisi, SP3

ABSTRACT

UNLAWFUL ACTS ON POLICE REPORTS THAT HAVE BEEN DISMISSED BY AN INVESTIGATION TERMINATION LETTER (SP3) (STUDY OF SUPREME COURT DECISION NUMBER 1206 PK/PDT/2023)

By

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Unlawful acts as stipulated in Article 1365 of the Civil Code are the basis for civil liability for any act that violates the law and causes harm to another party. In the practice of criminal law enforcement, problems arise when a police report is terminated through an SP3 due to insufficient evidence, but has caused losses to the reported party. This requires an assessment of the form of legal action taken by the reported party and the judge's consideration in determining the fulfillment of the elements of unlawful acts as reflected in the series of Decisions No. 1093/Pdt.G/2019/PN JKT. SEL jo. No. 60/PDT/2021/PT DKI jo. No. 1980 K/Pdt/2022 jo. No. 1206 PK/Pdt/2023 Therefore, this study discusses unlawful acts in relation to discontinued police reports.

This study is a normative legal study of a descriptive type that uses secondary data through literature study and is analyzed qualitatively with a case study approach to court decisions.

The results of the study show that the issuance of SP3 confirms that the criminal elements are not fulfilled, but does not automatically prove the existence of unlawful acts in the civil realm. The reported party's legal efforts are through a lawsuit for unlawful acts for the restoration of rights and compensation. Analysis of the judge's considerations shows that there are differences in assessment at each level of the court regarding the elements of fault, loss, and causality. At the appeal and cassation levels, reports that were terminated through SP3 were deemed to fulfill the elements of unlawful acts, while at the Supreme Court review level, it was stated that reporting alleged criminal acts is the right of every citizen protected by law, so that the elements of unlawful acts were declared unproven. Thus, police reports that are terminated through SP3 cannot give rise to the consequences of unlawful acts under Article 1365 of the Civil Code.

Keywords: Unlawful Acts, Police Reports, SP3