

**DASAR PERTIMBANGAN HAKIM ATAS GUGURNYA
PERMOHONAN PRAPERADILAN
(Studi Putusan Praperadilan Nomor : 02/Pid.Pra/2023/Pn.Pnn)**

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ABSTRAK

Permohonan praperadilan merupakan suatu upaya dalam penyelesaian perkara pidana di Indonesia merupakan hal yang perlu diperhatikan. Upaya penegakan hukum merupakan salah satu usaha dalam menciptakan ketertiban, keamanan dan ketentraman bagi masyarakat. Tindakan upaya paksa itu harus dilakukan secara bertanggung jawab menurut ketentuan hukum dan Undang-undang yang berlaku (*due process of law*). Praperadilan yang telah diatur dalam KUHAP, didalamnya telah diberi ketentuan mengenai kapan praperadilan itu dinyatakan gugur. Praperadilan gugur ketika perkara sudah mulai diperiksa oleh Pengadilan Negeri, disaat pemeriksaan praperadilan belum selesai. Ketentuan mengenai kapan gugurnya praperadilan sesuai dengan ketentuan KUHAP ini diterapkan oleh para hakim tunggal di berbagai pemeriksaan praperadilan dengan penafsiran masing-masing hakim tunggal tersebut. Berdasarkan uraian diatas, permasalahan yang penulis bahas dalam skripsi ini adalah (1). bagaimana pengaturan gugurnya praperadilan dalam perspektif hukum pidana, (2). bagaimana dasar pertimbangan hakim terhadap gugurnya permohonan praperadilan. Penelitian ini menggunakan metode yuridis normatif. Adapun pembahasan yang telah penulis kembangkan adalah pengaturan gugurnya praperadilan terdapat pada pengaturan Lembaga Praperadilan di dalam Undang-Undang Nomor 8 Tahun 1981 tentang Hukum Acara Pidana (selanjutnya disebut KUHAP) tercantum dalam Pasal 1 angka 10, Bab X Bagian Kesatu dari Pasal 77 sampai dengan Pasal 83. Dasar pertimbangan hakim terhadap gugurnya permohonan praperadilan dalam praktik penegakan hukum ada berbagai macam penafsiran yang lahir penafsiran pertama yaitu pertama permohonan praperadilan gugur terhitung sejak berkas perkara dilimpahkan ke Pengadilan Negeri oleh penuntut umum. Penafsiran kedua yakni, praperadilan gugur sejak persidangan pertama atas pokok perkara telah dimulai. Saran dari penulis adalah agar para hakim lebih teliti dan mendalami dalam memutuskan gugurnya permohonan praperadilan tersebut. Agar pihak pemohon (terduga tersangka) tidak merasa dirugikan hak asasinya,

Kata kunci: Praperadilan; Pertimbangan Hakim; Permohonan Gugur

**THE BASIS OF THE JUDGE'S JUDGMENT.
PREPERADILAN EXPERIENCE
(Study of pre-trial judgment No.: 02/Pid.Pra/2023/Pn.Pnn)**

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ABSTRACT

The pre-trial request is an attempt to resolve criminal cases in Indonesia and is something to bear in mind. Law enforcement efforts are one of the efforts to create order, security and peace for society. The act of violence shall be carried out responsibly according to the provisions of the law and the law in force. (due process of law). The pre-justice which has been prescribed in the Covenant, in which it has been stipulated when the pre-judgment is declared to be void. The pre-trial was abolished when the case had already begun to be investigated by the State Court, while the pre-judicial examination had not yet been completed. The provisions concerning the expiration of pre-trial proceedings in accordance with the provisions of this Convention shall be applied by the single judges in the various preliminary examinations with the interpretation of each such single judge. Based on the above description, the issues that the author discusses in this scripture are (1) how the pre-judicial fall is arranged in the perspective of criminal law, (2) how the judge's consideration of the failure of pre-trial applications is based. This research uses normative juridic methods. As for the discussion that has been developed by the author, the pre-trial settlement is contained in the provisions of the Pre-Tribunal Institution in the Law No. 8 of 1981 on the Criminal Procedure Law (hereinafter referred to as the Penal Code) listed in Section 1, Section 10, Chapter X, Section One of Section 77 to Section 83. The judge's consideration of the failure of a pre-trial application in law enforcement practices has a variety of interpretations that are born of the first interpretation, namely, the first request for pre-judicial failure is counted since the file of the case was submitted to the State Court by the general prosecutor. The second interpretation is, the pre-court has failed since the first trial on the substance of the matter has begun. The author's suggestion is that the judges should be more careful and thorough in deciding the failure of the pre-trial application. So that the complainant (presumed suspect) does not feel harmed by his fundamental rights,

Keywords: Pre-Trial; Judge's Consideration; Appeals For Dismissal