

IMPOSITION OF SANCTIONS ON INVESTIGATORS WHO COMMIT VIOLENCE IN THE INVESTIGATION PROCESS AT KUDUS POLICE STATION

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ABSTRACT

From the results of the study, it can be shown that in the imposition of sanctions on investigators Lulus Rahardi was committed violence in the investigation process at the Kudus District Police. The sanction was in the form of administrative and criminal sanctions. Administrative sanction given to Bripka Lulus Rahardi was according to the Decision of the Disciplinary Assembly No. KEP/10/XI/2013. He had violated Article 5 letter a Government Regulation Number 2 year 2003 with disciplinary sanctions in the form of written warning, placement in a special place for 21 days from December 6, 2013 to December 26, 2013 and transferred from the Criminal function to the function Sabhara in accordance with Article 9 letter a, e and g PP No. 2 of 2003. Criminal sanctions received by Lulus Rahardi in the District Court Decision Number. 14/Pid/B/2015/PN.Kds was imprisonment for 6 (six) months. The things that can prevent the re-occurrence of violence in the investigation process at the Kudus Police Station consist of 3 (three) things, namely the investigator in carrying out the investigation should be recorded by CCTV/Video, supervision by the Professional and Security Section (Sipropam) as well as coaching and socialization for the offender about The National Police Professional Code of Ethics receives disciplinary sanctions, disciplinary penalties up to PTDH as stipulated in Law No. 2 year 2002 concerning the National Police of the Republic of Indonesia. Government Regulation Number 2 year 2003 concerning Member Discipline Regulation of the Indonesian National Police and Perkap No. 14 of 2011 concerning the Professional Code of Ethics of the Indonesian National Police.

Keywords: Sanctions, Investigators, Violence, Investigations.

INTRODUCTION

Disclosure of a criminal case is part of the duty of the investigator to conduct investigations. In the process of investigation, the Investigator sometimes does not pay attention to the principle of presumption of innocence. According to Andi Hamzah, the principle of presumption of innocence is "everyone who is suspected, arrested, detained, prosecuted and/or confronted before a court hearing, must be considered innocent until a court ruling declares his wrongdoing and obtains permanent legal force"¹. Persecution and violence

¹Andi Hamzah, *Hukum Acara Pidana Indonesia*, Sinar Grafika, Jakarta, 2001, page. 5

occurred in the police environment should be handled with presumption of innocence. In this study, the Central Java Kudus Police was handling cases of embezzlement of motorbikes and robbery at the Kudus Walls Ice Factory conducted by Kuswanto resident of Dukuh Pendem Wetan, RT 04/RW 12, Desa Jepang, Kecamatan Mejobo. The number of Investigators given the authority to conduct investigations at the Kudus Police Station was 60 (sixty) people, one of them named Lulus Rahardi², but in practice, Bripka Lulus Rahardi as the investigator committed violence in the investigation of Kuswanto.

Actions taken by Br. Lulus Rahardi has been sanctioned by disciplinary violations by the agency that violated Article 5 letter a of the Republic of Indonesia Government Regulation No. 2 of 2003 concerning Member Discipline Regulation of the Indonesian National Police, based on the Disciplinary Session Decree, Br. Lulus Rahardi received sanctions in the form of a written warning and placement in a special place for 21 days³. Sanctions received by Br. Rahardi passed not only in the form of disciplinary violations from the Police but also in the form of general criminal sanctions.

Based on the background of the research described above, the researcher focused on the title "Imposing Sanctions on Investigators Who Commit Violence In the Investigation Process in the Kudus Police Station"

Formulation of the problem

Based on the background description above, the problem is as follows:

1. How is the imposition of sanctions on investigators who commit violence in the investigation process at the Kudus Police?

Research methods

Legal research is a scientific activity, which is based on certain methods, systematics, and thoughts, which aims to study one or several specific legal symptoms, by analyzing.⁴

In a legal study entitled "Imposing Sanctions on Investigators Who Commit Violence In the Investigation Process in the Kudus Police Station" requires good and accurate secondary data, both primary and secondary legal materials that can be accounted for. As for these data can be obtained with the following research steps:

Approach Method

² Data Personil Sat. Reskrim Polres Kudus, yang diberikan pada tanggal 4 April 2016

³ Polres Kudus, Surat Keputusan Hukum Disiplin No : Skep/10/XI/2013.

⁴Soerjono Soekanto, *Pengantar Penelitian Hukum*, UI-Press, Depok, 1981, page.43.

In the study "Imposing Sanctions on Investigators Who Commit Violence In the Investigation Process in the Kudus Police Station" this method used a normative juridical approach. Normative juridical research is library research, namely research with secondary data⁵. Juridical understanding is intended in making an approach by using the principles of law to review and analyze the problem. On the other hand, normative is research using an approach based on existing provisions and how the provisions are implemented.

Research Specifications

The legal research " Imposing Sanctions on Investigators Who Commit Violence In the Investigation Process in the Kudus Police Station" was carried out in an analytical descriptive way, namely by collecting various data related to research, then the data were described and analyzed based on positive law and existing legal theory.

Data Collection Method

This research used normative juridical method. The data used were secondary data. Secondary data, as explained by Abdulkadir Muhammad, is data from library research. Secondary data consists of primary and secondary and tertiary legal materials.

1. Primary legal data materials used include:
 - a) 1945 Constitution of the Republic of Indonesia;
 - b) Law Number 2 of 2002 concerning the Police;
 - c) Criminal Code (KUHP);
 - d) Law Number 8 of 1981 concerning the Criminal Procedure Code (KUHAP);
 - e) Implementing Regulations of the Police Law:
 - 1) Government Regulation of the Republic of Indonesia Number 2 Year 2003 concerning Member Discipline Regulation of the Indonesian National Police;
 - 2) Republic of Indonesia Government Regulation Number 3 year 2003 concerning Institutional Technical Implementation of General Courts for Members of the Indonesian National Police;
 - f) Regulation of the Chief of the National Police of the Republic of Indonesia Number 15 of 2006 concerning the Professional Code of Ethics for Investigators of the Indonesian National Police;
 - g) Regulation of the Chief of the Indonesian National Police Number 14 of 2011 concerning the Professional Code of Ethics for the Indonesian National Police;

⁵Ronny Hanitijo Soemitro, *Metodologi Penelitian Hukum Dan Jurumetri*, Ghalia Indonesia, Jakarta, 1988, page.11.

- h) Regulation of the Chief of the National Police of the Republic of Indonesia Number 14 of 2012 concerning Management of Criminal Investigations;
2. Secondary legal material:
 - a) Books / literature that are related to the research title;
 - b) Scientific works or journals, articles or other sources related to the title of the research.
 3. Tertiary legal materials include:
 - a) Big Indonesian dictionary;
 - b) English dictionary;
 - c) Legal dictionary.

Data Analysis Methods

Through a descriptive study, the researcher described objects or complete research data in all aspects completely and thoroughly investigated so that the problems became clear the situation and condition, without drawing conclusions that are generally applicable.

RESEARCH RESULTS AND DISCUSSION

A. Imposition of Sanctions to Investigators Who Commit Violence In the Investigation Process at Kudus Police Station

The number of Investigators given the authority to conduct investigations at the Kudus Police Station was 60 (sixty) people, one of them was investigator named Lulus Rahardi.⁶ Lulus Rahardi received administrative sanctions in the form of a written warning, placement in a special place for 21 days, he was transferred from Reskrim function to Criminal Sabhara in 2013 and the sanction of imprisonment of 6 (six) months in 2015 for his actions persecuting Kuswanto. Lulus Rahardi committed violence beating Kuswanto's head and body with a gun, beaten using water hose, and doused with alcohol down to Kuswanto's neck, so he was burned.

Kuswanto was hospitalized for 10 (ten) days at Kudus Hospital, because the treatment at Kudus Hospital did not show any changes, so he was transferred to Mardi Rahayu Hospital for 14 (fourteen) days, because the condition has not fully recovered, Kuswanto forward with alternative medicine in Pati during the seven (7) weeks until finally Kuswanto and burns can heal the scars / disabled up to this time.

⁶ Sat. Personnel Data Criminal of the Holy Police, who was given by the Holy Police on April 4 2016

In the disciplinary hearing, Bripka Lulus Rahardi was charged with a disciplinary case No. TP2D/10/XI/2013/PROPAM was a written warning and placement in a special place for 7 days. The results of the disciplinary hearing according to the Decision of the Discipline No. KEP/10/XI/2013 that the action Bripka Lulus Rahardi had violated Article 5 paragraph a Government Regulation No. 2 of 2003 on the Disciplinary Code Member State Police of the Republic of Indonesia to obtain sanctions in the form of a written warning and placement in a special place for 21 days starting from December 6 2013 to December 26, 2013 and transferred from Criminal function to the Sabhara function.⁷

In addition to being reported to the Kudus Police Propam Division, Kuswanto also reported on the actions of Lulus Rahardi who committed crimes of maltreatment which resulted in serious injuries in accordance with Article 351 paragraph (2) of the Indonesian Criminal Code to Central Java Regional Police. Lulus Rahardi received a claim from the Public Prosecutor according to No. Reg. Case of PDM-3 / Kds/Epp.2/01/2015 on April 1, 2015, requested that the Panel of Judges of the Kudus District Court made a decision that "the defendant Lulus Rahardi was guilty of committing a crime of torture which resulted in serious injuries, as regulated in Article 351 paragraph (2) of the Criminal Code (indictment) and impose a criminal sentence on the defendant Lulus Rahardi in the form of imprisonment for 2 (two) years reduced as long as the defendant was in detention and the defendant's order remained detained".⁸

Before the Panel of Judges imposed a criminal offense on the defendant, the aggravating factors were considered: "the defendant as a police officer should act professionally and proportionally in his service" and mitigating matters namely "the defendant has never been convicted, the defendant feels guilty and regrets his actions, the defendant was polite in the trial, the defendant as the backbone of the family, the defendant and the victim had forgiven each other in the trial, there had been a peace agreement between the defendant and the victim with the victim's medical expenses reaching Rp. 79,000,000, - (seventy nine million rupiah)".⁹

The Council of Judges of the District Court in the Kudus District Court Decision Case Number: 14/Pid/B/2015/PN.Kds on April 15, 2015, giving a decision which was pronounced in a court session which was open to the public, adjudicated that "the defendant Lulus Rahardi

⁷ Decision of Disciplinary Law No: Skep / 10 / XI / 2013, which was given by the Holy Police on October 15 2015

⁸ Decision of the Kudus District Court, Case Number: 14 / Pid / B / 2015 / PN.Kds, accessed and downloaded at the Supreme Court Decision Directory, August 2015

⁹ Decision of the Kudus District Court, Case Number: 14 / Pid / B / 2015 / PN.Kds, accessed and downloaded at the Supreme Court Decision Directory, August 2015

legally and convincingly proven guilty of committing a crime of torture resulting in serious injury, imposing a criminal sentence on the defendant Lulus Rahardi with a 6 (six) month imprisonment and stipulating that the defendant has been completely deducted from the criminal sentence and remains in detention ".¹⁰

From the above description, it can be concluded that the sanctions received by Lulus Rahardi as the investigator were administrative sanctions in the Decision of the Disciplinary Assembly No. KEP/10/XI 2013 in the form of written warning, placement in a special place for 21 days starting from December 6, 2013 to December 26, 2013, transferred from the Criminal function to the Sabhara function and imprisonment for 6 (six) months.¹¹ In addition to Lulus Rahardi, no other investigator received sanctions because Kuswanto only reported Lulus Rahardi's for his offence.¹²

The researcher argued that administrative sanctions were in the Decision of the Disciplinary Assembly No. KEP/10/XI/2013 on Briпка Lulus Rahardi, was the implementation of the rules in Government Regulation Number 2 year 2003 concerning Member Discipline Regulations of the Indonesian National Police. This was due to Briпка Lulus Rahardi because his profession was a member of the National Police subject to Law No. 2 year 2002 concerning the National Police of the Republic of Indonesia, Government Regulation Number 2 of 2003 concerning Member Discipline Regulation of the Indonesian National Police and the Regulation of the Chief of the Republic of Indonesia Police Number 14 of 2011 concerning the Professional Code of Ethics of the Indonesian National Police.

Police of the Republic of Indonesia in accordance with Article 3 letter c PP No.2 of 2003 states that "Polri is obliged to uphold the honor, dignity of the State, Government and the National Police of the Republic of Indonesia". Furthermore, in Article 3 letter g PP No.2 of 2003 that is "the Police are obliged to comply with the prevailing laws and regulations, both those related to official duties and those that are generally applicable". This means that the National Police must carry out their duties in accordance with the Laws, but Briпка Lulus Rahardi has committed a crime of persecution against Kuswanto in the investigation process, this means Briпка Lulus Rahardi has violated the Police Disciplinary Rules.

For members of the Indonesian National Police (including investigators) who violate disciplinary regulations are subject to sanctions in accordance with Article 7 PP No. 2 of

¹⁰ Decision of the Kudus District Court, Case Number: 14 / Pid / B / 2015 / PN.Kds, accessed and downloaded at the Supreme Court Decision Directory, August 2015

¹¹ Decision of Disciplinary Law No: Skep / 10 / XI / 2013 and Decision of Kudus District Court, Case Number: 14/Pid/B/2015/PN.Kds

¹² Heri Purwanto selaku KBO Sat Reskrim, *personal interview*, on 20 January 2016

2003, namely "a member of the Indonesian National Police who apparently violates the Member Discipline Regulation of the Indonesian National Police is sanctioned in the form of disciplinary action and/or disciplinary punishment".

In addition, criminal sanctions to Lulus Rahardi must provide justice, benefits, balance and legal certainty for Kuswanto. This is in accordance with Arif Gosita's opinion in the context of criminal law. In fact, the principle of law must cover all material criminal law, formal criminal law, and criminal law.¹³ Based on the description above, first, the principle of benefits has been fulfilled because Lulus Rahardi had borne all the medical expenses for Kuswanto amounting to Rp. 79,000,000, and Lulus Rahardi had been sentenced to 6 months imprisonment¹⁴, in an effort to reduce the number of criminal acts and create order the community. Second, the principle of justice has been given by the Panel of Judges to Kuswanto (victim) that the defendant Lulus Rahardi had received a prison sentence, even though the criminal sanctions are lighter. According to the author this justice has not been fulfilled because Kuswanto's burn cannot return 100% (partially deformed from the neck down) based on Visum Et Repertum from the hospital. Mardi Rahayu Hospital Kudus Number: 2729 / DIRMP-A4 / XII / 2014 on December 10, 2014.¹⁵ Third, the principle of balance, the victim Kuswanto had recovered health from Lulus Rahardi and had re-interacted socially with the community. Fourth, the principle of legal certainty, the defendant Lulus Rahardi has been sentenced to 6 months imprisonment and disciplinary sanctions from the Kudus Police in the form of a written warning, placed in a special place for 21 days and transferred from the Criminal function to the Sabhara function.¹⁶

However, in practice, the National Police Professional Code of Ethics (KEEP) session on Briapka Lulus Rahardi was not implemented despite the violations in the Regulation of the Minister of Law No. 14 of 2011, Government Regulation Number 1 of 2003, Government Regulation Number 2 of 2003, and Law No. 43 of 1999 jo Act No. 5 of 2014 due to Briapka Lulus Rahardi being punished by disciplinary punishment according to the Decision of the Disciplinary Assembly No. KEP / 10 / XI / 2013 with consideration of Briapka Lulus Rahardi carrying out his duties as a police officer in his service was an accomplished police officer who had received a certificate of appreciation from his supervisor and no negative records

¹³ Arif Gosita, *Masalah Korban Kejahatan*, Akademika Pressindo, Jakarta, 1993, page.50

¹⁴ Decision of the Kudus District Court, Case Number: 14 / Pid / B / 2015 / PN.Kds, accessed and downloaded at the Supreme Court Decision Directory, August 2015

¹⁵ Decision of the Kudus District Court, Case Number: 14 / Pid / B / 2015 / PN.Kds, accessed and downloaded at the Supreme Court Decision Directory, August 1 2015

¹⁶ Decision of Disciplinary Law No: Skep / 10 / XI / 2013 and Decision of Holy District Court, Case Number: 14/Pid/B/2015/PN.Kds

were found, and Bripka Lulus Rahardi regretted his actions by being sentenced to 6 months imprisonment with consideration between Bripka Lulus Rahardi with Kuswanto have forgiven each other, with a peace agreement by covering Kuswanto's medical expenses Rp. 79,000,000 (seventy nine million rupiah).¹⁷

Based on the description of the discussion above, it can be concluded that the imposition of sanctions on investigators Lulus Rahardi who committed violence in the investigation process at the Kudus Police in the form of administrative sanctions and criminal sanctions. Administrative sanctions against Bripka Passed Rahardi according to the Decision of the Disciplinary Assembly No. KEP / 10 / XI / 2013 has violated Article 5 letter a Government Regulation Number 2 of 2003, with disciplinary sanctions in the form of written warning and placement in a special place for 21 days from December 6, 2013 to December 26, 2013 and transferred from the Criminal function to Sabhara function in accordance with Article 9 letter a, e and g PP No. 2 of 2003, and did not get sanction of dismissal with no respect in the National Police Code Commission hearing even though Bripka Lulus Rahardi had violated Article 14 letter e, Article 21 paragraph (3) letter a, Article 22 paragraph (1) letter a and Article 22 paragraph (2) Perkap No. 14 of 2011 concerning the Professional Code of Ethics of the National Police of the Republic of Indonesia (b ,ru rules), Article 15 of PerKap No. 7 of 2006 of the NRI Police Professional Code of Ethics (old rules), Article 12 paragraph (1) letter a, Article 13 paragraph (1), Article 14 paragraph (1) letter b of Government Regulation Number 1 of 2003 concerning Dismissal of National Police Members, Article 13 of Government Regulation Number 2 of 2003 concerning the Disciplinary Regulations of Polri Members, Article 23 paragraph (3) letter b, Article 23 paragraph (4) letter a, and Article 23 paragraph (5) letter c of Law No. 43 of 1999 concerning the Principles of Personnel and Article 87 paragraph (4) letter b of Law No. 5 of 2014 concerning State Civil Apparatus. Criminal sanctions received by Lulus Rahardi in the District Court Decision Number. 14 / Pid / B / 2015 / PN. Kds was imprisonment for 6 (six) months.

CONCLUSION

The imposition of sanctions on investigators Lulus Rahardi who committed violence in the investigation process at the Kudus Police in the form of administrative sanctions and criminal sanctions. Administrative sanctions against Bripka Passed Rahardi according to the Decision of the Disciplinary Assembly No. KEP / 10 / XI / 2013 has violated Article 5 letter a

¹⁷ Lukman Abdul Khamid as the Baur Paminal, *personal interview on* 20 January 2016

Government Regulation Number 2 of 2003 with disciplinary sanctions in the form of written warning, placement in a special place for 21 days from December 6, 2013 to December 26, 2013 and transferred from the Criminal function to the function Sabhara in accordance with Article 9 letter a, e and g PP No. 2 of 2003. Criminal sanctions received by Lulus Rahardi in the District Court Decision Number. 14 / Pid / B / 2015 / PN. Kds is imprisonment for 6 (six) months.

SUGGESTION

For the Kudus Police investigator, the imposing sanctions on investigators who violate the Polri Professional Code of Ethics that are subject to disciplinary sanctions until no dismissal with respect can be used as learning for other Polres (investigators) members in carrying out their duties according to the authorities stipulated in the Law invitation.

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