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Legal Effort of the Prosecutor's Office Against the Pre-Trial Decision Ordering the Prosecutor's Office to Immediately Transfer the Case to Trial (Case Study of Poso District Court Decision Number 3/Pid.Pra/2018/Pn Pso Dated 20 September 2018)

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Abstract. *The criminal justice system can be simply defined as the process carried out by the state against people who violate criminal laws.[1] Therefore, it is necessary to make an "effort to restore violated norms and rules to restore the balance of order in society through law enforcement. Research methods are very much needed in order to conduct research that is directed, effective and efficient in its implementation. Legal research is a scientific activity based on certain methods, systematics and thoughts that aim to study one or several legal phenomena by analyzing them, in addition to that, an in-depth examination of legal facts is also carried out to prevent problems that arise in the relevant phenomena.[2] Methodology is knowledge about various ways of working that are adjusted to the object of study of the science concerned. The Praperadilan Judge of the Poso District Court as per the Poso District Court Decision No. 3/Pid.Pra/2018/PN Pso has exceeded his authority and there has been a judicial error or a clear error in trying the object of the pretrial motion in the a quo case because the basis for submitting the pretrial motion is the Notification Letter on the Progress of Investigation Results (SP2HP) from the investigator and the absence of a Letter of Termination at either the Investigation or Prosecution level (SP3) means that the Panel of Judges should not be able to accept the pretrial motion because the pretrial motion is not based on law or is premature.*

Keywords: *Concerned; Investigation; Science.*

[1]Eddy OS Hiariej, Principles of Criminal Law, (Yogyakarta: Cahaya Atama Pustaka, 2016), p. 10.
[2]Soerjono Soekanto, Op.Cit, p. 43.

1. Introduction

Indonesia is a country based on law this is stated in the provisions of Article 1 paragraph (3) of the 1945 Constitution of the Republic of Indonesia (hereinafter referred to as the 1945 Constitution of the Republic of Indonesia) 4th amendment. Based on the provisions of this article, Indonesia is a country that prioritizes legal sovereignty or legal principles as the highest authority in various aspects of social, national and state life. The development of a state of law in responding to legal issues requires a forum that bridges law enforcement and seeks justice based on Pancasila, namely by using the Court. The court has a role as a forum in seeking justice and trying to overcome all obstacles and barriers. When the processes in criminal law occur, it means that there has been a criminal justice system whose purpose is to realize justice as aspired by all parties.

The administration of justice as an effort to enforce criminal law is a legal process that involves various components or factors that can color and play a role in determining these legal processes.[3] These components or factors involve the Police, Prosecutors, Advocates, Courts to Correctional Institutions. Therefore, "law enforcement officers have a close relationship with each other called the Criminal Justice System."[4]

The criminal justice system can be simply defined as the process carried out by the state against people who violate criminal laws.[5] Therefore, it is necessary to make an “effort to restore violated norms and rules to restore the balance of order in society through law enforcement.”[6]

Based on the provisions of Article 1 number 6 letter a of the Criminal Code (hereinafter abbreviated as KUHAP) it is stated that "A prosecutor is an official who is authorized by this law to act as a public prosecutor and to enforce court decisions that have permanent legal force". Furthermore, based on the provisions of Article 1 number 2 of Law of the Republic of Indonesia Number 11 of 2021 concerning Amendments to Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia (hereinafter abbreviated as Law Number 11 of 2021) it is stated that "A prosecutor is a civil servant with a functional position who has special characteristics and carries out his duties, functions, and authorities based on the Law". Based on this understanding, the

[3]Triyanto, The State of Law and Human Rights, (Yogyakarta: Ombak, 2013), p. 26.
[4]Yesmil Anwar and Adang, Criminal Law Reform, (Jakarta: Grasindo, 2008), p. 52.
[5]Eddy OS Hiariej, Principles of Criminal Law, (Yogyakarta: Cahaya Atama Pustaka, 2016), p. 10.
[6]H. Edi Setiadi and Kristian, Integrated Criminal Justice System and Law Enforcement System in Indonesia, in Dini Dewi Heniarti (ed), (Jakarta: Prenadamedia Group, 2017), p. 135.

prosecutor has duties and authorities including as a public prosecutor and implementing court decisions.

The definition of what is meant by a public prosecutor is explained in the provisions of Article 13 of the Criminal Procedure Code in conjunction with Article 1 number 3 of Law Number 11 of 2021, namely "a prosecutor who is authorized by law to carry out prosecution and determine judges". In carrying out the prosecution, based on the provisions of Article 139 of the Criminal Procedure Code, the Public Prosecutor is given the authority to determine whether a case file has met the formal and material requirements so that the case can or cannot be transferred to the court, which is referred to as the principle of dominus litis of the Public Prosecutor.

Dominus litis comes from Latin, Dominus means owner, while litis means case or lawsuit. The principle of dominus litis gives authority to the public prosecutor to carry out prosecution absolutely so that the judge is passively waiting and cannot request that the crime be submitted.[7]Based on the principle of dominus litis, the authority to declare the case files resulting from the investigation by the investigator complete or commonly known as (P-21) so that prosecution can be carried out is only the Public Prosecutor and no other officials or agencies.

The duties and authorities of the Prosecutor, other than as a Public Prosecutor as described above, are to implement court decisions. What is meant by a court decision in this case is implementing a court decision on a criminal case that has permanent legal force (inkracht) as the authority is regulated in Article 270 of the Criminal Procedure Code in conjunction with Article 30 Paragraph (1) letter b of Law Number 16 of 2004 concerning the Attorney General's Office of the Republic of Indonesia (hereinafter referred to as Law Number 16 of 2004).

Pretrial as regulated in Article 1 number 10 Jo. Article 77 of the Criminal Procedure Code Jo. Decision of the Constitutional Court of the Republic of Indonesia Number 21/PUU-XII/2014 dated April 28, 2015 is the authority of the district court to examine and decide in accordance with the method regulated in the law regarding the validity or otherwise of an arrest, detention, termination of investigation or termination of prosecution including determination of suspects, searches, and confiscation; compensation and/or rehabilitation for a person whose criminal case is terminated at the investigation or prosecution stage.

One example of a pretrial decision that examines and decides whether or not the termination of the investigation is valid and whether or not the termination of the prosecution is valid is the Pretrial Decision of the Poso District Court Number 3/Pid.Pra/2018/PN Pso dated September 20, 2018 (hereinafter abbreviated as

[7]Gede Putera Perbawa, Criminal Law Policy on the Existence of the Principle of Dominus Litis in the Perspective of Professionalism and Proportionalism of Public Prosecutors, (Malang: Jurnal Arena Hukum Volume 7 Number 3, 2014), p 334

the Poso District Court Decision No. 3/Pid.Pra/2018/PN Pso). In the verdict, the panel of judges stated that the Instruction Letter (P-19) Number: B-794/R.2.13/Epp.1/10/2017, dated October 16, 2017, the Instruction Letter (P-19) Number: B-103/R.2.13/Euh.1/01/2018, dated January 25, 2018 and the Instruction Letter (P-19) Number: B-204/R.2.13/Euh.1/02/2018 dated February 28, 2018 were declared invalid and not binding, stated that the action of Respondent II to stop the Prosecution was invalid, ordered Respondent II to immediately submit the case files of the Petitioner a quo to the Poso District Court for immediate trial.

That previously at the investigation level of the quo case conducted by the Poso Police Investigator, case file research was conducted by the Poso District Attorney. Furthermore, the results of the research on the files the prosecutor who has the principle of dominus litis is of the opinion in the instructions (P-19) that the quo case is not a criminal incident but a civil case, so that the file is returned to the investigator.

That regarding the instructions (P-19), the investigator conducted an examination of expert statements in order to complete the case file a qou, after which the file was returned to the Prosecutor. and then again gave instructions (P-19) that the quo case was not a criminal incident but a civil incident, so that the file was returned to the investigator.

Next, the investigator sends a Notification Letter on the Progress of Investigation Results (SP2HP) to the Applicant/Reporter which explains the case based on instructions (P-19) from the Prosecutor that the quo case is not a criminal incident but rather a civil case, and the investigator has not...issue a Letter of Order to Stop Investigation (SP3) in the case.

That on the basis ofNotification Letter of Investigation Results Progress (SP2HP), The Applicant/Reporter of the quo case filed a pretrial motion regarding the invalidity of the termination of the investigation carried out by the Investigator and the invalidity of the termination of the prosecution carried out by the Prosecutor which was filed on August 30, 2018 at the Poso District Court clerk's office.

The Decision of the Poso District Court No. 3/Pid.Pra/2018/PN Pso is one of the pretrial decisions which based on the provisions of Article 83 Paragraph (1) of the Criminal Procedure Code and the Decision of the Constitutional Court of the Republic of Indonesia Number 65/PUU-IX/2011, no appeal can be made against the pretrial decision. Then based on the provisions of Article 45A Paragraph (2) of Law of the Republic of Indonesia Number 14 of 1985 concerning the Supreme Court as last amended by Law of the Republic of Indonesia Number 3 of 2009 concerning the Second Amendment to Law Number 14 of 1985 concerning the Supreme Court (hereinafter abbreviated as the Supreme Court Law), no

cassation can be filed against the pretrial decision. So that the Decision of the Poso District Court No. 3/Pid.Pra/2018/PN Pso directly has permanent legal force because no ordinary legal remedies, namely appeal or cassation, have been submitted.

Furthermore, the Decision of Poso District Court No. 3/Pid.Pra/2018/PN Pso which has permanent legal force (inkracht), then the Poso District Attorney must implement the decision, namely by declaring the Instruction Letter (P-19) Number: B-794/R.2.13/Epp.1/10/2017, dated October 16, 2017, the Instruction Letter (P-19) Number: B- 103/R.2.13/Euh.1/01/2018, dated January 25, 2018 and the Instruction Letter (P-19) Number: B-204/R.2.13/Euh.1/02/2018 dated February 28, 2018 declared invalid and not binding, stating that the action of Respondent II to stop the Prosecution is invalid, ordering Respondent II to immediately transfer the case files of the Petitioner a quo to the Poso District Court for immediate trial. This means that the case files resulting from the investigation of the a quo case were previously declarednot a criminal incident but a civil incident through Instructions (P-19) which according to the sole pre-trial judge, the Instructions (P-19) are invalid and not binding, then they must be immediately declared complete (P-21) by the Prosecutor so that the Prosecutor as Public Prosecutor can immediately submit the case file a quo to the trial at the competent district court to be examined and decided by the judge at the trial, even though the Public Prosecutor is of the opinion that the case file a quonot a criminal incident but a civil incident.

The Public Prosecutor of the Poso District Attorney's Office who had to implement the Decision of the Poso District Court No. 3/Pid.Pra/2018/PN Pso resulted in differences or gaps. The one who should (das sollen), namely the one who has the authority to determine whether or not a quo file can be forwarded to the trial stage, is the Public Prosecutor, but in reality (das sein) the judge stated by ordering Respondent II to immediately submit the case files a quo to the trial at the competent district court to be examined and decided by the judge at the court hearing, even though the Public Prosecutor is of the opinion that the a quo case is not a criminal incident but rather a civil incident through Instructions (P-19), but on the other hand, the Public Prosecutor also has the duty to implement the decision which has permanent legal force.

2. Research Methods

Research method is a method of working to be able to understand the object that is the target of the relevant science. Method is a guideline for how a scientist studies and understands the environments that are understood.[8] Research methods are very much needed in order to conduct research that is directed, effective and efficient in its implementation. Legal research is a

[8]Soerjono Soekanto, Introduction to Legal Research, Jakarta: UI Press, 1986, p. 14.

scientific activity based on certain methods, systematics and thoughts that aim to study one or several legal phenomena by analyzing them, in addition to that, an in-depth examination of legal facts is also carried out to prevent problems that arise in the relevant phenomena.[9] Methodology is knowledge about various ways of working that are adjusted to the object of study of the science concerned. In other words, methodology explains the procedures and steps that will be taken to achieve research objectives**.** The type of research used in this study is a type of normative legal research. The type of normative legal research is legal research that places law as a building of a norm system. The norm system in question is about the principles, norms, rules of laws and regulations, court decisions, agreements and doctrines.[10]

3. Results and Discussion

3.1. The Authority of the Pre-Trial Judge in Examining and Deciding on Cases Regarding the Invalidity of Termination of Investigation and the Invalidity of Termination of Prosecution on the Basis of Notification Letter of Progress of Investigation Results (SP2HP) from Investigators

Pretrial as regulated in Article 1 number 10 Jo. Article 77 of the Criminal Procedure Code Jo. Decision of the Constitutional Court of the Republic of Indonesia Number 21/PUU-XII/2014 dated April 28, 2015 is the authority of the district court to examine and decide in accordance with the method regulated in the law regarding the validity or otherwise of an arrest, detention, termination of investigation or termination of prosecution including determination of suspects, searches, and confiscation; compensation and/or rehabilitation for a person whose criminal case is terminated at the investigation or prosecution stage.

The difference between termination of investigation and termination of prosecution is at what stage the case is being carried out. If the case is terminated by the investigator, it is called termination of investigation, whereas if the case is terminated by the public prosecutor, it is called termination of prosecution.[11] The reasons for stopping the investigation or stopping the prosecution are as stipulated in Article 109 paragraph (2) in conjunction with Article 140 paragraph (2) letter a of the Criminal Procedure Code, namely:

1) Insufficient Evidence

A criminal case if there is not enough evidence to prosecute, then the court judge will acquit (vrijspraak) the defendant because the person charged does not

[9]Soerjono Soekanto, Op.Cit, p. 43.
[10]Mukti Fajar and Yulianto Achmad, Dualism of Normative and Empirical Legal Research, Pustaka Pelajar, Yogyakarta, 2010, p. 153.
[11]Nur Hidayat, Termination of Investigation by Police Investigators and Legal Efforts, (Indramayu: Yustitia Journal, Vol. 10, No. 1, November 2010), p. 2.

meet the requirements to accuse him in court. To avoid such an acquittal decision, it is better for the investigator or public prosecutor to stop the case.

A case that does not have sufficient evidence in the investigation as a reason for stopping the investigation because if the case is still transferred by the investigator to the public prosecutor, then the case will still be stopped by the public prosecutor according to Article 140 paragraph 2 letter a of the Criminal Procedure Code, or the case file is rejected / returned to the investigator. The reason for the formal error accused by the public prosecutor to the investigator is because there is insufficient evidence to meet the minimum requirements for proof according to Article 183 of the Criminal Procedure Code.

2) The incident is not a criminal act

The prosecutor, in this case the public prosecutor, studies the case files that have been transferred by the investigator based on the results of the investigation that has been carried out, and concludes that the incident that the investigator suspects of the suspect or defendant is not a criminal act, then the public prosecutor is better off returning the case files by providing instructions (P-19) to stop the case, because no matter what the charges that are not criminal acts that are submitted to the court hearing, basically the judge will release them from all charges (onslag van rechtsvervolging).[12]

3) Case Closed by Law

A case can be terminated by an investigator or public prosecutor for reasons that must be by law. Legal reasons that cause a case to be closed by law can include:

a. The suspect or defendant died.

The investigation must be stopped if the suspect or defendant dies. By law, the case must be closed. If the perpetrator has died, then the legal responsibility for the crime alleged to the suspect or defendant automatically disappears. The criminal responsibility cannot be transferred to the family or heirs of the suspect or defendant.

b. Same as the same

Based on the principle of nebis in idem, it is not permissible to prosecute and punish someone twice for the same crime or violation. A person may only be convicted once for the same crime or violation (criminal act).[13]If the public prosecutor receives the examination file from the investigator, then from the results of the research conducted it turns out that the crime suspected of the

[12]Johana Olivia Rumajar, Reasons for Terminating Investigation of a Corruption Crime, (Manado: Jurnal Lex Crimen, Vol. III/No. 4/AgsNov/2014), pp. 99-100.
[13]Johana Olivia Rumajar, Op. cit., p. 93.

suspect is a criminal event that has been prosecuted and decided by a judge in a court hearing and has obtained permanent legal force, then based on the provisions of Article 76 of the Criminal Code it must be closed by law, because it is contrary to the principle of ne bis in idem.

c. Expired

Expiration is past the time limit specified in the law. Prosecution of a case can be stopped / closed for reasons that have expired as regulated in Article 78 to Article 80 of the Criminal Code. Therefore, the right to sue for the public prosecutor will be lost if:

(1) all violations and crimes committed with printing after one year;

(2) crimes punishable by a fine, imprisonment, or a maximum of three years' imprisonment, after six years;

(3) crimes punishable by imprisonment for more than three years, after twelve years; and

(4) crimes punishable by death or life imprisonment, after eighteen years.

That in relation to the quo case, the sole pretrial judge of the Poso District Court by attribution as regulated in the provisions of Article 77 letter a of the Criminal Procedure Code is given the authority to examine and decide on the validity or otherwise of the termination of the investigation and to examine and decide on the validity or otherwise of the termination of the prosecution. So that the Pretrial Judge by attribution has the authority to examine and decide on the validity or otherwise of the termination of the investigation and to examine and decide on the validity or otherwise of the termination of the prosecution.

That the basis for submitting a pretrial motion in the a quo case is the Notification Letter on the Progress of Investigation Results (SP2HP) which in essence explains the contents of Instructions (P-19) Number: B-794/R.2.13/Epp.1/10/2017, dated October 16, 2017 and (P-19) Number: B/163/R.2.13/Euh.1/01/2018, dated January 25, 2018, namely that the incident is not a criminal incident but a civil incident. Respondent I (Investigator) did not mention the termination of the investigation into the case and the investigator never issued a Letter of Order to Terminate Investigation (SP3), likewise Respondent II (Prosecutor) in the Instruction Letter (P-19) Number: B-794/R.2.13/Epp.1/10/2017, dated October 16, 2017 and (P-19) Number: B/163/R.2.13/Euh.1/01/2018, dated January 25, 2018 stated that the incident was not a criminal incident but a civil incident, and the prosecutor never issued a Letter of Order to Terminate Prosecution (SP3) because the case was still at the investigation/pre-prosecution stage.

That the delivery Notification Letter of Investigation Results Progress (SP2HP)dated 19 February 2018 issued by Respondent I to the Applicant which was then interpreted incorrectly by the Applicant as if there had been a termination of the investigation into Police Report Number STTL/45/II/2017 dated 21 February 2017 by using it as the basis for instructions by the Applicant, namely (P-19) with Number: B-794/R.2.13/Euh.I/10/2017 and letter (P-19) again Number: B/163/R.2.13/euh.1/01/2018.

That the Prosecutor conducted a study of the case files a quo provided by the investigator, which study of these files was guided by minimum evidence (minimum bewijs) namely 2 pieces of evidence as stipulated in Article 183 of the Criminal Procedure Code, the evidence described by the applicant which only refers to expert testimony is an error because in the proof process, 2 (two) pieces of evidence are needed to support each element of the article suspected by the investigator as Respondent II has described in the Instructions (P-19) in which the Prosecutor provides instructions that the case is a civil incident, not a criminal incident.

That related to the instructions from the Prosecutor based on the evidence contained in the investigation case file where the Prosecutor obtained facts that stated the legal relationship that occurred between the Applicant and the Suspect was a civil legal relationship where the Applicant had borrowed a sum of money by pledging the Applicant's car with such provisions that made an agreement with the Suspect's company to make the Applicant's car as a debt settlement when the Applicant committed an act of default. However, when the Applicant breached his promise, in accordance with the agreement that had been made, the Suspect came to the Applicant to take the car as payment for the debt but the Applicant reported this to Respondent I (Investigator) so that on this basis Respondent II (Prosecutor) was of the view that there was a civil element in the investigation file.

That based on the Letter of the Deputy Attorney General for General Crimes (JAMPIDUM) Number: B.401/E/9/1993 dated 8 September 1993 addressed to the Head of the High Prosecutor's Office throughout Indonesia in number 3 letter c states "if according to the results of the study it turns out that the investigation results are complete then a Notification Letter of Complete Investigation Results (P-21) and if otherwise a Notification Letter of Incomplete Investigation Results (P-18) is issued and the case file is returned accompanied by instructions to complete the investigation results (P-19), while in letter d it is further stated "In P-19, it must be explained carefully, clearly and completely about what must be completed by the Investigator according to the provisions of Article 138 paragraph 2 Jo. Article 110 paragraphs (2) and (3) of the Criminal Procedure Code". The instructions are written in simple language with the use of effective sentences. For the accuracy of the application of these instructions, the

Investigator should be invited to meet with the Public Prosecutor to discuss the instructions in question.

Then in the Letter of the Deputy Attorney General for General Crimes (JAMPIDUM) Number: B.536/E/11/1993 dated November 1, 1993 addressed to the Head of the High Prosecutor's Office throughout Indonesia regarding Completing Case Files by Conducting Additional Examination in number 1 states "That the return of case files must be accompanied by instructions to be implemented (P-19)". That in relation to the quo case the Public Prosecutor provides instructions (P-19) containing the opinion that the case is not a criminal event but a civil event.

So the submission of the pretrial motion by the applicant clearly has no legal basis and does not carry out a fair legal process or due process of law in accordance with the procedures and stages according to law which prioritize the objectives of the law, namely justice, benefit and legal certainty, because it was submitted on the basis of a Notification Letter on the Progress of Investigation Results (SP2HP) without a Letter of Order to Terminate Investigation (SP3) from the investigator or a Letter of Order to Terminate Prosecution (SP3) from the public prosecutor, in other words the pretrial motion is not included in the scope of the pretrial motion as stipulated in Article 77 of the Criminal Procedure Code in conjunction with. The Constitutional Court of the Republic of Indonesia Decision Number 21/PUU-XII/2014 dated April 28, 2015, so that the pretrial motion filed by the Applicant is premature, and the sole pretrial judge should reject the pretrial motion based on the Notification of Investigation Result Progress Letter (SP2HP), and has the authority to try the pretrial motion when the investigation process has been completely stopped through the Investigation Termination Order Letter (SP3), so that there is clear certainty regarding the applicable legal process based on the duties and functions of the institutions in the criminal justice system, namely the police, prosecutors, courts, correctional institutions and lawyers or advocates.

3.2. The Authority of the Pretrial Judge in Ordering the Prosecutor's Office (Respondent II) to Immediately Transfer the Case to Trial

The sole pretrial judge in his ruling stated that the Instruction Letter (P-19) Number: B-794/R.2.13/Epp.1/10/2017, dated October 16, 2017, Instruction Letter (P-19) Number: B-103/R.2.13/Euh.1/01/2018, dated January 25, 2018 and Instruction Letter (P-19) Number: B-204/R.2.13/Euh.1/02/2018 dated February 28, 2018 were declared invalid and not binding (ruling number 2) and the Action of Respondent II to stop the Prosecution was invalid (ruling number 3). Then in ruling number 4 ordered Respondent II to immediately submit the case files of the Petitioner a quo to the Poso District Court for immediate trial. That the pretrial decision in number 4 is a demnatoir decision, which is a decision that contains a punishment for the parties to the case.

That based on the Letter of the Deputy Attorney General for General Crimes (JAMPIDUM) Number: B.401/E/9/1993 dated 8 September 1993 addressed to the Head of the High Prosecutor's Office throughout Indonesia in number 3 letter c states "if according to the results of the study it turns out that the investigation results are complete then a Notification Letter of Complete Investigation Results (P-21) and if otherwise a Notification Letter of Incomplete Investigation Results (P-18) is issued and the case file is returned accompanied by instructions to complete the investigation results (P-19), while in letter d it is further stated "In P-19, it must be explained carefully, clearly and completely about what must be completed by the Investigator according to the provisions of Article 138 paragraph 2 Jo. Article 110 paragraphs (2) and (3) of the Criminal Procedure Code". The instructions are written in simple language with the use of effective sentences. For the accuracy of the application of these instructions, the Investigator should be invited to meet with the Public Prosecutor to discuss the instructions in question.

In addition, the sole pretrial judge who stated that the Prosecutor's Office in this case the Public Prosecutor had stopped the prosecution was wrong because the quo case was still in the investigation/pre-prosecution stage, so that this shows that there was a judicial error or a clear error applied in the decision of the a quo case. There are several things or circumstances that fall within the scope of judicial error or clear error, namely as follows:[14]

1) The legal considerations of the decision or its ruling clearly contradict legal principles and legal norms.

2) The verdict is not supported by any legal considerations.

3) A judicial decision that is erroneous, either due to a factual error (feitelijke dwaling) or a legal error (dwaling omtrent het recht).

4) The court has interpreted a norm in a way that clearly violates the will of the legislator regarding the purpose for which the norm was created.

That in the pretrial decision number 4 which ordered the prosecutor's office to immediately transfer the aquo case to the court, which was a follow-up to decision number 3 which stated that the prosecutor's office's action in stopping the prosecution was invalid, in the said decision there was a mistake by the judge or a clear error, because the application submitted by the pretrial applicant was based onNotification Letter of Investigation Results Progress (SP2HP)is not the object of a pretrial motion and it can be said that the application is not based on law or is premature to be submitted because there has been no termination either in the investigation or prosecution, so that the verdict stating that the

[14]Muhammad Yasin, Meaning of Judge's Error or Real Mistake,http://www.hukumonline.com, accessedNovember 13, 2022.

Prosecutor's Office has stopped the prosecution is indicative of a judicial error or a clear error, namely that the legal considerations of the verdict or its verdict are clearly contrary to the principles of law and legal norms or a judicial decision that is erroneous, either due to a factual error (feitelijke dwaling) or a legal error (dwaling omtrent het recht).

The mechanism for filing a cassation appeal for the sake of legal interest against the pretrial decision of the a quo case can be proposed in stages by the Public Prosecutor of the Poso District Attorney's Office in stages to the Attorney General so that the Attorney General, due to his position, files a cassation appeal for the sake of legal interest against the pretrial decision of the a quo case. Thus, this requirement has been fulfilled.

a. A request for cassation in the interests of the law is not bound by a time limit;

There is no time limit in filing a cassation for the sake of legal interests against the a quo case, so it can be filed immediately if the case file has been transferred to the Prosecutor's Office and after being re-examined, that the case is not a criminal incident but a civil incident. Thus, this requirement has been fulfilled.

b. The cassation decision in the interests of the law does not harm the interested party but is only in the interests of the law.

The reasons for filing a cassation in the interests of the law are not explicitly regulated in the Criminal Procedure Code, but in practice they follow the reasons for filing a cassation as regulated in the provisions of Article 253 Paragraph (1) of the Criminal Procedure Code. In order for the cassation decision in the interests of the law not to harm the interested party, the reasons for the cassation application in the interests of the law against the a quo case are limited to the pretrial decision exceeding its authority in stating that the Instruction Letter (P-19) is declared invalid and binding, stating that the actions of Respondent II (Prosecutor's Office) in stopping the Prosecution are invalid, ordering Respondent II (Prosecutor's Office) to immediately submit the a quo case files to the Trial. In response to this decision, the prosecutor's office in this case the Public Prosecutor immediately re-examines the case files and if after the research the public prosecutor is of the opinion that the incident is not a criminal incident but a civil incident, by having re-examined the case files, then in the interests of the law of all parties, both the reporter and the reported, no party is harmed. Thus, this requirement has been fulfilled.

In the verdict, it is hoped that it will be stated that the pretrial decision will be cancelled because the application was submitted prematurely because the basis for the application was onlyNotification Letter of Progress of Investigation Results (SP2HP) and the case was not referred to the trial because it was not a criminal incident but rather a civil incident., so that no interested parties are

harmed, either the reporter/applicant or the suspect, by submitting an appeal for the sake of legal interests.

4. Conclusion

The Praperadilan Judge of the Poso District Court as per the Poso District Court Decision No. 3/Pid.Pra/2018/PN Pso has exceeded his authority and there has been a judicial error or a clear error in trying the object of the pretrial motion in the a quo case because the basis for submitting the pretrial motion is the Notification Letter on the Progress of Investigation Results (SP2HP) from the investigator and the absence of a Letter of Termination at either the Investigation or Prosecution level (SP3) means that the Panel of Judges should not be able to accept the pretrial motion because the pretrial motion is not based on law or is premature.

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