International Journal of Research Publication and Reviews

Journal homepage: www.ijrpr.com ISSN 2582-7421

Ideal Setting Against the Rejection of the Investigation Termination Warrant (SP3) Related to Pretrial in the Code of Criminal Procedure (KUHAP)

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ABSTRACT

This article aims to analyze and offer an ideal regulatory model related to the rejection of a warrant for termination of Investigation (SP3) in the pretrial mechanism provided for in the Code of Criminal Procedure (KUHAP). Using normative or doctrinal legal research methods, this article focuses its study on the substantial and procedural aspects in the termination of an investigation. Currently, the Criminal Procedure Code only emphasizes procedural aspects without in-depth regulation of the quality of evidence and internal evaluation mechanisms prior to the issuance of SP3, which often raises questions of substantive justice. Through in-depth analysis, this article found that weaknesses in the regulation of SP3 can have an impact on less effective enforcement processes and potential abuse of authority by law enforcement officers. Therefore, this article offers an ideal setup model that includes two important elements. First, the affirmation of the minimum standard of evidence that must be met before SP3 is published, to ensure that the decision to stop the investigation is not done carelessly. Secondly, the need for an internal review mechanism by a higher investigator or direct supervision of the prosecutor's office as a form of horizontal supervision of the decision to stop the investigation. With this arrangement, it is expected that pretrial can function more optimally as a supervisory mechanism that is not only procedural, but also substantive, so as to encourage the creation of a criminal justice system that is more fair, transparent, and accountable. This article makes an important contribution in the discourse of Criminal Procedure Code updates, particularly related to the supervision and regulation of SP3.

Keywords: regulation, investigation termination warrant, pretrial, Criminal Procedure Code

Introduction

Law is conceptually the idea of Justice. The guarantee of a fair trial is part of the human right, namely the right to a fair trial process. In the process, there is a formal procedural law, namely legal rules on how to maintain and implement material law. Its function is to resolve legal issues that meet the legal prohibition of materill. Criminal Procedure Law is a complement to criminal law or in other words Criminal Procedure Law is often referred to as formal criminal law.[1] Criminal Procedure Law serves to run all the rules written in the criminal law materill in the trial. It aims to find the truth or at least get close to the truth materill.[2]

In the context of achieving fair justice as a law enforcement effort, if examined in Law No. 8 of 1981 on Criminal Procedure Law, Criminal Law Enforcement in Indonesia is termed the “criminal justice system” which consists of components of the police, courts, prosecutors, to correctional institutions.[3]

These components have a close relationship in the enforcement of fair justice. The implementation of these components requires the existence of a legal basis for an action that is carried out solely for the implementation of a good criminal justice process, providing legal protection for the dignity and dignity of suspects, defendants, and especially victims. On the basis of the law, namely in the Code of Criminal Procedure (KUHAP) states that law enforcers must carry out a series of criminal case settlement process should be based on the principle of power sharing, namely the division of powers between the police, prosecutors and courts, to the existence of cooperation between Related Agencies in handling cases.

In the Criminal Procedure Code or the current Criminal Procedure Bill does not regulate clearly and unequivocally about an investigation that has been decided to be stopped by means of a warrant for termination of Investigation (SP3), in the future it can be opened for re-investigation. Compared to the

[1] Riadi Asra Rahmad, Hukum Acara Pidana (Jakarta: PT Rajagrafindo Persana, 2019) hlm. 1
[2] Lahmado, N. G., Puluhulawa, M. R. U., & Muhtar, M. H. (2024). Tinjauan viktimologi terhadap tindak pidana kekerasan seksual pada anak di wilayah hukum Polres Boalemo. *SINERGI: Jurnal Riset Ilmiah*, 1(6), 365–375.
[3] Arief, S., Muhtar, M. H., & Saragih, G. M. (2023). Upaya pembelaan diri dalam perspektif persamaan di hadapan hukum. *Jurnal Yudisial*, 16(1), 25–47.

stage of Investigation and prosecution by the public prosecutor which is in the investigation when the investigator is in the process of finding and discovering an event that is suspected of being a criminal offense, the facts and evidence collected by the investigator are not sufficient, there are sufficient reasons not to continue the investigation, but if the reporter or investigator finds new facts and evidence (novum), the investigation can be reopened through the case title mechanism by issuing a warrant for further investigation.[4]

The principle of horizontal supervision is formed by the Criminal Procedure Code called Pretrial. This is to ensure the protection of human rights and so that law enforcement officers can carry out their duties according to function and not excessive. Pretrial was born because of the doreongan that there is no supervision and assessment that guarantees human rights in HIR, which was formed during the Dutch colonial era.

Pretrial institution is a control mechanism that functions as an institution authorized to supervise law enforcement officers carrying out their duties in criminal justice.[5] So it is clear, in principle, is to negate any form of forced effort that the action is contrary to legal regulations and legislation.

The Criminal Procedure Code places the pretrial institution as one of the parts of the scope of judicial authority for the District Court.[6] So that if reviewed in its arrangement or structure, pretrial is not a stand-alone Court board. The authority of this pretrial institution is to decide:[7]

1. Validity or not of an arrest and / or detention
2. The validity or invalidity of the termination of the investigation or the termination of the prosecution
3. Request for compensation or rehabilitation by the suspect or his family or other parties on his behalf whose case is not filed with the court.

Even in the current legal developments in Indonesia, the Constitutional Court Decision No. 21/PUU/XII/2014 dated April 28, 2015, has expanded the authority of pretrial, namely regarding the validity of the determination of suspects, searches, and seizures, this is solely to prevent the arbitrariness of law enforcement officers to someone who is undergoing legal proceedings.

Pretrial indirectly supervises the progress of the investigation process carried out by the investigator, given the existence of forced efforts inherent in the relevant agencies. Pretrial allows for supervision between the police and the prosecutor's office in the process of running or stopping investigations and prosecutions. It can be said then that the pretrial institution is one of the models of horizontal supervision that is accommodated by the Criminal Procedure Code to obtain justice that is as fair as possible.[8]

In the Preperadian there is a request from the applicant related to the warrant for termination of Investigation (SP3). In accordance with Article 77 of the code of Criminal Procedure, the District Court is authorized to examine and decide in accordance with the provisions set forth in the law. Seeing the flow that has been formed by legislation, the judicial process must follow it with the aim of obtaining a good justice or approaching true justice. In this regard, there is a discrepancy to see that there is no period of time when the warrant for termination of Investigation (SP3) must be resumed.

In the pretrial examination process, it only regulates the period of 7 (seven) days from the time the pretrial application is examined and the application must be decided to be stopped or continued. However, in certain cases, clarity is needed regarding the time to proceed with the investigation process after the pretrial judge decides to proceed with a case (SP3 is rejected).

Formulation Of The Problem

What is the Ideal regulatory Model for the rejection of a warrant for termination of Investigation (SP3) related to pretrial in the Code of Criminal Procedure (KUHAP)?

Research Methods

This study uses the type of normative research, for it requires relevant data as supporting research to obtain results from this study. According to Soerjono Soekanto, normative legal research includes research on the principles of Law, Legal History Research, and Comparative Law Research. Normative legal research is oriented towards approaching various norms of legislation, various legal references, legal scientific journals, various legal theories, legal principles.[9]

In addition, the case approach is applied by analyzing several pretrial decisions related to the termination of the investigation. This analysis includes the reasons for the rejection or acceptance of SP3 by pretrial judges as well as its implications for the investigation process. The historical

[4] Herman, Handrawan, Oheo Kaimuddin Haris, Ali Rizky, Fuad Nur, Lade Sirjon, Syamsu Marlin,
Penyidikan Kembali Perkara yang Dihentikan Penyidikannya (SP3) oleh Kepolisian Negara Republik Indonesia, Halu Oleo Legal Research | Volume 6, Issue 1, April 2024, hlm 159

[5] Hendrawan Sofyan, "Penolakan Permohonan Praperadilan Terhadap Penetapan Tersangka dan Penyitaan (Kajian Putusan Nomor 01/Pra.Pid/2016/PN-Mbo)", dadlam Jurnal Media Syariah, Vol 21, No. 1 2019", halaman 75

[6] Lembaga Praperadilan ditempatkan dalam Bab X Bagian Kesatu KUHAP

[7] Pasal 1 angka 10, Pasal 77, Pasal 82 ayat (1) huruf b, dan Pasal 95 ayat (2) KUHAP

[8] Latifatul Khotimal, "Pra Peradilan Tindakan Penghentian Penyidikan Dalam Perkara Penipuan (Studi Putusan Nomor: 70/PID.PRA/2015/PN JKT SEL)", dalam jurnal Verstek Vol. 6 No. 2, 2016, halaman 25

[9] Syahrudin Nawi, Penelitian Hukum Normatif versus Penelitian Hukum Empiris, Makassar: PT: Ukhuwah Grafika, 2014, halaman 250

approach is also used to trace the historical development of pretrial institutions in the Indonesian legal system, including the influence of colonial law and post-independence legal reforms. This review gives an idea of how the concept of horizontal supervision in the code of Criminal Procedure is formed.

In order to provide a broader perspective, this study utilizes a comparative approach by comparing pretrial arrangements in Indonesia with the legal systems of other countries. It aims to find the ideal regulatory model that can be applied in Indonesia. The theoretical approach is also integrated with reference to the theory of justice, the theory of separation of powers, and the theory of human rights protection. This theoretical analysis is used to understand the principles underlying the formation and implementation of pretrial.

The Data used in this study include primary data, such as legislation, Court decisions, and official documents, as well as secondary data that includes legal literature, scientific journals, reference books, and academic articles. The Data are qualitatively analyzed by correlating existing legal norms, the views of Jurists, as well as the legal practice taking place. This analysis aims to identify weaknesses in existing settings while providing recommendations for more ideal setting models. With this research method, the study is expected to provide a comprehensive and applicable solution to the issues raised, thus supporting the establishment of a more fair and effective Criminal Procedure Law system in Indonesia.

Discussion

According to Hartono, pretrial is “the trial process before the trial of the subject matter is heard". Understanding the subject matter is the matter of the material, while in the pretrial trial process only examines the process of Investigation and prosecution procedures, not to the subject matter only. As for what is meant by the subject matter is the material of the case, for example, a corruption case, then the subject matter is a corruption case. If the case is pretrial, of course the subject matter is pretrial. Pretrial is a trial media to test whether the laws and regulations have been complied with or not complied with by police investigators, including investigators of civil servants, as referred to in the applicable laws and regulations.[10]

Pretrial under Article 1 point 10 of the Criminal Procedure Code is the authority of the District Court to examine and decide on the validity or not of an arrest and/or detention; the validity or not of the termination of the investigation or termination of prosecution upon request for the sake of law and justice; and the request for compensation or rehabilitation by the suspect or his family or other parties or their proxies whose cases are not submitted to the court.[11]

Pretrial is a new thing in the world of Indonesian justice. Pretrial is one of the new Institutions introduced by the Criminal Procedure Code in the midst of law enforcement life.[12] The Constitutional Court (MK) on April 28, 2015 has granted partial testing of the Criminal Procedure Law (KUHAP). Based on the Constitutional Court Decision No. 21/PUU-XII/2014, the Constitutional Court has determined the expansion of pretrial, namely regarding the validity or not of the determination of suspects, searches and seizures. The Constitutional Court made the determination of the suspect one of the pretrial objects that was not previously provided for in the code of Criminal Procedure.[13]

So it can be concluded that pretrial indirectly supervises the progress of the investigation process carried out by the investigator, given the existence of forced efforts inherent in the relevant agencies. Pretrial allows for supervision between the police and the prosecutor's office in the process of running or stopping investigations and prosecutions. It can be said that the pretrial institution is one of the horizontal surveillance models accommodated by the Criminal Procedure Code to obtain justice as fair as possible.

In the Preperadian there is a request from the applicant related to the warrant for termination of Investigation (SP3). In accordance with Article 77 of the code of Criminal Procedure, the District Court is authorized to examine and decide in accordance with the provisions set forth in the law. Seeing the flow that has been established by the legislation, the judicial process must follow it with the aim of obtaining a good justice or approaching true justice. In this regard, there is a discrepancy to see that there is no period of time when the warrant for termination of Investigation (SP3) must be resumed.[14]

The main purpose of the pre-trial establishment is to carry out horizontal supervision over the act of forced effort imposed on the suspect during his stay in the investigation or prosecution, so that the Act does not really contradict the provisions of the law and legislation. According to R. Soeparmono that the purpose of the pretrial is for the sake of upholding the law, legal certainty and protection of the rights of suspects. The introduction of pretrial to compensate for the application of force in criminal justice processes such as arrest and detention has the purpose of not degrading human dignity. So it is clear that pretrial is intended as supervision of the use of coercive efforts by functional law enforcement officers in this case the police and prosecutors. This pretrial is included as the authority of the court before examining the subject matter.[15]

Investigators in the criminal law system in Indonesia to stop the investigation process. This is stipulated in Article 109 paragraph (2) of the Code of Criminal Procedure (KUHAP), which states that investigators can stop investigating a case if one of the following three reasons is found:[16]

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[10] Hartono,. Penyidikan dan Penegakan Hukum Pidana (Melalui Pendekatan Hukum Progresif). Sinar Grafika, Jakarta, 2010, hlm 88
[11] Pasal 1 Butir 10 Kita Undang-Undang Hukum Acara Pidana Indonesia
[12] M. Yahya Harahap, Pembahasan Permasalahan dan Penerapan KUHAP Pemeriksaan Sidang Pengadilan, Banding, Kasasi dan Peninjauan Edisi Kedua, Sinar Grafika, Jakarta,2012, hlm. 1
[13] Wanda Rara Farezha, Edy Rifa’I, Gunawan Jatmiko, Abstrak Analisis Putusan Hakim Praperadilan dalam Perkara Tindak Pidana Korupsi (Studi Putusan Praperadilan Nomor14/Pid.Pra/2016/PN.Tjk), hlm. 1
[14] Khotimal, L. (2016). Pra Peradilan Tindakan Penghentian Penyidikan Dalam Perkara Penipuan (Studi Putusan Nomor: 70/PID.PRA/2015/PN JKT SEL). Jurnal Verstek, 6(2). Hlm. 77
[15] Luhut M.P. Pangaribuan, Hukum Acara Pidana, Satu Kompilasi Ketentuan ketentuan KUHAP dan Hukum Internasio nal, Cet-III , Djambatan, Jakarta:, 2009, hal.21
[16] Pasal 109 ayat (2) Kitab Undang-Undang Hukum Acara Pidana (KUHAP)

1. Insufficient evidence, in the investigation, the investigator can dismiss the case if the evidence obtained is insufficient to continue the investigation.
2. Event is not a criminal offense, if after conducting an investigation it turns out that the event is not a criminal offense, the investigator can stop the investigation
3. The investigation is terminated in favor of the law, this includes several conditions, such as the existence of an expiration (has exceeded the legally permissible time period) or other reasons that cause the investigation can not be continued.

SP3 is important because it aims to prevent unfounded protracted investigations from protecting the rights of suspects, and streamline investigative resources to focus on cases that have sufficient evidence. With the SP3, investigators are given the flexibility to stop the case officially for legitimate reasons. The main purpose of the implementation of SP3 is to avoid investigations that do not have a solid foundation, as well as prevent protracted investigations that could harm suspects.[17]

Pretrial as a supervisory mechanism for SP3, regulated in Article 77 to Article 83 of the Criminal Procedure Code and serves as a supervisory mechanism against the actions of investigators and prosecutors who can be considered arbitrary. One of the pretrial objects stipulated in the Criminal Procedure Code is the validity or not of the termination of the investigation by the investigator, including through the issuance of SP3. Article 80 of the Criminal Procedure Code expressly states that the validity or invalidity of the termination of an investigation or prosecution can be tested through pretrial proceedings.

In this context, pretrial is a forum for parties who feel aggrieved by the termination of the investigation to challenge the decision. A pretrial application may be submitted by the suspect, his family, or his legal counsel if they feel that the termination of the investigation was unlawful or unfounded.

In the context of criminal law enforcement in Indonesia, the investigation termination warrant (SP3) rejected by the pretrial court poses a major challenge to the sustainability of the investigation and legal certainty for suspects. Therefore, in order to support the thesis title “Legal reconstruction of the clarity of the investigation termination warrant (SP3) rejected in the pretrial process in Criminal Law Enforcement”, an ideal regulatory model is needed that can accommodate the interests of all parties in a balanced manner.

The current Criminal Procedure Code regulates that SP3 can be published by investigators based on the reasons stipulated in Article 109 paragraph (2). However, there needs to be a reconstruction of the code of Criminal Procedure that emphasizes the substantial and procedural aspects related to the termination of the investigation. The ideal Model is:

1. Affirmation of minimum standards of evidence for SP3: investigators should be given more concrete guidance on the minimum standards of evidence required before deciding to issue an SP3. This is important to ensure that SP3 is not published carelessly.
2. Internal review: before the SP3 is published, it is necessary to carry out an internal review by a higher investigating authority or direct supervision from the prosecutor's office to ensure that the reasons for stopping the investigation have met legal and justice standards.

The current code of Criminal Procedure regulates that SP3 can be issued by investigators based on the reasons stipulated in Article 109 paragraph (2). However, this arrangement required reconstruction to emphasize the more detailed substantial and procedural aspects related to the termination of the investigation. One important element that needs to be considered is the affirmation of the minimum standard of evidence before SP3 is published. Investigators should be given clear and concrete guidance on the minimum amount and quality of evidence needed to stop an investigation. This aims to prevent the issuance of SP3 that is done carelessly without a strong legal basis and to ensure respect for the principle of Justice.

In addition, an internal review mechanism is also needed before SP3 is published. This mechanism can take the form of supervision from an investigator with a higher position or direct supervision from the prosecutor's office to assess whether the reasons for stopping the investigation have met the standards of law and Justice. This internal review will serve as a control mechanism to ensure that the decision to terminate the investigation is not made unilaterally or without adequate justification. With this arrangement, it is hoped that the process of stopping investigations can be more transparent, accountable, and in line with law enforcement goals that uphold human rights and substantial justice.

One of the shortcomings in the current pretrial process is the limited authority of pretrial judges who only focus on procedural aspects. The ideal regulatory Model should expand the scope of the pretrial judge's authority to be able to assess the substance of the case in the rejected SP3 case.

1. Evaluation of the substance of the evidence: the pretrial judge must be authorized to evaluate not only the procedure for issuing the SP3, but also the quality and adequacy of the evidence used by the investigator in deciding on the termination of the investigation. This is important so that the SP3 assessment is not only administrative but also substantive.
2. Extension of the pretrial object: in addition to assessing the validity or not of the termination of the investigation, the pretrial must be given the authority to direct the investigator to carry out certain actions such as continuing or presenting additional evidence.

One of the main weaknesses in the current pretrial process is the limited authority of pretrial judges who only focus on procedural aspects. This resulted in the supervision of the decision to stop the investigation, particularly related to the issuance of a warrant for the termination of the investigation (SP3),

[17] Riswan Munthe. 2024. Permohonan Praperadilan atas Penghentian Penyidikan terhadap Tindak Pidana Pemalsuan Surat Mengandung *OBSCUUR LIBEL*

can not thoroughly reflect the principle of substantive justice. Therefore, an ideal regulatory model is needed that expands the scope of the pretrial judge's authority in order to be able to assess the substance of the case in cases where SP3 is rejected.

One aspect that needs to be expanded is the evaluation of the substance of the evidence. The pretrial judge should be given the authority to evaluate not only the procedure for issuing SP3, but also the quality and adequacy of the evidence used by the investigator in deciding on the termination of the investigation. Thus, the assessment of SP3 is not only administrative, but also substantive, so as to prevent the termination of an investigation that is not based on a solid evidence base.

In addition, it is necessary to expand the pretrial object. Pretrial not only assess the validity or invalidity of the termination of the investigation, but also should have the authority to direct the investigator to take certain actions. This includes continuing the investigation process or submitting additional evidence relevant to the case being processed. With a regulatory model like this, pretrial can be a more effective monitoring mechanism and responsive to the need for fair and transparent law enforcement. This change is expected to overcome weaknesses in the existing system and strengthen the pretrial function as the guardian of the principle of due process of law in Indonesia.

Pretrial is regulated in Article 77 to Article 83 of the Criminal Procedure Code and is a mechanism for monitoring the actions of investigators or public prosecutors who are considered arbitrary, including in the issuance of SP3. Praperadlan gives the right to the suspect, the suspect's family, or his attorney to file a lawsuit if the investigation is stopped unlawfully or unfounded.[18]

Article 80 of the code of Criminal Procedure explicitly states that one of the pretrial objects is the validity or invalidity of the termination of an investigation or prosecution. Thus, the issuance of SP3 can be sued through pretrial if it is considered to violate the procedures or legal grounds on which the issuance of SP3 is considered invalid.[19]

If the court decides that the SP3 issued by the investigator is invalid, the investigator must continue the investigation of the case that was stopped. This provides an important check and balance mechanism in the criminal justice system to ensure that the termination of an investigation is carried out in the correct procedure and in accordance with the provisions of the law on the other hand, the pretrial decision authorizing SP3 reinforces the legality of the termination of the investigation which means that the investigation is officially terminated and cannot be resumed again, unless new evidence is found that can reopen the case in accordance with Article 83 paragraph (2) of the Criminal Procedure Code.

The expansion of pretrial objects in the Indonesian legal system is a strategic step to strengthen the mechanism of monitoring the actions of law enforcement officials, especially investigators and public prosecutors. Currently, pretrial arrangements in Indonesia have been regulated in Articles 77 to Article 83 of the Criminal Procedure Code, which aims to prevent arbitrary actions by law enforcement officers, including the issuance of a warrant for termination of Investigation (SP3). Pretrial detention gives the suspect, the suspect's family, or his legal counsel the right to file a lawsuit if the investigation is unlawfully or groundlessly terminated.

Explicitly, Article 80 of the code of Criminal Procedure states that one of the pretrial objects is the assessment of the validity or not of the termination of an investigation or prosecution. With this legal basis, pretrial provides a mechanism for injured parties to challenge the issuance of SP3 if it is considered to be in violation of procedures or based on invalid legal grounds. This mechanism is important as a form of protection of human rights, especially the right to justice in legal proceedings.

In practice, if the court decides that the SP3 issued by the investigator is invalid, then the investigator is obliged to continue the investigation of the terminated case. This is a significant form of check and balance in the criminal justice system, to ensure that the termination of an investigation is carried out in accordance with legal procedures and provisions. Conversely, if the pretrial decision states that SP3 is valid, then the decision strengthens the legality of the termination of the investigation, which means that the case is officially terminated and cannot be continued unless new evidence or novum is found as stipulated in Article 83 paragraph (2) of the Criminal Procedure Code.

However, the limitation of the powers of pretrial judges, which focuses only on procedural aspects, is a significant drawback in this system. Currently, pretrial judges can only assess the validity or not of the issuance of SP3 based on compliance with formal procedures, without evaluating the substance of the evidence on which the termination of the investigation was based. As a result, there is a risk that the decision to terminate the investigation may be made on substantive grounds that are not compelling, but are nevertheless considered valid because the Administrative Procedure has been met.

To overcome this weakness, it is necessary to reconstruct pretrial arrangements that authorize judges to evaluate the substance of cases in cases involving SP3. The pretrial judge must be able to assess the quality and adequacy of the evidence used by the investigator as a basis for issuing SP3. It is important that the assessment of SP3 is not only administrative, but also reflects substantive justice. Thus, the pretrial judge can make sure that the decision to terminate the investigation is really based on sufficient evidence and legally valid reasons.

In addition, the expansion of pretrial objects is also necessary in order to give the judge the authority to direct the investigator to perform certain actions. For example, if a deficiency is found in the evidence presented, the judge may order the investigator to continue the investigation or submit additional relevant evidence. This role will strengthen the function of pretrial supervision and ensure that legal proceedings proceed in accordance with the principle of due process of law.

[18] M. Yahya Harahap, Pembahasan permaslahan dan Penerapan KUHAP jilid 1, Jakarta: Pustaka Kartini, 1988, hlm. 16
[19] *Ibid*

This reconstruction step can also improve the position of pretrial as an institution that is not only reactive, but also proactive in ensuring justice. With the authority to evaluate the substance of the case, pretrial can provide recommendations or directions to law enforcement officials regarding the steps to be taken to resolve a case fairly. This will give the public greater confidence in the criminal justice system, since the decisions taken are based on comprehensive considerations, both procedurally and substantively.

However, this expansion of authority must be balanced with the enforcement of the principle of independence and impartiality of judges. Pretrial judges must carry out their duties without the intervention of interested parties, whether from investigators, prosecutors, or suspects. In addition, special training for pretrial judges on the evaluation of the substance of evidence and minimum standards of evidence is also important to ensure that this expansion of authority can be implemented effectively.

On the other hand, it is also necessary to consider a stricter internal monitoring mechanism for the issuance of SP3 by investigators. For example, every decision to issue SP3 must go through a review process by the direct supervisor of the investigator or supervision from the prosecutor's office. This review will be an additional layer in preventing abuse of authority and ensuring that the termination of the investigation is carried out on legitimate grounds.

This reconstruction also requires adjustments in legislation. The code of Criminal Procedure should be revised to accommodate the expansion of the powers of pretrial judges and the strengthening of supervisory mechanisms for the issuance of SP3. In addition, the establishment of technical guidelines on the evaluation of the substance of evidence and minimum standards of evidence is also needed to provide a clear reference for pretrial judges and other law enforcement officials.

With this reconstruction, it is hoped that pretrial can be a more effective mechanism in ensuring justice in the Indonesian criminal justice system. This change will not only strengthen the function of pretrial supervision, but also improve the quality of the legal process as a whole, so as to create a more fair, transparent and accountable justice system.

Conclusion

The current Criminal Procedure Code regulates that SP3 can be published by investigators based on the reasons stipulated in Article 109 paragraph (2). However, there needs to be a reconstruction of the code of Criminal Procedure that emphasizes the substantial and procedural aspects related to the termination of the investigation. The ideal Model is; 1) affirmation of minimum standards of evidence for SP3: investigators should be given more concrete guidance on the minimum standards of evidence required before deciding to issue SP3. This is important to ensure that SP3 is not published carelessly; 2) internal review: before the SP3 is published, it is necessary to conduct an internal review by a higher investigating authority or direct supervision from the prosecutor's office to ensure that the reasons for stopping the investigation have met legal and justice standards. One of the shortcomings in the current pretrial process is the limited authority of pretrial judges who only focus on procedural aspects.

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