

TINJAUAN HUKUM *OBSTRUCTION OF JUSTICE* DALAM PASAL 221 KITAB UNDANG-UNDANG HUKUM PIDANA TERHADAP KASUS FERDY SAMBO

ABSTRAK

Obstruction of justice merupakan suatu tindakan seseorang yang menghalang-halangi proses hukum dan mengacaukan fungsi yang seharusnya dalam suatu proses peradilan. Tindakan *obstruction of justice* merupakan perbuatan melawan hukum yang menerabas dan menentang penegakan hukum. Secara normatif, tindakan menghalang-halangi proses peradilan sudah diatur banyak dalam peraturan, baik dalam KUHP maupun dalam hukum pidana khusus. Perbuatan *obstruction of justice* kerap terjadi pada proses *pra-adjudikasi*; sebelum perkara dilimpahkan kepengadilan, baik di tingkat penyidikan, maupun tingkat penuntutan dan pada tahap adjudikasi yaitu tahap pemeriksaan di persidangan. Permasalahan dalam skripsi ini adalah: Bagaimana peranan penegakan hukum dalam menangani tindakan *obstruction of justice* dalam mengatasi perkara kasus pembunuhan Ferdy Sambo? Bagaimana proses tindak pidana *obstruction of justice* dalam penyelidikan untuk mengungkap kejahatan pada kasus Ferdy Sambo?

Hasil penelitian ini dan pembahasan menunjukkan bahwa: bentuk perbuatan menghalang-halangi proses peradilan (*obstruction of justice*) dimuat dalam pasal 221 ayat (1) ke 2 Kitab Undang-Undang Hukum Pidana. Perbuatan yang dapat dikatakan sebagai *obstruction of justice* harus memenuhi unsur delik, yaitu tindakan dapat menyebabkan tertundanya proses hukum, pelaku mengetahui tindakan atau menyadari perbuatannya, pelaku melakukan atau mencoba tindakan menyimpang dengan tujuan mengganggu atau mengintervensi proses atau administrasi hukum serta pelaku memiliki motif untuk melakukan tindakan menghalang-halangi proses hukum. Penegakan hukum terhadap norma ini dapat dilakukan melalui tiga tahap yaitu tahap formulasi, tahap aplikasi, dan tahap eksekusi.

Kesimpulan dan saran dalam penelitian ini adalah diharapkan bentuk perbuatan menghalang-halangi proses peradilan (*obstruction of justice*) lebih dirumuskan secara spesifik sehingga terciptanya kesepahaman bersama antara aparat penegak hukum baik Hakim, Jaksa, dan Advokat. Selain itu, diharapkan aparat penegak hukum dalam penyelesaian perkara *obstruction of justice* dapat melaksanakan tugas secara baik, bertanggungjawab dan profesional melalui tahapan penegakan hukum yaitu tahap formulasi, tahap aplikasi, dan tahap eksekusi sehingga tujuan hukum untuk memberikan kepastian, kemanfaatan serta keadilan kepada masyarakat dapat tercapai.

Kata Kunci : Penegakan Hukum Pidana, Perbuatan Menghalang-Halangi Proses Peradilan, *Obstruction Of Justice*.

REVIEW OF OBSTRUCTION OF JUSTICE LAW IN ARTICLE 221 OF THE CRIMINAL LAW BOOK IN THE CASE OF FERDY SAMBO

ABSTRACT

Obstruction of justice is an act of someone who obstructs the legal process and disrupts the function that should be in a judicial process. An obstruction of justice is an act against the law which violates and opposes law enforcement. Normatively, actions to obstruct the judicial process have been regulated in many regulations, both in the Criminal Code and in special criminal law. Obstruction of justice often occurs in the pre-adjudication process; before the case is handed over to the court, both at the investigation level, and the level of prosecution and at the stage of adjudication, namely the examination stage at the trial. The problems in this thesis are: What is the role of law enforcement in dealing with obstruction of justice in dealing with the Ferdy Sambo murder case? How to regulate the criminal act of obstruction of justice in the investigation to reveal the crime in the Ferdy Sambo?

The results of the research and discussion show that: the form of the act obstructing the judicial process (obstruction of justice) is contained in article 221 paragraph (1) to 2 of the criminal law code. Actions that can be regarded as obstruction of justice must fulfill the element of offense, namely action can cause delays in the legal process, the perpetrator know his actions or is aware of this actions, the perpetrator performs or tries to deviate with the intention of interfering with or intervening in the legal administration obstructing the legal process. Law enforcement against this norm can be done through three stages, namely the formulation stage, the application stage, and the execution phase.

the conclusions and suggestions in this study are that it is hoped that the form of the act of obstructing the judicial process (obstruction of justice) is more specifically formulated so that a common understanding is created between law enforcement officials, both judges, prosecutors and advocates. In addition, it is hoped that law enforcement officials in solving obstruction of justice cases can carry out their duties properly, responsibly and professionally through the stages of law enforcement, namely the formulation stage, the application stage, and the execution stage so that the purpose of the law is to provide certainty, benefits and justice to the public achieved.

Keywords : Criminal Law Enforcement, Act Obstruct Judicial Process, Obstruction of Justice