

DISMISSAL OF NOTARIES WHO HAVE BEEN SUBJECTED TO A CRIMINAL THREAT OF PUNISHMENT FOR 5 YEARS/MORE THAT HAVE PERMANENT LAW POWER IN THE CITY OF PADANG

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Abstract: *Notaries are public officials who are given attributive authority to carry out some public functions in making written evidence in the form of authentic deeds as described in article 1 Paragraph (1) of law Number 2 of 2014. Notaries in exercising their authority must first be appointed and legalized and dismissed by minister. For Notaries who don't exercise their authority and are proven to have committed criminal acts may be subject to sanctions because they have clearly demeaned the honor and dignity of the notary's position. In the event that supervision over the implementation of the duties of a Notary's position is carried out by the minister and the minister shall establish a tiered MPN which is authorized and obliged to provide guidance and supervision to Notaries for alleged violations of the behavior and implementation of the Notary's office.*

Key Words: *Notary, Notary Dismissal, Threat of Punishment, MPN, Notary Protocol.*

1. INTRODUCTION:

According to AA Andi Prayitno, the Notary profession has a very noble position and position; have a very high and honorable value and dignity; because this position is a position of trust given by the government on behalf of the state to meet the needs of the community in the field of civil law.[1]

If a Notary violates the obligations, prohibitions and provisions stipulated in the Law on Notary Positions (UUJN), he will be subject to administrative sanctions, including written warnings, temporary dismissals, respectful dismissals and dishonorable discharges.

In the event that the reasons for dishonorable dismissal are stated in Article 70 of the Regulation of the Minister of Law and Human Rights Number 25 of 2014 concerning Terms and Procedures for Appointment, Leave, Transfer, Dismissal and Extension of the Office of a Notary, hereinafter referred to as Permenkum HAM Number 25 of 2014. This Article declaring that the Notary was dishonorably dismissed because of the reason he was sentenced to imprisonment based on a court decision that has permanent legal force for committing a crime punishable by imprisonment of 5 years or more, the decision to dismiss a Notary from his position and the appointment of another Notary as the holder of the protocol shall be stipulated within a period of no later than 30 days from the date of the court decision which has permanent legal force.

2. THEORITICAL FRAMEWORK:

a. Theory of Legal Certainty

According to Gustav Radbruch justice and legal certainty are fixed parts of the law.[2]

b. Authority Theory

According to the Big Indonesian Dictionary (KBBI), authority is the right and power that is owned to do something.[3]

3. LITERATURE REVIEW:

The authority of the Notary in principle is an authority that is general in nature that includes various types of making deeds except those that are not made by a Notary. Notaries as public officials have the authority to make authentic deeds and other authorities. ⁶⁵ Notaries are given authority by attribution by a set of laws that must be complied with and rely on legitimate duties and authorities in accordance with the Law. [4]

Regarding accountability for his work to the public, the presence of a Notary to meet the needs of the public who need legal documents (authentic deeds) in the field of civil law, so that the Notary is responsible for serving the public.

The granting of sanctions to the Notary in order to protect the public from the actions of the Notary that may harm the public, for example in the making of a deed that does not protect the rights in question as stated in the Notary deed. The sanction is to maintain the dignity of the Notary Institution as a trust institution.

The Notary Supervisory Council as an agency authorized to conduct supervision, inspection and impose sanctions on Notaries who are proven to have committed violations. [5]

5. METHOD:

The method used in this research is the empirical juridical method, namely the procedure used to solve research problems by analyzing the extent to which a regulation or legislation or law is currently in effect effectively.[6]

6. DISCUSSION:

The state is obliged to provide and guarantee the existence of legal certainty for its citizens. To carry out the obligations of the state, the state gives attributive authority to the Notary as a public official to perform some special public functions in the field of civil law in making written evidence in the form of authentic deeds.

The Notary Department is a trust department. This trust is given by the community to take responsibility for the legal products produced by the Notary.

Notaries charged with criminal threats under the age of 5 can be suspended during the trial process until the verdict is handed down. The sanction is extended until the end of the sentence so that there is no legal void so that the person concerned does not have the authority to carry out his office.

7. ANALYSIS:

A. The Process of Dismissing a Notary Who Has Been Sentenced to a Permanent Criminal Law (Inkracht Van Gewijsdse) in the City of Padang

Notaries who are charged with a criminal sentence of under 5 years can be temporarily dismissed during the trial process until the verdict is handed down. The sanction is extended until the sentence ends so that there is no legal vacuum so that the person concerned does not have the authority to carry out his position.

Deviations of authority and obligations carried out by Notaries allow Notaries to deal with the implementation of legal responsibilities (*legal responsibility*) both civil, administrative and criminal.[7]

B. Legal Consequences Against Notary Protocols Who Have Been Sentenced to Permanent Criminal Penalties with a Criminal Threat of 5 Years / More

The authority of a Notary who is undergoing a period of detention until sentencing should be temporarily revoked or completely revoked by the Minister based on the UUJN and other supporting regulations. Due to the absence of such sanctions, it creates a legal vacuum which results in possible losses for 3rd (three) parties who need a copy of the deed which is feared to cause a dispute due to the absence of a Notary appointment to receive the protocol.

8. CONCLUSION:

From the discussion as explained earlier, several conclusions can be drawn, including:

- 1) The process of dismissing a Notary is carried out by the MPN in stages where the sanction of dismissal remains with the Minister.

- 2) Notary who is suspended or dishonorably dismissed will have an impact on the position of the Notary's protocol.

9. SUGGESTIONS:

The suggestions given by researchers are as follows:

- 1) It is recommended that there is a need for improvements, regulatory reforms and legal breakthroughs, especially regarding the procedure for dismissing a Notary, so that there is no legal vacuum and legal uncertainty that may arise due to non-compliance with several rules regarding the procedure for dismissing a Notary.
- 2) It is recommended to the Ministry of Law and Human Rights, namely the Minister who has the authority to appoint and dismiss Notaries, it is necessary to have clear regulations and breakthrough rules regarding the authority of the Supervisory Council in increasing protection and guaranteeing legal certainty for Notary positions, especially the maintenance of Notary protocols for Notaries who are serving their term. detention and has not been dismissed.

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