

RINGKASAN

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Analisis Yuridis Terhadap Penjatuhan Pidana Penjara Tanpa Denda Dalam Perkara Penipuan Bermodus Janji Kelulusan Seleksi Kerja (Studi Putusan Nomor 100/Pid.B/2024/Pn Tkn.

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Penelitian ini dilatarbelakangi oleh kerentanan sosio-ekonomi pencari kerja kerap dimanfaatkan melalui penipuan seleksi PNS, sebagaimana terjadi dalam Putusan Nomor 100/Pid.B/2024/PN Tkn yang merugikan korban sebesar Rp24.700.000,00 (dua puluh empat juta tujuh ratus ribu rupiah). Penjatuhan pidana penjara 2 tahun berdasarkan Pasal 378 KUHP Lama memperlihatkan *legal gap*, di mana kerugian korban hanya dijadikan hal memberatkan tanpa muatan pemulihan hak materiil dalam amar putusan. Kondisi *offender-oriented* berbasis paradigma retributif ini kontras dengan reorientasi pemidanaan modern Pasal 492 jo. Pasal 51–52 UU No. 1 Tahun 2023 (KUHP Baru) yang mengedepankan keadilan restoratif dan sanksi fleksibel. Tujuan penelitian ini untuk menjelaskan pertimbangan hakim serta menganalisis kesesuaian penjatuhan pidana penjara selama 2 (dua) tahun tanpa mekanisme pemulihan kerugian korban dalam Putusan Nomor 100/Pid.B/2024/PN Tkn terhadap pencapaian keadilan bagi korban (*victims' justice*) berdasarkan paradigma pemidanaan dalam Pasal 492 jo. Pasal 51–52 UU No. 1 Tahun 2023 (KUHP Baru).

Metode penelitian yang digunakan adalah yuridis normatif dengan pendekatan perundang-undangan, pendekatan kasus, dan pendekatan konseptual. Data penelitian bersumber dari bahan hukum primer berupa KUHP, KUHAP, dan putusan pengadilan, serta bahan hukum sekunder berupa buku, jurnal, dan penelitian terdahulu.

Hasil penelitian menunjukkan bahwa pertimbangan hakim telah didasarkan pada fakta persidangan, alat bukti, keterangan saksi, keterangan terdakwa, serta pemenuhan unsur Pasal 378 KUHP. Pidana penjara selama dua tahun dinilai sesuai secara yuridis karena masih berada di bawah ancaman maksimum empat tahun dan Pasal 378 KUHP tidak mengatur pidana denda. Putusan Nomor 100/Pid.B/2024/PN Tkn yang menjatuhkan pidana penjara 2 tahun telah memenuhi kepastian hukum formal (Pasal 378 KUHP Lama jo. Pasal 183 KUHAP). Namun, putusan ini belum memenuhi keadilan bagi korban (*victims' justice*). Penjatuhan sanksi masih bersifat *offender-oriented* karenanya fokus pada pembalasan fisik pelaku dan menempatkan kerugian korban sebagai hal memberatkan, tanpa memuat instrumen pemulihan kerugian materiil korban dalam amar putusan.

Saran penelitian ini adalah agar aparat penegak hukum lebih memperhatikan upaya pemulihan kerugian yang dialami korban sesuai dengan ketentuan hukum yang berlaku, serta meningkatkan perlindungan terhadap korban tindak pidana penipuan. Selain itu, masyarakat diharapkan lebih berhati-hati terhadap tawaran kelulusan seleksi kerja yang menjanjikan hasil melalui cara-cara yang bertentangan dengan hukum.

Kata Kunci: *Penipuan, penjatuhan pidana, pertimbangan hakim, seleksi kerja.*

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SUMMARY

Juridical Analysis of the Imposition of Imprisonment Without a Fine in a Fraud Case Using the Modus of Promising Success in a Job Selection Process: A Study of Decision Number 100/Pid.B/2024/PN Tkn

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This research is motivated by the socio-economic vulnerability of job seekers, which is frequently exploited through civil servant (PNS) recruitment fraud, as seen in Decision Number 100/Pid.B/2024/PN Tkn, causing a financial loss of IDR 24,700,000.00 (twenty-four million seven hundred thousand rupiah) to the victim. The imposition of a 2-year prison sentence under Article 378 of the Old Criminal Code (KUHP) reveals a legal gap, where the victim's loss was merely used as an aggravating factor without any provision for the restoration of material rights in the verdict's ruling. This offender-oriented condition, rooted in a retributive paradigm, contrasts sharply with the modern sentencing reorientation under Article 492 in conjunction with Articles 51–52 of Law No. 1 of 2023 (New Criminal Code), which prioritizes restorative justice and flexible sanctions. The purpose of this study is to explain the judge's considerations and analyze the suitability of the 2-year imprisonment sentence—without a loss recovery mechanism for the victim in Decision Number 100/Pid.B/2024/PN Tkn—toward achieving victims' justice based on the sentencing paradigm outlined in Article 492 in conjunction with Articles 51–52 of Law No. 1 of 2023 (New Criminal Code).

The research method used is normative juridical, with a statutory, case-based, and conceptual approach. The research data is sourced from primary legal materials in the form of the Criminal Code (KUHP), the Criminal Procedure Code (KUHAP), and court decisions, as well as secondary legal materials in the form of books, journals, and previous research.

The research findings indicate that the judge's considerations were based on trial facts, evidence, witness testimony, the defendant's statement, and the fulfillment of the elements of Article 378 of the Criminal Code. A two-year prison sentence is deemed legally appropriate as it falls below the maximum threat of four years, and Article 378 of the Criminal Code does not prescribe a fine. Decision Number 100/Pid.B/2024/PN Tkn, which imposed a 2-year prison sentence, has fulfilled formal legal certainty (Article 378 of the Old Criminal Code in conjunction with Article 183 of the Criminal Procedure Code). However, this decision has not yet achieved victims' justice. The imposition of sanctions remains offender-oriented because it focuses solely on physical retribution against the perpetrator and treats the victim's loss merely as an aggravating factor, without including instruments for restoring the victim's material losses in the operative part of the verdict.

This research recommends that law enforcement officials pay more attention to efforts to restitution for victims' losses in accordance with applicable law and increase protection for victims of fraud. Furthermore, the public is expected to be more cautious about offers of job selection that promise results through unlawful means. Keywords: Fraud, sentencing, judicial consideration, job selection.

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