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**IMPLICATIONS OF CANCELLATION OF NOTIFICATION OF AN
APPEAL DECISION CANCELED BY THE CHAIRMAN OF THE
SERANG DISTRICT COURT**

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Abstract

As a case breaker, the judge is assisted by court officials in handling a case, both the Substitute Registrar who accompanies the judge at trial, as well as the Bailiff/Alternate Bailiff who carries out the duties of adjudication and plays an important role in the proceedings at the Court. Bailiffs in carrying out their duties often face several obstacles/obstacles. The most crucial obstacle is the delivery of *relaas* through the headman. Bailiff/Substitute Advocate in making notification of the decision if the residence or residence of the parties is known, the notification of the decision is delivered directly to the disputing parties (in person), the term in person can be extended again to include the next of kin in a straight line up and down below (parents and children) or husband/wife. If the residence or residence of the person is known but neither is he or his family, a letter of notification shall be submitted to the local headman/Village Head. *Relaas* Summons/Notifications (Summons of the parties and notification of either a decision or a reprimand), is a very important instrument in civil proceedings because without a *relaas* the judge's decision cannot be justified and is not based on law. This study aims to find out the procedures for submitting notifications of appeal decisions and the implications of canceling the minutes of notification of appeal decisions that were canceled by the head of the Serang District Court. This study uses a normative juridical legal research method with a statutory approach based on secondary data supported by primary data and analyzed using a qualitative juridical method. The result of this research is the cancellation of the minutes of notification of the appeal decision which was canceled by the head of the Serang District Court resulting in the minutes of notification of the contents of the decision having to be re-executed because they were not submitted legally and properly due to procedural-administrative errors. The cancellation of the minutes of decision notification is carried out to correct errors that have occurred in order to avoid the potential to hinder the process of implementing the contents of the decision at a later date.

Keywords: Implication, Cancellation, Minutes of Notification of Decision.

INTRODUCTION

Development in Indonesia is conducted with careful consideration of the principles of harmony and equilibrium in legal advancement (Jazuli, 2015). Judicial Power represents the authority of an independent state to administer justice, ensuring the preservation of law and justice in accordance with Pancasila and the 1945 Constitution of the Republic of Indonesia, in pursuit of the nation's ideals

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(Juanda, 2023). In the judiciary, judges are supported by court personnel in handling cases, including Substitute Registrars who assist judges during proceedings, as well as Bailiffs/Substitute Advocates who provide procedural support and hold significant roles in court proceedings (Subarkah & Hakim, 2015).

Bailiffs and Substitute Bailiffs serve as functional units within Civil Courts, spanning District Courts, Religious Courts, and State Administrative Courts, playing pivotal roles in court proceedings (Syuaib, 2019). Their contributions are indispensable alongside judges, clerks, and secretaries. These officials are frequently deployed in the field, appointed as Functional staff upon the recommendation of the Chief Justice (Stevens, 2011).

The most significant hurdle lies in the transmission of the *relaas* through the village chief. Bailiffs/Substitute Advocates face challenges in delivering notification of the decision, particularly when the whereabouts of the parties are known. In such cases, the decision is directly conveyed to the disputing parties "in person." This term encompasses an extension to include immediate family members (parents, children, spouse). However, if the individual or their family is unavailable despite knowledge of their residence, a notification letter is then submitted to the Village Head. This is in accordance with Article 390, paragraph (1) of the HIR, which states:(Bukido et al., 2021)

Each notification from the bailiff must be directly handed to the individual concerned at their place of residence (Anderiansyah & Kurniawan, 2023; Burhanuddin et al., 2024). If the person is not found at their residence, the notification should then be delivered to the head of their village or the designated village authority (Najibullah, 2018). The village head is obligated by law to promptly relay the notification to the individual. There are no exceptions to this obligation, as stipulated in Article 390, paragraph (1) of the HIR (Rachman et al., 2022). This ensures that in cases where the party cannot be reached at their residence, the bailiff or substitute attorney can send the notification through the village head to ensure proper delivery to the concerned party (Setiyowati, 2017). Compliance with this legal procedure is mandatory, as outlined in the HIR, which

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is based on the Transitional Regulations of the 1945 Constitution of the Republic of Indonesia. The HIR, originating from the Dutch East Indies, remains valid as procedural law in court.(Mark, 2022)

In instances where the concerned party cannot be located at their registered place of residence, the bailiff or substitute attorney proceeds to deliver a notification letter (Shubhan, 2014). Article 390, Paragraph (1) of the HIR aims to ensure the effective delivery of notifications regarding determinations or decisions to litigants, particularly in cases where the bailiff fails to locate them or their family members at their residence (Hasanuddin, 2019; Kurnia, 2021). *Relaas Summons/Notifications*, encompassing the summoning of parties and the delivery of decisions or reprimands, serve as critical components in civil proceedings. The absence of *relaas* compromises the accountability and legal foundation of judicial decisions (Iskandar, 2021).

The role of the bailiff or substitute bailiff is pivotal in the resolution process (Rosyidi, 2023). Adherence to procedural laws by these officials ensures the issuance of sound legal outcomes. Conversely, neglect of duties by the bailiff or substitute bailiff can lead to problematic judicial decisions (Brand-Ballard, 2010). Enhancing the competence of all personnel is essential for fostering a fair, efficient judicial system, wherein adherence to procedural laws is upheld during the discharge of their duties.

The bailiff/substitute bailiff has a very important position and is very decisive in the settlement process, if the bailiff/substitute bailiff carries out his duties properly in accordance with the provisions stipulated in the procedural law, the legal product issued will be good, but vice versa if the bailiff/substitute bailiff does duties improperly, the judge's decision will be problematic. In order to create a good, fair and speedy judiciary, the quality of all ranks of the apparatus must be improved so that in carrying out their duties they can carry out good and correct procedural law.

RESEARCH METHODS

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This study uses a normative juridical approach. Normative juridical law research, namely research that refers to legal norms contained in laws and regulations and court decisions as well as legal norms that exist in society (Ali, 2021). The data source used in this research is secondary data supported by primary data. Primary data, namely data obtained directly from the source, either through interviews or reports in the form of unofficial documents and library data which are then processed by researchers. Secondary data is data obtained from official documents, books, which are related to the object of research. The data collection method used by the author in this study was through library research carried out through document studies and field research carried out by interviews. Library research, namely data obtained through library research originating from laws and regulations, books, official documents, publications, and research results. Field research is field data that is used as supporting data obtained through information. The data collection method used by the author in this study was through library research carried out through document studies and field research carried out by interviews. Library research, namely data obtained through library research originating from laws and regulations, books, official documents, publications, and research results. Field research is field data that is used as supporting data obtained through information. (Diantha, 2018)

RESULTS, DISCUSSION AND ANALYSIS

Decision according to Sudikno Mertokusumo, Decision is a statement made by a judge as an authorized state official and pronounced in an open session, the purpose of which is to resolve a problem or dispute between the parties involved.

After receiving the stipulation or decision, the civil court clerk/registrar then appoints a replacement bailiff/bailiff to deliver the release notification of the stipulation/verdict to the parties. The bailiff/substitute bailiff appointed by the junior civil clerk prepares a notification release for the determination/decision to the parties. As well as preparing letters of introduction for delegations to parties

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outside the jurisdiction and delivery of notifications of decisions/decisions to parties abroad through the ministry of foreign affairs and assistance in submitting documents from the Ambassador/Consular.

The authority of the bailiff is based on Article 65 paragraph (2) of Law Number 2 of 1986 concerning General Courts. The bailiff has the authority to carry out his duties in the jurisdiction of the court concerned. Summons/notifications outside the authority or relative jurisdiction of the bailiff must be delegated to the summons/notification to the substitute bailiff/jurist at the competent PN.

Since the circulation of the Republic of Indonesia Supreme Court Circular Letter Number 6 of 2014 concerning Handling Calls/Notifications Aid (SEMA Delegation) is a responsive policy in order to support the implementation of the principle of simple, fast and low-cost justice. The following is a website display of the Case Tracking Information System (SIPP) at the District Court / PHI / TIPIKOR Serang Class IA with data updates as of Thursday 15 June 2023 with a total of 2079 (two thousand seventy nine) cases.

The relative authority or jurisdiction of the bailiff is determined by the relative jurisdiction of the district court where he serves. Notification of the determination/decision made outside of its jurisdiction will result in the release of the notification of the determination/decision being invalid on the grounds that the notification of the determination/decision was made by an unauthorized bailiff/bailiff official.

The civil court clerk issues a fee for notification of determination/decision from the first desk of the cashier to the bailiff/substitute bailiff after the release of the notification of determination/decision has been made by the substitute bailiff/bailiff. The bailiff/substitute bailiff carries out the notification of the decision to the place concerned. If the party who is notified is not present, then as stipulated in Article 390 paragraph (1) the HIR reads:

“Each bailiff letter, except for those that will be mentioned below, must be delivered to the person concerned himself at his place of residence

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or residence, and if not found there, to the head of his village of the Chinese nation who is obliged to immediately notify the bailiff letter on the person himself, in this last case there is no need for a statutory statement”.

It has been stated above that in Article 390 Paragraph (1) HIR it is stated that in the event that the bailiff/substitute attorney does not meet the litigant, a notification letter is sent to the head of the village where the party resides who is obliged to immediately notify the bailiff's letter to that person Alone. However, in the very last part of the paragraph it is explained that there is no need for a legal statement regarding the submission of the bailiff letter by the village head. This means that if there is negligence or negligence on the part of the village head, the laws and regulations do not provide sanctions for this matter. Therefore, whether or not the notification letter of determination/decision was submitted by the village head to the litigant party, the notification letter is deemed to have fulfilled the legal requirements and the notification letter of determination/decision is considered valid in other words the litigant party is deemed to have been notified legally and properly. This seems to be just a formality regarding the legality of the notification letter without knowing whether the notification letter was actually delivered by the village head to the litigants directly.

After the bailiff/substitute bailiff carries out the notification and the parties have received the release of notification properly, the bailiff/substitute bailiff submits the results of the notification release to the junior civil clerk. Then release the notification received by the junior civil clerk.

Minutes of decision notification must be submitted in an official and proper manner to the parties concerned. Notification of the decision must be delivered in a timely manner according to the procedures specified in the applicable laws and regulations. Appropriate and improper delivery of the release will cause obstacles to defects in the law of judicial products and of course it will be detrimental to the litigants themselves. Minutes of notification of decisions are an important instrument in civil proceedings because without reasons the judge's decision cannot be accounted for and based on law.

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In the case of the first position, the notification of the contents of the appeal decision is deemed invalid and proper, causing injustice and loss to the party concerned, that is, they cannot apply for cassation because the notification of the contents of the appeal decision is seen as if it is already valid based on the minutes of the notification which is legally flawed, i.e. the minutes of notification of the contents of the appeal decision containing errors, both administrative errors and the minutes of notification of the contents of the appeal decision did not reach the party concerned, because the sub-district officials who were given the mandate or order to convey it to the party concerned were apparently not delivered to the party concerned.

Cases where the two appellant parties through their attorneys made a request for annulment of the notification of the appeal decision, because the appellant and the appellant's attorneys did not receive notification of the contents of the appeal decision. After asking for clarification from the Serang District Court, it turned out that the minutes of notification of the contents of the appeal decision had been submitted to the attorney for the appeal (attorney at first level). The attorney at first instance of the appellant, who was originally the plaintiff, did not convey the minutes of the appeal decision to the party concerned, so that the appellate party could not file an appeal because the appeal decision had permanent legal force. The minutes of notification of the contents of the appeal decision did not reach the party concerned due to an error in the appeal decision of the Banten High Court, namely on the first page of the decision it stated Deni Ismail Pamungkas SH., MH as the attorney at the appellate level while it was known that the attorney for the appeal was Ujang Kosasih, sh. As a result of an error in the decision, the minutes of notification carried out by the Serang District Court bailiff were wrong because the decision was the basis for the minutes of notification of the decision to be conveyed to the party concerned.

As a result of an error in the minutes of notification of the contents of the decision as in the first position case and the second position case, the minutes of the notification must be canceled, because it creates injustice for the party

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concerned unable to file an appeal. Cassation is a legal effort which is the authority of the Supreme Court to re-examine the decision of the court of appeal or the last level of all judicial environments. The time limit for filing an cassation is 14 (fourteen) days after the decision or decision of the High Court is conveyed to the person concerned, and 14 (fourteen) days from the date of declaring the cassation, the applicant must submit a memorandum of cassation.

The cancellation of the minutes of notification of the appeal decision which was annulled by the head of the Serang District Court resulted in the minutes of notification of the contents of the decision having to be re-executed because they were not submitted legally and properly due to procedural-administrative errors. Decisions that should have permanent legal force (*in kracht van gewisjde*) and can be carried out by further legal proceedings are delayed and must wait for the release of notifications to be re-executed, this is not in accordance with the principles of simple, fast and low-cost justice.

Simple, fast, and low-cost trials. This principle is expressly stated in Article 2 paragraph (4) of Law Number 48 of 2009 concerning Judicial Power. Simple means that the examination and settlement of cases is carried out in an efficient and effective manner. The principle of speed, the principle that is universal relates to a non-protracted completion time. This principle of speed is known as the adage of justice delayed justice denied, meaning that a slow judicial process will not give justice to the parties. The principle of low cost implies that the cost of cases can be reached by the community.

The court decision is declared to have permanent legal force when the decision is not appealed or cassated after 14 (fourteen) days after the decision is pronounced or notified to the applicant, the decision is declared to be legally binding. Based on Article 195 HIR in civil cases, because the winning party has obtained a judge's decision that punishes the opposing party, he is entitled to use the tools allowed by law to force the opposing party to comply with the judge's decision.

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The cancellation of the minutes of notification of the decision is made to correct errors that have occurred in order to avoid the potential that could hinder the process of implementing the contents of the decision at a later date, such as objections or lawsuits from the litigants, later by stating the reasons for errors in the notification of the contents of the notification of the decision. Which of course this will result in the case settlement process being constrained.

CONCLUSION

The Supreme Court and the General Judiciary Agency, must socialize laws and regulations and continue to coordinate with related agencies and continue to improve the human resources of their apparatus with various education and training, especially bailiffs/substitute adjudicators who in fact have direct contact with the litigants in carrying out their duties must act professionally and maintain integrity in accordance with applicable laws and regulations. Substitute bailiffs / bailiffs in conveying the relationship to the parties must be submitted legally and properly. The bailiff/substitute bailiff must apply the precautionary principle so that in the relation submitted to the parties there are no procedural-administrative errors. What will be feared will hamper the process of implementing the contents of the decision in the future and cause injustice to the parties

The Supreme Court and the General Judiciary Body must carry out outreach to the village head regarding the obligation to convey relaas to the parties entrusted to him. It is regulated regarding return notification to the court as proof that the village head has conveyed the relation to the party directly. To guarantee legal justice for the community which has been guaranteed by the 1945 Constitution of the Republic of Indonesia.

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