

The Procedure of Turning A Life Sentence To A Temporary Sentence At The Penitentiary Class 1 Tangerang

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Accepted: 03-01-2024 Revised: 03-01-2024. Approved: 04-01-2024 Published: 04-01-2024

DOI: 10.30596/dll.v9i1.18150

How to cite:

Ayu. N. S. A. dkk (2024). "The Procedure of Turning A Life Sentence To A Temporary Sentence At The Penitentiary Class 1 Tangerang". De Lega Lata: Jurnal Ilmu Hukum, volume 9 (1): p. 123-129

Abstract

This study discusses the process of implementing conversion of a life sentence imprisonment to temporary imprisonment at Correctional Institution Class I Tangerang. This research aims to provide an understanding of the procedure of sentence. And identify the obstacles faced in the process implementation. The research method used is normative-empirical law with a qualitative approach. The primary data was sourced from interviews with inmates serving life sentences in the Correctional Institution Class 1 Tangerang and from the perusal of documents concerning the regulations and policies on sentence conversion. The result showed that the sentence conversion involves several stages of administration and assessment which are handled by a number of offices involving various Technical Implementation Units, from the Tangerang Class I Correctional Institution, the Regional Office of the Ministry of Law and Human Rights, and the Directorate General of Corrections. However, the final decision regarding a sentence conversion is in the hands of the President. Some of the faced by prisoners in applying for sentence conversion include a lack of knowledge about the application process, a breach of prison regulations within 5 years preceding the application and the inability to find a guarantor needed for Correctional Assessment. In order to overcome these obstacles, it is suggested to encourage socialization, to support education of inmates about the application process, to provide clear and easily accessible information and to evaluate and simplify the administrative process. Thus, inmates will have a better opportunity to obtain chances for a sentence conversion..

Keywords: Sentence Reduction, sentence conversion, life sentence, temporary sentence, Penitentiary Class 1 Tangerang

INTRODUCTION

A law is a binding and certain rule. In fact, a law has concrete power and possesses the basic values of justice, utility and certainty. Laws within a country are tools which determine limits for every citizen to realize a social life. In this manner justice in the social life comes into existence (Waluyo, 2022). Indonesia is a state of law according to article 1 section (3) of the Constitution 1945. The highest power resides in the law which regulates any issue with binding rules and prescribes sanctions for all perpetrators (Simamora, 2014). Crime constitutes an enemy to society for every country in the world. Until 2022 total crime numbers in Indonesia had been increasing from year to year by up to 7.3 percent, while the number of solved cases

compared to total crime numbers was displaying the opposite trend. Tingginya angka kejahatan di Indonesia ini berbanding lurus dengan tingkat pidana yang ada. According to Moeljatno, *Strafbaar Feit* or a criminal act is a forbidden act and whoever commits it will be threatened with a sentence. Everybody guilty of a criminal act will be punished (Tomalili, 2019). According to the provisions of Article 10 of the Criminal Law (KUHP), punishment can be divided into main and additional punishment. The main punishment includes death sentence, imprisonment, confinement, fine and closure. Meanwhile, additional punishment includes revocation of certain rights, confiscation of certain objects and announcement of the judge's decision.

As for imprisonment, it is divided into imprisonment for a certain period of time or temporarily and life sentence imprisonment. This is in line with article 12 section (1) Criminal Law (KUHP). Based on article 12 section (1-4) Criminal Law (KUHP), a sentence to life in prison is a prison sentence that lasts as long as the sentenced inmate is alive until they deace. This statement rejects the notion, that the life sentence is served in accordance with the convict's age at the time of conviction, in which case it would be considered a temporary sentence. The life sentence is a an option to enforce the law against prisoners with serious cases (Kamea, 2013).

In its implementation a prisoner serving a life sentence can seek certain legal remedies to achieve a conversion of their sentence to a temporary sentence. One of the efforts remedies is the application for a sentence conversion remission. Remission is the time reduction of a prison sentence, while a sentence conversion remission is the change of the status from life sentence to temporary sentence (Enggarsasi & A, 2015).

After the event of a status change of the sentence from life sentence to temporary sentence, the prisoner will get a period of detention so that they can receive remission or a reduction in sentence (Masirri et al., 2022). Based on article 12 section (2) Criminal Law (KUHP) the duration of a temporary sentence is 1 (one) day at its shortest and 15 (fifteen) years served continually at its longest. According to article 12 section (4) Criminal Law (KUHP) a temporary sentence must not exceed 20 (twenty) years. If a judge gives a sentence higher than 20 (twenty) years, the option to choose is the life sentence.

Concerning the legal remedy of sentence conversion remission regulated in Presidential Decision (Kepres) No 174 Year 1999 article 9 section (1) about remission reads as follows: "*A prisoner sentenced to life in prison who has served at least 5 years consecutively with good behaviour can convert their sentence to a temporary sentence, the longest remaining time of which to serve is 15 years.*" In the application of sentence conversion remission the authority to approve or reject the remission applied for by a prisoner with a life sentence is in the hands of the president of the Republic of Indonesia. This concurs with Presidential Decision (Kepres) No. 174 year 1999 article 9 section (2) about remission that is quoted below : "*Sentence conversion from a life sentence to a temporary sentence as explained in section (1) lies with the decision of the president.*" If the sentence conversion is not approved by the President of the Republic of Indonesia, the convict has to repeat the application for sentence conversion remission. If said proposal is then accepted, the president will issue a Presidential Decision (Kepres) which becomes the legal basis for a status change of the sentence of said convict.

In accordance with the remedy of sentence conversion, there are also prisoners in the Correctional Institution Class 1 Tangerang, who make use of this legal remedy. Looking back through the last 5 years, in 2018 there were 50 inmates with life sentences, but only 8 of these applied for a sentence conversion, 3 of which were successful using the means of sentence conversion. Then in there were 50 inmates serving life sentences 5 applied for sentence conversion, none of whom, however, succeeded. In 2020, of the 44 inmates with life sentences 10 applied for sentence conversion, again, none of whom succeeded. In 2021, of the 44 inmates

with life sentences 15 applied for sentence conversion with the same result as the previous year. In the following year, 2022, of the 33 inmates with life sentences 10 applied for sentence conversion, but to no avail. Up to February 2023, of 35 inmates serving life sentences 12 have applied for sentence conversion. The reason why not all the inmates sentenced who have a life sentence apply for sentence conversion is, that some of the inmates who have not met the requirements to make efforts to for sentence conversion.

In accordance with the Decree of the Minister of Law and Human Rights of the Republic of Indonesia No. M-03.PS.01.04 of 2000 Article 2 concerning Procedures for Submission of Remission Applications for convicts serving life sentences converting them to temporary prison sentences, a convict, having served at least 5 years in prison consecutively and have behaved well counting from the date of their arrest, is eligible to apply for a sentence conversion. Therefore, the author would like to conduct further research related to how the application procedure for sentence conversion from a life sentence to a temporary prison sentence at the Correctional Institution Class 1 Tangerang looks like and what the previously mentioned obstacles for sentence conversion are.

RESEARCH METHOD

Study This is study juridical normative or called doctrinal law, namely research that examines material law secondary along with material internal primary law matter This For answer exists problems that arise focus study. Method approach taken in study This is Approach Legislation (*Statue-Approach*), namely examine regulation related legislation (Marzuki, 2017). with rule or base in distribution treasure together marriage mixed in Indonesia. And the author also uses Approach Case (*Case-Approach*), with research something object problem or case ever happen previously. Type material the law used is secondary data. Data analysis techniques are the process of searching for data, compiling it in a way systematic data obtained from source law secondary, start from material primary, secondary and tertiary law with method organize data into in category, describes to in units, do synthesis, compose to in patterns, choosing which ones are important and will be learn, and create conclusion so that easy understood by oneself Alone nor anyone else.

DISCUSS AND ANALYSIS

1. Application process for sentence conversion remission from life sentence to temporary sentence at the Correctional Institution of Class 1 Tangerang

The application process for sentence conversion remission from life sentence to temporary sentence is regulated by law in Presidential Decree Number: 174 year 1999 concerning remission, but the implementation of application requirements and procedure are based on the Regulations of the Minister of Justice and Human Rights of the Republic of Indonesia No M.03-PS.01.04 year 2000 concerning Procedures for Submitting Applications for Remission remission for prisoners converting a life sentence to a temporary sentence. The legal stipulations mentioned above constitute a general informative guideline for correctional institutions including the Tangerang Class I Correctional Institution. Furthermore the Correctional Institution Class 1 Tangerang can facilitate socialisation in keeping with the mentioned legal stipulations for prisoners in the Correctional Institution Class 1 Tangerang.

During the last five years (2018-2023), socialization concerning sentence conversion remission has been facilitated by the officers of the coaching department for the prisoners sentenced to life who have already served more than 5 years. In the socialization, the officers appealed to each inmate to complete the requirements set out in the procedure for submitting

the application and to comply with the rules of conduct in the Tangerang Class I Correctional Institution. In 2023, the first stage of sentence conversion remission consists in socialization started by the officers in January. Additionally, officers call and gather prisoners with life sentences to supply them with information about the procedure of the application for sentence conversion from a life sentence to a temporary sentence. This process takes the form of a reciprocal connection between a coach (officer) and the coached (prisoner) so that it is structured as a two-way communication.

The second stage is the application procedure for a sentence conversion remission initiated by the prisoner with a life sentence. This stage begins with the submission of an application letter from the prisoner with the life sentence addressed to the president of the Republic of Indonesia through the Head of the Tangerang Class 1 Correctional Institution (Kalapas Kelas I Tangerang). After the prison principal has received a request from the convict, the Head of Correctional Institution instructs the Development Division to form a Correctional Observation Team (TPP) to prepare supporting data required for the meeting belonging to the application for sentence conversion remission.

The Registration Section prepares supporting data needed during the administration process in a folder for the prisoner. After that the Social Guidance Section applies for a letter of request to the Correctional Center to conduct the Correctional Assessment (Litmas) to the Correctional Center as part of the supporting data at the Correctional Observer Team (TPP) hearing. The mentioned Correctional Assessment (Litmas) contains the Indonesian Recidivism Risk assessment, which shows the level of possibility of repetition of the criminal act of the convict. Then the prison principal issues a Decree (Surat Keputusan - SK) and selects the members of the Correctional Observer Team (TPP) hearing, who are tasked with conducting an assessment screening for the placement of prisoners. Furthermore, the results of the TPP hearing are used to decide on the eligibility of inmates who apply for remission of conversion sentence.

The results of the TPP hearing are then submitted to the prison principal of the Correctional Center Class 1 Tangerang for review. Having been approved by the principal, the prisoner's folder and the Correctional Observer Team (TPP) hearing results are sent to the Regional Office of the Ministry of Justice and Human Rights Banten, where they become the material for a meeting conducted by a Correctional Observer Team (TPP) belonging to the Regional Office. The head of Regional Office of the Ministry of Justice and Human Rights Banten issues a decree (SK) to appoint the members of a Correctional Observer Team (TPP) hearing in the surroundings of the Regional Office. The folder, which was sent by Correctional institution within the Banten regional office are then re-tried by the regional office TPP. The result of the latter meeting serves to verify the the folder which will be referred to the Directorate General of Corrections (Direktorat Jenderal Pemasyarakatan) through the Director of Prisoner Coaching (Direktur Pembinaan Narapidana) and the Production Work Training (Latihan Kerja Produksi). Together with the other request folders from all the Regional Offices of the Ministry of Law and Human Rights of the Republic of Indonesia, the folder mentioned above is convened upon by a Correctional Observer Team (TPP) of the Directorate General of Corrections.

Subsequently, the Correctional Observer Team (TPP) of the Directorate General reads the prisoner's request with the deliberations from the Correctional Observer Teams (TPP) from the other offices and from the Regional Office. With those assessments as basis, the Correctional Observer Team (TPP) of the Directorate General can give recommendations and assessments to the Directorate General of Corrections about sentence conversion remission from the offices in the milieu of the Directorate General. After the request is approved by the Directorate General, it is referred to the Minister of Law and Human Rights of the Republic of who in turn, refers it to the president of the Republic of Indonesia via State Secretary Minister.

After approval the president issues a Presidential Decree (Kepres) about the granting of remission converting a life sentence to a temporary sentence, which is referred to the the Minister of State Secretariat. Then the Minister of State Secretariat sends a copy of the Presidential Decree (Kepres) to the Chief Justice of the Supreme Court of the Republic of Indonesia, the Minister of Law and Human Rights of the Republic of Indonesia, the Director General of General Legal Administration, the Director General of Corrections, the Head of the Regional Office of Law and Human Rights and Correctional Institutions where the inmates who apply for remission of criminal changes, the Chairman of the Court that tries, the Chief Prosecutor who prosecutes, the Judges and Supervisors concerned.

Based on the explanation laid out above, the author is of the opinion that the procedure to request a sentence conversion remission from a life sentence to a temporary sentence is sufficiently rigid. because the process involves several Technical Implementation Units before the final decision by the president. In addition, the state in regulating the process of implementing remission of conversion sentence has arranged the application process in such a manner that a number of administrative stages are undergone repeatedly, so that there is a likelihood of failure in one of the offices. The procedure of granting a sentence conversion remission from a life sentence to a temporary sentence consists of minutely defined flow stages, to make sure, whether a prisoner is eligible to receive the remission.

2. Obstacles in the application process for sentence conversion from life sentence to temporary sentence at the Correctional Institution of Class 1 Tangerang

Having explained the application process for sentence conversion from life sentence to temporary sentence, the author intends to take a closer look into the obstacles convicts with life sentences face during their application for sentence conversion. As the data has been explained previously, not every prisoner with a life sentence can apply for sentence conversion remission. Because, in practice not all the prisoners with life sentences can understand the application process, even after socialization was conducted by the officers, this is due to the lack of basic knowledge about how to use the available information. Apart from that there are other hurdles prisoners have to take. For that reason the author has interviewed five prisoners with life sentences.

Based on the results of these interviews conducted with five prisoners who said that they have experienced several obstacles, the foremost hindrance is the requirement of good behaviour. They have committed several disciplinary violations within 5 consecutive years in prison, so that the the application for any remission was rejected. This is in accordance with Presidential Decree No 174 year 1999 article 9 section (1) about remission that reads: "A prisoner sentenced to life in prison who has served at least 5 years consecutively with good behaviour can convert their sentence to a temporary sentence the longest remaining time of which to serve is 15 years." The second obstacle is that a number of convicts sentenced to life do not prepare a request letter to the president, because they deem the chance of a sentence conversion remission being granted to them very small. Considering the fact that, in the last 5 years, of 50 prisoners with life sentences 8 have applied for sentence conversion remission and only 3 were granted that remission.

Apart from the technical obstacles, there are others in the process like prisoners not having a guarantor, who is needed during the Correctional Assessment (Litmas). In addition the author also conducted interviews with some of the officers in the coaching department concerning the technical obstacles during the sentence conversion remission application. According to one officer the final decision on the application seems vague because of an uncertainty whether the sentence conversion remission was approved by the president or rejected [tidak diterima?]. In case of approval there will be a Presidential Decision (Kepres) about the granting of remission converting a life sentence to a temporary sentence and in case

of rejection the prisoner will not be informed. Therefore, if no Presidential Decree about the granting of the remission converting a life sentence to a temporary sentence applied for by said prisoner is issued within one year, the remission application is assumed to have been rejected.

CLOSURE

Conclusion

As to the summary of the study conducted by the author, in the procedure of implementing sentence conversion from a life sentence to a temporary sentence at the Correctional Institution Class 1 Tangerang which is regulated in Presidential Decree Number 174 year 1999 about remission and the Regulations of the Minister of Law and Human Rights No M.03-PS.01.04 year 2000 constituting the procedural guidelines for the remission request application for prisoners serving life sentences converting their sentences to temporary sentences. During its implementation in the Correctional Institution Class 1 Tangerang the activities are started with socialization about the legal stipulations which is done by the officers of the coaching department for prisoners sentenced to life who have already served more than 5 years. The remission application process involves several stages of administration and assessment which are handled by a number of offices, Correctional Observer Teams (TPP), the Regional Office of the Ministry of Justice and Human Rights as well as the Directorate General of Corrections. The final decision is in the hands of the president of the Republic of Indonesia.

Suggestion

Increase socialisation and Education:

1. Conduct more intensive and effective socialisation for prisoners concerning the application procedure for sentence conversion and its requirements.
2. Regularly educate the prisoners about the importance of good behaviour and adherence to the rules in the Correctional Institution Class 1 Tangerang.

Increase the accessibility to information:

1. Provide clear and easily understandable information about the application procedure for sentence conversion from a life sentence to a temporary sentence in form of a guide or booklet made available in the prison.
2. Ensure that the prisoners have access to the most recent information about the rules and policy concerning sentence conversion remission via media inside the prison

Evaluation and Simplification of the procedure:

1. Evaluate the sentence procedure of the conversion remission application internally at the Correctional Institution Class 1 Tangerang or on a national level to identify barriers to be removed [dilakukan?].
2. Simplify the administrative process and the assessments involved while maintaining the integrity and the accuracy of the data required.

It is the author's hope that some of the solutions above can help overcome the obstacles that exist in the application procedure for sentence conversion remission from a life sentence to a temporary sentence at the Correctional Institution Class 1 Tangerang, so that prisoners have an opportunity and can gain a better understanding about the application procedure.

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