

THE EFFECTIVENESS OF THE IMPLEMENTATION OF SUPREME COURT REGULATION (PERMA) NUMBER 2 OF 2012 IN HANDLING MINOR THEFT CRIMES IN THE FORM OF PALM FRUIT LOOTING

Muhammad Pangadilan Ritonga^{1*}, Syahrul Bakti Harahap²

¹ Fakultas Hukum, Universitas Muslim Nusantara (UMN) Al Washliyah, Indonesia
Email: adel030521@gmail.com

² Fakultas Hukum, Universitas Muslim Nusantara (UMN) Al Washliyah, Indonesia,
Email: syahrulbakti@umnaw.ac.id

Abstract

This research aims to analyze the regulation of the element of negligence in the Criminal Code and Law Number 22 of 2009 on Road Traffic and Transportation, the application of the element of negligence in the evidentiary process in criminal court practice, the legal considerations of judges in Decision Number 1331/Pid.Sus/2025/PN Mdn, as well as the obstacles and solutions in proving the element of negligence in traffic accident cases resulting in death. The results of the study show that the element of negligence in traffic accident crimes has been clearly regulated through Article 359 of the Criminal Code and Article 310 paragraph (4) of Law Number 22 of 2009 as a special provision. The application of the element of negligence in judicial practice is carried out through comprehensive proof by linking the defendant's conduct to the applicable standard of due care. In Decision Number 1331/Pid.Sus/2025/PN Mdn, the judge has systematically considered the facts revealed at trial and the evidence presented, thereby concluding that the element of negligence and the defendant's criminal liability were fulfilled. The obstacles in proving the element of negligence include limitations in witnesses and technical evidence, which can be addressed through the optimization of technology, improvement in the quality of investigations, and the active role of judges during trial in order to achieve fair and just law enforcement

Keywords: PERMA No. 2 Tahun 2012; Petty Theft; Oil Palm Loose Fruit

1. INTRODUCTION

Supreme Court Regulation (PERMA) Number 2 of 2012 was issued to adjust the handling of minor criminal offenses in accordance with the development of justice values in society. This PERMA increases the threshold of loss value in minor criminal cases, including minor theft, so that not all acts of theft must be processed through severe criminal mechanisms. The objective is to realize a judiciary that is simple, swift, and low-cost.

Minor theft under PERMA No. 2 of 2012 in principle refers to theft involving relatively small losses and not causing serious social impact. Such cases are examined through summary proceedings and are subject to lighter penalties, generally in the form of

Journal of Law and Justice

ISSN: 3124-419X (Online Media) Vol: 1, No: 1, Page: 235 - 245

Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

finer or short-term imprisonment. This approach emphasizes proportionality between the act committed and the sanction imposed.

In practice, the theft of oil palm loose fruits (brondolan sawit) is often qualified as minor theft when the loss value is below the threshold stipulated in PERMA No. 2 of 2012. The loose oil palm fruits taken usually have low economic value and are taken without violence. Therefore, the implementation of this PERMA enables judges to impose lighter and more humane sentences without neglecting legal certainty.

The application of PERMA No. 2 of 2012 in minor theft cases, including oil palm loose fruit theft, reflects judicial efforts to balance legal certainty, justice, and utility. Judges continue to carefully assess the elements of the criminal offense, but sentencing is directed to avoid excessiveness while still considering social impact. Thus, this PERMA plays an important role in preventing excessive criminalization of minor offenders.

2. METHODOLOGY

This research was conducted at Firdaus Sectoral Police (Polsek Firdaus), Sei Rampah District, Serdang Bedagai Regency, using a normative-empirical legal research method examining the regulation of minor criminal offenses, particularly minor theft in the form of oil palm loose fruits, based on PERMA Number 2 of 2012, the Criminal Code (KUHP), and the Criminal Procedure Code (KUHAP), as well as its application in practice. The data sources consist of primary data obtained through interviews, observation, and field studies involving judges, prosecutors, and police investigators, as well as secondary data derived from statutory regulations, court decisions, legal literature, scientific journals, and previous research results. Data collection was carried out through interviews, observation, and documentation, while data analysis used a qualitative approach with legal interpretation methods including grammatical, systematic, historical, sociological, teleological, and functional interpretations to obtain a comprehensive understanding of the application of law in minor oil palm loose fruit theft cases.

3. RESULTS/CASE STUDY/EXPERIMENT/DEMONSTRATION/APPLICATION FUNCTIONALITY

The investigation process of minor theft cases involving oil palm loose fruits constitutes an important stage in the criminal justice system aimed at uncovering a criminal

Journal of Law and Justice

ISSN: 3124-419X (Online Media) Vol: 1, No: 1, Page: 235 - 245

Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

event and identifying the responsible perpetrator. The theft of oil palm loose fruits is generally classified as minor theft because the economic value of the goods taken is relatively small and does not cause substantial loss to the owner.

Under Indonesian criminal law, minor theft is regulated under Article 364 of the Criminal Code, namely theft involving property of a certain value and not accompanied by aggravating circumstances. Oil palm loose fruits taken in small quantities often meet the qualification as objects of minor theft, so their handling has distinctive characteristics compared to ordinary theft.

The investigation process of minor theft of oil palm loose fruits begins with a report or complaint submitted by the public to the police. The report serves as the basis for investigators to take initial actions to ensure the existence of an alleged minor theft offense. After receiving the report, investigators conduct an inquiry to seek and find events suspected as criminal acts. At this stage, investigators gather preliminary information, visit the crime scene, and identify parties related to the oil palm loose fruit theft incident.

If sufficient preliminary evidence is found from the inquiry, investigators elevate the case status to the investigation stage. At this stage, investigators carry out legal actions such as examining witnesses, questioning the suspect, and confiscating evidence in the form of oil palm loose fruits suspected to be stolen.

4. DISCUSSION

The investigation process of minor theft cases begins with a report or complaint from the victim to the police as regulated in the Criminal Procedure Code (KUHAP). After receiving the report, investigators conduct clarification and preliminary inquiry to ensure the existence of an alleged minor theft offense as stipulated in Article 364 of the Criminal Code, including assessing the value of the stolen goods. If sufficient preliminary evidence is found, the case is elevated to the investigation stage by issuing a warrant of investigation and examining the crime scene to obtain a chronological picture of the event.

During the investigation stage, investigators examine witnesses and suspects while upholding the presumption of innocence and the rights of suspects. Investigators also confiscate stolen goods as evidence to strengthen proof of the elements of the criminal offense. All statements and investigative actions are documented in official examination reports that are lawful and objective as a basis for proof in court proceedings.

Journal of Law and Justice

ISSN: 3124-419X (Online Media) Vol: 1, No: 1, Page: 235 - 245

Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

In minor theft cases, including oil palm loose fruit theft, investigators may consider settlement through restorative justice if certain requirements are met. However, if the case proceeds, investigators compile and submit the case file to the public prosecutor until it is declared complete (P-21), then transfer the suspect and evidence. Thus, the investigation process concludes and the case proceeds to prosecution and trial while upholding the principles of justice, proportionality, and legal utility.

The implementation of PERMA No. 2 of 2012 aims to ensure that minor criminal offenses are handled proportionally, fairly, and without excessiveness. This regulation adjusts the threshold of loss value in minor criminal offenses, particularly theft as stipulated in Article 364 of the Criminal Code, to align with social and economic conditions of society. In the context of oil palm loose fruit theft, this PERMA serves as an important guideline to avoid excessive criminalization of acts with relatively small impact and losses.

In practice at Firdaus Sectoral Police, PERMA No. 2 of 2012 is applied from the early stage of investigation by assessing the loss value, amount of evidence, and social impact of the act. Investigators exercise professional discretion to classify the case as a minor criminal offense while applying simple and swift examination mechanisms. Nevertheless, criminal procedural law procedures are still fully implemented to maintain legality, accountability, and deterrent effect.

Overall, the application of PERMA No. 2 of 2012 in handling oil palm loose fruit theft has improved law enforcement efficiency, reduced case burdens, and reflected substantive justice. Investigators are able to integrate normative provisions with empirical field conditions so that law enforcement runs in balance between legal certainty, utility, and the sense of justice in society.

The effectiveness of PERMA No. 2 of 2012 can be seen from its ability to realize the objectives of law in the form of justice, legal certainty, and utility. This PERMA was enacted to adjust the loss value threshold of minor criminal offenses to align with economic conditions of society so that law enforcement is not excessive toward acts with minor social impact. In the context of minor theft, particularly oil palm loose fruits, the minor offense mechanism enables case resolution in a swift, simple, and proportional manner while preventing disproportionate legal suffering for the offender.

In practice at Firdaus Sectoral Police, the implementation of PERMA No. 2 of 2012 is considered effective because it takes into account the loss value, the socio-economic

Journal of Law and Justice

ISSN: 3124-419X (Online Media) Vol: 1, No: 1, Page: 235 - 245

Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

background of the offender, and the interests of the victim. In the case of Heriyanto Lubis, the loss value of Rp150,000 was far below the minor offense threshold, so the application of Article 364 of the Criminal Code in conjunction with PERMA No. 2 of 2012 was deemed appropriate. The legal process was still carried out in accordance with the Criminal Procedure Code, but through a simpler mechanism, so that the offender remained accountable for his actions without losing his fundamental rights, while the victim obtained legal certainty and recovery of losses.

Overall, the application of PERMA No. 2 of 2012 has proven effective in enhancing law enforcement efficiency, reducing the burden on the judicial system, and strengthening substantive justice. The minor offense approach is not only repressive but also educative and restorative, maintaining social relations and increasing public trust in law enforcement officials. Therefore, PERMA No. 2 of 2012 can be considered effective in addressing the legal needs of society, particularly in handling minor oil palm loose fruit theft cases.

The implementation of PERMA No. 2 of 2012 on minor offenses in law enforcement practice still faces various obstacles, whether normative, technical, or social. Normative obstacles mainly relate to differing understandings among law enforcement officials regarding the concept of minor criminal offenses and the binding nature of PERMA. Differences in interpretation regarding the qualification of “minor” and its application at the investigation level often cause hesitation and inconsistency in legal treatment, particularly in minor theft cases in plantation areas.

Other obstacles originate from victims and the community. Plantation companies often view theft as a serious threat to assets, thereby encouraging maximum law enforcement even when the loss value is small. In addition, the public often equates justice with severe punishment, so the application of minor offense procedures is perceived as legal leniency. Technically, limitations in witnesses, the requirement of complete proof, the vast plantation areas, and limited facilities and infrastructure also affect the effectiveness of implementing PERMA No. 2 of 2012.

Nevertheless, these obstacles can in principle be overcome through the professionalism of law enforcement officials, good coordination with victims and public prosecutors, and persuasive approaches to the community. The experience of Firdaus Sectoral Police shows that with administrative thoroughness, legal guidance, and proportional assessment of offenders, PERMA No. 2 of 2012 can still be effectively implemented. Thus,

Journal of Law and Justice

ISSN: 3124-419X (Online Media) Vol: 1, No: 1, Page: 235 - 245

Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

the existing obstacles are not absolute barriers but challenges that can be minimized in order to realize fair and proportional law enforcement.

5. CONCLUSION

The application of PERMA No. 2 of 2012 in handling minor theft cases involving oil palm loose fruits in plantation areas has been implemented by Firdaus Sectoral Police in accordance with applicable legal provisions. From the early stage of investigation, investigators have used PERMA No. 2 of 2012 as the basis for classifying oil palm loose fruit theft cases as minor criminal offenses by applying Article 364 of the Criminal Code. This is based on the relatively small loss value, as reflected in the case file of Heriyanto Lubis with a loss value of approximately Rp150,000. The investigation process was still formally conducted in accordance with the Criminal Procedure Code despite using the minor offense mechanism. Thus, the application of PERMA No. 2 of 2012 has provided legal certainty and consistency in handling oil palm loose fruit theft cases at Firdaus Sectoral Police.

The application of PERMA No. 2 of 2012 has proven effective in providing justice for both offenders and victims in oil palm loose fruit theft cases. For offenders, the application of minor offense provisions prevents excessive criminalization of acts involving small loss values and modest economic backgrounds. For victims, particularly plantation companies, the application of minor offense procedures still provides legal certainty and recovery of losses through confiscation and return of evidence. The swift and simple legal process also reduces costs and time for the parties involved. Thus, PERMA No. 2 of 2012 is capable of realizing substantive justice and legal utility in a balanced manner.

Obstacles faced by law enforcement officials in implementing PERMA No. 2 of 2012 include differences in perception among the public and victims regarding the concept of minor criminal offenses, limited legal understanding, as well as technical and administrative factors in proof and loss assessment. Additionally, the geographical conditions of plantation areas and victims' demands for maximum prosecution pose particular challenges for investigators. However, these obstacles can be addressed through investigator professionalism, persuasive approaches, and good coordination with victims. Minor offense case files at Firdaus Sectoral Police demonstrate that such obstacles do not hinder the overall implementation of PERMA No. 2 of 2012. Therefore, the existing obstacles are technical and sociological rather than normative, and can still be managed in law enforcement practice.

Journal of Law and Justice

ISSN: 3124-419X (Online Media) Vol: 1, No: 1, Page: 235 - 245

Link: <https://e-journalbarokahpublisher.com/index.php/jihuk>

ACKNOWLEDGMENTS

The author expresses gratitude to all parties who have provided support and contributions in the preparation of this research. Appreciation is extended to law enforcement officials and parties from the District Court of Medan. The author also expresses appreciation to academics and researchers whose works served as important references in developing the theoretical framework and legal analysis of this study. Special gratitude is extended to the author's family for their prayers, moral support, and motivation throughout the research process and the writing of this article. The author realizes that this research still has limitations; therefore, constructive criticism and suggestions are highly expected for the improvement of future research.

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