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Valıdıty And Efficacy Of The Lapse Termınatıon Petıtıon Post Constıtutıonal Court Decısıon Number: 102/PUU-XII/2015 And Supreme Court Cırcular Letter Number: 5 Of 2021 Regardıng The Implementatıon Of The Formulatıon Of The Results Of The Pleno Meetıng Of The Supreme Court Chamber

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Abstract

This study examines the issue of the term of dismissal of pretrial applications after the Constitutional Court decision Number: 102 / PUU / -XII / 2015 and Supreme Court Circular Number: 5 of 2021 concerning the Implementation of the Formulation of the Results of the Supreme Court Chamber Meeting in terms of validity and enforceability. This research was motivated by the blurring of norms governing the termination of pretrial applications as in Article 82 paragraph (1) letter d of the Code of Criminal Procedure which states that pretrial deaths are when the main case has begun to be examined by the district court. This research uses normative juridical research methods and uses the *Statute Approach*, *Conceptual Approach*, and Historical *Approach*. The results of this study found that the Constitutional Court *has validity in deciding cases as case Number: 102 / PUU / -XII / 2015 and the appeal is valid to be issued by the Constitutional Court. The Supreme Court also has validity in issuing Supreme Court Circular Number: 5 of 2021 concerning the Implementation of the Formulation of the Results of the Meeting of the Supreme Court Chamber related to the regulation of the term for the termination of pretrial applications. After the decision of the Constitutional Court and the Supreme Court Circular, based on the decision of the court handling pretrial application cases, it is the Supreme Court Circular that is currently in force or guided by the examining judge of pretrial cases on the basis that the Supreme Court Circular has legal certainty compared to the Constitutional Court Decision regarding the term for the termination of pretrial applications.*

Keywords: Preperdilan, conflict of norms, enforceability, legal certainty.

1. INTRODUCTION

Criminal law (material and formal) is a special law because the law is intended to protect people against violations of their rights, while criminal law was created to "deprive" these rights "under certain circumstances". It is this particular circumstance that should be severely restricted and given a firm line about its boundaries (Hamzah, 2008).

The law protects the most important human right, the right to life, while the criminal law creates the death penalty which will take away the most basic right. The law protects the right of people to move wherever they want, while the criminal law recognizes imprisonment and the criminal procedural law recognizes detention. The law protects the peace of people's households, whereas the criminal procedural law recognizes the search of a house or residence. Therefore the exercise of the "deprivation" of such rights shall be in the manner and limits prescribed by law (Dr. Amir Ilyas, S.H., M.H., Apriyanto, S.H., 2017).

Because an action against coercive efforts made by law enforcement institutions (Investigators, Investigators, and Public Prosecutors) is a form of reduction and restriction of independence and human rights for suspects. Such coercive acts must be carried out responsibly according to applicable laws and regulations or *Due Process of Law*. An act in the form of coercive efforts made by law enforcement institutions that are carried out contrary to the law and applicable laws and regulations is a rape of the rights of the suspect. Any act of rape placed on a suspect is an unlawful act because it is contrary to the law and statute (illegal). However, how to monitor and also test against coercive actions carried out by law enforcement institutions that are considered to have contradicted the law and applicable laws and regulations. For this reason, it is necessary to establish an institution that is given the authority to be able to determine the validity and absence of a coercive action imposed on suspects. Test and assess whether or not coercive actions were taken by investigators or public prosecutors delegated authority to Pretrial (M. Yahya Harahap, 2016).

This pretrial can be said to be an effort to correct irregularities that occurred during the investigation and prosecution process. The existence of pretrial provisions in the Criminal Procedure Code is also a demand for officials involved in the investigation and prosecution process (mainly addressed to investigators and public prosecutors) to carry out their duties professionally and for the sake of upholding *The Rule of Law* (Priyanto, 2012).

Pretrial is an institution provided to test the validity *of due process of law*. By going through a pretrial trial, the Judge will trial, examine, and decide a case that is being processed

criminally related to the validity or absence of law enforcement institutions both investigators, both investigators and or public prosecutors in terms of making coercive efforts in the form of an arrest of suspects, detention of suspects, efforts to search and confiscate and determine suspects based on applicable laws and regulations.

The pretrial void has been regulated in Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHAP) which states that "if a case has begun to be examined by the District Court, while the examination of the request to pretrial has not been completed, then the request is void"(M. Yahya Harahap, n.d.)

The meaning of Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHAP) makes multiple interpretations, especially in the phrase "the case has begun to be examined by the District Court". The phrase can be interpreted in 2 different ways, namely that the pretrial application is void when the main cause of the Pretrial Application case has been transferred to the District Court or the pretrial application is dropped when the main cause of the Pretrial application case has begun to be heard in the sense of the first hearing.

The misinterpretation in Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHAP) also occurs in Judges who handle Pretrial cases in the District Court. Some Judges interpret Pretrial cases as falling when the main case has been transferred to the District Court and some Judges interpret Pretrial cases to fall when the main case has been heard, so there is no legal certainty when the pretrial case falls as in Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHAP).

Furthermore, to provide legal certainty over the vagueness of Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHAP), the Article has been submitted for judicial review in the Constitutional Court in 2015, which has then been decided by decision Number: 102 / PUU-XII / 2015, in which the judgment states "Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHAP) contrary to the 1945 Constitution of the Republic of Indonesia and has no binding legal force and the application for pretrial cases has fallen until the subject matter on behalf of the pretrial applicant has begun the first hearing.

After the decision of the Constitutional Court Number: 102 / PUU-XII / 2015, Article 82 paragraph (1) letter d of the Code of Criminal Procedure (KUHAP) is interpreted that the pretrial death is the subject matter has been assigned and the first trial has begun on the subject matter on behalf of the defendant / pretrial applicant. However, in its journey, the

Supreme Court as the highest institution of the District Court which is authorized to handle pretrial application cases has also issued Supreme Court Circular (SEMA) Number 5 of 2021 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2021 as a Guideline for the Implementation of Duties for the Court, one of the materials from SEMA is regarding the fall of pretrial cases which is basically "in case of action criminal, since the case file is submitted and accepted by the Court immediately aborts the pretrial examination.

Based on the description above, it can be understood that there is a *vague norm* in the provisions of Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure (KUHAP), through the decision of the Constitutional Court Number: 102 / PUU-XII / 2015 the vagueness has been eliminated by giving an interpretation that the application for a pretrial case is void when the subject matter has been assigned and the first hearing has begun, however, SEMA Number 5 of 2021 regulates the cancellation of pretrial is from the time the case file is handed over. So that there has been a conflict of norms between *the* Constitutional Court decision Number: 102 / PUU-XII / 2015 and SEMA 5 of 2021.

This is a problem for the entire community, especially for someone who will file a pretrial application in the District Court and also of course for legal practitioners, namely Judges, Prosecutors, and Advocates, which provisions should be used for the issue of the term of death of pretrial cases, therefore researchers will research to answer these problems with the research title "Validity and Validity of Pretrial Petition Fall After the Constitutional Court Decision Number: 102 / Puu-XII / 2015 and SEMA 5 of 2021 concerning the Implementation of the Formulation of the Results of the Plenary Meeting of the Supreme Court Chamber in 2021 as a Guideline for the Implementation of Duties for the Court"

2. RESEARCH METHOD

This type of research is a normative juridical research. Legal sources use primary legal materials, secondary legal materials, and tertiary legal materials. Research techniques can be divided into two stages, the first is preliminary research or parliamentary research.

3. RESULT

According to the view of Positivism held by Hans Kelsen, if the law has no power or power applied then the law must be separated from the anarchists of social sciences, sociology, anthropology, economics, and politics. Hans Kelsen distinguishes between legal

enforceability and legal validity. The essence of the law is not *psychic compulsion*, but the fact that sanctions are given as specific actions by the rules that make up the law. The element of coercion is relevant only as part of the content of legal norms, not as an individual thought process of the subject of the norm. This is not shared by the moral system. Whether a person obeys the law to avoid witnessing the rule of law or not has to do with the enforceability of the law. While legal validity according to Kelsen is the existence of specific norms. A norm is said to be valid if it is a form of a statement that assumes the existence of the norm has binding force through the pressure of sanctions on a person whose actions are regulated, ordered, or prohibited. Rules are laws and valid laws are norms, laws are norms that sanction them.

The same opinion as expressed by Arief Sidharta, that between validity (*validity / geldigheid / validity*) and validity (*gelding*) is different. Validity pertains to the laws of logical thinking or logical methods. While enforceability is related to the law of legalistic thinking. In the context of legal enforceability, there are certain observable symptoms such as official behavior, law enforcement behavior, documents, legislation, and judges' sentences in a special framework that is understood as a specific reference understood as law. Therefore, with the conflict of norms over Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure, which is then carried out legal testing through the decision of the Constitutional Court and the Supreme Court Circular, it needs to be validated and its validity as the theory of validity and enforceability by Hans Kelsen.

The Constitutional Court of the Republic of Indonesia is a high state institution in the Indonesian constitutional system that holds judicial power together with the Supreme Court. The Constitutional Court was established after the amendment of the 1945 Constitution of the Republic of Indonesia to strengthen democratic institutions in the constitutional structure. The position of Constitutional Court is one of the state institutions that exercise independent judicial power to administer justice to uphold law and justice. Based on Article 24 paragraph (2) of the 1945 Constitution states that judicial power is exercised by a Supreme Court and subordinate judicial bodies within the general court, religious court, military court, state administrative court, and by a Constitutional Court (Asshidiqie, 2004).

Based on this legal basis, it can be concluded that the Constitutional Court is one of the actors of judicial power other than the Supreme Court. The judicial power is an independent power to administer the judiciary to uphold law and justice, in other words, the branch of judicial power that is authorized to try certain cases based on the provisions of the 1945 Constitution (Khazanah, 2019).

Based on Article 24C paragraph (1) of the 1945 Constitution which was later reaffirmed in Article 10 paragraph (1) letter a to d of Law Number 24 of 2003, the authority of the Constitutional Court is to examine laws against the 1945 Constitution, decide disputes over the authority of state institutions whose authority is granted by the 1945 Constitution, decide the dissolution of political parties, and adjudicate disputes about election results. In addition, based on the provisions of Article 7 paragraphs (1) to (5) and Article 24C paragraph (2) of the 1945 Constitution which was later reaffirmed by Article 10 paragraph (2) of Law Number 24 of 2003, the Constitutional Court must give a decision on the opinion of the House of Representatives that the President and Vice President have committed violations of law or reprehensible acts or are not qualified as President and Vice President as referred to in Constitution of 1945.

In the Constitutional Court Decision Number: 102 / PUU-XII / 2015 at the request of the Applicant, the Constitutional Court conducted a judicial review of Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure, which is related to the phrase "began to be examined by the district court". The test of the article is linked to Article 28 D of the 1945 Constitution, and on the petition of the petitioner, the Constitutional Court granted the petitioner's application.

Based on the description above, the Constitutional Court has decided the application for Law Number 8 of 1981 concerning the Code of Criminal Procedure, especially in Article 82 paragraph 1 letter (d) which is associated with Article 28 D of the 1945 Constitution, so that based on the provisions of 24C paragraph (1) of the 1945 Constitution which was later reaffirmed in Article 10 paragraph (1) letter a to d of Law Number 24 of 2003, the Constitutional Court is indeed authorized to examine and decide on the application or the test of the law, so that the Constitutional Court has the authority to test Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure and can be said to be valid.

Amar in the decision of the Supreme Court of Constitution Number: 102 / PUU-XII / 2015 concerning Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure is "stating Article 82 paragraph (1) letter d of Law Number 8 of 1981 concerning the Code of Criminal Procedure contrary to the Constitution of the Republic of Indonesia Year 1945 and has no binding legal force as long as the feeling "a case has begun to be examined" is not interpreted as "a pretrial request falls when the subject matter of the case has been assigned and the first hearing on the subject matter on behalf of the defendant/pretrial petitioner has begun".

The Constitutional Court in deciding on a request for judicial review that is contrary to the 1945 Constitution as stated in its decision is regulated in Law Number 24 of 2003 concerning the Constitutional Court as stipulated in Article 56 paragraph (3) which states that "if the application is granted, the Constitutional Court expressly states the material content of paragraphs, articles and/or parts of laws that are contrary to the Basic Law State of the Republic of Indonesia".

Furthermore, the provisions of Article 57 paragraph (1) of Law Number 24 of 2003 concerning the Constitutional Court state that "the decision of the constitutional court whose decision states that the material content of paragraphs, articles, and/or parts of the law is contrary to the 1945 Constitution the content material does not have binding law.

By the grammar of the decision of the Constitutional Court Number: 102 / PUU-XII / 2015, it has been found that the judgment is by the provisions in Article 56 paragraph (3) to Article 57 paragraph (1) of Law Number 24 of 2003 concerning the Constitutional Court, so that the decision of the Constitutional Court is valid or has the authority to decide as Amar in the decision;

The Supreme Court Circular was established based on the provisions of Article 12 paragraph (3) of Law Number 1 of 1950 concerning the Structure, Power, and Way of the Court of the Supreme Court of Indonesia. The Supreme Court is the highest judicial institution that oversees 4 judicial environments, namely the general court, religious court, military court, and state administrative court. For the organization, the Supreme Court has the authority to issue instructions, reprimands, warnings, and guidance as deemed necessary by separate letter or through a circular. In its development, the Supreme Court Circular has expanded functions, including regulation, administration, and so on(Cahyadi, 2014).

Supreme Court Circulars can be classified into policy rules (*Bleidsregel*) because Supreme Court Circulars are intended for judges, clerks, and courts below the Supreme Court. But in reality, not all laws that are less clear or have no governing rules are then further regulated by the Supreme Court. The Supreme Court once issued Supreme Court Circular Number 3 of 1963 in which the Supreme Court Circular canceled several articles in *Burgelijk Wetboek* (BW). In the Supreme Court Circular, the Supreme Court explained that the canceled article did not meet the sense of justice in Indonesia.

Article 79 of Law Number 14 of 1985 concerning the Supreme Court gives rule-making power to the Supreme Court. This authority is given to the Supreme Court to resolve issues that are not stipulated in law. In the explanation of Article 79, it is stated that the

Supreme Court has the authority to issue complementary regulations to fill legal deficiencies and/or vacancies. In the case of regulations established by the Supreme Court, it is distinguished from regulations drafted by the legislature. The judicial administration referred to in this regulation is part of the procedural law.

Article 79 of Law Number 14 of 1985 concerning the Supreme Court, is the function of *the Supreme* Court's rule-making power, where the Supreme Court can formulate regulations regarding the settlement of a case that is not regulated in law. Of course, this rule cannot be separated from the basic principle that judges cannot reject a case because a case is unclear or there is no law. This is needed by the Supreme Court as a judicial body given the slow pace of national legal products.

More clearly in the explanation of Article 79 of Law Number 14 of 1985 concerning the Supreme Court, the Supreme Court is authorized to make regulations as a supplement to fill the gaps, and these regulations are distinguished from the law and are only part of the procedural law as a whole. It can be interpreted that the rule is in the form of a Supreme Court Regulation, but as in the explanation that states the regulations formed do not exceed and interfere with the character, strength, evidence, and judgment or the division of the burden of proof. So that is what is meant in Article 79 of Law Number 14 of 1985 concerning the Supreme Court in the form of Supreme Court Regulations and Supreme Court Circulars.

Based on these considerations, it can be concluded that the Supreme Court has the authority to issue rules in the form of a Supreme Court Circular so that the existence of Supreme Court Circular Number: 5 of 2021 is declared valid.

Based on the considerations and descriptions that have been stated earlier, it has been found that the decision of the Constitutional Court Number: 102 / PUU-XII / 2015 and the Supreme Court Circular Number: 5 of 2021 both have validity, namely that the Constitutional Court is indeed authorized to examine the material of the law as in the decision and also the ammar in the decision is by existing rules. Likewise, with the Supreme Court Circular Number: 5 of 2021, the Supreme Court does have the authority to issue a Supreme Court Circular which is used as a guideline for the court apparatus under it.

Applicability is defined as which law is carried out by law enforcement officials, in this case, who carry out pretrial law, namely, judges in district courts who are authorized to hear and decide pretrial application cases.

The Constitutional Court Decision Number: 102 / PUU-XII / 2015 which decided the petition for judicial review of article 81 paragraph (1) letter d concerning pretrial abortion was decided in 2015, then the Supreme Court Circular Number: 5 of 2021 which regulates

pretrial abortion was issued by the Supreme Court in 2021. After the issuance of SEMA, the validity of pretrial fallout can be seen from the decisions of judges who examine pretrial cases.

The first pretrial case decision Number: 1/Pid.Pra/2022/PN Olm (Great, 2024), the petitioner of the pretrial application is Lazarus Antonius Bell, S.Pd while the respondent in the pretrial application is the Kupang Police General Investigation and Crime Unit. The pretrial application was filed on January 20, 2022, and at the first hearing, the petitioner and respondent respectively had their respective attorneys present.

At the first hearing that has been attended by the parties, then the examining judge adjourns the next hearing to read the interlocutory judgment, which in the interlocutory judgment becomes the final decision of the pretrial application with the judge's considerations that the judge has examined and searched in the case information system at the Oelemasi District Court and found that the main case on behalf of the pretrial applicant has been transferred to the District Court Oelemasi and has also been deregistered and given a case number.

The judge guided the Supreme Court Circular Number: 5 of 2021 which states that since the case is transferred and accepted by the District Court immediately cancels the pretrial examination by the provisions of Article 82 paragraph (1) letter d of the Code of Criminal Procedure.

Since the main case on behalf of the petitioner, the pretrial application has been transferred and deregistered in the District Court, and the status of the applicant who was originally a suspect has changed to that of a defendant. Then the status of detention previously detained by investigators or public prosecutors has also changed to the status of being detained by the examining judge of the subject matter.

Furthermore, the decision of the pretrial case Number: 1/Pid.Pra/2024/PN Lbt (Great, 2024), filed by Yoseph Tue Ladjar alias Oce as the applicant and the Chief of Police of Lembata Resort as the respondent. The applicant is a suspect in a narcotics abuse case that is being handled by the Lembata Resort Police.

At the time of the first trial, it has been determined that each party has a power of attorney. During the first hearing, the identity of the applicant and also the respondent were checked. After checking their respective identities, the pretrial respondent then submitted an answer to the pretrial application submitted by the applicant and also the respondent submitted preliminary letter evidence to prove that the main case on behalf of the pretrial applicant had been transferred and deregistered in the Lembata District Court.

The term void as stipulated in Supreme Court Circular Number 5 of 2021 is a pretrial application is void when the main case on behalf of the pretrial applicant has been transferred or deregistered in the District Court. This is considered to have more legal certainty because the Court is not authorized or allowed to reject the case submitted to it either for any reason, so when a case or in this case the subject matter of the pretrial application applicant is registered with the district court immediately the case will be accepted by the District Court for further deregistration in the case and will also be determined by the Tribunal Judge / Judge who will examine and decide the case.

In contrast to pretrial termination as stipulated in Constitutional Court Decision Number: 102/PUU-XII/2015 which states that pretrial void is during the first hearing on the subject matter on behalf of the pretrial petitioner. This first hearing does not provide legal certainty because the first hearing is determined by the Judge who will examine for an undetermined period. Then the first hearing referred to in the Constitutional Court decision is the first session with the agenda of the indictment reading hearing by the public prosecutor, not all cases can be read the indictment at the first hearing for certain reasons such as the indictment has not been presented to the defendant, the panel of examining judges was unable to attend the first hearing due to illness, leave or out-of-town service. Furthermore, the main case with the pretrial case is in a different District Court so it is difficult to find information whether the main case has been read the indictment or not. So it can be concluded that the provisions for the fall of pretrial cases as in the Constitutional Court Decision do not have legal certainty

4. DISCUSSION

The Constitutional Court Decision Number: 102 / PUU-XII / 2015 which decided the petition for judicial review of article 81 paragraph (1) letter d concerning pretrial abortion was decided in 2015, then the Supreme Court Circular Number: 5 of 2021 which regulates pretrial abortion was issued by the Supreme Court in 2021. After the issuance of SEMA, the validity of pretrial fallout can be seen from the decisions of judges who examine pretrial cases.

The first decision in the pretrial case Number: 1/Pid.Pra/2022/PN Olm, the applicant of the pretrial application is Lazarus Antonius Bell, S.Pd while the respondent in the pretrial application is the Kupang Police General Investigation and Crime Unit. The pretrial application was filed on January 20, 2022, and at the first hearing, the petitioner and respondent respectively had their respective attorneys present.

At the first hearing that has been attended by the parties, then the examining judge adjourns the next hearing to read the interlocutory judgment, which in the interlocutory judgment becomes the final decision of the pretrial application with the judge's considerations that the judge has examined and searched in the case information system at the Oelemasi District Court and found that the main case on behalf of the pretrial applicant has been transferred to the District Court Oelemasi and has also been deregistered and given a case number.

The judge guided the Supreme Court Circular Number: 5 of 2021 which states that since the case is transferred and accepted by the District Court immediately cancels the pretrial examination by the provisions of Article 82 paragraph (1) letter d of the Code of Criminal Procedure.

Since the main case on behalf of the petitioner, the pretrial application has been transferred and deregistered in the District Court, and the status of the applicant who was originally a suspect has changed to that of a defendant. Then the status of detention previously detained by investigators or public prosecutors has also changed to the status of being detained by the examining judge of the subject matter.

Furthermore, the decision of the pretrial case Number: 1/Pid.Pra/2024/PN Lbt, filed by Yoseph Tue Ladjar alias Oce as the applicant and the Chief of the Lembata Resort Police as the respondent. The applicant is a suspect in a narcotics abuse case that is being handled by the Lembata Resort Police.

At the time of the first trial, it has been determined that each party has a power of attorney. During the first hearing, the identity of the applicant and also the respondent were checked. After checking their respective identities, the pretrial respondent then submitted an answer to the pretrial application submitted by the applicant and also the respondent submitted preliminary letter evidence to prove that the main case on behalf of the pretrial applicant had been transferred and deregistered in the Lembata District Court.

The term void as stipulated in Supreme Court Circular Number 5 of 2021 is a pretrial application is void when the main case on behalf of the pretrial applicant has been transferred or deregistered in the District Court. This is considered to have more legal certainty because the Court is not authorized or allowed to reject the case submitted to it either for any reason, so when a case or in this case the subject matter of the pretrial application applicant is registered with the district court immediately the case will be accepted by the District Court for further deregistration in the case and will also be determined by the Tribunal Judge / Judge who will examine and decide the case.

In contrast to pretrial termination as stipulated in Constitutional Court Decision Number: 102/PUU-XII/2015 which states that pretrial void is during the first hearing on the subject matter on behalf of the pretrial petitioner. This first hearing does not provide legal certainty because the first hearing is determined by the Judge who will examine for an undetermined period. Then the first hearing referred to in the Constitutional Court decision is the first session with the agenda of the indictment reading hearing by the public prosecutor, not all cases can be read the indictment at the first hearing for certain reasons such as the indictment has not been presented to the defendant, the panel of examining judges was unable to attend the first hearing due to illness, leave or out-of-town service. Furthermore, the main case with the pretrial case is in a different District Court so it is difficult to find information whether the main case has been read the indictment or not. So it can be concluded that the provisions for the termination of pretrial cases as in the Constitutional Court Decision do not have legal certainty.

5. CONCLUSİON

The Constitutional Court has validity in deciding cases as case number: 102/PUU-XII/2015 and the ammar in the decision also has validity. The Supreme Court has validity in issuing Supreme Court Circular Number 5 of 2021 and the pretrial void rules in the Circular also have validity. After the decision of the Constitutional Court Number: 102 / PUU-XII / 2015 and Supreme Court Circular Number 5 of 2021 which regulates pretrial falls, judges follow as stipulated in the Supreme Court Circular Number 5 of 2021 so that only the Supreme Court Circular Number 5 of 2021 is currently in effect. Supreme Court Circular Number 5 of 2021 which regulates the term of fall has legal certainty compared to the provisions of the term of fall in the decision of the Constitutional Court Number: 102 / PUU-XII / 2015.

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