SPC Guiding Case No. 14: Case of Dong Moumou and Song Moumou for Robbery

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Keywords

Criminal / crime of robbery / juvenile crime / prohibition order

Holding

With respect to a juvenile defendant sentenced to public surveillance or to whom a suspended sentence is announced, a "prohibition order" may be applied in light of the specific circumstances of the crime and the degree of connection between the prohibited matter and the crime committed. Where a juvenile commits a crime induced by going online, the juvenile may be prohibited from entering specific premises such as internet cafes for a certain period.

Basic Facts

The defendants Dong Moumou and Song Moumou (aged 17 at the time) were addicted to online games and frequently went to internet cafes together, often staying out all night. At about 11:00 on July 27, 2010, because their online fees at an internet cafe had run out, the two defendants, together with Wang XX (who had not reached the age of criminal responsibility at the time of the offense), went to the fitness equipment area of the Hongqijie community in Pingdingshan, Henan Province, and, wielding knives, robbed the victims Zhang XX and Wang XX, seizing RMB 5 in cash and one mobile phone from Zhang XX. The robbed mobile phone was later sold, and the illicit gains were used for going online.

Judgment

On May 10, 2011, the Xinhua District People's Court of Pingdingshan, Henan Province rendered Criminal Judgment (2011) Xin Xing Wei Chu Zi No. 29, finding the defendants Dong Moumou and Song Moumou guilty of the crime of robbery and sentencing each to two years and six months of fixed-term imprisonment with a three-year suspended sentence and a fine of RMB 1,000 each. At the same time, Dong Moumou and Song Moumou were prohibited from entering premises such as internet cafes and game arcades within 36 months. After the judgment was pronounced, neither defendant appealed, and the judgment became legally effective.

Reasoning

The effective judgment of the court held as follows. The defendants Dong Moumou and Song Moumou, for the purpose of illegal possession, seized another person's property by means of violence and threats, and their conduct all constituted the crime of robbery. In view of the fact that Dong Moumou and Song Moumou committed the robbery while wielding knives; that they were under 18 years of age at the time of the crime and were first-time offenders who admitted guilt and showed repentance after being brought to justice; and that Song Moumou was still a student in school, meeting the conditions for a suspended sentence, it was decided to sentence the two defendants to two years and six months of fixed-term imprisonment each with a three-year suspended sentence. Considering that the defendants' robbery was mainly induced by the need for internet fees to go online; that the two defendants were long-term addicts of online games, and premises such as internet cafes were closely connected with their crime; that isolating the defendants from the premises that induced their crime would facilitate effective supervision and education by parents and the

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community during the suspended sentence period and prevent re-offending; and that the defendants were under 18 at the time of the crime and had relatively poor self-control, the period of the prohibition order applied to them was set at three years, the same as the probation period, which would facilitate their rehabilitation. Therefore, it was lawfully decided to prohibit the two defendants from entering specific premises such as internet cafes during the suspended sentence probation period.

Relevant Legal Provisions

Article 72, paragraph 2 of the Criminal Law of the People's Republic of China.

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