

SPC Guiding Case No. 268: Case of Yan [X]cong for Endangering Public Safety by Dangerous Means

Dan Young Business Consultancy — www.danyoungcpa.com

Unofficial English translation prepared for reference only. The official Chinese text prevails.

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Keywords

Criminal / crime of endangering public safety by dangerous means / driving under the influence of drugs / dangerous means / major accident / severe punishment

Holding

1. Where a person, knowing that taking or injecting drugs will produce serious adverse reactions such as hallucinations or unconsciousness and that driving on the road will create a realistic danger of a traffic accident, nevertheless drives at high speed after taking or injecting drugs and successively collides with other vehicles or pedestrians, it shall be found that the person had the intent to endanger public safety, and the person's act constitutes the crime of endangering public safety by dangerous means.

2. Taking or injecting drugs is an unlawful, self-endangering act. Where a person, after taking or injecting drugs, drives and causes an accident, thereby committing a crime, the person shall be severely punished in accordance with the law.

Basic Facts

On the evening of August 21, 2021, defendant Yan [X]cong purchased drugs from another person, and took the drugs three times at around 01:00, 04:00, and 07:00 on August 22. At around 09:00 on August 22, Yan [X]cong drove a car to a section of the S280 line in Maoming City, Guangdong Province, and struck victim Yang [X], who was riding a motorcycle, causing Yang [X]'s death from craniocerebral injury combined with traumatic shock. In order to evade legal liability, Yan [X]cong accelerated and fled; about 950 meters from the above scene, he successively collided with victims Yang [X]mei, Wu [X], and Liang [X], who were riding motorcycles, and Feng [X], who was driving a car, at a speed as high as 99 km/h, causing Yang [X]mei's death from craniocerebral injury, Wu [X]'s death from traumatic hemorrhagic shock, and Liang [X]'s death from cervical spinal cord transection, and causing damage to multiple vehicles, among which the loss in value of the car driven by Feng [X] was RMB 180,570. Yan [X]cong was caught on the spot by the public security organ. Upon testing, Yan [X]cong's urine showed a positive reaction for drugs.

It was also found that, on August 23, 2021, defendant Yan [X]cong was subjected to the administrative penalty of fifteen days of administrative detention by the public security organ for taking drugs. Yan [X]cong confessed that he had a history of drug use; on the day of the incident, from 01:00 to 07:00, he took drugs three times, and after each time he felt dazed and had hallucinations of fearing death, being chased and killed, and family members jumping off a building; after taking drugs he wanted to listen to loud music while driving and to drive fast to escape.

Judgment

The Maoming Intermediate People's Court of Guangdong Province rendered the criminal incidental civil judgment (2021) Yue 09 Xing Chu No. 71 on July 28, 2022: defendant Yan [X]cong was convicted of the crime of endangering public safety by dangerous means and sentenced to death, with deprivation of political rights for life (other items omitted). After the judgment was pronounced, Yan [X]cong appealed on the grounds that his act constituted the crime of causing traffic casualties, among other grounds. The

Guangdong High People's Court rendered the criminal ruling (2022) Yue Xing Zhong No. 1036 on October 31, 2023: the appeal was dismissed and the original judgment was affirmed, and the case was reported to the Supreme People's Court for approval in accordance with the law. On January 20, 2025, the Supreme People's Court rendered a criminal ruling approving the death penalty for defendant Yan [X]cong in accordance with the law.

Reasoning

There were two focuses of dispute in this case: first, whether defendant Yan [X]cong's act constituted the crime of causing traffic casualties or the crime of endangering public safety by dangerous means; and second, if it constituted the crime of endangering public safety by dangerous means, whether the death penalty should be applied to Yan [X]cong.

I. Defendant Yan [X]cong's act constituted the crime of endangering public safety by dangerous means.

Article 133 of the Criminal Law of the People's Republic of China provides: "Whoever violates the regulations on traffic and transportation administration, thereby causing a major accident resulting in serious injury or death, or causing heavy losses to public or private property, shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention; whoever flees after causing a traffic casualty or has other especially egregious circumstances shall be sentenced to fixed-term imprisonment of not less than three years but not more than seven years; whoever causes death by fleeing shall be sentenced to fixed-term imprisonment of not less than seven years." Article 114 of the Criminal Law provides: "Whoever commits arson, breaches a dike, causes explosions, disseminates poisonous, radioactive, or infectious disease pathogens or other substances, or endangers public safety by other dangerous means, and has not caused serious consequences, shall be sentenced to fixed-term imprisonment of not less than three years but not more than ten years." Paragraph 1 of Article 115 of the Criminal Law provides: "Whoever commits arson, breaches a dike, causes explosions, disseminates poisonous, radioactive, or infectious disease pathogens or other substances, or causes serious injury or death, or causes heavy losses to public or private property, by other dangerous means, shall be sentenced to fixed-term imprisonment of not less than ten years, life imprisonment, or death." Pursuant to the above provisions, where a person, after taking or injecting drugs, drives a motor vehicle on a road, thereby causing a major accident, and the person's mental attitude toward the harmful result is negligence, the person shall be convicted and punished for the crime of causing traffic casualties in accordance with the law; where a person, knowing that taking or injecting drugs will produce serious adverse reactions such as hallucinations or unconsciousness and that driving on the road will create a realistic danger of a traffic accident, nevertheless drives at high speed after taking or injecting drugs and successively collides with other vehicles or pedestrians, this indicates that the person's mental attitude toward endangering public safety is intent, and regardless of whether serious consequences have been caused, the person shall be convicted and punished for the crime of endangering public safety by dangerous means in accordance with the law.

In this case, defendant Yan [X]cong had a history of drug use, and took drugs three times within a short period before driving and causing the accident; he confessed that after each time he felt dazed and had serious hallucinations. He knew that the adverse reactions after taking drugs were serious and would affect safe driving, yet he still drove on the road; after realizing that he had struck a person riding a motorcycle, he, out of fear of being caught for taking drugs, accelerated and fled the scene, and thereafter successively collided with multiple vehicles. Taking the above facts together, it should be found in accordance with the law that Yan [X]cong had the criminal intent to endanger public safety, and his act constituted the crime of endangering public safety by dangerous means.

II. Defendant Yan [X]cong's crime was extremely serious, and the death penalty should be applied in accordance with the law.

Paragraph 1 of Article 48 of the Criminal Law provides: “The death penalty shall only be applied to offenders who commit extremely serious crimes. If an offender who should be sentenced to death does not need to be executed immediately, a two-year suspension of execution may be announced at the same time the death penalty is imposed.” Article 29 of the Several Opinions of the Supreme People's Court on Implementing the Criminal Policy of Combining Leniency with Severity (Fa Fa [2010] No. 9) provides: “It is necessary to accurately understand and strictly implement the policy of ‘retaining the death penalty and strictly controlling and prudently applying the death penalty.’ With respect to offenders whose crimes are extremely serious and who should be sentenced to death for their crimes, the death penalty shall be resolutely imposed in accordance with the law...” Where a person, after taking or injecting drugs, drives a motor vehicle on a road and thereby commits the crime of endangering public safety by dangerous means, the person generally has indirect intent toward endangering public safety, and the death penalty should be applied prudently. At the same time, it should also be noted that taking or injecting drugs is an unlawful, self-endangering act and cannot be a ground for lenient punishment. In sentencing, it is necessary to comprehensively consider the nature, circumstances, and harmful results of such cases, as well as the offender's subjective culpability and danger to society, so as to correctly mete out the punishment, strictly controlling the application of the death penalty while resolutely imposing the death penalty in accordance with the law on offenders who should be sentenced to death for their crimes.

In this case, defendant Yan [X]cong, knowing that he had already produced serious hallucinations after taking drugs, still disregarded public safety and drove at high speed on a provincial road with heavy traffic flow during peak traffic hours. In particular, after the first collision caused an accident, he did not stop to rescue the injured; instead, he continued to drive and flee at excessive speed, and successively collided with multiple vehicles within less than one kilometer, further expanding the harmful results, and only stopped the crime when his vehicle was so damaged that it could not continue to travel. He caused the deaths of four innocent people and damage to multiple vehicles; the nature and circumstances of his crime were especially egregious, the social harm was extremely great, and the crime was extremely serious. Yan [X]cong should be severely punished, and the death penalty should be applied in accordance with the law.

Relevant Legal Provisions

Articles 48, 114, and 115(1) of the Criminal Law of the People's Republic of China.

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