

SPC Guiding Case No. 269: Case of Liu [X]jiang — Acquittal of a Traffic Offense

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

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Keywords

Criminal / crime of causing traffic casualties / fleeing after causing a traffic casualty / determination of accident liability / causation / acquittal

Holding

The traffic accident determination issued by the traffic management department of the public security organ in accordance with the relevant administrative regulations is important evidence for determining the criminal liability of the person involved. Where a traffic accident determination finds that the person bears full or primary liability for the accident on the basis that the person fled after the traffic accident occurred, the people's court shall, in combination with the analysis of the cause of the accident in the traffic accident determination and other relevant evidence, examine the different causes of the accident and the extent of the role played by the relevant causes, and determine the person's criminal liability in accordance with the law based on causation under the criminal law. Where the act of fleeing had no causal force in causing or expanding the accident, it shall not be used as the basis for determining accident liability in the criminal law sense.

Basic Facts

At around 11:30 on June 9, 2023, defendant Liu [X]jiang drove an unlicensed electric three-wheeled motorcycle eastward along the Yangguan Line in Renze District, Xingtai City, Hebei Province, while Sun [X]ping drove an unlicensed two-wheeled motorcycle carrying victim Li [X]kun in the same direction. When Sun [X]ping was overtaking Liu [X]jiang, a truck happened to approach from the opposite direction; Sun [X]ping swerved sharply to the right and scraped Liu [X]jiang's vehicle, causing Li [X]kun to fall from the rear seat, sustain injuries, and die after rescue efforts failed. After the accident occurred, Liu [X]jiang briefly stayed at the scene and then drove away.

With respect to this accident, the traffic accident determination issued by the traffic management department of the public security organ recorded: 1. As to the cause of the accident. Sun [X]ping drove a motor vehicle without obtaining a motor vehicle driving license, drove on the road a motor vehicle not registered with the traffic management department of the public security organ, overtook when there was a possibility of meeting oncoming traffic, and did not wear a safety helmet; this was the primary cause of this traffic accident, and his acts played a relatively large role in and had a relatively large degree of fault for the occurrence of the traffic accident. Liu [X]jiang drove a motor vehicle without obtaining a motor vehicle driving license, drove on the road a motor vehicle not registered with the traffic management department of the public security organ, failed to ensure safety when pulling onto the road, and did not wear a safety helmet; this was a secondary cause of this traffic accident, and his acts played a relatively small role in and had a relatively small degree of fault for the occurrence of the traffic accident. Li [X]kun rode on the motorcycle without wearing a safety helmet; this was a secondary cause of this traffic accident, and his act played a relatively small role in and had a relatively small degree of fault for the occurrence of the traffic accident. 2. As to the determination of liability. Liu [X]jiang drove a motor vehicle without obtaining a motor vehicle driving license, drove on the road a motor vehicle not registered with the traffic management department of the

public security organ, failed to ensure safety when pulling onto the road, did not wear a safety helmet, and fled after the accident occurred, violating the relevant provisions of the Road Traffic Safety Law of the People's Republic of China and the Provisions on the Procedures for Handling Road Traffic Accidents; it was determined that Liu [X]jiang bore full liability for this accident, and Sun [X]ping and Li [X]kun bore no liability.

Judgment

The Renze District People's Court of Xingtai City, Hebei Province, rendered the criminal judgment (2024) Ji 0505 Xing Chu No. 8 on July 16, 2024: defendant Liu [X]jiang was acquitted. After the judgment was pronounced, there was no appeal or protest, and the judgment became legally effective.

After the judgment became effective, the public security organ imposed an administrative penalty on Liu [X]jiang for his traffic violation in accordance with the law.

Reasoning

Article 133 of the Criminal Law of the People's Republic of China provides that a person who “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” commits the crime of causing traffic casualties. Paragraph 1 of Article 2 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Specific Application of Law in the Trial of Criminal Cases of Causing Traffic Casualties (Fa Shi [2000] No. 33) further provides that a person who “causes the death of one person or serious injury to three or more persons and bears full or primary liability for the accident” shall be convicted and punished for the crime of causing traffic casualties. Pursuant to the above provisions, in this case, whether defendant Liu [X]jiang committed the crime of causing traffic casualties hinged on whether he bore full or primary liability for the accident.

Article 92 of the Regulations for the Implementation of the Road Traffic Safety Law of the People's Republic of China provides: “Where a person flees after a traffic accident occurs, the fleeing party shall bear full liability. However, where there is evidence proving that the other party also had fault, the liability may be mitigated. Where a person intentionally destroys or falsifies the scene or destroys evidence, the person shall bear full liability.” This provision is a special provision established for purposes such as maintaining traffic order, remedying traffic accident victims as far as possible, and facilitating the ascertainment of the cause of the accident; the accident liability determined pursuant to this provision does not necessarily reflect the objective causation between the person's traffic violation and the accident. In handling criminal cases such as those involving causing traffic casualties, the above liability determination conclusion cannot be directly used as the basis for deciding the case; instead, the evidence in the case should be combined to accurately ascertain the cause of the accident and the extent of the role played by the relevant causes in the occurrence of the accident, so as to further determine whether the fleeing party should bear full or primary liability for the accident in the criminal law sense. Where the party's act of fleeing had no causal force in causing or expanding the accident, it shall not be used as the basis for determining accident liability in the criminal law sense.

In this case, upon examination of all the evidence in the case, including the cause of the accident recorded in the traffic accident determination, the testimony of eyewitnesses, and the defendant's confession, it could be found that: Sun [X]ping's traffic violations, such as overtaking when there was a possibility of meeting oncoming traffic, were the primary cause of the accident; defendant Liu [X]jiang's traffic violations before fleeing were a secondary cause of the accident, and his act of fleeing was not a cause of the accident, nor was there a circumstance of causing death by fleeing. Therefore, his act did not constitute the crime of causing traffic casualties in accordance with the law.

Relevant Legal Provisions

Article 133 of the Criminal Law of the People's Republic of China.

Article 73 of the Road Traffic Safety Law of the People's Republic of China.

Article 92 of the Regulations for the Implementation of the Road Traffic Safety Law of the People's Republic of China.

Articles 1 and 2 of the Interpretation of the Supreme People's Court on Several Issues Concerning the Specific Application of Law in the Trial of Criminal Cases of Causing Traffic Casualties (Fa Shi [2000] No. 33).

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