

SPC Guiding Case No. 271: Case of Wang [X]qun for Dangerous Driving

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

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Keywords

Criminal / crime of dangerous driving / drunk driving / assisted driving / automated driving

Holding

An on-board assisted driving system cannot replace the driver as the subject of driving; after activating the assisted driving function, the driver is still the person actually performing the driving task and bears the responsibility to ensure driving safety. Where a person activates the assisted driving function and uses a privately installed component to evade the monitoring of the assisted driving system, even if the person is not in the driver's seat actually manipulating the motor vehicle, the person shall still bear corresponding legal liability as the subject of driving.

Basic Facts

At around 00:30 on September 13, 2025, defendant Wang [X]qun drove a car after drinking from the vicinity of a restaurant in Tangqi Town, Linping District, Hangzhou City, Zhejiang Province, back to his residential community. At around 01:15 on the same day, Wang [X]qun again drove the car out of the community, then activated the car's assisted driving function, set a destination, and used a privately installed "smart driving device" component capable of evading the assisted driving system's monitoring, so that the vehicle continued to travel in a state with no actual human supervision, while he moved to the front passenger seat to sleep. At around 01:37, the vehicle traveled to a road section near the destination in Linping District, Hangzhou City, and stopped. Because the vehicle was blocking the road, passersby discovered that the only person in the vehicle was Wang [X]qun, who was sleeping in the front passenger seat, and reported it to the police. After the police arrived, they administered a breath alcohol test to Wang [X]qun, found that he was suspected of drunk driving, and sent him to a hospital to have a blood sample drawn. Upon testing, Wang [X]qun's blood alcohol content was 114.5 mg/100 mL, constituting intoxication.

Upon investigation, the car driven by defendant Wang [X]qun was equipped with a Level 2 driving automation system, that is, an assisted driving system with assisted driving functions. The system was set such that if the driver's hands left the steering wheel for more than two minutes, the system would prompt the driver to hold the steering wheel and take over the vehicle, and if the driver failed to take over in time, the vehicle would actively decelerate and exit the system. After purchasing the car, Wang [X]qun had studied the assisted driving system safety knowledge in the car's companion software and passed the relevant examination, and knew that he could not activate the assisted driving function to drive after drinking, and knew that after activating the assisted driving function, he was required to keep his hands on the steering wheel and be prepared to take over the vehicle at any time. Nevertheless, he still purchased and installed the illegal "smart driving device" component capable of simulating the state of holding the steering wheel, in order to evade the assisted driving system's safety monitoring.

It was also found that defendant Wang [X]qun had, on July 3, 2024, been subject to a six-month suspension of his motor vehicle driving license and a fine of RMB 1,500 for driving a motor vehicle after drinking.

Judgment

The Linping District People's Court of Hangzhou City, Zhejiang Province, rendered the criminal judgment (2025) Zhe 0113 Xing Chu No. 596 on September 19, 2025: defendant Wang [X]qun was convicted of the crime of dangerous driving and sentenced to one month and fifteen days of criminal detention, and a fine of RMB 4,000. After the judgment was pronounced, there was no appeal or protest, and the judgment became legally effective.

Reasoning

The focus of dispute in this case was whether defendant Wang [X]qun's activation of the on-board assisted driving function after drinking, without performing driving operations in the driver's seat, constituted a driving act, and whether his act constituted the crime of dangerous driving.

I. Defendant Wang [X]qun was the subject of the driving act and the person responsible.

The national standard Taxonomy of Driving Automation for Vehicles (GB/T 40429-2021) divides driving automation into Levels 0 to 5. Among them, Levels 0 to 2 are driving assistance, Level 3 is conditional automated driving, Level 4 is highly automated driving, and Level 5 is fully automated driving. An assisted driving system is subject to technical limitations and cannot guarantee safe operation in all road environments; its function is only to assist the driver in driving, and it cannot replace the driver as the subject of driving. After the driver activates the assisted driving function, the driver remains the person actually performing the driving task and bears the responsibility to ensure driving safety.

In this case, defendant Wang [X]qun's act of driving the motor vehicle can be divided into two stages. In the first stage, Wang [X]qun drove the motor vehicle a certain distance in the traditional manual manner while intoxicated; there is no dispute that he should be found to be the driver in this stage. In the second stage, Wang [X]qun activated the assisted driving function, set a destination, and let the assisted driving system perform the driving task. Because the driving automation system installed in Wang [X]qun's car was a Level 2 assisted driving system that could not be separated from driver supervision, Wang [X]qun remained the driver responsible for performing the driving task; his acts of using a pre-installed illegal component to evade the assisted driving system's monitoring, moving from the driver's seat to the front passenger seat, taking his hands off the steering wheel, and sleeping were in nature irregular driving, and this could not be used to deny his status and responsibility as the driver.

II. Defendant Wang [X]qun's act constituted the crime of dangerous driving.

Pursuant to Article 133-1 of the Criminal Law of the People's Republic of China, whoever drives a motor vehicle on a road while intoxicated commits the crime of dangerous driving. Upon testing, defendant Wang [X]qun's blood alcohol content was 114.5 mg/100 mL, constituting intoxication. Paragraph 1 of Article 12 of the Opinions of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice on Handling Criminal Cases of Drunk Driving (Gao Jian Fa Ban Zi [2023] No. 187) provides: "Where a person who drives while intoxicated falls under any of the following circumstances and does not fall under the circumstances specified in Article 10 of these Opinions, it may be found that the circumstances are markedly minor and the harm is slight, and the case shall be handled in accordance with Article 13 of the Criminal Law and Article 16 of the Criminal Procedure Law: (1) the blood alcohol content is less than 150 mg/100 mL..." Article 10 provides: "Where a person who drives while intoxicated falls under any of the following circumstances and the act does not separately constitute another crime, a heavier punishment shall be imposed: ... (13) within two years, having been caught or subjected to an administrative penalty for driving a motor vehicle after drinking..." Pursuant to the above provisions, although Wang [X]qun's blood alcohol content was less than 150 mg/100 mL, he had been subjected to an administrative penalty for driving a motor vehicle after drinking within two years; therefore, his act of drunk driving this time should not be found to be markedly minor with slight harm, and he should be convicted and punished for the crime of dangerous driving.

Relevant Legal Provisions

Article 133-1 of the Criminal Law of the People's Republic of China.

Articles 10 and 12 of the Opinions of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Justice on Handling Criminal Cases of Drunk Driving (Gao Jian Fa Ban Zi [2023] No. 187).

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