SPC Guiding Case No. 63: Case of Xu Jiafu for Compulsory Medical Treatment

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

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Keywords

Criminal procedure / compulsory medical treatment / possibility of continuing to endanger society

Holding

In trying a compulsory medical treatment case, the determination of whether the person subject to the application or the defendant has the "possibility of continuing to endanger society" should be made comprehensively based on the type and symptoms of the mental illness suffered by the person, whether the illness has improved at the time of the trial, and the willingness and ability of the family members or guardians to strictly supervise and to send the person for medical treatment on their own. Where necessary, a relevant institution or expert may be entrusted to conduct an assessment.

Basic Facts

The person subject to the application, Xu Jiafu, began to show mental abnormalities in the second half of 2007, manifesting as hearing voices out of thin air, believing that others were discussing him and that someone wanted to kill him, being nervous and afraid, not sleeping at night, carrying a knife at all times for self-defense, and going out to hide. Because he did not receive treatment, his illness worsened. At about 4 a.m. on November 18, 2012, the person subject to the application heard at his habitual residence that someone was coming by car to kill him, and therefore carried a knife and a hammer intending to go out and crash into a car to commit suicide. The gatekeeper of his residence, Zhang Youfa, learned that he was going out to crash into a car to commit suicide and did not open the gate for him. The person subject to the application saw the victim holding a mobile phone and believed that the victim was going to call someone to harm him. The person subject to the application immediately stabbed the victim with the knife he carried and struck the victim's head with the hammer, causing the victim's immediate death. Upon forensic medical appraisal, the victim died of severe craniocerebral injury caused by blunt-force blows to the head.

On December 10, 2012, the person subject to the application was sent by the public security organ to the Fourth People's Hospital of Chengdu for inpatient treatment. On December 17, 2012, the Chengdu Jingwei Judicial Appraisal Institute, entrusted by the Wuhou District Branch of the Chengdu Municipal Public Security Bureau, conducted a mental illness and criminal responsibility capacity appraisal of the person subject to the application. On the 26th of the same month, the institute issued the appraisal opinion Cheng Jing Si Jian Suo (2012) Bing Jian Zi No. 105, recording: 1. The person subject to appraisal, Xu Jiafu, currently suffers from schizophrenia of the hallucination-delusion type; 2. The person subject to appraisal, Xu Jiafu, had no criminal responsibility capacity at the time of the act at 4 a.m. on November 18, 2012. In January 2013, the Fourth People's Hospital of Chengdu issued a certificate regarding the condition of the person subject to the application, confirming that Xu Jiafu needed continued treatment.

Judgment

On January 24, 2013, the Wuhou District People's Court of Sichuan Province rendered the compulsory medical treatment decision (2013) Wu Hou Xing Qiang Chu Zi No. 1: Compulsory medical treatment was imposed on the person subject to the application, Xu Jiafu.

Reasoning

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The effective judgment held: In this case, the person subject to the application, Xu Jiafu, after committing the violent act of intentional homicide, was determined by appraisal to be a mentally ill person who did not bear criminal responsibility in accordance with the law. His conduct of delusionally believing that others wanted to harm him and therefore having to carry a knife and other defensive tools when going out, under the circumstances that his illness had not abated and required continued treatment, led to the finding that placing him in society would pose a possibility of continuing to endanger society. The application of the Wuhou District People's Procuratorate of Chengdu for compulsory medical treatment of the person subject to the application was established and was supported. The litigation agent raised the defense that whether the person subject to the application had the possibility of continuing to endanger society should be assessed by a medical institution, that there was no assessment report from a medical institution in this case, and that the evidence for compulsory medical treatment of the person subject to the application was insufficient. The court held that, in compulsory medical treatment, how to determine whether the person subject to the application has the possibility of continuing to endanger society should be judged comprehensively based on the past conduct of the person subject to the application and the evidence in this case, while the assessment by a medical institution is only an assessment of whether the illness has been cured; the law does not grant a medical institution the right to assess whether a patient has the possibility of continuing to endanger society. In this case, the illness of the person subject to the application was the hallucination-delusion type of delusional disorder; he frequently imagined that others wanted to kill him, and could not go out for fear of being harmed without carrying a knife and other defensive tools. If he were not restrained and treated, the person subject to the application could not avoid going out, and his conduct of necessarily carrying a knife when going out posed a possibility of endangering society. Therefore, the litigation agent's opinion was not adopted.

Relevant Legal Provisions

Article 18, paragraph 1 of the Criminal Law of the People's Republic of China.

Article 284 of the Criminal Procedure Law of the People's Republic of China.

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