SPC Guiding Case No. 90: Bei Huifeng v. the Traffic Police Brigade of Haining Municipal Public Security Bureau (Road Traffic Administrative Penalty)

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SPC Guiding Case No. 90

Discussed and adopted by the Judicial Committee of the Supreme People's Court; issued on November 15, 2017

Keywords

Administrative; administrative penalty; yielding to pedestrians by motor vehicles; passing through a crosswalk

Holding

Yielding to pedestrians is a basic requirement of civilized and safe driving. Where a motor vehicle driver is driving a vehicle through a crosswalk and encounters a pedestrian who is passing through or standing on the crosswalk, the driver shall actively stop and yield, unless the pedestrian clearly signals the motor vehicle to pass first. Where the traffic administrative department of the public security organ imposes an administrative penalty in accordance with the law on a motor vehicle driver who fails to yield to pedestrians, the people's court shall support this.

Basic Facts

The plaintiff Bei Huifeng alleged: when he drove the automobile with license plate Zhe F1158J (hereinafter the "vehicle in question") approaching a crosswalk, the pedestrian had already stopped on the crosswalk, and therefore it did not constitute "passing through the crosswalk." Moreover, Xishan Road, along which the vehicle in question passed, was a main road in Haining City, and the traffic volume on the section where the incident occurred was heavy, with no traffic lights at the intersection. If motor vehicles had to stop and yield whenever there was a person on the crosswalk, traffic efficiency would be affected to a large extent. Therefore, he could pass directly through the crosswalk without stopping to yield, so long as traffic safety was ensured, and he should not have been penalized. The simplified-procedure traffic management penalty decision No. 330481102542425 made by the Traffic Police Brigade of the Haining Municipal Public Security Bureau (hereinafter the "Haining Traffic Police Brigade") was unlawful. Bei Huifeng requested: revocation of the administrative penalty decision made by the Haining Traffic Police Brigade.

The defendant Haining Traffic Police Brigade argued: the pedestrian had already entered the crosswalk before the vehicle in question driven by the plaintiff and was passing through it, so the vehicle in question should stop and yield; if the pedestrian had already stopped on the crosswalk, the motor vehicle driver could signal the pedestrian to pass quickly, and only if the pedestrian did not move could the motor vehicle pass; otherwise, it would constitute a violation. The administrative penalty decision made against Bei Huifeng had clear facts, sufficient and reliable evidence, correct application of the law, and lawful procedures, and the court was requested to reject Bei Huifeng's claims.

The court, upon trial, found: on January 31, 2015, Bei Huifeng drove the vehicle in question along Xishan Road in Haining City and encountered a pedestrian passing through a crosswalk but did not stop and yield. The enforcement traffic police of the Haining Traffic Police Brigade stopped the vehicle in question on the spot, verified Bei Huifeng's driver identity, orally informed him, using the simplified procedure, of the basic facts of the violation, the administrative penalty to be imposed, the basis therefor, and the rights he enjoyed,

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and, after hearing Bei Huifeng's statement and defense, prepared and served on the spot a simplified-procedure traffic management penalty decision, imposing on Bei Huifeng a fine of RMB 100 and three penalty points. Bei Huifeng, dissatisfied, applied to the Haining Municipal People's Government for administrative reconsideration on February 13, 2015. On March 27, the Haining Municipal People's Government made an administrative reconsideration decision upholding the penalty decision made by the Haining Traffic Police Brigade. After receiving the administrative reconsideration decision, Bei Huifeng sued in the Haining People's Court on April 14, 2015.

Judgment

On June 11, 2015, the Haining People's Court of Zhejiang Province rendered Administrative Judgment No. (2015) Jia Hai Xing Chu Zi No. 6, rejecting Bei Huifeng's claims. After the judgment was pronounced, Bei Huifeng, dissatisfied, appealed. On September 10, 2015, the Jiaxing Intermediate People's Court of Zhejiang Province rendered Administrative Judgment No. (2015) Zhe Jia Xing Zhong Zi No. 52, rejecting the appeal and affirming the original judgment.

Reasoning

The court in its effective judgment held: First, a crosswalk is a passage on the roadway dedicated to pedestrians for crossing, and is a protection line established by law for pedestrians when crossing a road. At road intersections without traffic lights, pedestrians have the right of priority to pass over the crosswalk. As a high-speed means of transportation, a motor vehicle is highly dangerous when traveling on the road and is in a dominant position compared with pedestrians. Therefore, certain restrictions must be imposed on the rights of motor vehicles when traveling on the road so as to protect pedestrians. Second, whether a pedestrian is "passing through a crosswalk" shall be determined by reference to a series of continuous acts of the pedestrian within a specific time period, rather than by reference to a specific act of the pedestrian at a particular point in time, especially where that specific act was not freely performed by the pedestrian in a free state, but was forced upon the pedestrian by external strong causes. At the time of the incident, the pedestrian stepped onto the crosswalk line at a relatively fast pace and approached the central position of the intersection at a relatively fast speed. Upon seeing Bei Huifeng driving the vehicle in question toward the direction in which the pedestrian was walking, the pedestrian slowed down to confirm whether the vehicle in question would stop, but did not stop walking. Only upon seeing that the vehicle in question did not clearly decelerate and showed no tendency to stop, did the pedestrian have to stop for his or her own safety. Had the vehicle in question clearly decelerated and stopped at that time, the pedestrian would certainly have continued through the intersection without stopping. It can thus be seen that the pedestrian's series of continuous acts during the time period of the incident fully demonstrated that the pedestrian was "passing through the crosswalk." Third, motor vehicles and pedestrians crossing a road intersection without traffic lights constitute an interactive process; neither party can accurately predict in advance whether the other will stop and yield. Therefore, a motor vehicle in a dominant position should, when passing through a crosswalk and encountering a pedestrian, actively stop and yield, and should not use its dominant position to force the pedestrian to stop and yield, unless the pedestrian clearly signals the motor vehicle to pass first. This is not only an express requirement of the law but also an intrinsic requirement of a modern civilized society for safeguarding the safety of pedestrians as the weaker party in crossing roads, reducing traffic accidents, and protecting lives. In summary, Bei Huifeng, while driving a motor vehicle through a crosswalk, encountered a pedestrian passing through but did not stop and yield, violating Article 47 of the Road Traffic Safety Law of the People's Republic of China. The Haining Traffic Police Brigade, based on Bei Huifeng's violation facts, imposed the corresponding administrative penalty within the statutory penalty range in accordance with the procedures prescribed by law. The facts were clear, the procedures lawful, and the penalty appropriate.

(Judges of the effective judgment: Fan Gangjian, Zhang Bocheng, Zhang Hong)

Relevant Legal Provisions

Article 47(1) of the Road Traffic Safety Law of the People's Republic of China

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