SPP Guiding Case No. 239: Supervision Case on the Filing of Charges Against Zhong Moumou for Theft

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Supreme People's Procuratorate Guiding Case No. 239 (Case-Filing and Investigative Activity Supervision Series)

Keywords

Case-filing supervision; non-arrest for insufficient evidence; follow-up supervision; withdrawal of a case that should not be withdrawn; re-filing of a case; investigative supervision and coordination

Holding

Where a people's procuratorate decides not to approve arrest on the ground of insufficient evidence, it shall list a supplementary investigation outline and continuously follow up and supervise the public security organ in promptly carrying out supplementary investigation; where it discovers that the public security organ has withdrawn the case or terminated the investigation, it shall follow up to learn the reasons for the withdrawal or termination and, where necessary, carry out investigation and verification or investigate on its own; where it discovers that the withdrawal or termination is improper, it shall lawfully submit supervision opinions for re-filing the case and continuing the investigation. The positive role of the investigative supervision and coordination mechanism and its office shall be fully brought into play, strengthening internal and external coordination between procuratorial and police organs and internal coordination within procuratorial organs, to form a joint force in supervision and case handling and ensure that crimes are punished in accordance with the law and effectively.

Basic Facts

The defendant Zhong Moumou, male, born in 1987, a truck driver.

Zhong Moumou was a driver hired by a logistics company. Under the transport contract signed between the logistics company and a livestock company, Zhong Moumou was responsible for driving the logistics company's vehicle to transport the bulk feed produced by the livestock company to the feed bins of the contracted farmers. Under normal transport requirements, after feed is loaded onto the truck, the livestock company must affix a steel wire seal; after delivery to the farmer's feed bin, the farmer cuts the steel wire seal, and the driver cooperates in verifying the integrity of the seal and completing the unloading. Due to the impact of the epidemic, the unloading process was completed independently by Zhong Moumou, but he was required to record videos of the process of cutting the steel wire seal and of the empty truck compartment after unloading and send them to the "unloading video feedback" WeChat group established by the livestock company.

From February 2021 to February 2022, Zhong Moumou secretly intercepted part of the feed during unloading and pre-recorded false unsealing processes and empty-truck videos to deceive the supervision, illegally possessing part of the feed and reselling it to others for profit.

On February 13, 2022, the Ningdu County Public Security Bureau of Jiangxi Province filed and investigated the theft case of Zhong Moumou, and on February 18 requested the Ningdu County People's Procuratorate to approve arrest. Upon review, the Ningdu County People's Procuratorate found that the rights and obligations among the four parties — Zhong Moumou, the logistics company, the livestock company, and the farmers — had not been ascertained and the quantity of feed intercepted had not been clarified, which might affect the determination of crime or non-crime and of this crime or that crime; it therefore lawfully decided not

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to approve arrest on the ground of unclear facts and insufficient evidence, and formulated a supplementary investigation outline in response to the above issues.

Procuratorate Performance of Duties

Discovery of leads. After making the decision not to approve arrest, the Ningdu County People's Procuratorate, relying on the investigative supervision and coordination office, assigned a dedicated prosecutor to follow up on the supplementary investigation, and on multiple occasions held joint meetings with investigators to discuss evidence collection, jointly hearing the victim livestock company's opinions. After supplementary collection of some evidence, because the livestock company and the farmers were unable to explain and provide evidence proving the number of thefts and quantities, the public security organ was long unable to ascertain the number of thefts and the specific quantity of feed stolen. On November 24, 2023, the Ningdu County Public Security Bureau withdrew the case on the ground that the criminal suspect should not be held criminally liable. In January 2024, the livestock company, considering the public security organ's withdrawal improper, submitted a written supervision application to the Ningdu County People's Procuratorate.

Investigation and verification. After receiving the livestock company's supervision application, the Ningdu County People's Procuratorate carried out the following investigation and verification work. First, by reviewing the breeding agreement between the livestock company and the farmers, the transport contract between the livestock company and the logistics company, and the employment relationship between Zhong Moumou and the logistics company, it verified the rights and obligations of the four parties and ascertained that Zhong Moumou only provided labor services during transport and bore no management duties over the feed in the truck, and that his interception of feed was a secret theft carried out by taking advantage of the convenience of being familiar with the crime environment and of easy access to the targets by virtue of the working relationship. Second, by consulting the investigators, it verified that the reason for the public security organ's decision to withdraw the case was that the investigators believed that, given Zhong Moumou had repeatedly performed transport tasks as a matter of routine and the receiving farmers had not weighed and confirmed the feed received, the criminal facts of Zhong Moumou's theft could not be ascertained. Third, by carefully analyzing the vehicle's travel track evidence in the case materials, it discovered that after unloading feed, Zhong Moumou had on multiple occasions stopped at locations suspected of being places where the stolen goods were sold, and that further investigation could ascertain the criminal facts of Zhong Moumou immediately selling the stolen goods after theft and complete the evidence chain proving that Zhong Moumou constituted the crime of theft; at the same time, by further retrieving and comparing the transaction records between Zhong Moumou and Yang Moumou, who was suspected of receiving the stolen goods, the quantity and value of the feed stolen by Zhong Moumou could be ascertained.

Supervision opinions. Combining the investigation and verification and the evidence in the case, the Ningdu County People's Procuratorate found that the existing evidence could prove that Zhong Moumou was under major suspicion of having committed theft, that the relevant leads were investigable, that further investigation could obtain evidence effectively proving the criminal facts, and that the public security organ's decision to withdraw the case was improper. In September 2024, the Ningdu County People's Procuratorate, through the investigative supervision and coordination office, submitted supervision opinions to the public security organ, requiring it to re-file and investigate Zhong Moumou on suspicion of theft and to file and investigate Yang Moumou on suspicion of concealing or disguising the proceeds of crime. On September 27, the Ningdu County Public Security Bureau, in accordance with the procuratorial organ's opinions, lawfully decided to file and investigate Zhong Moumou and Yang Moumou.

After the public security organ filed the cases, the Ningdu County People's Procuratorate, in response to the obstacles and difficulties in evidence collection in the original case, focused on the following work. First, relying on the investigative supervision and coordination office, it organized case consultations and suggested that the public security organ adjust the investigation direction, shifting the focus of evidence

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collection from ascertaining the quantity of feed stolen from the livestock company and farmers to ascertaining the quantity sold by Zhong Moumou, so as to complete the evidence chain proving Zhong Moumou's theft. Second, in response to the public security organ's failure to fully retrieve Zhong Moumou's transport records and GPS travel tracks, it strengthened communication and reasoning with the livestock company and the logistics company, fully retrieving Zhong Moumou's transport records and GPS travel reports from his joining the logistics company until before the case, and ascertained Zhong Moumou's abnormal travel tracks after unloading. Third, it suggested that the public security organ fully retrieve the WeChat transfer and bank flow transaction records between Zhong Moumou and Yang Moumou, and, combined with the transport records and abnormal travel tracks, carefully compare and identify suspected stolen-goods transaction records. Fourth, relying on the investigative supervision and coordination office, it assigned prosecutors to closely follow the implementation of the above suggestions and promptly complete the evidence chain.

Supervision results. Through close follow-up, supervision, and coordination, the procuratorial and police organs ultimately ascertained that Zhong Moumou stole 43,000 kilograms of feed through secret interception, and that Yang Moumou, knowing that the feed was stolen by Zhong Moumou, purchased it, with an amount involved of more than RMB 116,000. On January 14, 2025, the Ningdu County People's Court, after trial in accordance with the law, convicted and sentenced Zhong Moumou for the crime of theft and Yang Moumou for the crime of concealing or disguising the proceeds of crime.

Extended performance of duties. In response to problems in the original case, such as the public security organ's failure to effectively carry out investigation after a non-arrest for insufficient evidence and the procuratorial organ's supplementary investigation outline and follow-up supervision opinions not being effectively implemented, the Ningdu County People's Procuratorate and the Ningdu County Public Security Bureau, relying on the investigative supervision and coordination office, consulted and established a work mechanism for continuous follow-up supervision of cases of non-arrest for insufficient evidence, improved the monthly point-to-point follow-up and communication mechanism for such cases, and a dynamic evaluation mechanism for new investigative developments. On this basis, the two organs jointly conducted a special review of non-arrest-for-insufficient-evidence cases since 2017, and for the long-term "pending" leads discovered, conducted case-by-case follow-up analysis and judgment, and proposed handling opinions in accordance with the law according to different situations, effectively promoting the lawful and proper handling of long-unresolved cases.

Guiding Significance

(1) For cases of non-approval of arrest due to insufficient evidence, the people's procuratorate shall list a supplementary investigation outline and continuously follow up on the progress of the investigation, and lawfully submit opinions and suggestions. For cases of non-arrest due to insufficient evidence, the procuratorial organ shall continuously follow up and supervise the public security organ in promptly carrying out supplementary investigation in accordance with the law; where it discovers that the public security organ has made a decision to withdraw the case or terminate the investigation, it shall follow up to learn the reasons, and, where necessary, carry out investigation and verification or investigate on its own, collecting and retrieving relevant evidence. Where it discovers that the public security organ's decision to withdraw the case or terminate the investigation is improper, it shall promptly submit supervision opinions to the public security organ for re-filing the case and continuing the investigation.

(2) The people's procuratorate shall fully bring into play the positive role of the investigative supervision and coordination mechanism and its office, strengthen internal and external coordination between procuratorial and police organs and internal coordination within procuratorial organs, and, together with the public security organ, improve relevant institutional mechanisms, to form a joint force in supervision and case handling. Prosecutors responsible for case handling shall lawfully perform supervision and case-handling duties, carry out high-quality review work, and submit opinions and suggestions on evidence collection and supervision

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and correction; prosecutors responsible for the work of the investigative supervision and coordination office shall actively carry out communication and liaison, fully playing the office's role in organization and coordination, supervision and coordination, urging implementation, and consultation and guidance, so as to ensure that crimes are punished in accordance with the law and effectively.

Relevant Legal Provisions

Articles 264 and 312 of the Criminal Law of the People's Republic of China

Articles 90 and 91 of the Criminal Procedure Law of the People's Republic of China (2018 Amendment)

Articles 162, 164, 557, 558 and 567 of the Criminal Procedure Rules of the People's Procuratorates (Gao Jian Fa Shi Zi [2019] No. 4)

Articles 5 and 16 of the Guiding Opinions of the Supreme People's Procuratorate and the Ministry of Public Security on Strengthening and Standardizing Supplementary Investigation Work (Gao Jian Fa [2020] No. 6)

Articles 6, 186, 190 and 191 of the Provisions on the Procedures for the Handling of Criminal Cases by Public Security Organs (2020 Amendment)

The Opinions of the Supreme People's Procuratorate and the Ministry of Public Security on Improving the Investigative Supervision and Coordination Mechanism (Gao Jian Fa [2021] No. 13)

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