SPP Guiding Case No. 195: Supervision Case on the Parole of Convict Xiang Mou

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Decided at the 13th meeting of the 14th Procuratorial Committee of the Supreme People's Procuratorate on September 22, 2023; issued on October 16, 2023.

Keywords

Big data supervision model / clue discovery / quantitative assessment of indicators of the danger of re-offending / priority application of parole / "stationed plus circuit" procuratorial mechanism

Holding

When handling a parole supervision case, the people's procuratorate may make full use of big data and other means for examination. Where a case satisfies both the conditions for sentence reduction and the conditions for parole but the prison has not given priority to proposing parole, the procuratorate shall, in accordance with law, supervise the prison to give priority to proposing parole. A quantitative assessment of indicators of the "danger of re-offending" may be carried out to enhance the objectivity and scientific nature of the judgment. The quantitative assessment of the danger of re-offending by an offender shall be evidence-centered, so as to improve the level of substantive examination of parole supervision cases. Attention shall be paid to giving play to the advantages of the "stationed plus circuit" procuratorial mechanism, making full use of the results of circuit procuratorial work, and promoting the application of the parole system in accordance with law by way of "circuit entry and stationed follow-up."

Basic Facts

The offender, Xiang Mou, male, born in December 1991, with his registered residence in Lüshui Town, Laifeng County, Hubei Province.

On October 28, 2014, Xiang Mou and two others, while driving, had a dispute with the victim Zhang Moumou, and a fight broke out during the dispute. Xiang Mou struck the victim Zhang Moumou on the head with a brick he picked up, and Zhang Moumou died despite emergency medical treatment. On August 25, 2015, Xiang Mou was sentenced by the People's Court of Linqing City, Shandong Province to fixed-term imprisonment of ten years and six months for the crime of intentional injury, with the term ending on May 2, 2025. The offender appealed, and the appeal was dismissed by the court, which affirmed the original judgment. On January 8, 2016, Xiang Mou was delivered to Liaocheng Prison in Shandong Province to serve his sentence. The Intermediate People's Court of Liaocheng City ruled on July 26, 2018 and November 16, 2020 respectively to reduce Xiang Mou's sentence by nine months, with the term ending on November 2, 2023.

Procuratorate Performance of Duties

Discovery of clues. At the end of April 2022, the People's Procuratorate of Liaocheng City carried out a mobile circuit inspection of Liaocheng Prison, focusing on the handling of parole cases. The procuratorial office stationed at Liaocheng Prison provided the circuit inspection group with the supervision information concerning sentence reduction and parole mastered in the daily performance of stationed procuratorial duties. The circuit inspection group input the information into the big data supervision model and found that Xiang Mou might satisfy both the conditions for sentence reduction and the conditions for parole, constituting a situation in which parole could be given priority application in accordance with law. Given that the prison had already listed Xiang Mou as a person proposed for sentence reduction, it was decided to initiate an

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assessment of Xiang Mou's danger of re-offending.

Investigation and verification. The People's Procuratorate of Liaocheng City adhered to being evidence-centered and, in accordance with the relevant laws and regulations and judicial interpretations on parole, and based on the "method for assessing the danger coefficient of re-offending," carried out qualitative and quantitative analysis of multiple specific indicators in four aspects: the basic circumstances of the original offense (including prior offenses and bad records, principal or accomplice, completed or attempted offense, etc.), performance during the sentence (including completion of labor tasks, number of violations of rules and disciplines, annual average score-based assessment, etc.), the personal circumstances of the offender (including occupational experience, health, skills and specialties, evaluations by supervising police officers and fellow inmates, etc.), and post-parole living and supervision circumstances (including marital status, family relationships, fixed residence, and post-release employment channels, etc.). Based on evidence, each indicator was given a positive or negative qualitative assessment, with 1 and -1 as the positive and negative limit values, and the weight of each indicator was calculated according to the degree of severity or presence for quantitative assessment. Through qualitative and quantitative analysis, it was assessed whether the offender had a "danger of re-offending."

Based on this assessment method, the People's Procuratorate of Liaocheng City carried out the following work around the collection and examination of evidence: First, it retrieved the original case file materials and comprehensively assessed the offender's subjective malignancy, personal danger and degree of social harm. Although Xiang Mou committed the crime of intentional injury (causing death), he had a good attitude of admitting guilt after being brought to justice, and before the first-instance judgment he actively compensated the victim's family and obtained their forgiveness. Second, it examined objective materials such as the prison's daily score-based assessment, labor reform, education reform, previous sentence reductions and stationed procuratorial work records, retrieved surveillance materials of the cell and labor site where the offender was located, and talked with supervising police officers, the offender and relevant persons to comprehensively assess his reform performance. Third, it inquired of relevant persons at the offender's registered residence and habitual residence, supervising police officers and fellow inmates, and determined that his physiology, psychology and cognition were normal, his personality was sound, and he had no addiction. Fourth, it solicited the opinions of community correction institutions, grassroots organizations, family members and relevant villagers to determine the living security and supervision conditions after parole. It was learned that Tian Mou, the brother-in-law of Xiang Mou, was willing to provide him with working conditions and guarantee a stable income, and the local acceptance and supervision conditions were good. Fifth, it convened a public hearing attended by prison police officers, community correction staff and psychological experts, and the hearing participants all held that Xiang Mou had seriously observed prison regulations, received education and reform, and had genuine repentance, and found that the evidence that he had no "danger of re-offending" was reliable and sufficient, and agreed with the procuratorate's recommendation to apply parole to Xiang Mou.

Supervision opinions. Based on the above evidence materials, the People's Procuratorate of Liaocheng City comprehensively assessed the various indicators of Xiang Mou, held that he had no danger of re-offending and satisfied the conditions for the application of parole, and that, according to the relevant provisions, parole could be given priority application in accordance with law. On June 15, 2022, it submitted to Liaocheng Prison a procuratorial opinion proposing parole for Xiang Mou in accordance with law. Liaocheng Prison adopted the procuratorial opinion and, on July 25 of the same year, proposed to the Intermediate People's Court of Liaocheng City that Xiang Mou be granted parole.

Supervision result. On September 15, 2022, the Intermediate People's Court of Liaocheng City ruled in accordance with law to grant Xiang Mou parole, with the parole supervision period ending on November 2, 2023. After Xiang Mou was paroled, he was escorted by Liaocheng Prison police officers to the judicial office of Lüshui Town, Laifeng County, Hubei Province to report. The People's Procuratorate of Liaocheng City

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regularly communicated with Liaocheng Prison and the local judicial office and village committee in Hubei, and learned that Xiang Mou received community correction supervision and education on schedule, got along well with surrounding villagers, and had now integrated into normal life.

After this case was handled, the People's Procuratorate of Liaocheng City and Liaocheng Prison held a joint meeting, reached consensus on the substantive conditions for the application of parole and the "method for assessing the danger coefficient of re-offending," further improved the big data supervision model for the application of parole, and formed a regularized screening mechanism. The prison further improved the specific supervision information of offenders based on the indicators set by the model, quickly screened out offenders who might satisfy the conditions for parole, and then, in combination with the relevant evidence materials, made a decision on whether to propose parole. The procuratorial organ carried out synchronous supervision through the model. From December 2022 to August 2023, 16 cases satisfying the conditions for parole were screened out, of which seven had been granted parole by court rulings.

Guiding Significance

(1) According to the spirit of the relevant judicial interpretations, for offenders who satisfy both the conditions for sentence reduction and the conditions for parole, the penalty enforcement organ shall be supervised to give priority to proposing parole in accordance with law. The parole system can better realize the special prevention function of penalties and promote offenders to better and faster integrate into society. Judicial interpretations provide that parole may be given priority application to offenders who simultaneously satisfy the statutory conditions for sentence reduction and the statutory conditions for parole. In handling parole cases, the sentence served by the offender, his performance during the sentence, the performance of property-related judgment items and other circumstances may be used as basic elements, and a big data supervision model may be used to discover, through data comparison and analysis, case clues in which the offender may satisfy both the conditions for sentence reduction and the conditions for parole. Attention shall be paid to giving play to the different value functions of the sentence reduction and parole systems; through investigation and verification, where it is determined that an offender satisfies both the conditions for sentence reduction and the conditions for parole and the penalty enforcement organ has not given priority to proposing, it shall be recommended to give priority to proposing parole, so as to promote the application of the parole system in accordance with law.

(2) When handling parole supervision cases, the people's procuratorate may carry out quantitative assessment of indicators to scientifically and objectively determine whether an offender has a "danger of re-offending." It shall, in accordance with the relevant laws, regulations and judicial interpretations, comprehensively consider the various elements of the substantive conditions for the application of parole. When determining whether an offender has a "danger of re-offending," the determination standard may be refined into specific indicators in such aspects as "the basic circumstances of the original offense, performance during the sentence, the personal circumstances of the offender, and post-parole living and supervision circumstances," and qualitative and quantitative assessment may be carried out, with conclusions drawn by reference to quantified scores, so as to enhance the objectivity and scientific nature of the application of the parole system. It shall uphold an objective and fair stance, comprehensively collect and lawfully examine subjective and objective evidence materials such as the original trial files, self-written materials and actual performance during the sentence, so as to improve the level of substantive examination of parole cases.

(3) The people's procuratorate shall give full play to the advantages of the "stationed plus circuit" procuratorial mechanism and promote the application of the parole system in accordance with law. In response to problems such as the small number of parole cases and the low initiative of prisons in applying parole, the people's procuratorate may supervise prisons to make corrections by carrying out mobile circuit inspections and other means. Through the supervision information concerning sentence reduction and parole mastered in the daily supervision of stationed procuratorial work, and through the mutual coordination

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and mutual promotion of circuit procuratorial work and stationed procuratorial work, the quality and efficiency of procuratorial supervision of parole cases shall be improved.

Relevant Legal Provisions

Articles 81 and 82 of the Criminal Law of the People's Republic of China.

Article 636 of the Criminal Procedure Rules of the People's Procuratorates.

Articles 22, 25 and 26 of the Provisions of the Supreme People's Court on the Specific Application of Law in the Handling of Sentence Reduction and Parole Cases.

Article 14 of the Provisions on Circuit Procuratorial Work of the People's Procuratorates.

Article 3 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 Strengthening the Substantive Trial of Sentence Reduction and Parole Cases.

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