

Analyzing the concept of plea for leniency and the discussion about its manifestation

Yumin Zhong

Nanchang Business College of Jiangxi Agricultural University

Keywords: confession; leniency; concept; manifestation

Abstract: Defining the concept and manifestation of plea for leniency accurately, which is not only beneficial to deepen the understanding of the system, but also to better guide the judicial practice. Starting from the background of plea for leniency and combined with theoretical research and judicial practice, this paper deeply discusses the concept and manifestation of plea for leniency, hoping to provide enlightenment and reference for accurately grasping the connotation of the system and better guiding judicial practice.

1. Introduction

On September 3, 2016, the Standing Committee of the National People's Congress authorized the Supreme People's Procuratorate and the Supreme People's Court to implement pilot work of a leniency system for confessing guilt and punishing in Beijing and Shanghai. So far, the leniency system has taken another solid step. However, in theoretical research and judicial practice activities, how to accurately grasp the concept and manifestation of lenient confession and punishment is a very important content. Only when we are ready to grasp its connotation and manifestation, can we effectively carry out theoretical research and better carry out pilot work and judicial practice activities. At present, research on lenient confession of guilt and punishment has been carried out one after another, related research results have also been emerging, and judicial practice activities are also steadily advancing. However, the research on the concept and manifestation of leniency in confession and punishment has not been unanimously recognized by the academic circles, and it is necessary to conduct in-depth discussion and research. In order to further enrich the concept and connotation of lenient confession of guilt and punishment, and more effectively guide the specific activities of judicial practice.

2. Concept analysis and manifestation of confession

Pleading guilty is the first step in pleading guilty. The suspect should admit to the criminal act he committed, and compensate for the losses caused by the criminal act, and at the same time promise not to commit any criminal acts in the future.

2.1 Admitting your criminal behavior

When pleading guilty, a criminal suspect should first admit his criminal behavior, which is the most basic requirement. If you don't even admit your crime, then there is no way to confess. The specific requirement is that the suspect should admit his crimes to the society and clearly state that his conduct is in violation of the criminal law. At the same time, when admitting one's own criminal act, it means admitting that the cause of the criminal act lies in himself, which is caused by his own negligence or intention^[1]. It should be noted that when committed by a criminal suspect, he must openly carry out his own criminal acts and express his views to the public. This is conducive to the recognition of the public and the expression of his sincerity. Only in this way can we show the sincerity of the suspect so as to increase the public's sense of trust. Besides, pleading guilty also requires the suspect to make a reasonable explanation of his criminal behavior. The main contents include: the suspect voluntarily acknowledges the time, place and behavior of committing a crime, and explains the reasons, purposes and motives of his crime. At the same time, he also coordinates

with the work of the investigators, and makes reasonable explanations and explanations to the victims and their families. A detailed explanation of one's own crime is necessary. This helps to promote the criminal suspect to reflect on his criminal behavior, and also help investigators collect evidence for handling cases, and also has a certain effect on preventing and controlling crimes.

2.2 Compensation for losses caused by criminal acts

On the basis of the criminal suspect's recognition of his criminal acts, he also compensations for the losses caused by the criminal acts in order to show sincerity. The reason why the claim for compensation for the loss caused by the criminal act is due to the following considerations. First, the suspect admitted that his act caused losses to the victim. This way can not only express the sincerity of the suspect's confession, but also help to better assist the judicial personnel in various activities, and is conducive to scientific, reasonable and comprehensive assessment of the liability and scope of compensation. Second, compensation for the losses caused is conducive to appease the anger and dissatisfaction of the victims, and help the victims to understand the sincerity of the suspect's confession in a more detailed and comprehensive way. Third, the compensation for the loss caused by the criminal act, the process of the suspect's expressing the sincerity of his guilty plea also helps the suspect to have a clearer and comprehensive understanding of the harmfulness of his own behavior, to a certain extent, to reduce the possibility of recidivism, and has a certain role in preventing similar crimes. Fourth, the initiative to compensate the victims is conducive to the recognition and understanding of the victims and the public. It is necessary to enhance the awareness of the criminal suspect's norms and reduce the possibility of the crime again, which is ultimately conducive to the cultivation of people's awareness of norms and rules, and is of certain significance for preventing and controlling the recurrence of crimes.

2.3 Promising not to commit crimes in the future

On the basis of committing his own behavior violating the criminal law and making compensation for the suspect, pleading guilty also requires the suspect to commit himself to no longer commit criminal acts. People are living in the society, and the suspect comes from society. They will eventually go to society. It is a reflection on the past behavior that the suspect promises to violate the criminal law and compensate the victim. But the suspect will eventually go to the society. Therefore, the confession also requires the suspect to promise that he will not commit the crime in the future. In order to reduce the possibility of harming the society as far as possible, the suspect should promise his own behavior in violation of the criminal law and compensate for the loss caused by the crime. In fact, the suspect promises to the future behavior, which is also the requirement of criminal law to play the role of crime prevention. As suspect, they should also enhance their sense of rules and rules in the process of confession, promise to no longer commit criminal acts and abide by the provisions of the criminal law. Finally, it is conducive to promoting the positive prevention function of criminal law and ensuring social harmony and stability.

3. Conceptual analysis and expression of recognition and punishment

It is necessary to recognize the criminal suspects' recognition of criminal coercive measures. At the same time, we should recognize the consequences of criminal acts and take the initiative to compensate for the losses caused by criminal acts.

3.1 Accepting criminal coercive measures

Criminal coercive measures are an important measure stipulated by the criminal law. To some extent, it limits the freedom of the suspect and has the nature of punishment. First, the admission of a crime should include the recognition of criminal coercive measures, which indicates that the suspect is willing to accept the criminal coercive measures that may be taken by the public security organs and judicial organs. During the criminal coercive measures, the criminal suspect will abide by the laws and regulations and commit crimes, so as to ensure that the^[2] will not be harms to the society.

3.2 Consequences of committing crimes

Pleading guilty requires the criminal suspect to recognize the criminal compulsory measures, and at the same time, he also requests the consequences of the recognized criminal act. In terms of its specific content, it mainly approves the prosecution charges and sentencing suggestions of the prosecutorial organization, at the same time, it also recognizes the application of simplified trial procedures, and recognizes the charges and legal penalties decided by the court. In addition, repent and start anew in the execution stage of criminal suspect, consciously abide by laws and regulations, consciously accept labor and transformation, repent and regenerate themselves, and make preparations for the return to society. It is worth noting that confession does not mean blindly accepting the prosecution charges and sentencing suggestions of the prosecutorial organization. They can still defend themselves, or entrust lawyers to defend, and express their opinions and opinions in the court^[3]. In short, the key content of recognition and punishment is to recognize the consequences of criminal acts, which is an important content that must be grasped in practical work. Only when the possible consequences of a criminal act are recognized can the sincerity and sincerity of the criminal act be embodied, and consciously accept the consequences of their criminal acts.

3.3 Compensation for losses caused by criminal acts

It not only requires the criminal suspect to recognize the criminal compulsory measures, but also recognizes the consequences of criminal acts, and also requires the suspect to compensate for the losses caused by criminal acts. By compensating the victims and their families for the loss, in order to obtain their recognition and forgiveness, to achieve the purpose of repairing social relations, and ultimately conducive to social harmony and stability. The compensation for victims and their families can not only give comfort to victims and their families, relieve their pain and anger, gain their forgiveness, but also show the sincerity of the suspect's guilty confession. [4] After forgiveness of victims and their families, the suspect tends to stop injure each other, or even commit no more criminal acts.

4. Conceptual analysis and expression of being lenient

Leniency is based on the admission of punishment, and only the suspect can be lenient in the premise of pleading guilty. In the process of leniency, we should grasp the following connotations and forms of expression.

4.1 Relatively light criminal coercive measures

Criminal coercive measures refer to a way of restricting personal freedom to the suspect, in order to ensure the smooth conduct of investigation and prosecution. The usual measures include the custody, protection, surveillance, detention, arrest, etc. Lenient treatment of suspect is to take lighter criminal coercive measures for suspects. Adopting lighter criminal coercive measures is conducive to preserving suspect and criminal evidence, and preventing criminal suspect from committing criminal acts again, and reducing the harm it may bring to society. Therefore, they can apply lighter criminal coercive measures, so as to ensure the smooth conduct of investigation and other activities, and encourage criminal suspect to further confess and repentance, and actively cooperate with the various work of investigators.

4.2 Leniency in procedure

Leniency not only requires lighter criminal coercive measures against suspects, but also lenient treatment against suspects in procedure. On the one hand, it should be noted that the application of simplified procedures to suspects includes not only the simplification of procedures in the trial stage, but also the simplification of procedures in the investigation and prosecution stages, as well as the procedure simplification in the execution stage of punishment after the trial^[5]. This can not only prevent the waste of time, but also improve the efficiency of criminal proceedings and terminate the criminal proceedings in advance. On the other hand, lenient requests for early termination of the suspect's proceedings.

4.3 Leniency treatment

In addition to the lenient treatment of criminal suspects in procedure, we should also lenient treatment of suspects in the entity. After the suspect pleaded guilty, he confessed his crime and remedied the victim, or even actively returned the stolen goods, so as to get the public recognition to some extent, to calm the public dissatisfaction, so he should be lenient in the entity. In judicial practice, we should strictly abide by the relevant requirements, implement the provisions of lenient punishment, correctly enforce the law and judicature, improve judicial efficiency, safeguard judicial fairness and justice, and effectively protect human rights.

5. Conclusion

Plea for leniency is not only an important part, but also plays an important guiding role in judicial practice. Accurate understanding of its connotation and manifestation is not only conducive to the system, but also better guide the judicial practice, social repair function, human rights, and promoting judicial improvement. As theoretical researchers and judicial staff, we should strengthen the study of plea for leniency, grasp its concept and manifestation accurately, better implement the system, and ultimately promote the function of the system.

References

- [1] Lu Jianping. Study on Leniency for Admitting Guilt and Accepting Punishment from the Perspective of Criminal Policy[J]. Peking University Law Journal, 2017,29(04):1000-1023.
- [2] Gu Yongzhong. Several theoretical issues on perfecting the system of leniency in confession and punishment [J]. Contemporary Law Review, 2016,30(06):129-137.
- [3] Shi Jingchun, Sun Benxiong. Connotations and implementation of lenient punishments on those confessing their crimes and accepting punishments in criminal cases[J]. Journal of Yunnan Minzu University (Social Sciences), 2018, 35(02):139-148.
- [4] Cai Xinyun, Zeng Yuexing. Research on the Application of Leniency to Environmental Crimes[J]. Journal of Kunming University of Science and Technology (Social Science), 2018,18(01):10-18.
- [5] Xie Peng. The Proof Standard in the Leniency System of Plea and Punishment-The key to simplifying procedures[J]. Oriental Law, 2017(05):131-137.