

A Study on the Rule of Exclusion of Illegal Evidence in Civil Litigation

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Keywords: Civil action, Illegal evidence, Rule of exclusion, Research.

Abstract: The system of evidence in law is one of the main influencing factors of litigation activities, according to the actual content of legal evidence, it has a more important position in the final judicial judgment. In the legal system of evidence, there is such a special evidence "illegal evidence ", the definition of illegal evidence refers to the use of evidence obtained through illegal means, in the current judicial practice, the rule of exclusion of illegal evidence has a certain use in civil litigation, but there are still a lot of shortcomings, based on the protection of illegal evidence exclusion rules in the effective implementation and operation of the famous teacher litigation, and the rule of exclusion of illegal evidence has a very important value for balancing the basic legal rights and interests between the parties. Based on the rule of exclusion of illegal evidence in civil litigation as the focus of research, to explore the practical value of illegal evidence in the civil field, to make certain efforts to improve the legal evidence system, at the same time, to make the judicial judgment in evidence can be used to effectively help people's interests.

1. Introduction

With the development of social system, people also have more contact with the law, but also more proactive to contact with their own vital interests related to the common sense of law. In the new situation, the legal system has a high demand for evidence, in the civil judgment, criminal judgment and other judicial judgments, the first need to consider according to the evidence provided by both sides, at the same time, the means of obtaining evidence should be further verified and verified, so as to ensure the core significance of the reform of the real matter legal system in the environment of governing the country according to law. However, in the actual situation, with the development of technology, there are more and more methods to obtain evidence in the society, which makes it illegal to obtain more evidence, or the evidence obtained through some channels is difficult to realize the value of the province in the judicial judgment, which has a great influence on the fairness and fairness of the civil judgment directly in the civil judicial judgment.[1].

2. Definition of Rule of Exclusion of Illegal Evidence in Civil Litigation

The rule of exclusion of illegal evidence in civil litigation refers to the confession obtained through illegal means, illegal searches, physical objects seized, photographic evidence, etc. In general, illegal evidence may not be used as evidence to determine the merits in judicial decisions of the judiciary, but its use in other uses as prescribed by law is not limited.

2.1. Overview of the Development of Rules for the Exclusion of Illegal Evidence

The rule of exclusion of illegal evidence first originated in British and American law, which was born in the United States of America at the beginning of the 20th century. It was first applied in the field of criminal investigation. In the early days of the rule of the exclusion of illegal evidence, the people believed that the law infringed on the private domain of the parties and the private information in the field of civil litigation, which made the private affairs of the parties in the civil litigation to decide the final judicial trial result. The reasons for this kind of imagination are also very relevant to the science and technology of the times. With the development of the times,

people's awareness of personal privacy and personality rights is becoming more and more high. Some scholars believe that the evidence obtained by illegal means of evidence in civil litigation has a great influence on the trial results of the parties, which is not the same as the influence of illegal evidence on the final judgment in criminal field, so they advocate the application of illegal evidence exclusion rules in civil litigation[2].

2.2. Application of Rule of Exclusion of Illegal Evidence in Civil Litigation in China

At present, in the field of civil litigation in our country, we have a positive attitude towards the rule of excluding illegal evidence, which can be characterized by judicial interpretation for the evidence obtained by illegal means provided by the parties in the civil judgment. The deficiency lies in that in the civil judicial judgment, the rule of exclusion of illegal evidence is too principled, and there is still a greater discretion in the process of civil litigation judgment, which is easy to be used by some ulterior motives to infringe the human rights interests of the victims. However, in the rule of excluding illegal evidence in civil litigation in our country, the discretion of illegal evidence is still in the judicial stage, and it has not reached the legal level, so it can not be regarded as a legal norm. The establishment and interpretation of illegal evidence in the judicial process has some deviation from its position in the legal class[3].

3. A Practical Exploration on the Rule of Exclusion of Illegal Evidence in Civil Litigation

In the practice of illegal evidence collection and exclusion rule theory in civil litigation, there are four aspects: trap evidence collection, reward evidence collection and privacy image data collection.

3.1. The Pitfalls of Obtaining Evidence

Trap evidence, as the name implies, for the parties in a dispute of interests, reputation, rights, one party by designing a "trap", inducing the other party to act against their own, so that the evidence in the civil litigation judgment is used to determine the wrong party's strong evidence. In such cases, a case of intellectual property disputes between two authors is explained.



Figure 1 Intellectual property rights

The A-writer sued the B-writer to a higher people's court, demanding that the B-writer stop the infringement and compensate the A-writer for the related financial losses. In the first instance, the author of the first-instance judgment, A-writer, but B-writer refused to accept the judgment and appeal, the grounds of the appeal show that B-writer should write as his own, but the background, the main characters, the main scene and other writing clues are the main information of A-writer in a small work published in a forum. A writer considers that A writer intends to publish the above information to induce other writers to write and submit the small work as evidence of first instance, and B writer considers that this behavior of A writer is a trap to obtain evidence, which is illegal and should not be used for determining the judgment. The second instance judgment result B writer wins, A writer then proposed last time, thought that the small work belongs to own original work, B writer has the plagiarism, and in the small work original author's knowledge and the consent privately uses for reference and the plagiarism. In the final trial result, because of the difficulty of

obtaining the decisive evidence of infringement in the field of intellectual property and copyright, the result of the judgment of first instance is maintained[4].

3.2. Reward for Illegal Evidence

In the legal circles, different scholars have different opinions on the necessity of the reward evidence. In the conventional civil litigation, because of the factors of the witness itself and the influence of the outside world, the reward evidence should be adopted in order to further restore the truth of the case. Therefore, the degree of credibility is not high. And both simple cases are used to prove the evidence.



Figure 2 A reward for evidence

Reward to obtain evidence: in the common traffic accidents, after the card is difficult to complete, through the reward to obtain evidence can effectively collect the presence of evidence, to further restore the authenticity of the case.

A reward for evidence: based on the weakness of human nature, in the case of reward for evidence will inevitably appear to be blinded by money, interests, false testimony in court, affecting the authenticity of the case.

On the basis of the different arguments of the above two sides, the author argues that the reward for obtaining evidence has advantages and disadvantages, and the concrete practical application effect should be combined with the economic interests behind the case, the course of the case, and the actual situation of obtaining evidence on the spot, so as to avoid the judgment result of infringement on the rights and interests of the parties due to insufficient evidence[5].

3.3. Privacy of Illegal Evidence

With the development of information technology and science and technology, there is also an important value embodied in video forensics, but in civil litigation, in the process of obtaining evidence of many video images, the practicality and authenticity of the evidence obtained by traffic probe, merchant camera and so on need not be said, but the evidence obtained by means of home camera, hidden shooting, private recording and so on is the practicality and authenticity of such evidence without the knowledge of the parties. The following list of privacy evidence can be used as trial evidence case and can not be used as trial evidence case, a better explanation of privacy evidence application scope and application value.

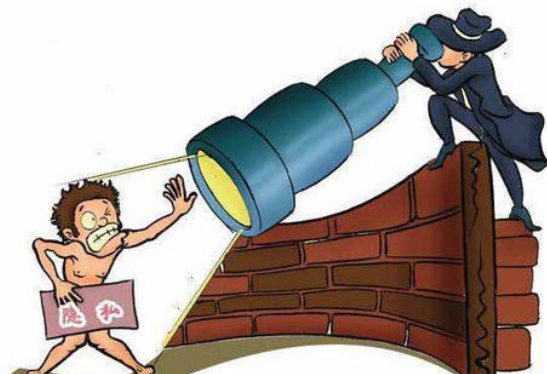


Figure 3 Privacy evidence

Privacy evidence that can be used as evidence of a trial: a dispute arising from the sale of goods at several times the price of a merchant's private price may, without the consent of the merchant, privately photograph the present price and the original price of the goods sold for use in the trial evidence. The evidence did not infringe upon the personal privacy of the shopkeeper, nor did it violate public order, nor did it infringe upon the legitimate rights and interests of others.

Privacy evidence not to be used as evidence of trial: The husband and wife should suspect the other party's derailment and install a pinhole camera in the bedroom to collect evidence of the other party's derailment, which is not accepted in court because it relates to the individual's privacy[6].

4. Conclusion

In view of the short time of using the rule of exclusion of illegal evidence in civil litigation in our country, and limited by the influence of social environment and technical force in our country, the research on the rule of exclusion of illegal evidence has a certain lag, which is easy to be used by some people with bad purpose. Therefore, in the operation and implementation of the rule of exclusion of illegal evidence, we can regulate the rule of exclusion of illegal evidence through both legal procedures and substantive evidence, so as to ensure that in the judgment of the division of civil litigation, we can better maintain the fairness and strictness of our laws. At the same time, in order to make the rule of exclusion of illegal evidence better service and law, combined with the current judicial status in civil litigation, reasonable construction of the scope of application of the rule of exclusion of illegal evidence. to the interests of the parties themselves, judicial justice. Human rights are guaranteed. However, in the light of the author's lack of learning, there are some mistakes in document verification and related information inquiry, which leads to the existence of improper words or incomplete thinking in the article, which should be further refined and standardized in the course of further study[7].

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