

The Application of Traffic Accident Determination Letter in Criminal Litigation

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Abstract: Traffic accident crime, as a common charge in daily life, accounts for the vast majority of criminal cases in grassroots courts. Because traffic accident cases are more common in judicial practice, the difficult issues are often overlooked, mainly in the identification form. This article conducts research and analysis on the determination letter in a traffic accident case, analyzing the relevant characteristics of the determination letter, including objectivity, administrative nature, professionalism, etc., further clarifying the identical attributes of the determination letter, analyzing the permissibility of each part of the determination letter as criminal evidence, and finally proposing some targeted opinions based on the content mentioned earlier, including strengthening the legal literacy of the traffic police team, breaking through the relief methods for dissatisfaction with the confirmation letter, strengthening the substantive review of the confirmation letter, hoping that the confirmation letter can play a better role in criminal prosecution.

Keywords: Traffic accident identification certificate, Criminal proceedings, Evidence.

1. Introduction

According to the latest special report on the characteristics and trends of China's traffic accident crimes from January 1, 2016 to December 31, 2019 released by the China Judicial Big data Research Institute, the number of traffic accident crimes in China each year is about 75000, but the proportion of defendants sentenced to fixed-term imprisonment is 96.52%, the proportion of criminal detention is 2.89%, and the proportion of defendants exempt from criminal punishment is 0.59%. There are so many traffic accident cases, but the proportion of exemption from punishment is less than 1%, which is due to many reasons. However, as a traffic accident recognition document that plays an important role in handling traffic accident cases, it must be essential. This article analyzes the important role and shortcomings of the traffic accident determination document in the criminal prosecution process through a traffic accident case, and proposes relevant suggestions for improvement.

2. Brief Introduction to the Case

In June 2019, the victim Mouxin chen, who was drunk and driving an unlicensed two wheeled motorcycle without a license, collided with the defendant Mouli liu in the left rear corner of the truck temporarily parked on the right side of the road. When the victim Mouxin chen collapsed to the left with his car, he was hit and pushed again by a passenger car driven by Mouqun huang following him, causing the victim Mouxin chen's death and vehicle damage on the spot in a major traffic accident. Subsequently, the defendant Mouli liu fled the scene in a car. The first instance court ruled that the defendant Mouli liu was guilty of a traffic accident crime based on evidence such as a traffic accident identification letter, and sentenced him to 10 months in prison. The defendant in the original trial, Mouli liu, was dissatisfied and appealed. The higher court revoked the original judgment and sent it back for retrial on the grounds that the facts were unclear and the evidence was insufficient. After the original trial court tried again and made a guilty verdict, Mouli liu still refused and filed an appeal.

The second instance court, based on the responsibility determination in the traffic accident determination letter, inferred that Mouli liu was primarily responsible for the accident on the grounds of causing a traffic accident, which violated the law and contradicted other evidence, and was not accepted. Therefore, the original judgment was revoked and the appellant Mouli liu was acquitted. In practice, the division of responsibility in traffic accident cases is crucial for the traffic accident determination book, but there is still controversy in practice and theory about how to determine the traffic accident determination book in traffic accident crimes.

3. Theoretical Analysis of Related Issues

3.1. Characteristics of Traffic Accident Identification Letter

According to Article 73 of the Road Traffic Safety Law of the Road Traffic Safety Law of the People's Republic of China, the traffic management department of the public security organ shall, in accordance with the on-site investigation, inspection and investigation of traffic accidents and the relevant inspection and appraisal conclusions, timely prepare a traffic accident identification letter as evidence for handling traffic accidents. The traffic accident identification letter shall specify the basic facts, causes, and responsibilities of the parties involved in the traffic accident, and shall be delivered to the parties involved. From the literal meaning of this law, the traffic accident recognition certificate has the following characteristics:

Firstly, objectivity. This law clarifies the evidentiary nature of the traffic accident determination document. Since the traffic accident determination document is a type of evidence, it naturally has the objectivity of the evidence. The traffic accident recognition letter is a responsibility recognition letter made by personnel of the traffic management department based on relevant means such as investigation and inspection of the accident site, restoring the objective situation of the accident site, and defining the role of the accident parties in the accident. Although the traffic accident recognition

certificate is ultimately determined by traffic law enforcement personnel through their own practical experience and has certain subjective factors, this does not rule out its objectivity, because from a time perspective, the traffic accident recognition certificate is made after the accident and does not affect the situation at the time of the accident.

Secondly, relevance. Relevance is also an important attribute of evidence. The traffic accident determination letter is a legal document made to determine whether there is a causal relationship between the illegal behavior and damage results of the parties involved, as well as whether the parties are responsible and the degree of responsibility. The occurrence of a traffic accident is due to the fact that it occurred before, and the production of a traffic accident identification document is the result. There is a causal relationship between the two.

Thirdly, legitimacy. The traffic accident recognition certificate is produced by public officials from the traffic management department of the public security organ using legal means and following legal procedures for investigation. It is of course legal under strict compliance with laws and regulations.

Fourthly, administrative nature. The Traffic Law grants the traffic management department the power to handle traffic accidents, and it is its legal responsibility to determine the cause, process, outcome, and division of responsibilities among all parties involved in traffic accidents. The traffic management department is under the jurisdiction of the public security organs and is a type of administrative organ. Therefore, the traffic accident recognition letter it makes must also have administrative significance.

Fifth, unilateral willpower. Since the traffic accident recognition certificate has administrative nature, it must also have unilateral willpower. After a traffic accident occurred, the traffic police rushed to the scene and proactively produced a confirmation letter based on the relevant evidence at the scene. There is no need for the parties to apply or agree, and it directly serves as the basis for handling the administrative responsibilities of the parties involved.

Sixth, professionalism. The confirmation letter is made based on the records of the traffic accident scene investigation, inspection and appraisal conclusions, etc. In the process of producing the certification certificate, professional appraisal in relevant fields will be involved, including vehicle speed appraisal, road safety condition appraisal, etc. These require analysis or appraisal by experts or specialized appraisal institutions. Therefore, the confirmation letter has a certain degree of professionalism.

Seventh, immediacy. The Traffic Law requires the traffic management department to promptly produce a confirmation letter. On the one hand, for simple traffic accidents, in order to restore road order as soon as possible, a simple procedure can be applied to produce a confirmation letter on the spot. On the other hand, for complex traffic accident cases, the traffic management department should produce a confirmation letter within five or ten days from the date of confirmation of the survey or appraisal conclusion, and deliver it to the parties involved.

By defining the characteristics of the traffic accident recognition certificate, it is helpful for further in-depth analysis of the recognition certificate and analyzing the application of the traffic accident recognition certificate in judicial practice.

3.2. Types of Evidence for Traffic Accident Determination Letter

At present, there is still no unified conclusion on which type of evidence a traffic accident identification document belongs to. The Criminal Procedure Law of our country divides evidences into eight categories, but the determination letter does not belong to any of these eight categories of evidence. From the perspective of legal regulations, evidence materials that do not fall under the category of statutory evidence cannot be used as evidence. From the perspective of judicial practice, judicial organs have also made breakthroughs in treating evidence materials beyond statutory evidence, by expanding the connotation of existing evidence, taking documentary evidence as an example. There are certain requirements for the formation time of documentary evidence: documentary evidence is generally formed before or during the implementation of a criminal act or an illegal act, mainly including various documents, contracts, etc. Except for some special circumstances (suspect's own diary, evidentiary materials produced by relevant institutions, etc.), documentary evidence cannot be formed after the fact. However, in practice, materials presented in writing that cannot be attributed to other types of evidence are ultimately attributed to documentary evidence by the practical department. Among them, the traffic accident identification certificate is relatively typical and often recognized by the judicial department as official document evidence in practice. However, there are certain theoretical problems with this approach. Firstly, it breaks through the temporal attribute of documentary evidence, and the traffic accident recognition certificate is formed after the accident occurs; the second is to break through the objective attribute of documentary evidence. The traffic accident identification certificate has a certain subjective color, and the subjective opinions obtained by law enforcement personnel through long-term practice do not affect the objectivity of the identification certificate as evidence, but it will affect the objectivity of the documentary evidence.

Article 101 of the Interpretation of the Supreme People's Court on the Application of the Criminal Procedure Law of the Criminal Procedure Law of the People's Republic of China issued in 2021 stipulates that the report formed by the investigation of the accident by the relevant departments can be used as evidence in criminal proceedings; if the opinions related to specialized issues in the report are verified by the court and the investigation procedures comply with laws and relevant regulations, they can serve as the basis for finalizing the case. This law is located in the section on the review and determination of appraisal opinions, which indicates that the Supreme Law treats accident investigation reports according to appraisal opinions. This law provides a certain legal basis for handling accident investigation reports. The traffic accident recognition certificate is an investigation report formed by the traffic management department in the process of handling traffic accidents. It is a type of accident investigation report and should also be reviewed and recognized according to the appraisal opinions. But there are still some differences between the two. Firstly, the subjects of the two are different. The appraiser who provides the appraisal opinion is generally a neutral third party, while the traffic management department that produces the traffic accident recognition certificate is different from the appraisal agency. It is also the investigating agency of the case and has

an interesting relationship with the case. Secondly, the remedies vary, and if the parties have objections to the appraisal opinion, they can apply for a new appraisal or supplementary appraisal; but the parties involved are not satisfied with the confirmation letter and can only apply for a review. Finally, the content of the two is different. The appraisal opinion refers to the expert's opinion on the professional issues involved in the case, without evaluating the facts of the case. The confirmation letter not only includes the content related to professional issues, but also divides the responsibilities of the parties based on various investigation situations.

Due to the complexity of the content of the confirmation letter, it is not comprehensive enough to confine the confirmation letter to a certain type of evidence. It includes inspection records, inspection reports, appraisal opinions, etc., as well as the causes, processes, results, and responsibility division of the accident identified based on this. Therefore, its nature is different from that of individual documentary evidence and expert opinions, and it is not appropriate to consider it as a single type of evidence. It is a combination of multiple types of evidence, and the evidence effectiveness played in the criminal litigation process should be determined based on the various types of evidence it contains. It is a composite type of evidence.

3.3. Admissibility of Traffic Accident Determination as Criminal Evidence

The core issue of using a certificate of determination in criminal proceedings is which parts of the certificate can be used as criminal evidence. According to the interpretation of the drafting group of the Interpretation of the Supreme Law, if the accident report involves other matters or related matters that are unrelated to the factual determination or do not belong to specialized issues, it does not have the nature of evidence and cannot be used as a basis for determining the case. Therefore, there are two situations where materials that cannot be used as evidence in accident reports: those that are unrelated to the factual determination or those that do not belong to specialized issues. This means that even if the material is not a specialized issue, it can still be used as criminal evidence as long as it is related to the factual determination.

According to Article 64 of the "Regulations on the Procedure for Handling Road Traffic Accidents", the traffic accident recognition certificate shall include: (1) the basic information of the parties involved in the traffic accident, vehicles, roads, and traffic environment; (2) the process of road traffic accidents; (3) Analysis of evidence and causes of road traffic accidents; (4) the fault and responsibility of the parties involved in the traffic accident or the unexpected situation; (5) The name and date of the traffic management department of the public security organ that issued the road traffic accident recognition certificate. Therefore, the main content of the determination letter can be divided into two parts. The first part is the part that collects evidence and investigates the facts, and the second part is the part that divides responsibility based on the discovered facts. The facts discovered by the traffic management department include both the records of relevant facts during the accident handling process and the facts determined by the traffic management department through subjective judgment based on relevant evidence. Among them, the occurrence of road traffic

accidents is a subjective inference made by the traffic management department based on existing objective evidence. The occurrence of the accident is naturally related to the determination of facts and should be used as evidence. However, the process of the accident in the determination letter is often based on the relevant statements of the parties involved on site, as well as various inspection records, combined with the experience of handling similar traffic accidents. However, the facts of the case should be determined by the judge, and the traffic management department cannot replace the judge's authority to determine the facts. Therefore, the incident should not be directly used as criminal evidence.

The analysis of the causes of road traffic accidents includes opinions on specific issues made through the use of methods such as investigation, inspection, appraisal, and inspection, as well as general inferences based on daily experience and common sense. The causes of accidents usually include direct and indirect causes, which also affect whether the defendant constitutes a crime and the determination of responsibility. The analysis of the causes of accidents is a reasonable inference and opinion made by the traffic management department regarding the causes of accidents, which has strong subjectivity and should not be used as criminal evidence in general. However, in most cases, the cause analysis is based on specialized issues such as speed identification and vehicle condition identification, which have high technical and credibility. Therefore, the analysis of the causes of traffic accidents should be treated separately. If the analysis of the cause of formation is based on relevant evidence but not specialized knowledge, it should not be used as evidence in criminal proceedings, because judges can also use common sense to make judgments and analysis, and there is no need to rely on the judgment of traffic management departments. For reasons analysis based on specialized knowledge that complies with legal provisions, it can serve as the basis for finalizing the case.

The division of responsibility includes the determination of legal responsibility for the relevant accident victims, but this part is often used as the basis for the defendant's criminal responsibility without questioning in judicial practice. Under normal circumstances, after the case enters criminal proceedings, the determination and division of accident determination should be determined by the judge, and should not be directly based on the responsibility determination of the administrative department. This part of the content is not related to the facts to be proven, and its objectivity is not strong, and cannot be directly used as evidence.

When using the traffic accident identification certificate as criminal evidence, it should be clear what form of evidence each part of the identification certificate belongs to. But the classification of evidence in our country is fixed, and if it cannot be included in a certain type of evidence, it will not have legitimacy in form. At the same time, it is also impossible to review and determine it based on existing evidence norms. From the above, it can be seen that due to the complexity of the content of the identification book, it cannot be generalized and needs to be analyzed specifically based on the specific content. The various evidence materials collected during the investigation, if transferred as attachments to the judicial authorities, will not change their original attributes and still belong to the category similar to legal evidence; if these evidence materials are included as part of the report, they become incoming evidence of the original category of

evidence. However, as mentioned earlier, the process of road accidents and the determination of responsibility by traffic management departments should not be directly used as criminal evidence, and the analysis of the causes of accidents can generally be used as evidence.

4. Case Analysis

This case is one of the few cases in which the defendant is found innocent in traffic accident cases, and has great practical significance. The focus of controversy in traffic accident cases is mostly whether the suspect should bear responsibility, how much responsibility he should bear, and whether the traffic accident identification letter can be used as the basis for finalization. This case is no exception. In this case, there are two main points of controversy: firstly, whether Liu Mouli bears the main responsibility for the accident, and secondly, whether the determination letter can serve as the basis for the final decision of this case.

4.1. Does Liu Mouli bear the main responsibility for this accident

According to the provisions of Article 2, Paragraph 1 (1) of the Interpretation of the Supreme People's Court on Several Issues Concerning the Specific Application of Law in the Trial of Criminal Cases of Traffic Accidents, if a traffic accident causes the death of one person and bears all or the main responsibility for the accident, it shall be convicted and punished as a traffic accident crime. This judicial interpretation not only requires that the harmful behavior of the perpetrator has a causal relationship with the death of the victim, but also requires that the behavior has a decisive effect on the death of the victim, that is, the perpetrator bears primary or full responsibility. The confirmation letter provided in this case suggests that Liu Mouli is primarily responsible because he committed an escape behavior after the accident, and is presumed to be primarily responsible. This is a presumption of responsibility in administrative law, rather than criminal attribution. In terms of objective elements, the attribution of main responsibility cannot be inferred according to traffic regulations, but rather depends on whether there is a criminal causal relationship between the behavior and the result. If there is no relationship, the defendant should not bear criminal responsibility. In terms of subjective elements, the determination of administrative responsibility for traffic accidents includes the principle of fault responsibility and the principle of fault presumption responsibility. However, the determination of responsibility in traffic accident crimes should strictly follow the principle of fault responsibility and prohibit the presumption of fault on the perpetrator. In this case, the court found that the main cause of the accident was due to the road conditions, good weather, and high visibility that night. Chen Mouxin, who was drunk and speeding without a license, did not wear a helmet. The defendant's failure to turn on the safety warning lights when parked on the roadside at night and Huang's failure to drive at a safe speed at night is ordinary violations, which plays a secondary role in the accident. Therefore, the defendant's escape behavior is not the cause of the accident, nor is it related to the victim's death, and should not bear the main criminal responsibility.

4.2. Can the confirmation letter serve as the basis for finalizing this case

In traffic accident cases, it is crucial to determine whether the certificate of determination can serve as a basis for determining the case. However, due to the complexity of the evidentiary nature of the confirmation letter, there is still some controversy over directly using the confirmation letter as the basis for determining the case. However, in judicial practice, most judges directly use the confirmation letter as the basis for determining a case, and it has even become a practice. In this case, the first instance court directly used the confirmation letter as the basis for the verdict, without conducting substantive examination. Liu was convicted of the crime of causing a traffic accident, while the second instance court conducted substantive examination of the confirmation letter, ruling out the evidentiary validity of the confirmation letter in accordance with the law. The original judgment was revoked and Liu was acquitted. The main reason why the court of second instance ruled out the confirmation letter is that the conclusion of the traffic management department that Liu Mouli bears the main responsibility in this case does not match the facts identified by the court above. Liu Mouli only plays a secondary role, not a primary role. Therefore, this confirmation letter contradicts other evidence and is ruled out in accordance with the law and does not serve as the basis for finalizing this case.

5. Enlightenment from Case Studies

5.1. Strengthen the legal literacy of the traffic police team

With the popularity of the legal professional qualification exam in recent years, a large number of legal talents have passed the exam. However, among the current traffic police team, their legal literacy is relatively low. Most traffic police personnel begin to perform their duties after receiving certain professional training and do not receive specialized legal training. As a result, the likelihood of grassroots traffic management personnel making mistakes in traffic accident identification is greatly increased. In order to accelerate the process of rule of law construction in our country and improve the comprehensive quality of the grassroots traffic police team, the entry threshold for traffic police can be raised. Traffic police are required to prioritize to pass the legal examination and receive professional legal training. In this way, when dealing with traffic accidents and determining the responsibility for traffic accidents, it can be more precise, eliminate some subjective personal opinions, and make the determination document more objective.

5.2. Break through the relief methods for dissatisfaction with the confirmation letter

As mentioned above, the determination letter has certain administrative and unilateral willpower. The confirmation letter is a legal document issued by the traffic management department after arriving at the scene of the accident, conducting on-site research and integrating materials. However, there is still controversy over whether the actions of the traffic management department belong to specific administrative actions. However, according to existing legal regulations, the determination letter can only be used as evidence and does not belong to a specific administrative act. Therefore, internal review can only be used as a remedy, and

litigation cannot be used as a remedy. This leads to the fact that when the parties are dissatisfied with the content of the confirmation letter, they can only resort to a single mean, namely internal review, to seek relief. The key to determining whether a traffic accident belongs to a specific administrative act is whether it creates a new relationship of rights and obligations for the administrative counterpart. Some scholars believe that the determination of liability for accidents is the basis for the parties to bear other responsibilities, and of course, a new relationship of rights and obligations has been created. Therefore, if they are not satisfied with the determination letter, they can file administrative reconsideration or administrative litigation. However, the author believes that since the determination is a form of evidence and the evidence itself does not create new rights and obligations, it is not a specific administrative act. However, considering that traffic accident cases play an important role in criminal cases in grassroots courts in China, in order to avoid cases of injustice, falsehood, and error caused by insufficient relief channels for the parties, and to further facilitate the parties' relief channels, but without causing a large number of administrative lawsuits filed by the parties, special legal provisions can be made to provide the parties with the right to file administrative reconsideration after they are dissatisfied with the internal review. This not only ensures the diversity of remedies for the rights of the parties involved, avoids being criticized for internal review, but also does not lead to excessive litigation and waste of judicial resources.

5.3. Strengthen the substantive review of the confirmation letter

Through consulting the Chinese Judgment Documents website, the author found that the court investigation part of most first instance court judgments on traffic accident cases is directly copied from the identification documents presented by the traffic management department without making any modifications. This may be a method adopted by the court staff to save time and reduce workload. However, this also indirectly reflects that most first instance courts do not conduct substantive review of the determination letter, but directly use it as the basis for determining the case and making judgments. Although it has improved judicial efficiency, it has harmed judicial fairness and the legitimate rights and interests of the defendant. Only some first instance and second instance courts have conducted substantive reviews of the determination. From the above, it can be seen that the determination letter can be divided into two parts. The first part is the part that collects evidence and investigates the facts, and the second part is the part that divides responsibilities based on the discovered facts. To ensure procedural fairness and outcome fairness, the court needs to conduct substantive reviews of these two parts. Firstly, the court should make a separate determination of the facts based on the on-site evidence and other inspection records, and cannot directly rely on the factual determination made by the traffic control department as the truth. The premise for determining whether the defendant is guilty is to determine whether there is a causal relationship between the defendant's behavior and the victim's damage based on the verified facts. If there is a causal relationship between the two, the court should re-examine the division of responsibility in the determination. Of course, the responsibility divided by the confirmation letter cannot be directly used as criminal responsibility. The defendant should

be divided into whether they have responsibility and the size of responsibility based on the facts and facts discovered earlier. When a party has evidence that can directly overturn the conclusion of the determination or prove their innocence, the court should also actively review the determination and not confirm the doubtful part of the determination, and make a judgment based on the principle of "benefiting the defendant when in doubt".

6. Conclusion

The issue of criminal evidence in the traffic accident determination certificate is the key to the determination of the traffic accident crime, and has important research significance in both practice and theory. After introducing the basic circumstances, controversial points, and case analysis of Chen's innocent verdict on the traffic accident crime, this article sparked reflection on relevant issues, analyzed the basic characteristics of the traffic accident determination letter, conducted an analysis of the evidence attributes of the traffic accident determination letter, and finally, through the case analysis of Chen's traffic accident case, proposed some suggestions for handling traffic accident cases in practice, such as strengthening the legal literacy of the traffic police team, breaking through the remedies for dissatisfaction with the confirmation letter and strengthen the substantive review of the confirmation letter. In promoting the reform of the criminal litigation trial system centered on trial, we should adhere to the principle of judges as the lead, evidence as the cornerstone, rules as the criterion, and procedures as the track to strictly, comprehensively, and prudently determine the crime of traffic accidents. The judicial authority should review whether the determination letter has the qualification of evidence before it can be used as evidence. Finally, from both subjective and objective aspects, it should comprehensively determine whether the accident determination letter can be used as the basis for determining the crime of traffic accidents.

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