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THE CONCEPT OF PROOF IN THE CRIMINAL PROCESS

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Abstract. Establishment of specific facts related to the correct resolution of a criminal case, the accused, the victim; physical evidence; protocols of procedural actions and other documents.

Consideration of actions and evidence in court is carried out by the resolution of the preliminary investigation in criminal cases. Procedural bodies (investigator, prosecutor, court) can identify an offense on the basis of evidence only in all its circumstances. On the basis of the evidence, the accused who committed the crime tells the court, the prosecutor and the defense counsel about the charges against him, which precludes him from mitigating or presenting his claims. The court concludes that the convincing evidence of the guilt or innocence of the accused is to convict or acquit on the grounds provided by the prosecution and the defense.

Therefore, the study of the problems of evidence theory belongs to the discipline of elastic science, which is an important link in the process of proof in criminal cases. Evidence theory is the department of science and science as the content of evidence in criminal proceedings. The subject, goals, causes and procedure of action is a set of scientific conclusions, that is, covering this doctrine of law and theory urn. The concept of proof, the theory of proof must be distinguished from the accepted concept of law.

Key words: Court, prosecutor's office, investigative bodies, evidence, proof, criminal procedure legislation, criminal offense.

The main treasure of the Republic of Kazakhstan is a person, his rights, freedoms and legitimate interests, which is stated in Article 1 of the Constitution, which is the Basic Law of the country. In this regard, the most important and important task of the country, considering the commitment to the principles of democracy under the banner of independence, is the protection of human rights, the Prevention of violations of human life and freedoms, the preservation of stability and order in society, the suppression of crimes, the implementation of preventive measures and the rapid and complete disclosure of crimes, the disclosure and criminal responsibility of those who committed them, a fair trial and the correct application of the criminal law. In the struggle of the state against violations, first of all, its legal status should be stable and strong, comprehensive, and the issue of ensuring the rights and freedoms of its citizens should prevail. The Republic of Kazakhstan, which, as a sovereign

country, has chosen the path of legal and democratic development, will be able to achieve these goals through the legal development of all citizens of the country [1].

The activities of the preliminary investigation bodies and the anti-crime court can be successful if their decisions in each criminal case correspond to what actually happened. The investigator and the court must accurately and fully know the picture of the crime committed, i.e. reach the truth. The obligation to achieve truth is a primary and necessary requirement, without the fulfillment of which the proper administration of justice is impossible.

The essence of evidence - is the collection, research and evaluation of evidence.

Collected, researched and evaluated evidence serves as a means of achieving the goal of proof, i.e. the establishment of truth.

Proof is a means of convincing truth. Even before the revolution, Russian lawyer V.D. Spasovich wrote: "When we know known phenomena, when from contemplating the connection and relations between objects we come to a certain belief, we call the data that generated this belief in us with evidence"[2].

The criminal procedure code in accordance with article 111 certificate on the following Evidence, based on which the authority of inquiry, inquirer, investigator, Prosecutor, court, in the order specified by the present Code, the Criminal code of the Republic of Kazakhstan of the act referred to, or that there is not, on a suspect, accused person or defendant did the act, his guilt or innocence, as well as other, relevant to the proper resolution of the case circumstances, the actual data are evidence in a criminal case is determined [3].

Proof (eng. proof, evidence;) of the criminal code of the Republic of Kazakhstan, on the basis, in the order determined by the procedural code, the inquirer, investigator, Prosecutor, court or resettign that the lack of stipulated by the Criminal procedure code of the Republic of Kazakhstan, done or not guilty accused guilty or that these actions jacaman and the accused and other that is relevant for correct resolution of the case circumstances, evidence obtained in a lawful way information.

Settting actual data relevant to the proper resolution of the criminal case, the accused, the victim; physical evidence; protocols of procedural actions and other documents [4].

Having considered the activities and evidence in court is made by decision of the preliminary investigation of criminal cases. Procedural authorities (investigator, Prosecutor, court), as the offence in all its circumstances can only be determined on the basis of evidence. The accused in the Commission of a crime on the basis of the evidence reveals to the court, the Prosecutor, and counsel for the accused about the charges the same, which excludes its liability to mitigate or to present their demands. The court concludes that credible evidence of guilt or innocence of the defendant on the basis of incurred by the parties of charge and protection, makes a conviction or an acquittal.

Therefore, the study of problems of the theory of evidence the process of proof in criminal cases are an important link elastic refers to the subject of science.The theory of proof — proof in the criminal process as the content ilmastik the Department of science and the subject of activities, goals, reasons and procedure of law, and the theory urn that contains this doctrine, i.e., is a set of scientific statements.The concept of proof, of proof theory it is necessary to distinguish right from an accepted concept. Law is a set of norms, rules of evidence and proof in criminal cases, providing legal basis for the use of the evidence that we know. That is, as delivered, the service of proof in criminal cases, its procedure, evidence regulated by law and criminal procedure which.

In accordance with the law the following kinds of evidence:1) the suspect, accused, victim, witness; 2) expert; 3) evidence, crossing the threshold of the house; 4) protocols of procedural and other documents.

Classification of evidence. According to the theory, on the basis of various proofs of evidence are classified in accordance with:

✓ evidence in the sources. Are divided into personal and physical evidence. Personal evidence – is charged from individuals (witness, suspect testimony).

✓ first and derivative evidence. The first evidence – evidence obtained from one source, first. Derivatives – that is, it is the first delmelle on the contrary, derived, but the evidence obtained from other sources.

✓ The nature of evidence: the evidence of the prosecution and acquittal.

✓ Direct and circumstantial evidence. The evidence indicates the characteristics of a particular crime is called directly, but indirectly it shows that is unknown, but he is committing a crime or receiving [2].

General rules of evidence, code of criminal procedure in chapters 15 and 16 (111-127). But, it is the rule of law in the reasoning of sections is not restricted by articles. Because all common Stateline service in criminal proceedings evidence of the rules of law governing Studeny of proof closely related to the right of each is. Therefore, the General rules of evidence law in criminal proceedings and research associates stadelman-covered by the subject of the theory of evidence. In General, the theory of proof of evidence containing the rights, as the concept a broader meaning.

Methodological point of view, a philosophical theory of knowledge based on the theory's principles of proof in criminal pproceedings. Because, in essence, the activity is subject to consideration as evidence in criminal cases, a confession. That is, the crime, the circumstances full disclosure of special knowledge, activities, is carried out by legislative regulation. In connection with the foregoing, the present that the theory of evidence, what kind of value to the theory of knowledge of the proof strategy. To answer this question, it is first necessary to say that the main purpose of

proof in a criminal case, to achieve activities the truth. Therefore, in the theory of evidence is used the concept of truth a philosophical doctrine about.

In the list of sources of evidence in relation to the various in the scientific literature, their value rests mainly with the need to expand the list. For Example, p. p. as sources of information materials used personal evidence the testimony of a civil plaintiff, civil defendant, answers, answers, review of their representatives. A.S. Lando believes that it is appropriate to add a list of sources, the legal representative of a juvenile accused.

According to V.D. Arseniev's sources, may not be real proof, facts, evidence and methods of proof, as they are in the case of intermediate between. It is also their witnesses in respect of real sources, that is, they believe that the place was found and the place to talk about received.

Views on the critical analysis of the types of P. Yakimov sources of evidence and the interest of the scientific and practical proposals and make Landoni allows us to consider that the legislature consists of. V. D. Arsenyev positions of supporters and opponents [5].

The procedural sources of evidence, not in terms of substance, for the cause of the actual values of the submitted data, that is, the properties of matter could not replace proof.

As for samples for expert research, M.M. to Mikheenko they, according real evidence, proof of a special type, the methods of proof, is not. This point of view is N. Selivanova corresponds, he wrote: "Things and evidence the substance are identified in recognition of this fact implies the existence of a relationship between. And to talk about the relationship more such comparative samples. They are not investigated by the event, regardless of the subject or object and describes it in relation to a criminal case in connection with the investigation of a specific. Verification for consideration by helping acts as a means of understanding and value of physical evidence, through research, expert using funds, mechanisms and other devices, as well as in the conclusions of their literature and reference sources, which can be compared with data from scientific research."[6].

In conclusion, we can say that proof is a process that consists in collecting, studying evidence, as well as evaluating evidence in order to identify circumstances that are important for the legal, objective, justified and fair resolution of the case.

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ҚЫЛМЫСТЫҚ ПРОЦЕСТЕГІ ДӘЛЕЛДЕУ ҰҒЫМЫ

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Аңдатпа. Қылмыстық істі, айыпталушыны, жәбірленушіні дұрыс шешуге қатысты нақты деректерді белгілеу; заттай дәлелдемелер; іс жүргізу әрекеттерінің хаттамалары және басқа да құжаттар.

Іс-әрекеттер мен дәлелдемелерді сотта қарау қылмыстық істер бойынша алдын ала тергеудің қаулысымен жүзеге асырылады. Іс жүргізу органдары (тергеуші, прокурор, сот) құқық бұзушылықты оның барлық мән-жайларында ғана дәлелдемелер негізінде анықтауға болады. Қылмыс жасаған айыпталушы дәлелдемелердің негізінде сотқа, прокурорға және айыпталушының қорғаушысына тағылған айыптар туралы айтады, бұл оның өз талаптарын жеңілдету немесе ұсыну жауапкершілігін жоққа шығарады. Сот айыпталушының кінәлілігінің немесе кінәсіздігінің сенімді дәлелдері айыптау және қорғау тараптары келтірген негіздер бойынша айыптау немесе ақтау үкімін шығарады деп қорытындылайды.

Сондықтан, дәлелдеу теориясының мәселелерін зерттеу қылмыстық істердегі дәлелдеу процесі маңызды буын болып табылады серпімді ғылым пәніне жатады. Дәлелдеу теориясы — қылмыстық процестегі дәлелдеу мазмұны ретінде ғылым және ғылым бөлімі ғылым және ғылым бөлімі. іс-әрекеттің пәні, мақсаттары, себептері мен тәртібі құқық және теория urn осы доктринаны қамтитын, яғни, ғылыми тұжырымдар жиынтығы болып табылады. Дәлелдеу, дәлелдеу теориясы ұғымы құқықты қабылданған ұғымнан ажырату қажет.

Түйін сөздер: Сот, прокуратура, тергеу органдары, дәлелдеу, дәлелдеме, қылмыстық процестік заңнама, қылмыстық құқықбұзушылық.

ПОНЯТИЕ ДОКАЗЫВАНИЯ В УГОЛОВНОМ ПРОЦЕССЕ

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Аннотация: Установление конкретных фактов, связанных с правильным разрешением уголовного дела, обвиняемым, потерпевшим; вещественное доказательство; протоколы процессуальных действий и другие документы.

Рассмотрение действий и доказательств в суде осуществляется постановлением предварительного следствия по уголовным делам. Процессуальные органы (следователь, прокурор, суд) могут выявить правонарушение на основании доказательств только при всех его обстоятельствах. На основании доказательств обвиняемый, совершивший преступление, сообщает суду, прокурору и защитнику о выдвинутых против него обвинениях, что не позволяет ему смягчить или представить свои требования. Суд приходит к выводу, что убедительным доказательством вины или невиновности обвиняемого является осуждение или оправдание по основаниям, предоставленным обвинением и защитой.

Поэтому изучение проблем теории доказательств относится к дисциплине эластической науки, которая является важным звеном в процессе доказывания по уголовным делам. Теория доказательств - это раздел науки и науки как содержание доказательств в уголовном судопроизводстве. Предмет, цели, причины и порядок действий представляют собой совокупность научных выводов, то есть охватывающих это учение о праве и теории урн. Понятие доказательства, теорию доказательства необходимо отличать от общепринятой концепции права.

Ключевые слова: Суд, прокуратура, следственные органы, доказательства, доказывание, уголовно-процессуальное законодательство, уголовное правонарушение.