

The Identification and Judgment of Justifiable Defense in Mutual Assault Cases

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ABSTRACT

In mutual assault cases, the identification of justifiable defense is a very complicated issue in the field of criminal law, which involves the multi-dimensional consideration of law and practice. In order to explore the applicable boundary of justifiable defense, it is necessary to conduct in-depth analysis of strict legal constitutive requirements, including the evaluation of the legality and legitimacy of behavior, and the in-depth exploration of the subjective intention of actor. The cause of cases, the time node of the defensive act, and the match between the defense measure and the damage result are important consideration factors when discussing the principle of the determination of justifiable defense in mutual assault cases. The research shows that the identification of justifiable defense should not only strictly follow the provisions of criminal law, but also take into account social justice and behavior rationality, so as to avoid deviating from the core value of protecting rights and interests in criminal law. The purpose of this research is to provide clear guidance for the scientific and reasonable identification of justifiable defense in mutual assault cases through the deep combination of theory and practice.

KEYWORDS

mutual assault cases; justifiable defense; identification criteria; judicial practice

Justifiable defense is an important system in criminal law to safeguard social justice and citizens' rights and interests, and its identification and application often cause disputes in judicial practice due to complex situations. Especially in mutual assault cases, the defensive behavior and the affray intention of actor are often more vague, which further increases the difficulty of law application. In order to deeply analyze the principle of the identification of justifiable defense, it is necessary to comprehensively consider the cause of behavior, the timing and mode of defense, and the rationality of the result, so as to gradually clarify its applicable boundary in theory and practice. In this complex situation, the precise determination of the boundary between justifiable defense and mutual assault is not only related to the standardization of legal judgment, but also related to the realization of the value of social fairness and justice. This paper will provide an operational guide for the reasonable identification of justifiable defense in mutual assault cases.

1 The Principle of Identification and Judgment of Justifiable Defense in Mutual Assault Cases

1.1 In Strict Accordance with the Constitutive Requirement of Criminal Law

The identification of justifiable defense should focus on the constitutive requirements of criminal law. The conditions set by the criminal law are a kind of boundary, and also the cornerstone of assessing whether the defensive behavior has the value of legal protection. The dimension of the identification of justifiable defense is composed of the occurrence of unlawful infringement, the necessity and immediacy of defensive behavior. These elements integrate legal constraint with behavior judgment and provide a reliable theoretical basis for the legitimacy of behavior.

The legality of the defensive behavior needs to be precisely consistent with the explicit provisions of the law. Even if the subjective intention is legitimate, the behavior that deviates from the constitutive requirement is difficult to be recognized in law. The initiation of justifiable defense requires that the actual existence of unlawful infringement is the premise. If the violation is only false or has not yet occurred, the conditions for the establishment of defensive behavior have been lost. This rigidity reflects the respect of the law for the facts, and at the same time draws a clear line for the legitimate initiation of defense.

The immediacy of time further limits the application scope of defensive behavior. The defence must be carried out during the attack. For example, a "defense" performed after the attack has stopped would be considered an act of retaliation. The grasping of time node emphasizes the dynamic relationship between defensive behavior and attack behavior, and limits the legal defense to a very narrow time window.

The proportionality between means of defence and the extent of attack is another key element. The criminal law has clear requirements on the scale of defensive behavior, which stipulates that defense should not exceed the necessary limit. If the defensive behavior causes damage far beyond the harm itself, this behavior is likely to be regarded as excessive defense, and thus lose the protection of the law.

1.2 Give Priority to the Legality and Legitimacy of the Behavior for the Judgement of Justifiable Defense

The legality and legitimacy of justifiable defense are the core principles of criminal law to judge the defensive behavior, which helps to ensure that the defensive behavior is aimed at protecting the legal interests, and prevents the interference of emotional, retaliatory or fighting motives. In mutual assault cases, the intention, means and consequences of the actor are often blurred due to the complex conflict situation, so it is particularly important to prioritize the analysis of their legality and legitimacy.

Legality is first reflected in the appropriateness of the defensive behavior within the legal framework. In other words, the behavior must be completely aimed at the unlawful infringement, and have no active attack or provocation intentions^[1]. Distinguishing the boundary between defense and aggression is particularly difficult in the context of mutual assault. The judicial office needs to thoroughly analyze the details of the actions of the actor at the time of the crime, and clarify whether he is only aimed at stopping the assault or has gone beyond the scope of justifiable defense. Once it is found that the actor has an active tendency to harm, the legality of the behavior is difficult to establish.

The legitimacy emphasizes that the defensive behavior must clearly point to the protection of legal interests, which is manifested in stopping unlawful infringement and avoiding greater harm, rather than pursuing harm to the aggressor or emotional vent. The defensive behavior in the mutual assault scene is easy to be misinterpreted because of the intensity of the confrontation between the two sides and the instantaneity of conflict escalation. Therefore, the judicial assessment should focus on whether the motive of the actor is simple, whether the purpose of defense is clear, and whether it conveys the intention of safeguarding legitimate rights and interests, rather than taking the opportunity to retaliate or fighting violence with violence.

In addition, the defensive behavior should also have realistic necessity and rationality. In mutual assault cases, the urgency and threat of assault directly affect the rationality evaluation of defensive behavior. If the defence means clearly go beyond what is necessary to stop the attack, it may be identified as excessive defence. Judicial determination needs to comprehensively consider whether the actor has chosen the most appropriate means of defense within the range of options, and whether there is a milder way to resolve the crisis.

1.3 Exclude the Subjective Intention of the Actor to Fight for the Identification of Justifiable Defense

To determine the legitimacy of defensive behavior, it is necessary to start with the subjective motivation and exclude any interference from the intention of affray. The intention of affray is usually manifested as the actor's active provocation, the retaliatory behavior after emotional intensification, and the deliberate result of causing a certain degree of harm to the aggressor. These characteristics are in fundamental conflict with the protective purpose pursued by justifiable defense.

The determination of defensive intention depends on the behavior of the actor in a specific situation. The only goal of the actor must be to protect the legitimate rights and interests of himself or others, and this purpose needs to be analyzed according to the way of his behavior, the background of the incident and the process of the interaction with the aggressor. In the case of mutual assault, if the actor exhibits active aggression or unnecessary escalation of violent behavior, or even continues to inflict harm after the conflict has ended, his behavior cannot be regarded as justifiable defence.

In order to determine the intention of affray, it is necessary to analyze the psychological motive of the actor. If the actor has a clear conflict premeditation, or actively promotes the escalation of the situation in the process, and tries to obtain some psychological or actual benefits by violating others, it can be judged that the essence of his behavior has deviated from the original intention of defense. In this case, the judicial office needs to pay special attention to the difference between the active injury act and the pure defensive act in the trial, so as to ensure the objectivity of the verdict^[2].

A comprehensive assessment of the actor's intention requires a combination of specific words and actions and conflict situations. In the case of mutual assault, the actor may be temporarily out of control due to unexpected events, but this kind of temporary emotional reaction does not necessarily deny the legitimacy of defensive behavior. The key is whether the actor's overall performance in the conflict is mainly to prevent the aggression, or to counter or attack. If the intensity and persistence of the act are consistent with the necessity of the protection law, it can be regarded as an act of justifiable defense.

2 Identification and Judgment of Justifiable Defense in Mutual Assault Cases

2.1 Analyze Whether the Defense Right of the actor Has been Legitimately Activated from the Cause of the Case

In the case of mutual assault, the accurate analysis of the cause of the case directly determines whether the right of

defense is properly activated. The judicial office should collect and review the evidence before the crime from a comprehensive perspective, and clarify the starting point and leading factors of the conflict. The communication record before the crime, the behavior of both parties, and the objective situation of the scene are the key to restore the initial state of the conflict. The omission of any detail will affect the overall judgment of the case.

When analyzing the cause of the case, it is necessary to judge carefully whether the actor's behavior meets the necessary conditions for the initiation of the right of defense, and especially whether the actor enters the state of defense passively because of the threat of unlawful infringement. According to the definition of unlawful infringement in criminal law, the infringement must have reality, urgency and illegality. The judicial office needs to combine the facts of the case to determine whether the actor is forced to respond to the infringement or actively contribute to the escalation of the conflict. This analysis is related to the nature classification of behavior, and also affects the legitimacy of the identification of defense right.

A systematic review of witness' testimony, surveillance video, and physical evidence at the crime scene is a necessary step to further clarify the cause of the case. The cross validation of these evidences helps to rule out the possibility that the actor first provokes or actively escalates the conflict^[3]. In the analysis, judicial personnel need to focus on whether the two sides have experienced obvious contradiction intensification process, and especially the specific role played by the actor in this process. Whether the actor takes the initiative to provoke or escalate the conflict is directly related to the legitimate initiation of the right of defense.

In order to ensure the objectivity of the cause analysis, the judicial office should not simply make a decision based on the actor's self-statement or the result of the conflict, but strictly rely on the facts, and repeatedly verify the physical evidence, confessions and background information to maximize the proximity to the truth of the case. Detailed cause analysis provides a solid basis for the determination of the right of defense, and reduces the judicial errors caused by incomplete evidence or one-sided interpretation, so as to provide sufficient conditions for the fairness of the ruling.

2.2 From the Time Node of Defensive Behavior to Evaluate its Matching with Unlawful Infringement

In the case of mutual assault, the time point of defensive behavior directly affects its legality and legitimacy. The judicial office needs to analyze whether the defensive behavior really happens in the implementation stage of the unlawful infringement and whether there is a reasonable time correlation between the two by strictly reviewing the time sequence of the case. Complete timeline evidence, such as surveillance video, witness statements and actor statements, is the basis for establishing the full picture of events and ensuring the objectivity of analysis.

The time evaluation of defensive behavior needs to make clear its continuity and pertinence with unlawful infringement. The judicial office should focus on whether the defensive behavior occurs before the unlawful infringement ends, and whether the defensive behavior directly points at the creator of the infringement. In order to distinguish justifiable defense from retaliatory acts, it is necessary to divide the end point of unlawful infringement and the end point of defensive behavior in detail to avoid misjudgment caused by ambiguity in time.

In addition, the prejudgment of the actor to the infringement and the countermeasures taken by the actor should also be included in the category of temporal analysis. If the actor has taken defensive measures in advance, it is necessary to assess whether these measures are consistent with the reality of the threat of infringement^[4]. The judicial office should objectively evaluate the rationality of these preparatory acts by combining the situation and the subjective judgment of the actor at that time, so as to avoid denying the legitimacy of the defensive behavior because of the advance of the act.

In the specific operation, it is also necessary to conduct an in-depth review of the time interval between the defensive behavior and the infringement. The continuous defensive behavior driven by urgency should be strictly distinguished from the retaliatory behavior after the interval, so as to prevent the qualitative deviation of the case due to the inaccurate judgment of time. Through the precise analysis of the time node, the judicial office can clarify the logical connection between the defensive behavior and the unlawful infringement, and provide the factual basis for the final decision of the case, so as to ensure the fairness and rigor of the determination process.

2.3 Determine Whether it Conforms to the Limit of Defense by Combining the Means of Defense and the Consequences of Damage

The defense means and the damage caused by the defensive act are very important to the judgment of its legality and legitimacy. In the process of trial, the judicial office should focus on clarifying the necessity and appropriateness of defense means. In other words, whether the defensive act is carried out against the infringement act and whether it is within a reasonable limit. The examination focuses on the tools used by the actor, the means taken, and the specific circumstances of the entire behavior process to determine that the defensive behavior is targeted and restrictive.

When evaluating the means of defense, it is necessary to combine the circumstances of the case and focus on whether

the choice of tools is reasonable and whether it exceeds the degree needed to stop the attack. For the defensive behavior of using tools, it is necessary to clarify the function and applicability of tools, and whether there is an overuse tendency in the defense process. At the same time, it is particularly important to measure the strength of defense. The judicial office should scientifically evaluate whether the actor has obvious signs of excessive defense based on the analysis of physical evidence, the results of forensic identification and the restoration of scene traces.

The assessment of damage consequences should be based on the nature and degree of harm of the infringement, so as to ensure that the consequences of the defensive behavior match the threat of infringement. The damage caused in the process of defense should be regarded as the inevitable result of stopping the harm, rather than the manifestation of actively expanding the harm. In cases involving serious injury or death, it is necessary to examine in depth whether the damage consequences are necessarily caused by the defensive behavior, in order to prevent subjective speculation from affecting the qualitative determination of the case.

3 Conclusion

The system of justifiable defense aims to maintain the balance of legal interests and social orders, but its identification in mutual assault cases is full of challenges due to the complexity of the situation, so it is necessary adopt a very cautious attitude. In judicial practice, it should pay attention to the individualized analysis of the situation, and combine the cause of behavior, the necessity of defense and the appropriateness of means, to avoid the misuse or abuse of justifiable defense. At the same time, on the basis of adhering to the legal principles, it needs to flexibly respond to the diversity of real cases, in order to truly realize the pursuit and maintenance of fairness and justice in criminal law.

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