

Actual problems of criminal law, criminal procedure and criminalistics

Materials of scientific conference

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Murder for hire: the theory and practice

Abstract. The article raises the question of jurisprudence associated with isolated cases of conviction for murder for hire. Also to be considered theoretical aspects of this problem.

Keywords: Murder for hire, criminal law, criminal code, concept of murder etc.

The problem of contract killings should be considered multifaceted, i.e. from the position as criminal law and other Sciences, for example, of criminology. According to A.A. Gartenzaun, "criminal law and criminology "act" together and all crimes are investigated in the unity of their criminal-legal and criminological characteristics"[1].

The legislator, seeking to unify the concept of murder, at the same time, we have believed that there are specific cases, although formally falling under the signs of murder, but, in fact, wearing a slightly different nature, primarily for the murderer, because intent to cause the death of another person occurs under conditions of traumatic situation or in a state of mental breakdown, and still unclear situation caused by the threat of life for the assassin. In these cases, a unified concept of murder, in particular, applied to punishment cannot be applied. Therefore, independent of the murder provided in the criminal code of the Republic of Kazakhstan, is not contrary to the General desire of the legislator to unify the concepts of murder on the basis of the similarity of compositions.

In a changing socio-economic situation in the Republic of Kazakhstan the Commission of murder for hire happens too often, they have become a phenomenon symbolizing a modern country, a factor destabilizing the normal operation of the state apparatus, dramatically changing the value orientation of the population, the idea of protection of human life. Technical progress and accumulated by

humanity skills have qualitatively changed the methods of crime in General. Not the last role was played by changes in legislation and the destruction of the Soviet law enforcement system, the absence of developed methods of solving such crimes, the lack of funding of law enforcement agencies and the consequent lack of qualified personnel.

Physical elimination of the competitor, the opponent, the debtor, the creditor has become a common method of solution. Currently law enforcement is increasingly faced with the problem of a surge of murders that, as correctly noted in the literature, become a "service factor" in the sphere of economic activity, both legal and illegal. We are talking about the elimination of competitors, intimidation and solution thus various problems in the field of business, etc. [2].

In judicial practice are not isolated cases of conviction for murder for hire. As shown by the generalization, murder for hire, or the so-called custom-made murders, were committed with the purpose of return of a loan, taking a room in a communal apartment, with the purpose to get rid of wife and get a lump sum on the occasion of his death, to get rid of an accomplice jointly committed crime out of fear of being exposed and so on [3]. The legislator uses the term "murder for hire", in the press and everyday speech ingrained the phrase "contract killing". I think that some unnecessary in the use of the terms "assassination" and "hired murder" occurs due to their different

applications: "a contract killing" - a concept used in criminology, "homicide for hire" - specific qualifying sign of murder and operate with the theory and practice of criminal law.

The current crime situation in the Republic of Kazakhstan is a new phenomenon, as the scale of criminal manifestations and devastating impact on the livelihoods of societies, the functioning and security of the state, rights and freedoms of its citizens. Murder cases, is called, as a rule, the greatest public resonance, and on the results of their investigation, the citizens largely judged on the effectiveness of law enforcement [4].

From the criminological point of view it is important to distinguish all the studied array of intentional homicide two groups, conventionally referred to as "traditional" and "nontraditional." "Traditional" is well known and mastered by the criminology premeditated murder, committed in the sphere of culture and leisure.

The second group of "non-traditional" killings related to organized, professional crime, had no such wide circulation (murder to order, various kinds of criminal acts in business, eliminate competitors, etc.), the investigation of which is of the greatest complexity, it is one of the reasons of their low detection rate [5]. "Non-traditional" murder although a relatively small percentage of all murders committed, have a particularly high public risk. Such killings are almost always committed with direct intention. That is characterized by boldness, cruelty, sophisticated methods of concealment of traces of crime, and hence high complexity of the disclosure. Besides the inability to restore human life, touches on broad areas of social relations (Economics, politics, law, etc.), and therefore there are usually adverse reactions: retaliatory acts of aggression, disrupting the normal functioning of public institutions. The commitment of "non-traditional" murder always affects more people, directly or indirectly affects a very wide circle of human relations.

Murder for hire in a number of "non-traditional" is particularly significant, their prevalence, the complexity of the disclosure introduce them to the leading position from the point of view of their social danger. They became a factor significantly influenced the way of life in modern Kazakhstan. The legislator formulates the qualifying sign "murder from mercenary promptings or on hiring". How should we understand this formulation? It

seems that the element of interest is required to be able to incriminate a murder committed for hire. Greed is the qualification of a number of crimes, including murder. Ulterior motive is characteristic primarily for property crimes. But the law does not associate the concept of gain only with crimes against property. It seems that greed is inherent only to those crimes which the offender seeks to obtain material benefits.

The mercenary motive at murder covers material gain in the widest sense. It cannot be reduced only to the misappropriation of property and money, although as practice shows, murder from mercenary motives most often committed in order to seize the property and money. Greed killing is not only the acquisition of material gain, taking what had not guilty to murder, but also the desire to get rid of any material costs now or in the future, to save material possessions, which will have to leave legally.

Admits the murder committed from mercenary motives, regardless of who is the victim: the owner of the property (other valuables), or the person from whom it was in use or which it is deposited. The victim may be a person, the death of which the perpetrator hopes to receive some law of material nature. For recognition of the murders committed from mercenary motives don't matter who can obtain the material benefit of the offender himself or his family, such as family members, other persons in which he is interested. Murder from mercenary motives must be distinguished from killings for other reasons. Errors in the qualifications, usually be permitted due to the fact that recognized such selfish motives and circumstances which have with them only a superficial resemblance. In practice there was a question on qualification of actions of persons who committed murder in order to keep or maintain the property, already owned by the perpetrator. Mercenary motives of the murder suggest the pursuit of unlawful misappropriation of property or other valuables in the possession of the victim, or the desire of a person will receive material benefits from the Commission of the crime by other means. Likewise cannot be considered murder from mercenary motives deprivation of life of the person who committed the theft. Here the guilty party in a murder is also guided by the desire to avenge the theft of property and any benefits as a result of the murder does not extract. Incorrectly be attributed to selfish and a murder committed in connection with the failure to

return the victim previously taken debt, because the creditor is no material benefit from it.

To mercenary killings refers murder for hire when a murderer takes someone's life to someone who promised to pay or have paid for the murder of a reward. The defining feature of murder for hire is a subjective crime. The employer and the contractor accounts for the minimum possible set of partners. For qualifications under article 99 of the criminal code of the Republic of Kazakhstan rather have a mercenary motive, only an artist who would be to attempt to win an award. Murder for hire is not in all cases can be accomplished only because of the money. There may be other motives, for example, the promise of "customer" to arrange by killing a high-paying job, to ensure adoption in an educational institution, to promote. The motivation of the employer may be different, although as shown by special studies of murder for hire made more often from selfish motives [6].

Considering the murder for hire as a kind of selfish, we can identify a number of important criminal legal consequences. All typical mercenary murder in the murder for hire with the necessary changes, due to the complex nature of relations between partners.

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