

The Value Connotation of Evidence Evaluation on Forensic Conclusions

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Abstract—Forensic appraisal is inherently uncertain, and the evidence used to determine the facts of a case must be certain. This creates a tension between the uncertainty contained in forensic appraisal itself and the certainty as evidence, and makes technical authority and legal authority confused in confirming the facts of the case. The forensic conclusions can only be used as evidence after it has been evaluated. Evidence evaluation on forensic conclusions should adhere to the goals of science and truth, and comply with the value of justice and efficiency, to ensure the scientific nature of forensic conclusions, and realize judicial justice.

Keywords—forensic conclusions, evidence evaluation, value, science, justice.

I. INTRODUCTION

With the continuous improvement of the level of rule of law, the way the public resolve disputes through litigation in accordance with the law is more and more popular. The main basis for the court to confirm the facts of the case and resolve disputes is evidence. Forensic conclusions, a form of evidence that introduces science into litigation procedures to resolve disputes, make judgments which have no definite and unified standards can be tested and repeatedly practiced by using natural scientific methods [1]. This makes the role of forensic conclusions in litigation more and more critical. In judicial practice, unjust, false, and wrong cases caused by forensic conclusions without evidential ability have occurred frequently. The applicability of forensic conclusions in litigation is increasingly being questioned. This will not only affect judicial justice and the maintenance of the legitimate rights and interests of the masses, but also seriously damage judicial authority and is not conducive to promoting social

harmony and stability. Accordingly, in order to ensure that the forensic conclusions entered into the litigation process have evidence capability and probative force, the identification of specialized issues in the case is based on objective and reliable scientific evidence to ensure that the people can feel fairness and justice in every judicial case. It is necessary to conduct a scientific, objective, and fair evidence evaluation of the forensic conclusions, to ensure the correctness of the forensic conclusions and prevent pseudo-science from entering the litigation.

II. THE VALUE GOAL OF SCIENCE AND TRUTH

The purpose of establishing the forensic appraisal system is to improve the judge's ability to ascertain the facts of the case, and to make up for the lack of professional knowledge through the activities of the appraiser, so as to obtain a more objective understanding of the facts of the case and make

judgments on the basis of this. The forensic conclusion is inferred by the appraiser based on scientific principles and technical methods. Whether the scientific principles and methods of appraisal activities are scientific, this will affect the reliability and credibility of the forensic conclusion from the source.

From the point of view of the legality of evidence, the forensic conclusions as evidence should meet the requirements of legality. Judges' understanding and review of forensic conclusions are primarily to examine the legality of the forensic conclusions, that is, to verify whether the production and formation of the forensic conclusions comply with legal procedures. If the forensic conclusion is not legal, the judge will deny the evidence qualification of the forensic conclusion and no longer consider reviewing its scientific. Legitimacy is the prerequisite for the development of forensic appraisal activities, and science is the basis of forensic appraisal. The forensic appraisal system must be able to guarantee its scientific of realization [2]. Therefore forensic conclusions can be used as evidence to be legal and scientific.

Forensic appraisal usually has three possible results: one is a definitive conclusion; the other is an uncertain conclusion or multiple possible conclusions; and the third is the inability to draw a conclusive conclusion [3]. In litigation, all materials that can be used to prove the facts of the case, but the law requires that the proof materials should have legality, relevance, authenticity and certainty, and "ambiguity", "indeterminate" or "paradoxical" proof materials should not be used as evidence, and forensic conclusions is no exception. For the "deterministic conclusion" of forensic appraisal, because it meets the evidence standard stipulated by law, the referee can directly choose it as the evidence, and the "unable to draw a conclusive conclusion" does not include the scope of evidence. The "uncertainty conclusions" of forensic appraisal are manifested as tendencies. From the outside, they do not meet the evidence standards stipulated by the law. There is considerable controversy about using them as the basis for verdicts, but it also has a certain degree of scientific.

Science and technology have errors, and the results are not absolutely accurate. In the practice of forensic appraisal,

although the appraiser has issued a "certainty" conclusion, it is only a formal "certainty", not "absolute certainty" still has probabilistic conclusions, which is determined by the nature of science itself. The "uncertainty" of forensic conclusion comes from science itself, is a scientific understanding that tends towards correctness with a high probability.

Whether the "uncertainty conclusion" of forensic appraisal can be used as evidence not only depends on the scientific and legitimacy of the forensic appraisal itself, but also affected by the scientific degree of the evidence standard setting which related to the proof of objective facts. The objective reality is the fact that things originally exist. Since the facts of the case dispute itself are not permanent and existing, but are lost due to the passage of time and never return, the objective facts cannot be reproduced truthfully, even if the audio and video are played again, they are not the original truth. If "objective truth" is used as the proof standard in litigation, it appears that the proof requirements are too harsh, and it is even suspected of violating the laws of nature. In litigation, the referee cannot reproduce the "objective facts" as they are in the court, but they can restore the authenticity of the facts of the case through investigation and collection of evidence, which conforms to the requirements of modern science and reaches the level of scientific, reasonable and reliable. Therefore, the "standard of evidence" stipulated by the law needs to be based on the requirements of the essence of science, reflect the nature of science, and conform to the spirit of science.

III. THE PRACTICAL VALUE OF JUSTICE AND EFFICIENCY

Facing a competitive environment that tends to be market-oriented, the development of appraisal agencies presents a situation of uneven levels. At the same time, because forensic appraisal is different from ordinary scientific inquiry activities, the purpose of forensic appraisal activities is clearer, the restrictions on experimental materials are stricter, and the appraisal process is more susceptible to human factors. These characteristics also lead to the possibility of errors in forensic conclusions. Wrong forensic conclusion is a

long-standing and inconclusive problem in forensic appraisal. Forensic appraisal is reproducible. In litigation activities, flaws or faults in the forensic conclusions occur from time to time. Different appraisal institutions and appraisers use the same method for appraisal under the same conditions at different times and places, and they will get the same or extremely similar conclusions, means that the conclusions of the forensic appraisal are accurate. It is correct, reflecting the scientific and reliability of forensic appraisal. So re-appraisal is a frequently used evaluation method to correct defects or errors in the original forensic appraisal. However, all technologies, all plans, all practices and choices should aim for a certain kind of good [4]. Therefore, re-appraisal should avoid abuse. Unnecessary or unreasonable re-appraisal will have negative effects such as chaos in the appraisal order, reduced litigation efficiency, and increased litigation costs.

In practice, there is indeed a phenomenon in which judges rely on forensic conclusion to cause judgment errors. Some scholars have proposed that "authentication is the process of the judge's heart testimony". The effective conduct of court cross-examination relies on judges' command and review functions. This is also the basic requirement for protecting the legitimate rights and interests of the litigants and achieving procedural justice. In order to improve the error correction and error prevention mechanism so that the wrong forensic conclusions can be corrected in time, it is necessary to play the role of evidence evaluation in restricting judge's discretionary evaluation of evidence. To a certain extent, it shows the attitude of correcting the defects of forensic conclusions in litigation, and reflects the open, fair and just principles of forensic appraisal.

In the whole process of the formation of evidence from evidence to fact, there are two links: one is the determination of evidence, and the other is the process of proof from evidence to fact. Control of the subjective assumptions or abuse of liberty in these two links usually guarantees that the results of the forensic conclusions can be relied upon out of reason of legitimacy and reasonableness. Control is carried out mainly through four aspects: the law by setting the capacity for evidence to ensure the basic security of the evidence database; the evidentiary power of the evidence is pre-defined; the basis

of the judge's testimony can only be the law of experience, not subjective speculation, speculation or inference, the law of experience has the commonality in the common sense, easy to judge, but also the objective performance of the evidence; It is required to adopt a comprehensive judgment method for the final determination of the magnitude of evidence force, and must be combined with the whole case rather than determine separately. In this case, the judge's discretionary evaluation of evidence of the forensic conclusions should be reasonable and scientific.

IV. THE INSTITUTIONAL SIGNIFICANCE OF RATIONALITY AND NORMS

The ordinary way of cross-examination by judges to review and cross-examine the forensic conclusions cannot achieve a scientific and objective evaluation of its proving power. In addition, the attendance rate of appraisers is low, which puts the forensic conclusions in an embarrassing situation. Forensic conclusions not only failed to become an effective means for judges to ascertain facts, but instead became a fuse that exacerbated the conflicts between the litigants. From a normative point of view, since the forensic appraisal standards and other related systems are formulated by functional departments, and there is a phenomenon of cross-management by multiple departments, the forensic appraisal standards, technical specifications, and procedures cannot be unified, and the quality of the forensic conclusion is questioned. This is also one of the important reasons why people entrust different appraisal agencies to repeatedly appraise the same appraisal item. In the final analysis, they are all due to the lack of a unified forensic conclusion evaluation system [5]. The evaluation effect of the forensic conclusion has been criticized, and it cannot be able to improve and maintain its credibility inevitably. In order to ensure that judges make a fair judgment on the forensic conclusions, the establishment of a unified forensic conclusion evaluation system should be put on the agenda as soon as possible.

The evaluation of forensic conclusions is mainly reflected in the system of appraisers' appearance in court and the cross-examination process [6]. The system of appraisers appearing in court can fully guarantee the realization of the cross-examination process. Regarding the

forensic conclusions, the appraiser can make detailed explanations when appearing in court, and accept the cross-examination of both litigants and the court questioning. This process is the basis for the review and judgment of the forensic conclusion and the evaluation of the evidence. The appearance of the appraiser in court to testify is of great significance both in terms of procedure and substance.

The forensic conclusion is verbal evidence, and its own scientific nature needs to rely on the appraiser to appear in court to explain on the spot, and through cross-examination to improve the objective and just of the forensic conclusion. At the same time, the forensic conclusion is only the judgmental opinion of the appraiser on specialized issues. The court exercises jurisdiction and has the responsibility to ascertain the facts of the case, while the appraiser answers the judge's questions, which can improve the accuracy of the judge's trial and help the judge accurately determine the facts. According to the basic requirements of procedural justice, the appraiser needs to testify in court. The presence of an appraiser in court to testify allows the judge to fully contact and comprehensive review the forensic conclusion, and finally make a correct judgment, thereby guaranteeing the litigation rights of litigants. The essential feature of court cross-examination lies in cross-examination, and perfecting the system of appraiser appearance in court is conducive to improving the legitimacy of the cross-examination procedure. The essential feature of court cross-examination lies in examination. Improving the system of appraisers' appearance in court will help improve the legitimacy of the cross-examination procedure [7]. Therefore, by improving the system of appraisers' appearance in court, giving full play to the commanding role of judges in court trials, ensuring the smooth progress of court cross-examination, so as to conduct objective evidence evaluation of forensic appraisal.

V. CONCLUSION

The forensic conclusions must be cross-examined and evaluated in order to be used as evidence in litigation. Scientific is the essential attribute of forensic, not only the basis of forensic conclusions as evidence, but also the prerequisite for the litigation to use the forensic conclusions

for assisting the judicial determination of the facts of specific issues. Evidence evaluation of forensic conclusions, on the one hand, excludes wrong forensic conclusions from litigation, on the other hand, it forces appraisal institutions and appraisers to improve their appraisal level, thus forming a virtuous circle and improving the authority and credibility of forensic appraisal. Based on this, the evaluation of the evidence of the forensic conclusions should reflect the value goals of science and truth, the practical value of justice and efficiency, and the rational and standardized institutional significance, ensure the objectivity and science of the forensic, and ensure the scientific nature of the forensic conclusion as the basis for the verdict, so that the confirmed case facts are reasonably acceptable, so as to achieve the goal of true discovery and judicial justice.

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