

PECULIARITIES OF THE HOOLIGANISM QUALIFICATION

One of the necessary and obligatory conditions for normal functioning of any state with public order, as normal society, which is protected, including state institutions, by protecting constitutional rights, freedoms and legitimate interests of citizens, interests companies within the limits of the legal norms, taking into account traditions, customs, moral norms. The most dangerous attack on public order, disturbs the public peace is punishable hooliganism. Public danger of bullying are obvious. Analysis of the statistical data investigative judicial practice shows that the manifestations of bullying are quite common, often become the basis of Commission, as a rule, serious and very serious crimes. Therefore, I believe that this question is relevant and requires further study and research.

Qualifying sign of the crime provided by part 2 of article 296, is committing acts of hooliganism by group of persons. Court statistics 2013-2015, indicates that approximately 14% of those are committed by the hooliganism of the group. The crimes committed by a group of persons, if it was attended by several (two or more) of the performers without prior agreement among themselves or on preliminary arrangement by group of persons, regardless of the role performed. The following qualifying signs of hooliganism, provided part 3 of article 296, are committing vandalism by a person previously convicted for hooliganism, or associated with resistance to representative of authority or member of the public who have carried out duties on protection of a public order or other citizens who stopped the bullying. On the grounds of committing disorderly conduct by a person previously convicted for it, the actions of the guilty is qualified under part 3 of article 296 of the criminal code when it is at the time of the offence had not removed or not extinguished previous conviction for at least one of the parts of said article or under part 2 of part 3 of article 206 of the criminal code 1960 In the case of qualification of actions guilty on this basis can not be

considered circumstances aggravating the offence again and recidivism (n. 1 h. article 67 of the criminal code).

As a resistance to the government representative, member of the public or other citizens who have stop bullying (part 3 of article 296 of the criminal code), it should be understood the active opposition of a person who commits hooliganism (repulsion, the task of beatings, bodily harm), to deprive these persons of ability to perform official or public duty on the protection of public order.

Such resistance is covered by part 3 of article 296 of the criminal code as an aggravating feature under her crime, therefore, does not require additional qualifications in parts 2 and 3 of article 342 of the criminal code.

If the resistance was made after the termination of hooligan actions, the opposition to arrest, he can't be a qualifying as a bullying and the responsibility should come on set of the crimes provided by corresponding parts of articles 296 and 342 of the criminal code.

In the case where the resistance of the authorities or the public occurred during the commission of petty crimes, the offender is subject under the criminal part 2 of part 3 of article 342 of the criminal code and the administrative responsibility according to article 173 of the administrative code. Solving the question of presence in actions of the perpetrator of such qualifying signs of hooliganism, as the use of firearms or cold weapon or other subject, specially adapted or in advance prepared for infliction of bodily injury (part 4 of article 296 of the criminal code), note that this symptom occurs only in cases where the perpetrator with the help of the mentioned items caused or attempted to cause bodily injury or when the use of these items during the commission of hooligan actions has created a real threat to the life or health of citizens. Firearms include any device factory of handicraft production, is designed to engage a live target using a projectile (bullets, shot, etc.) that held in motion by the energy of powder gases, or other special fuels - all types of military and other small military weapons, small-caliber sporting pistols, rifles, gas pistols, rifled hunting weapons and converted weapons (adapted for firing bullets of a different caliber), including sawn-off shotguns of smooth-bore hunting weapons.

The cold weapons are objects that adhere to the standard samples or historically developed its types and also other items that produce

stabbing, stabbing, cutting or shock effect (bayonet, knife, crossbow, nunchucks, brass knuckles, etc.) structurally intended for defeat of live targets with the help of human muscle power or mechanical devices. Specially adapted for bodily injury should recognize the objects which are fitted by a guilty person for this purpose in advance or during the commission of hooligan actions, and pre-prepared items, which, although not subjected to pre-processing but before the start of bullying was guilty adapted for this purpose.

If someone use knives, that do not apply to melee weapons, other items of economic-household purpose, special means (rubber truncheons, gas gun, canister, grenades, and devices of a domestic production shooting of the cartridges equipped with rubber or similar characteristics with throwing shells of nonlethal action), pneumatic weapons, explosive packages, simulation-fireworks that do not contain explosive substances and mixtures and other adapted for bodily injuries instruments of crime during committing hooliganism is the basis for qualification guilty persons actions of under part 4 of article 296 of the criminal code not only in cases when it causes them injury, but when that person using these items poses a real threat to the life or health of citizens.