

This document contains a practical case of the Criminal Procedural Code and its respective resolutions.

Statement: A is at enmity with B and C, following several conflicts between them and wants to take revenge. Thus, he decides to break the windows of B's

car, causing him a property loss of 400 E. (conduct that falls under the crime of damage in article 212 of the CP); Shortly afterwards, he starts persistently persecuting C, causing him unrest (conduct subsumable under the crime of article 154-A of the CP), also to take revenge.

Some time later, A was called to make statements within the scope of the criminal proceedings, a procedural act that had as its object those facts, and which were attributed to him. B and C committed to collaborating with the competent authorities in the process, presenting evidence; Once the issue was raised, they demanded that A be brought to trial so that he could be condemned for the crimes he committed. Furthermore, they demanded that all the damage caused to them be repaired, having complied with the necessary formalities. In fact, A was tried for both crimes at the same hearing, before a judge, who, in the end, sentenced A to a prison sentence, although suspended during execution, but also sentenced him to the requested damages.

Bearing in mind the facts now described, state them (always based on the relevant legal standards).

Question: What conditions or assumptions were met so that the events described in the statement could have occurred?

Answer: Principle of Officiality. Limitation. Both crimes are semi-public and the procedure depends on a complaint. Articles 49 of the CPP; article 113 of the Penal Code.

Question: What was the final decision made by the entity competent to promote?

Answer: A was convicted, for which he was tried (hearing). In order for there to be a trial, the competent entity (the Public Prosecutor's Office) had to demonstrate, therefore, the principle of legality in the process:

1st moment (article 262 CPP);

2nd moment: accusation: sufficient evidence (article 283 CPP);

It was permissible to apply a provisional suspension of the proceedings to the case (which could impede the trial, since it is an alternative to the accusation) – or even criminal mediation, however, B and C expressed their opposition, so there would be no agreement.

Question: What is the procedural status that A will have assumed and what is its legal basis?

Answer: "Some time later, A was called to make statements within the scope of the criminal proceedings, a procedural act that had as its object those facts, and which were attributed to him." Defendant: 58.<sup>º</sup> no. 1 a) | 272.<sup>º</sup> no. 1. As he is being investigated within the scope of a criminal proceeding, A must be interrogated, but already invested with the status of Defendant. Being an Accused is a subjective status that grants rights to its holder.

Question: What procedural status will B and C have assumed, taking into account the activity they carried out, as well as the claims they presented?

Answer: "B and C were committed to collaborating with the competent authorities in the process, presenting evidence; Once the issue was raised, they demanded that A be brought to trial so that he could be condemned for the crimes he committed. Furthermore, they demanded that all the damage caused to them be repaired, having complied with the necessary formalities."

Question: What is the procedural status of Assistants?

Answer: The status of the Assistant corresponds to the figure of the offended party who intends to take a proactive role in the process.

Question: What is the status of the civil parties?

Answer: The compensation claim is clarified, from the outset, in the respective criminal proceedings.

Question: What is the legitimacy and competence of the judicial body to carry out the trial and render the final decision referred to above?

Answer: - Qualitative criterion does not apply (14th, no. 1 and no. 2, a); 16th, no. 2, a))

- The quantitative criterion applies
- crimes of damage (art. 212 CP) and property crimes have a legal measure with a maximum limit of 3 years in prison
- Committing crimes in the abstract may be punished with a prison sentence of up to 6 years (3+3)
- In principle, the collective Court would have jurisdiction – art. 14, no. 2, b)
  - However, the Public Prosecutor's Office seems to have understood that the prison sentence should not exceed 5 years (16.<sup>º</sup>, no. 3), since the trial was held before a judge
  - In this case, the single court would have jurisdiction, but could not punish with a prison sentence of more than 5 years (16th, no. 4)
- Doctrinally, the constitutionality of this possibility is discussed, with the TC having already ruled on its compliance with the CRP
- Jury court would not be competent, either due to the lack of fulfillment of the qualitative and quantitative criteria, or because its

intervention was not requested (art. 13)