

Z 等四人与淅川县公安局违法拘留赔偿案驳回申诉通知书	Z and 4 others v. Xichuan County Public Security Bureau Notification of Dismissal of Appeal in Relation to State Compensation Case
提交时间：2015-06-01	Submitted: 2015-06-01
河南省高级人民法院赔偿委员会	Henan Province Higher People's Court Compensation Committee
驳回申诉通知书	Notice Dismissing Appeal
豫法委赔监字第 7 号	YFWPJZ No. 7
Z、Y、W、V:	Z, Y, W, V
<p>你们因不服南阳市中级人民法院赔偿委员会（2014）南法委赔字第 11 号国家赔偿决定，以程 X 无罪被拘留且超期羁押，精神压力增大引发心脏病死亡，死前受到刑讯逼供，发病时未得到及时救治为由，向本院赔偿委员会提出申诉，要求赔偿各种损失 500 万元。</p>	<p>You have brought this appeal in respect of Nanyang City Intermediate People's Court Compensation Committee's 2014 decision on state compensation NFWPZ No. 11. You appeal to this Court's Compensation Committee on the basis that:</p> <ul style="list-style-type: none"> • Cheng X's detention went beyond the permitted time frame and that he had not committed a crime; • that his death occurred as a result of psychological pressure having aggravated his heart condition; • that he was subjected to interrogation under torture prior to his death; and • that there was a failure to give prompt medical care once the symptoms leading to his death began to occur. <p>You seek compensation for various damages at a total value of 5 million rmb.</p>
本院赔偿委员会审查认为，	The Compensation Committee of this Court determines the matter as follows:
<p>1、关于程 X 是否被违法刑事拘留问题。</p> <p>根据我国刑事诉讼法的有关规定，公安机关对于现行犯或者重</p>	<p>1, The question of Cheng X's unlawful criminal detention.</p> <p>According to the relevant provisions of China's criminal procedure law, Public Security organs can use coercive measures (强制措施) where they catch a person in the course of committing a crime or with respect to major criminal suspects. After Cheng X was criminally detained on suspicion of the crime of unlawfully transferring land</p>

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<p>大嫌疑犯均可采取强制措施。程 X 因涉嫌非法转让土地使用权罪被刑事拘留后，又被浙川县人民检察院批准逮捕，且向人民法院提起公诉，该刑事案件因程的突发性死亡而终止审理。我国刑事诉讼法第八十九条第一、二、三款，规定了一般情况下公安机关拘留三日至七日的期限和特殊情况下延长至三十日的期限及人民检察院审查批准逮捕七日的期限。2013 年 10 月 8 日公安机关作出对程 X 的刑事拘留决定，10 月 10 日执行该拘留决定，10 月 12 日浙川县公安局决定对程 X 的拘留期限延长至 2013 年 10 月 17 日，10 月 14 日提请浙川县人民检察院批准逮捕，10 月 21 日程 X 被批准逮捕。从刑事案件办理过程可以看出，公安机关不存在对程 X 违法拘留和超期羁押问题。</p>	<p>usage rights, his formal arrest was approved by the Xichuan County Procuratorate, and was prosecuted in the People's Court. The trial of this criminal case was terminated because of Cheng's sudden death. Article 89 of the Criminal Procedure Law of the People's Republic of China, paragraphs 1, 2 and 3 prescribe 3-7 day detention period for Public Security organs in ordinary cases, an extension to 30 days in cases with special circumstances, and a further 7 day period for investigation and approval of a formal arrest by the Procuratorate. On October 8, 2013, public security organs made the decision to criminally detain Cheng X. On October 10 they implemented the detention decision, then on October 12 the Xichuan County Public Security Bureau decided to extend Cheng X's detention until October 17. Further, on October 14 they requested Xichuan People's Procuratorate to formally approve his arrest, and on October 21 Cheng X's arrest was approved. From the handling of the procedure for this criminal case, it is evident that there is no question of the public security organs illegally detaining Cheng X or detaining him beyond the statutory time limits.</p>
<p>2、关于刑讯逼供问题。</p> <p>一方面浙川县公安局根据你们的要求，经有关领导批准，与你们</p>	<p>2, The question of the use of torture.</p> <p>On the one hand the Xichuan County Public Security Bureau, has, in accordance with your request, and with the approval of its leaders, watched with you video surveillance footage of the time period from Cheng X's loss of consciousness right through to his delivery to the</p>

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<p>共同观看了程 X 在狱室昏迷到送往医院救治过程监控录像后，你们对程 X 死于心脏病及该过程中无发现有刑讯逼供行为和其死后尸表检验无外伤，不持异议。同时，在没有相关证据证明的情况下，又提出如果看守所不允许你们观看程 X 死亡过程以外的其他监控录像，就说明看守所所有刑讯逼供行为，且你们私自将尸体拉走并拒绝解剖，使程除心源性猝死死因外有无其他原因无法查明，该不利后果应由你们承担。你们所称该条理由也不能成立。</p>	<p>hospital for emergency medical treatment. You did not discover torture during this process surrounding Cheng X's death and an external examination of his body after death did not show signs of external injury. The objection is therefore not sustained. Meanwhile, in a circumstance where there is no other evidence that proves [that torture occurred], you again propose that if the detention center has not permitted you to watch other video surveillance outside of the footage of Cheng X's death, then this itself shows that the detention center engaged in torture. Moreover you have taken the body away without permission and are refusing to permit an autopsy, meaning that any causes for Cheng X's death outside of a sudden death from heart-related issues cannot be investigated, and you should take responsibility for these unfortunate consequences. The reasons which you have put forward do not establish this ground of appeal.</p>
<p>3、关于是否拖延抢救问题。</p> <p>从 2014 年 1 月 1 日 8 时 22 分程 X 在监室内发病突然昏倒，同监室人员发现后报告，至 9:10 分医院接诊，前后只有近 50 分钟的时间，在该段时间内，浙川县看守所不仅及时赶到监室进行病情的初步判断、抢救、拨打 120 急救电话，还将程 X 送到浙川县第二人民医院，说明看守所进行了及时救治，你们所称看守所延误救治的理由也不能成立。</p>	<p>3, The question of whether emergency medical care was delayed.</p> <p>From the time of 8:22, on January 1, 2014, when prison staff in the cell with Cheng reported that Cheng X had suddenly fainted, until 9:10 when the hospital received Cheng and treated him, a total of 50 minutes passed. Within this period of time, Xichuan County detention center not only promptly rushed to the cell, and undertook an assessment of Cheng X's medical condition, issued emergency treatment to him, and called the emergency number 120 to get medical help, they also took him to Xichuan No. 2 People's Hospital. This makes it clear that the detention center issued prompt medical assistance, and your claim that the detention center failed to provide prompt medical assistance is not made out.</p>

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<p>综上，你们的申诉事项及理由不能成立，本院赔偿委员会予以驳回。</p>	<p>In conclusion, your grounds for appeal and your reasons are not established. This court's compensation committee rejects the appeal.</p>
<p>特此通知。</p>	<p>You are hereby notified.</p>
<p>二〇一五年四月三十日</p>	<p>April 30, 2015</p>
<p>http://www.court.gov.cn/zgcpwsw/hen/pc/201506/t20150601_8348032.htm</p>	<p>http://www.court.gov.cn/zgcpwsw/hen/pc/201506/t20150601_8348032.htm</p>