

Standard of proof in criminal law cases

Law



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Within the context of the American justice system, the concept of Standard of Proof possesses unique importance. Referring to the level of proof required for a prosecution to fulfil its burden of proof obligation, it provides the guidelines for the determination of guilt/innocence in both civil and criminal law cases. Two of the three standards of proof, "preponderance of evidence" and "clear and convincing evidence" are limited in use to civil case. This is largely because they require only a low to medium level of proof for the establishment of guilt. As regards the third standard, "beyond reasonable doubt," it is primarily employed in criminal cases and requires a very high level of proof. Indeed, unlike the first two standards where the prosecution is only called upon to establish the greater likelihood of guilt than innocence, this standard maintains that a finding of guilt cannot be made unless the aforementioned has been established beyond all reasonable doubt. Having clarified the aforementioned, this essay will now proceed to discuss the said standards in greater detail, offering a more precise clarification of the distinctions between them, their uses and rationale. As earlier noted, there are two levels of proof within the context of the American justice system, with one of these being "preponderance of evidence." As explained by a number of legal scholars and researchers, this last constitutes the lowest level of standard of proof and, accordingly, is only applicable to civil cases. In further elaboration upon the aforementioned, Tapper (2004) notes that "preponderance of evidence" effectively refers to the presence of reasonable suspicion, rather than firm suspicion. In other words, preponderance of evidence implies that there could be sufficient evidence to support reasonable suspicion but hardly enough to confirm suspicion. For purposes of further clarification of the implications of the <https://assignbuster.com/standard-of-proof-in-criminal-law-cases/>

stated, *Terry v. Ohio*, 392 U. S. 1 (1968) emerges as quite informative. In this case the court found that as preponderance of evidence was a low standard of proof, search warrants issued on that basis should have a limited level of intrusiveness. The reason, as Tapper (2004) quite clear explains is that as a standard of proof, preponderance of evidence suggests that an infringement of the law could have taken place or might be underway but hardly allows for the determination of the stated. Accordingly, the limitation of the intrusiveness of search warrants issued on its basis is a concession to the inviolability of the civil rights and liberties of citizens or foreign residents. In direct comparison to the concept of "preponderance of evidence," "clear and convincing evidence" refers to a higher standard of proof. According to Tapper it is a "median" standard of proof, lying midway between the low level particular to "preponderance of evidence," and the uncompromisingly high level particular to "beyond all reasonable doubt." Within the context of the stated, it is best defined as an intermediate level of burden of proof and, accordingly, as with "preponderance of evidence," its use is confined to civil procedures and is excluded from criminal court cases. The rationale behind the stated emerges from the fact that "clear and convincing evidence" requires, as Clermont and Sherwill (2002) explain, the establishment of a greater likelihood of culpability than lack thereof. This means that the party upon whom the burden of proof rests is required to persuade the trier of fact of the greater likelihood of truth than of falsity. Within the context of the stated, the said party does not need to establish guilt beyond all reasonable doubt but, instead, has to establish that the matter which is being argued is more likely to be true than not.

As earlier noted, both standards of proof outlined in the preceding are

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primarily used in civil law cases and never, at least within the context of the American Justice System, criminal law cases. The reason, as evidenced in the foregoing explanations, is that within the criminal justice system, the establishment of guilt is more likely than not to be succeeded by sentencing which places severe and temporarily, possibly, permanently irrevocable constraints on a person's inherent right to freedom. Indeed, in some states and as pertains to certain types of crimes, the establishment of guilt can very well lead to the loss of life through the imposition of a capital punishment sentence (Tapper, 2004). Given the stated, it is neither in the interest of justice or fairness that defendants confront the possibility of the said consequences on the basis of either reasonable levels of suspicion or a greater likelihood of guilt than innocence. It is precisely because of the consequences of the establishment of guilt within criminal law that the use of both of the standards of proof discussed in the foregoing is confined to civil law cases.

Within the context of criminal cases and as influenced by the Constitution, a defendant can only be found guilty if the prosecution has established guilt beyond all reasonable doubt. As the court stated in *Winship* 397 US 358 (1970) the legal proposition that criminal defendants may be convicted only on proof beyond reasonable doubt is a factor in every criminal case in the United States; " it plays a vital role in the scheme of American procedure." The reasonable doubt rule allows for an interplay between the dictates of the law in the criminal justice system and the values and concerns that ordinary citizens bring to the decision-making process within that system. From within this perspective, the reasonable doubt rule serves to ensure that the decision of jurors, of ordinary citizens, is predicated on facts and evidences

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which have been established beyond doubt, rather than on subjective evaluations or prejudicial, possibly wholly unreasonable, assumptions (Patterson, 2005).

Proceeding from the above stated, it is important to emphasise, as does Patterson (2005), that criminal law has an obligation to provide courts, both judges and jurors, with guidance concerning determination of guilt in criminal cases. This particular standard of proof is that guidance and the framework it offers for deliberation and subsequent determination of the defendant's guilt, is whether or not the prosecution has presented evidence and argued the facts of his case in such a way that the court could arrive at a finding of guilty without there being any reasonable doubt regarding possible innocence (Patterson, 2005).

In further clarification of the beyond reasonable doubt standard, Bobbitt (1991) contends that an accurate comprehension of the proposition that a defendant may be convicted only upon proof beyond reasonable doubt extends beyond defining this standard of proof. Instead, understanding the implications of this standard entails an understanding of the operation of the criminal justice system, specifically the criminal trial. It involves an understanding of the fact that the inherent right to life, liberty and freedom enshrined in the constitution means that the law cannot transgress upon any of a citizen or resident foreigner's rights to the stated without their being constitutional and legal grounds for doing so. The constitutional and legal grounds which legitimize the stated are irrevocably tied to the defendant's having committed a criminal act. Added to that and given that there is an assumption of innocence, the proof of burden falls upon the prosecution and it is the prosecution who must convince the jurors that the defendant's guilt

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is unquestionable and not the responsibility of the defendant to prove his innocence. As may be surmised, therefore, the standard is high because guilt limits a citizen's otherwise inherent constitutional rights.

As may have been determined from the foregoing discussion, the distinction between the three standards of proof are rationalised by the fact that they are employed within different judicial context. The first two, which require low levels of proof, are confined in use to civil cases. The third, which constitutes the standard for the determination of criminal culpability, requires a very high level of proof. The rationale behind the stated lies in that guilt in criminal cases could lead to the imposition of limitations upon the defendant's constitutional rights, such as his right to freedom or life. Accordingly, before the imposition of such constraints/limitations, it is imperative that guilt be established beyond all reasonable doubt.

References

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