

What is the burden of proof for civil case and a criminal case

Law



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Introduction
There is a common saying that states that an accused offender is 'innocent until proven guilty'. This is the basic aspect in criminal law that is generally referred to as the burden of proof. Furthermore, it can be referred to as the duty that has been bestowed upon a given party to persuade the jury or the judge that the facts on its side of the story are true (Finkelman, 2006). The defendant is not required by law to prove that he is innocent owing to the fact that the burden of proof is the duty of the prosecution (Finkelman, 2006). It is important to note that the burden of proof is more in criminal litigation than in civil litigation. This is owing to the fact that the defendant stands to be jailed and lose other civil liberties in criminal cases.

Burden of Proof for a Criminal Case

Owing to the penalties that are associated to criminal cases, the prosecution is charged with the duty of more than proving that the defendant committed the crime in question, it must be beyond reasonable doubt (Finkelman, 2006). In other words, the evidence presented against an individual should be adequate that no rational person can question their guilt. In addition to proving the guilt of the accused, the prosecution is required to prove that there was intention to commit the crime. In instances where the prosecution does not satisfy both requirements, the accused cannot be convicted.

When dealing with a criminal case the burden of proof is on the state at all instances. It is upon the state to prove the defendant's guilt. On the other hand, the defendant is viewed to be innocent and has nothing to prove (Finkelman, 2006). However, there are exceptions in instances where the

defendant is under duress or self-defense and instances of insanity.

Furthermore, the state should establish that the defendant satisfied every stipulation in the appropriate definition of crime.

Burden of Proof for a Civil Case

In spite of the fact that the concept is mostly linked to criminal litigation, it is applicable to civil litigation that relates to personal injuries, contracts and property issues. The plaintiff is required to have sufficient evidence to back their accusations while on the contrary the defendant must prove these accusations to be wrong. In civil cases, the burden of proof is originally on the plaintiff. However, there are various technical cases whereby the burden of proof is transferred to the defendant. For example, in situations where the plaintiff has filed for a prima facie case, the burden of proof is transferred to the defendant (Finkelman, 2006). In civil cases, the plaintiff wins if the predominance of the evidence is on the plaintiff's side.

Example of a Case that is both Civil and Criminal

The best example of a case that was viewed to be both a criminal and civil case is the popular OJ Simpson murder case (Silberstein, 2003). He was found guilty of murdering his wife however, he was not liable of the crime.

Conclusion

From the above discussion it is clear that there are clear differences in the burden of proof between a criminal and a civil case. This is owing to the roles taken by the defendant and plaintiff in both as well as the consequences of the outcome in the cases. Finally, the burden of proof in criminal litigation is higher than civil litigation.

Reference

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