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SPECIFICITY OF THE SUBJECT OF PROOF AND CIRCUMSTANCES THAT MUST BE ESTABLISHED DURING CLOSING THE CASE CONCERNING THE ADMINISTRATIVE OFFENSE WHEN THE TERM OF THE ARTICLE 38 OF THE CODE OF UKRAINE ON ADMINISTRATIVE OFFENCES HAS EXPIRED

The article is devoted to the scientific research of a practical problem that lies in establishing by the court decision a person's guilt when the term of the Article 38 of the Code of Ukraine on Administrative Offences (CUaAO) is expired. The author analyzes judicial practice and law, searches for the correct legal position in dealing with this kind of cases, shows the specific subject of proof and circumstances that must be established.

The main content of the article explores three different directions of judicial practice regarding closure of the case based on the expiry of terms for imposition of administrative penalties. According to the first one, courts say that a person is guilty on the operative part of decision about closing a case. According to the second area of judicial practice, courts say that a person is guilty and study all circumstances only on motivation part of decision about closing a case. A third approach shows that courts do not assess

the evidence for making a decision (even on the motivating part) about a person's guilt or innocence, judges only describe the fact of the committed act that has signs of an administrative offense.

As a result the author gives reasonable scientific arguments to prove that the assessment of evidence by the court focused to person's guilty in committing of an administrative offense during taking a decision about closing a case based on the expiry of terms of the Article 38 of CUaAO, or even a hint on such guilt are unacceptable.

The author argues that it is properly to establish: 1) type of an act that has signs of an administrative offense and a term for imposition of an administrative penalty; 2) time when an offense was found; 3) period that expired since an offense was found to the time of considering a case. The results obtained were the basis for proposals to amend the current legislation. It provides grounds for further scientific research in this direction.