

The Role of Judicial Presumption in Criminal Evidence

Juma Abed Fayadh, Ministry of Higher Education and Scientific Research
/Dijlah University College/ Department of Law, Email:
lawyer_mja@yahoo.com

This study aimed to clarify the extent of authentic judicial presumption of criminal proof, and the authority limits of taking the presumptions as the evidence and determine the extent of authoritative judicial presumption in criminal prosecution. The study followed a descriptive approach through the literature review of theoretical and previous studies that addressed both the context of presumptions and evidence penal code, and the analytical method through the discussion of the authoritative context presumptions' proof penal legislation, and the comparative approach through the identification of the position of each several legislature proof presumptions. The results of the study showed that the judicial presumption is not sufficient alone as evidence that can be invoked in conviction or innocence but is indirect evidence that contributes to the strengthening of the sentence of conviction. The study recommended the importance of considering the crucial judicial case, which has a definite scientific basis such as genetic imprint, as crucial evidence in the judgment of conviction or innocence, in view of the fact that this presumption of scientific evidence is unquestionable in all cases.

Key words: *Authentic Judicial Presumption, Criminal Evidence*

1. Introduction

The issue of proof is one of the most important issues facing the judge. He performs the function of adjudicating disputes and achieving justice. The rules of evidence are generally intended to reveal the judicial truth embodied in the final appearance of the judgment rendered by the judge in the case before him (judicial truth). It is therefore said that judgment is the title and appearance of truth, but that judgment or judicial truth does not always coincide with the reality, which may create a danger to the stability of transactions and a waste of justice in society. It is therefore necessary to take care of the issue of proof, which is the only way to achieve congruence - or at least rapprochement - between real and

judicial realities, which in the end benefits the protection of the right itself from loss (Awad and Alattas, 2012). Evidence is the basic tool that the judge relies on to verify the facts and his authority in assessing evidence. The theory of proof is one of the most important legal theories in practical life (Alqudah, 2007). The legislator has adopted a system of mixed or conciliatory evidence, based on the impartiality of the positive judge, limiting the evidence at the same time, determining the value of each evidence and its effectiveness, and authorising the judge to determine the value of each judge. This principle provides the litigants with a measure of confidence and confidence, which on the other hand approximates the somewhat factual truth with the judicial truth in line with the aims of the doctrine of absolute proof, which combines the absolute proof and the restricted proof, takes from the system of absolute proof a measure of power which gives the judge an area of freedom in directing adversaries, and clarifying their facts without contradicting the judge's restriction of specific legal evidence and indicating the value of each of them (Sorour, 1994). The judicial role of the judiciary as one of the basic pillars on which the judge relies on reaching a fair ruling is not clear. In the event that it is not possible to obtain direct evidence of the incident in question, the judge must resort to judging in his/her mind by using the rules of reasoning and logic to identify the greatest number of such facts (truth and reality) (Alsamrout, 2007).

The researcher believes that evidence is one of the means of proof and the oldest and is one of the means of combating crime in modern times, especially after the development of methods of crime in an attempt to escape the grip of justice and impunity. The evidence has gained prominence as a result of scientific progress in the context of crime detection, and its importance for promoting evidence in the case, especially testimony and recognition, has been recognised as having a prominent role in the criminal intent. The problem of the study is evident in the statement of the role of the judicial presumption in the criminal evidence, where the judicial evidence relies on the judge's extraction and conviction, which in turn may create a problem in determining the extent to which the judge can rely on the wife or not. The role of the judiciary is that it is a logical development based on the principle of devising an unknown order is known, according to the judicial approach in extracting evidence. Accordingly, the problem of the study is summarised in the statement of the validity of the legal context in the criminal evidence. The importance of this study is that it deals with the validity of the legal context in the criminal evidence, which reflects the role of the judiciary as a means of proving the importance of this role played by the relationship in terms of its source and the nature of its role in the evidence and the strength of its evidence.

2. Materials and Methods

The study is based on the descriptive approach through reviewing the studies and references that dealt with both legal and criminal evidence. The study also relies on the analytical method by discussing the validity of the judicial evidence in the criminal evidence and

determining the position of some legislation on evidence. Jurisdiction: the judge's development of an unknown order is known, which is indirect evidence because it leads directly to what is intended to be proved, and results in the judge's assessment of a known fact to infer an unknown fact. Criminal evidence: is to establish evidence of the crime and its attribution to the accused, in order to reveal the truth in order to achieve justice, without evidence the crime cannot be proven, and the state cannot exercise its right to punishment. The importance of evidence in legal practice is evident when there is no clear and explicit evidence through which the claim can be proven or denied. The judge of the case is seeking direct and explicit evidence based on a reason for judgment. However, the legislator nevertheless gave the judge broad powers in the absence of direct and explicit evidence of a recourse to reach the truth as it facilitates the parties to the lawsuit to prove through them in the absence of evidence (Abdulrida and Alnkas, 2006). As Alsamrout (2007) states, the law's premise is that the legislator or judge of an unknown order is an indirect evidence because it leads directly to what is to be proved. It is also a conclusion derived by law or a judge's assessment of a known fact to infer an unknown fact. The types of evidence vary between legal evidence and judicial evidence, and the researcher will review the legal evidence in order to compare it and distinguish it from the legal context.

First: the legal clue

According to some jurisprudence (Nashat, 1972), the legal context is the legislator's creation of a situation on which there is no direct evidence of a fact that has been established. If it is proved that this fact is proven, the legislator is the one who devotes the legal basis (general abstract formula). It is the legislator who determines in advance that certain facts are always presumed on certain matters, and the judge may not see otherwise, and whenever such facts are proved, the judge must necessarily draw from them the determination of the law. The principle of the legal context is to prove the contrary in accordance with a basic principle of proof, that is, the freedom of defense, that is to deny evidence by evidence; this is because it is based on the notion of the most likely occurrence and decision in a general abstract form, and that, on the basis of that, legal evidence accepts evidence of the contrary, knowing that the legal evidence is divided into simple evidence that can be proven contrary, conclusive evidence cannot be undone, and the criterion of discrimination lies in the extent to which the text may prove the opposite (Nashat, 1972).

Second: the judicial clue

The judicial evidence has varied in many ways. It is not limited to any legislation, since it may be the fingerprint of the accused in the crime scene as evidence of his contribution to it, the appearance of sudden signs of wealth on someone as a presumption of embezzlement of money, and the use of a lethal weapon, The existence of intent to kill, as it may be based on the existence of a previous hostility between the offender and the victim, this is all evidence from the judge that the accused must be the perpetrator of the crime. The judicial

presumption is one that must be available in order to be a judicial presumption, namely, the physical element and the moral pillar. The material element is a fact or a fixed fact chosen by the judge from among the facts before him in the case he is considering. This incident or fact is called evidence or emirates. A number of characteristics are available in the physical corner of the judicial structure, as follows: (Alfadel, 1977)

- The evidence should be precise and clear so as to facilitate the process of development.
- The evidence must be certain by way of assertion and confirmation and cannot tolerate interpretation or controversy.
- There must be the known evidence and the unknown fact that are intended to prove the indications of the unknown fact.
- The evidence must be identical, consistent, non-contradictory and consistent with the same result.
- This evidence must be true, not misleading or fabricated, so that the extraction from them is in accordance with the truth.

The moral element of the judicial corpus is the internal psychological aspect of the offender's conduct, where judicial evidence is a component of the moral element and the court has the power to derive criminal intent (Khalid, 2007). The most important characteristics of the moral pillar in the legal context are:

- Logic: The mind has a certain way of linking meanings to each other, and the formation of a continuum of all the ideas of thought, conscience or will, and this mental connection is the logical connections between the issues of each other and move the mind after the arrival of any fact to him in the consideration of reasons, and search for results.
- Inference: Despite the multiplicity of facts that can be realised by the human being, there may be but few, and it is imperative to resort to the principle of reasoning so that he/she can identify the largest number of those facts surrounding it using mental speech. It is either direct or indirect; if it is direct, it is without resorting to a medium, through which it reaches the result of a certain introduction or introjections, and if indirect, it is either through extrapolation (Abdelsalam, 1970).

The judicial presumption as indirect evidence and an incontrovertible argument

The evidence of judicial evidence is not direct because it is not based on the legal fact, but on another related fact, so that the proof of the latter is evidence of the first occurrence. Since the indirect evidence is focused on another incident that is closely related to the case,

by proving this incident, the court is developing the incident to be proved, such as fingerprints and so on. The judicial presumption is indirect because it is a process of reasoning in which the judge uses reason and logic to extract unknown facts, from which he draws his conclusions in confirming the link between the facts learned and the consequences. However, what is proven by the judicial presumption is considered to be a transitive authority, that is, it is regarded as fixed without limiting its impact to the parties to the dispute, because the basis of this presumption is a fixed material fact which is verified by the judge personally and then based on it. The litigants are a guide to him/herself or a rightfully handed over to his opponent to harm others (Moustafa, 2001).

However, although it is an authoritative authority, it is considered authoritative and irrefutable. This gives the injured party the right to prove the contrary, which is consistent with the principle of granting the criminal judge the freedom to form his conviction with the other evidence before him in the case. It is the reality and this development sees different opinions and views; what is deduced allows the opponent always to prove what is contrary to what is stronger. In the opinion of the researcher that the legal evidence, although the evidence is accepted to the contrary from the legal point of view, in practice it may reach the force of the judge to derive from the matter is to prove conclusively, leaves no room for the possibility of reversal. The judge does not provide for the procedure of determination to form the evidence as evidence. Only after the accused has been able to prove the contrary by allowing him or her to prove that the presumption does not correspond to the factual nature of the case.

The legal presumption in both the objective and personal

The jurisprudential is concerned with the principle of realism, because the judge does not define the fixed incident and takes it as a basis for his argument only after following all possible practical methods of identification; so he summons the elements carefully, that is, it is only the judge's development of a specific situation in his hand. However, the judicial presumption is characterised by objectivity or personality. If it is based on fixed facts and on the development of others, it is regarded as an objective presumption, whereas it is considered a personal presumption if it is based on a status of a person, for example those with precedents or reparations with the victim. The researcher believes that what confirms the objective character of the judicial presumption is that it focuses on a fixed fact chosen by the judge from among the circumstances of the case and its prosecution, and this incident should be firmly established, that is, based on truthful facts. Otherwise there would be very dangerous consequences.

These facts are chosen by the judge or may be raised by the adversaries, including but not limited to finding the identity of the accused in a house where the victim's body was found. On the other hand, the judicial evidence - as it is derived by the judge from the facts of the case and its circumstances - is not limited, considering that these facts are varied and vary

from case to case; each case has its own circumstances, even if they are of the same kind. Therefore, it is not possible to limit the judicial evidence, since it is based on the development of the unknown case from a fixed case chosen by the judge from the circumstances of the case and its circumstances. This case chosen by the judge varies from one case to another. This feature makes it impossible to limit judicial evidence, contrary to what is prescribed for the legal evidence. Once the evidence has been proved that the presumption can change if the incident to which it relates is concluded, the presumption is not generally general and comprehensive, but the frequency of the elimination of a specific judicial presumption upon the availability of a given fact is acquired by virtue of that frequency; then it is transformed from judicial evidence into legal evidence, where the legislative text raises these facts of permanent significance to the status of the legal context, in the sense that it is circulated to all similar situations and regulates its legitimacy and draws its scope by a legislative text that determines the permanent significance of the judiciary. This is mostly in the legal evidence.

In the case of judicial evidence, the ruling is the rule of law, including the text of the decree to unify its significance (Al-Marsafawi, 1972). Since the presumption of judicial defense is characterised by positive evidence, namely, the possibility of the defendant to present the basic incident of the judicial evidence, as well as to derive from it, it is the accused who brings together the elements and advances to the judge to devise the incident to be derived from them. The judge then has the freedom to decide whether or not to prosecute the defendant. Also, the judge may take his own case by chance in the case. He may also take the presumption made by the investigating authorities. In practice, the evidence of the defense lies in the burden of presenting it and often proving it to the accused because he/she knows it from others, as valid; if proved, the burden of evidence to prove the accusation falls on the authority of the accusation (Rabie, 1999).

The authority of the criminal judge to assess the adequacy of the evidence for deriving

The authority of the criminal judge depends on assessing the adequacy of the evidence to draw on the mental effort of the judge to form his opinion in extracting the evidence from the fixed case to reach the unknown fact, and to reach the point of certainty and not to depart from the requirements of reason and logic. The process of extraction is an arduous task of the judge, using his/her wisdom in drawing the evidence. The event, or indication chosen by the judge, must be firmly established and be highly improbable, and the disclosure of the unknown fact should be one of these possibilities; but the most likely possibility is to detect the crime committed as the existence of the loot in the possession of a person. There is a link between the significance and the unknown fact, and the nature of this link is to allow the formation of the relationship, although the judge deals with this by determining what is the unknown to decide whether there is a relationship or not; if the unknown is the knowledge of the offender, the link required is the existence of the relationship between the third incident and the perpetrator as a perpetrator of the crime, for

example the presence of a fingerprint in the place of the crime requires the knowledge of the owner of this fingerprint and the search for the circumstances of its existence, as the matter here does not stop at the limit of knowledge of the owner of this footprint of the known fact. However, it is necessary to know the circumstances through which these indications were found. In the crime scene (Aljamal, 2003). however, the assessment of this evidence and the extent of its adequacy is the beginning of the officer of the judicial authority, and its assessment is subject to the supervision of the investigation authority and the court of the subject, which is to say that this evidence is insufficient, as is the evidence from which it derives.

The evidence that the judge may rely on is different depending on the circumstances of the case. Some of them need scientific and technical experiments to verify their validity, such as fingerprinting, and there is sufficient evidence of the judge's acumen and fidelity such as knowing the truth or falsehood of the witness, The offender and the victim, and the judge must make sure that these are facts, and that the evidence is correct and not fabricated with the intention of misleading because this will lead to wrong results (Alramadi, 2000). The judge must be convinced that his judgment is to the point of absolute certainty. The judgments are not based on suspicion or speculation, but on certainty. Therefore, suspicion must be interpreted in the interest of the accused. The validity of attributing the case to the accused in order to acquit him of innocence, this is due to what reassures him in estimating the evidence, as long as it is apparent from the ruling that he took the case for his vision and insight. The judge has no right to rely solely on the evidence, but merely to have doubts about the evidence of proof presented to him (Zebdah, 2001).

In the opinion of the researcher, this requires a distinction between the investigation and trial stages. At the investigative stage, the judge is not required to be fully convinced of the defendant's conviction, since the task of the investigating authority is not to judge him but to ascertain the adequacy of the evidence for the charge and therefore to refer the defendant or not. The evidence is sufficient to refer the defendant to trial before the court when it leads to a mere conviction of the person. At the trial stage, the sentence of conviction must be based on the full certainty of the exclusion of the presumption of innocence adhering to every person. The accused is acquitted until proven guilty. By virtue of the penalty based on sufficient evidence, and if the court doubts the defendant's conviction for any reason, he/she should tend to report his/her innocence based on the rule that doubt is interpreted in the interest of the accused. On the other hand, if the possibilities all lead to the conviction of the defendant, it is determined to go to the conviction on the basis of the possibility of one of them, and the original in the patent, until proven guilty, because the doubt is not valid to deny the origin of the patent which must be based on clear evidence, with certainty, because this cannot be made for proof of evidence, especially (oral) because certainty is achieved only in matters that have a physical adaptation analysis, statistics or numbering, and morals such as faith and justice.

The certainty of the judge is relative, that is, the adoption of the doctrine of the judge is not to doubt, and at the same time that the construction of this doctrine on the basis of the possibilities of a high degree of confidence does not shake or is not contradicted by another possibility (Abed, 1991)

The authority of the criminal judge to derive evidence:

The lesson in considering the legal presumption as indirect evidence is the basis on which the judge of the court of the subject decides the case, which he draws on himself, whether based on the inventor of the investigator or otherwise; the deduction is attributed to the judge of the subject only, whose role is to investigate and research and the realisation of thought and logic including the investigation being based on the actions, procedures and the findings of the facts which are attributed to the true owner, such as the role of the investigator to investigate the fingerprint of a person and his activity and search for the owner of this fingerprint and then is attributed to the real owner. The criminal offense in devolution begins with the beginning of the investigator's duties at the first stage of the collection of evidence and investigation; the subject judge is the one who scrutinises and checks the known facts so that he has the evidence. It is known that the judicial presumption is based on two elements: the first is the material (the known case) and the second is the moral (the judge's development). However, the legal context is not complete until the trial stage, when the case is brought before the judge of the court of law.

The process of development is in order to reveal the unknown incident (Awad and Alattas, 2012). The physical location of the judicial presumption, which is known to exist at the time of the commission of the crime or during the commission of the crime, such as the firefight or the distress of the victim during an attack on him/her, before the commission of the crime such as a previous threat or hostility, after committing the crime such as fleeing the accused and hiding the victim's body, or hiding the stolen money, the physical corner of the grave is the fact or facts known to begin from the first procedure of collecting evidence and investigating and searching for these facts for the purpose of access to the real offender, and does not prevent their appearance during the trial (Fodah, 2006). The authority of the criminal judge to verify this evidence is not absolute but limited; the judgment is reasonable and according to the usual sequence of matters, the judge must reconstruct the incident in his mind through mental perception, for example the effects of a person may indicate that he passed the scene. This is not enough to convict alone, but if the disorder begins to be answered when asked or confronted with things related to the crime and he/she contradicts his/her statements with the statements of witnesses, then the evidence begins with training until there is sufficient evidence to convict the accused. There is evidence that requires scientific, technical and practical tests to ascertain their validity, including those related to the accused, including the crime or the victim, such as finding a fingerprint, footprint or empty envelope in the place of commissioning. The evidence must not be subjected to a rigorous scientific examination to ensure that it is proved. It is sufficient for

the judge's understanding, expertise, and public information to make sure that such evidence is observed. Witness may lie by changing the features of his face or hesitation in his words, a judge may draw from the words of the accused or the victim of a relationship or earlier hostility between them, making the accused in the circle of suspicion and accusation, or it may draw the judge psychological motives accompanied the defendant to commit the crime (Alqudah, 2007).

Most modern criminal laws have given the criminal judge broad discretion in assessing and weighting other evidence in criminal evidence. Some Arab legislation, such as Iraqi legislation, has also taken the same approach based on the principle of freedom of conviction of the criminal judge based on this principle. This absolute power enables the judge to use all the ways that lead to the truth, and the criminal judge is free to deduce and estimate the evidence according to personal conviction in each case. The first and last word in the way of taking the evidence draws from the case before it and the circumstances of the basis on which to draw the evidence, that is, the process of development is at the heart of the work of the judge in which the power of perception, good application and responsibility (Alramadi, 2000). The researcher believes that the main reason for relying solely on the criminal judge's reasoning is that this is an application of the rules of the law itself, when the legislator states that the development of the judicial context is at the core of the judge's work alone, if the judge agrees with the deduction from his predecessors during the reasoning

There is no problem and this consensus is a confirmation that the deduction is true, but if the judge's divergence differs with the development of his/her predecessor, the judge here appreciates him/herself because he is dominant over the entire case; the conviction of the judge must be based on judicial certainty and not personal certainty. The following is not enough to convict only judge when configured his conviction Balgarinh, but he must convince other judges, public opinion and the opponents themselves. Where the principle of emotional conviction is one of the most important principles of the theory of evidence because it is consistent with the normal and logical thinking in ordinary life and in scientific research, where the judge based his conviction on evidence presented in the case; his authority is wide and absolute in the truth as dictated by conscience. To exclude any evidence which is not available, the judge's discretionary power is integrated in the weight and value of the evidence and he/she has complete freedom to coordinate the evidence before him/her and to draw from it a logical conclusion on which the accused can be relied upon.

The scientific importance of the judicial evidence

In view of the scientific development associated with the crime and the consequent use and exploitation of modern technology in the service of the purposes of the crime, it is necessary for the concerned to develop criminal research in the field of proving the criminal intent and legal description of the crime; here is the scientific importance of the clues in the search for

truth, where the use of modern scientific methods led to the multiplicity of methods of committing the crime, so that it emerged from the traditional form to the scientific crime used in the use of modern scientific means. This led to the inability of the competent authorities to establish evidence by means of traditional methods of proof; the offender has committed his crime without leaving any trace at the crime scene because of the development of his mind, taking advantage of technological development (Albahar, 1983). The scientific importance of the judicial corpus is illustrated by modern scientific methods, methods and devices that are handled by trained and expert hands that can be used optimally to detect the crime. The scientific methods have been divided into two parts. The first part is the scientific means used in the scene of ultraviolet radiation, and the chemical tests. The second part is the scientific methods applied in the criminal laboratories, including the methods used in the department of fingerprints and impressions; the methods used in the Department of Criminal Chemistry, the methods used in the analysis of toxins, the means used in the firearms section, and the effects of machinery, and scientific means in the criminal imaging department (Alramadi, 2000). The scientific importance of the judicial evidence is divided into recognition. Recognition of evidence may be deficient. The accused may confess himself falsely for various reasons, including the elimination of physical and moral coercion, and the accused may confess for a monetary reward.

With the evidence from each side, as a justification for alleviating it, the accused may admit falsehood, in order to seek the prison of a narrow living life or to rid the real actor by virtue of a link or solidarity with him; hence the scientific importance of judicial evidence in promoting the truthfulness of recognition in terms of reality, or to refute it to prove it's a lie. According to the logical view of the matter, the judge draws evidence to confirm the validity of the confession by invoking the aspects of coercion surrounding the accused and verifying the veracity of the statement, and examining it medically and psychologically, as the accused may claim that his/her statements before the investigating authority were the result of torture, and shows the effects of that to the judge, The judge shall send it to the competent physician to verify the validity of this claim (Najm, 1991). On the other hand, the scientific significance of the judicial evidence is evident in the testimony, since the rule in the penal articles is that the evidence is evidence of the fact that it is based on transient facts that suddenly occur and are not preceded by compromise or agreement. Here, the scientific significance of the evidence in the field of evaluating the certificate and its acceptance in proof, there may be several factors that affect the sincerity of the certificate or its lie. There are social factors. There are personal factors that concern the abilities of the mental witness, and therefore affect the testimony, including the creation of the witness, and the extent of its vulnerability to inspiration or weakness; the testimony as evidence may have a lot of shortcomings, and here comes the role of judicial evidence in support of the testimony evidence, and confirms the truth and conformity with the truth. Therefore, judicial evidence plays a significant role in verifying the veracity of the witness through the manner of the performance. For the testimony, and the change in the features of his face, this requires rudeness and acumen to ascertain the validity of the certificate (Rabie, 1999). Therefore, the

researcher believes that the legal evidence plays an important role in determining the validity of the testimony itself in that it is focused on the incident constituting the criminal behaviour; people are unequal in terms of degrees of perception of the senses of things and reality, so the judge should stand on the validity of the testimony through arbitration, his mind, the study of the witness's personality, the knowledge of the circumstances of the crime, and the nature and place of his detailed and precise investigation, as this helps him to uncover much of the evidence that refutes or supports witness testimony.

Jurisdiction of judicial evidence in scientific evidence

Scientific progress contributed to the development of crime methods and applications. Scientific progress has also contributed to serving the purposes of justice. Modern technology has been harnessed for the purpose of proving the crime scientifically through the outputs of the technical process that contribute to substantiating the evidence of the defendant through fingerprints, for example, they are the protruding outline lines and the low lines adjacent to them in the hands that leave their character when touching surfaces and objects, especially smooth ones such as glossy paper, smooth metals, and glass. They may be visible to the naked eye, hidden so that they cannot be seen with the naked eye, can be detected with chemicals, or white powder is placed on top of the glass and it is fingerprinted. However, the owner has committed the crime and is presumed to be in the place of the commission of the crime. The judge must examine the circumstances of the presence of fingerprints and the owner of the fingerprints must prove that his presence was for a legitimate reason (Abed, 1991). The fingerprint is a strong proof of identity and identification, but it is an irrefutable evidence that the fingerprint may be in the crime scene by chance, or even may be found before or after the offense, and may thus be presumed to permit a suspect to be interrogated. In the case of DNA, these are the genes that show every human being with a sample and vary in composition from person to person and cannot match (Alsherbini, 2005).

Modern medical experiments have shown that every human being has a genetic imprint that is unique to him/her and cannot be matched with any other fingerprint, so it called "fingerprint" to indicate the confirmation of the identity of the person from the DNA sample carried by the heredity of his parents, each person carrying in his genetic cell 46 chromosomes, inherits half 23 chromosomes from his father by sperm, and the other half, which is 23 chromosome inherited from his mother by the egg and each one of these chromosomes, which is a nucleic acid genes known as DNA, a person inherits them from his father and his mother, thereby creating its own chromosomes (Hilaly, 2000). DNA from the modern scientific methods is used in the detection of crime in order to arrive at the reality of the crime committed, the means of proof in order to reduce the chances of miscarriage of justice and dye evidence in scientific form, and multiple areas of use of DNA. The use of this method is assigned to the investigation and prosecution authorities, and no other party has the right to determine this according to those responsible for reaching the truth of the

crime and the means of its perpetration (Al-Kaabi, 2006).

The criminal judge is obliged to investigate and search for the truth in all ways, whether stipulated by law or not, pursuant to the rule of freedom of evidence in criminal matters, and the judge may resort to legitimate or recognised methods of science (Ghanem, 2004). It is also not permissible to resort to this method to detect crimes that can be used in other ways to detect them. Traditional methods are inexpensive, unlike DNA, or the crime is, by nature, compatible with the use of DNA (Alabodi, 2005). Accordingly, since the DNA is merely the expertise of the forensic expert and expresses its opinion on a fact to be disclosed, and moreover, the errors that may be present in the DNA during biological analysis, the DNA is subject to the judgment of the Court and its authority to extract the facts and estimate evidence of the suit before it (Aljamal, 2003). On the other hand, in addition to fingerprinting, there are the effects of firearms used to commit crimes, showing the practical importance of detecting the effects of firearms in determining the direction and launch angle, determining the launch distance in an approximate manner, determining the launch time and identifying the person using the weapon, the offender or the victim, and the type of weapon used in the crime (Edwar, 1992). In conclusion, criminal evidence is one of the most important subjects of criminal proceedings, and all proceedings have the primary purpose of establishing the truth or the facts that have occurred. Under the criminal evidence, the innocence or punishment of the accused is achieved because his objective is to establish evidence for truth in order to achieve justice. The practicality of making jurisprudence gives greater importance to the evidence than the other elements of evidence, in the field of criminal evidence, because of the special nature of criminal cases.

3. Results and Discussion

- The judicial presumption is not sufficient alone as evidence that can be invoked in conviction or innocence but is indirect evidence that contributes to the strengthening of the sentence of conviction.
- There is a limit to the freedom of the criminal judge in the formation of his faith, where the judge has the freedom to rest his conscience to the truth of a witness or lie as long as it bears witness to the fact.
- The essence of the evidence of conviction is its sole power to resolve the case. The relationship between the crime committed and a specific person to whom it is committed must be valid until it is fully convinced, and its acceptance is indeed in accordance with reason and logic.
- The judge is based on his conviction of evidence, and it is not sufficient that the basis of the conviction be a procedure of inference.
- The importance of considering the crucial judicial case, which has a definite scientific basis such as genetic imprint, is a crucial evidence in the judgment of conviction or innocence, in view of the fact that this presumption of scientific

evidence is unquestionable in all cases.

- The need to grant the criminal judge full freedom to assess the evidence without any exceptions, as there are shortcomings regarding these exceptions.
- The necessity of specialisation of the criminal judge in the field of his work, in view of the advantages of accuracy, knowledge and awareness of the limits of his competence, and his scientific qualification to inform the methods and systems of evidence in other branches of law.

4. Conclusion

If the judge wants to make a judgment based on evidence, the evidence must be identical, consistent, inconsistent and concordant. There is no direct inference in the judicial presumption, and reliance is made on extrapolation to reach an appropriate judgment; a fingerprint is sufficient evidence of conviction in a number of cases. The genetic fingerprint should be considered a definitive evidence of conviction as it is not doubtful and scientifically proven. It is logical that the judge does not proceed with the procedure of extrapolation and the adoption of the presumption as evidence, only after enabling the accused to prove the opposite, by allowing him to assess the evidence that the probability based on the significance of the presumption does not match the reality of the case. The evidences that the judge may rely on varies according to the circumstances of the case. Some of them need to do scientific and technical experiments to verify their validity, such as a thumbprint and a genetic fingerprint, and on the other hand there is enough evidence to involve the judge's acumen, such as recognising the honesty or the lying of a witness.



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