

PEOPLE OF THE PHILIPPINES, PLAINTIFF-APPELLEE, VS. RUDY NUYOK, ACCUSED-APPELLANT.*G.R. No. 195424. June 15, 2015*

Ponente: BERSAMIN, J.

Read online (full-text search, related cases, audio case brief): <https://batas.org/library/g-r-no-195424/>**BERSAMIN, J.:**

Rape can be committed in a cramped dwelling despite the probable presence of other occupants because seclusion is not an element of the crime. Its commission can be established by circumstantial evidence even if the victim, being the sole witness, was rendered unconscious during its commission.

Antecedents

AAA,[1] having been born on May 5, 1992 to the Spouses ABC and DEF as evidenced by her certificate of live birth,[2] was 13 years old when the accused committed the rapes in June, July, August and September of 2005. At the time, she resided in the house of her grandmother, BBB, in Babac, Poblacion, Malalag, Davao del Sur. The accused, her paternal uncle, also lived in the same house.[3]

At 9:00 o'clock in the evening of June 25, 2005, as AAA was about to sleep, the accused laid down beside her. Sensing fear, she tried to escape, but he pulled her by the hair, slapped her, and punched her in the stomach, rendering her unconscious. Upon regaining consciousness, she noticed that her sando was already raised up to her neck, and her panties had blood. She felt pain in her vagina. She saw the accused putting on his pants. He warned her not to reveal the incident to anyone, threatening to kill her and her family if she did so. Despite her fear she related the incident to BBB and her elder sister CCC, but her report fell on deaf ears.[4] He raped her again in July 2005. On that occasion, she was sleeping in BBB's house when he crept up to her side, pulled her hair, took off her panties, laid on top of her and inserted his penis into her. She resisted, and tried to kick him away but missed. He overpowered her and succeeded in gratifying his lust.[5]

The accused committed the third rape in August 2005. On that occasion, he punched AAA in the stomach and in the forehead, and then had carnal knowledge of her. AAA again told BBB and CCC about the rape immediately afterwards, but BBB and CCC did not do anything except to promise to AAA that they would be more wary of him from then on. On her part, AAA just waited for them to help her, but that help never came.[6] The fourth rape took place one evening in September 2005. The accused roused AAA from sleep and threatened her with a scythe. He removed her shorts and panties, and had carnal knowledge of her.[7]

AAA finally reported the four rapes to her mother, ABC, in October 2005. ABC immediately brought AAA back to Maasin in Sarangani Province, where ABC lived. Upon learning of AAA being moved to Maasin, the accused strongly opposed on the pretext that her transfer would affect her schooling.[8] Nonetheless, AAA moved to Maasin, where Ann Sari, an official of Barangay Lumatin, aided her in bringing rape charges against the accused. AAA related her ordeal to the police authorities of Malalag,[9] and met with the personnel of the Department of Social Welfare and Development (DSWD).[10] She executed a sworn statement against her uncle.[11]

On October 24, 2005, AAA submitted to a medical examination by Dr. Jaileen D. Milar, the Municipal Health Doctor in Maasin, Sarangani Province. The medical examination showed: (a) healed laceration of AAA's hymen at the 5:00 to 7:00 o'clock positions; (b) AAA's vagina admitting two fingers with ease; and (c) her being in a non-virgin state physically.[12]

At the trial, the Prosecution presented AAA, ABC, and Dr. Millar.

In his defense, the accused and BBB, his mother, testified. He denied having raped AAA, and imputed ill motives to ABC, insisting that ABC had wanted to get back at him after he had told his brother DEF, AAA's father and ABC's husband, that he had caught ABC with a paramour. He stated that upon learning about ABC's affair, DEF had a fight with ABC; that ABC had in turn confronted the accused, and attacked him in the presence of FFF, his sister, and DEF; that the house where they lived measured eight feet wide and 12 feet long, and had an extended balcony; that the house was made of wood and had only one room; that his nephews and nieces (i.e., AAA, CCC, DDD and EEE) all slept in the same room, while he and BBB slept in the balcony; that there was never any instance when he and AAA had been left alone in the house; and that FFF lived nearby.[13]

BBB admitted that the accused and AAA lived with her in the same house, but denied leaving her house for any number of days as to leave the accused and AAA alone; and that AAA's older sister, CCC, and the latter's children also lived in the same house.[14]

Decision of the RTC

In its decision rendered on October 31, 2008,[15] the Regional Trial Court (RTC), Branch 18, in Digos City, Davao del Sur, found and pronounced the accused guilty of four counts of rape, disposing thusly:

WHEREFORE, premises considered, this court finds accused Rudy Nuyok GUILTY beyond reasonable doubt for four (4) counts of rape and hereby sentences him to suffer the penalty of reclusion perpetua for each and every charge of rape presently lodged against him. Accused Nuyok is likewise sentenced to pay civil indemnity to the private complainant AAA in the total amount of THREE HUNDRED THOUSAND PESOS (P300,000.00) considering that private complainant was 13 years old when the crime was committed against her and she was the niece of the accused and clearly they are relatives within the third degree.

SO ORDERED.[16]

Judgment of the CA

On October 5, 2010,[17] the Court of Appeals (CA) promulgated its judgment affirming the convictions subject to modifications, viz:

WHEREFORE, the appeal is DENIED. The assailed Decision is AFFIRMED with MODIFICATION. The private offended party is awarded P50,000.00 (as civil indemnity) and P50,000.00 (as moral damages), for each count of rape.

SO ORDERED.[18]

Issues

In this appeal, the accused contends that:

I.

THE COURT A QUO GRAVELY ERRED IN CONVICTING ACCUSED-APPELLANT DESPITE THE FAILURE OF THE PROSECUTION TO PROVE HIS GUILT BEYOND REASONABLE DOUBT.

II.

THE COURT A QUO GRAVELY ERRED IN APPRECIATING THE MINORITY OF THE OFFENDED PARTY WHEN THE SAME WAS NOT INDICATED IN THE INFORMATION.

Ruling

The appeal lacks merit because we do not find or see any reason to reverse or modify the findings of the RTC, which the CA affirmed.

In almost all cases of sexual abuse, the credibility of the victim's testimony is crucial because more often than not, only the persons involved can testify as to its occurrence. Whenever the question arises as to which of the conflicting versions of the Prosecution and the Defense is worthier of belief, therefore, the assessment by the trial court is generally given respect, if not finality. The assigning of values to the declarations of witnesses is best and most competently performed by the trial judge who has the unique and unmatched opportunity to observe the demeanor of witnesses and assess their credibility.

We follow the same path herein.

To start with, the accused claims that the RTC erred in finding him guilty of rape despite the fatal defects of the informations, arguing that three of the informations (Criminal Case No. FC-32-06, Criminal Case No. FC-33-06, and Criminal Case No. FC-34-06) having only stated "in July 2005," "in August 2005" and "in September 2005," respectively, did not specify the dates of commission of the rapes. He asserts that such failure to specify the definite dates affected the veracity of the allegations therein, as well as the credibility of AAA as the victim.

The argument of the accused is unwarranted.

In criminal cases, where the life and liberty of the accused is at stake, due process requires that the accused be informed of the nature and cause of the accusation against him; hence, any accused not clearly charged in the complaint or information for the offense could not be convicted of it, for to convict him so would be to violate his constitutional right.^[19] In view of his innocence being presumed, he should likewise be presumed not to know anything about the crime he was being charged of committing. The information must then aver the facts and circumstances bearing on the culpability and liability of the accused so that he can properly prepare for and undertake his defense. However, it is not necessary for the information to allege the date and time of the commission of the crime with exactitude unless such date and time are essential ingredients of the offenses charged.

The failure to specify the exact date or time when the rapes were committed did not ipso facto render the informations defective. Neither the date nor the time of the commission of rape is a material ingredient of the crime, for the essence of the crime is carnal knowledge of a female against her will through force or intimidation. Precision as to the time when the rape is committed has no bearing on its commission. Consequently, the date or the time of the commission of the rape need not be stated in the complaint or information with absolute accuracy, for it is sufficient that the complaint or information states that the crime was committed at any time as near as possible to the date of its actual commission.^[20]

Secondly, the Prosecution successfully proved beyond reasonable doubt the charges of rape against the accused.

Article 266-A of the Revised Penal Code states:

Article 266-A - Rape, When and How Committed- Rape is committed—

- 1.) By a man who shall have carnal knowledge of a woman under any of the following circumstances:
 - a. Through force, threat, or intimidation;

- b. When the offended party is deprived of reason or is otherwise unconscious;
 - c. By means of fraudulent machination of grave abuse of authority;
 - d. When the offended party is under twelve years of age or is demented, even though none of the circumstances above be present;
- 2) By any person who, under any of the circumstances mentioned in paragraph 1 hereof, shall commit an act of sexual assault by inserting his penis into another's mouth, or anal orifice of any instrument of object into the genital or anal orifice of another person. (RA 8353 which took effect on October 22, 1997).

AAA positively identified the accused as her rapist. Her account of his crimes was candid, and her demeanor revealing. She could not control herself but cried in the course of her testimony whenever she was made to recall her traumatic experiences at his hands. Moreover, her recollections about the four rapes were corroborated by the medical findings of Dr. Milar, who identified the Medico Legal Report of AAA, thusly:

PROS. CABARDO:

Q:

In your examination of the victim, what is your finding with respect to the hymen of said AAA?

A:

There is healed laceration at 5 to 7 o'clock position.

Q:

Is this consistent with the victim of rape cases?

A:

I cannot say it is rape. But the findings suggest that there was a previous penetration.

Q:

How about the internal examination you conducted, what is your finding with respect to that?

A:

The internal examination of the patient shows that the vagina admits two fingers.

Q:

What is the impression when the vagina admits two fingers?

A:

The patient has previous penetration.[21]

The testimony of a rape victim that is consistent with the medical findings constitutes sufficient basis to conclude that carnal knowledge occurred.[22] As a result, the accused can be convicted solely on the testimony of the victim for as long as such testimony is credible, convincing, and consistent with human nature and the normal course of things.[23]

Thirdly, the accused asserts that the State did not establish the carnal knowledge on June 25, 2005; and that the trial court simply assumed its occurrence. He bases his assertion on AAA testifying that she was rendered unconscious at the time of that rape, and that all that she noticed upon regaining consciousness was that her sando

was already on her neck and her panties had blood.

The assertion of the accused is unwarranted.

Despite the lack of testimony on how the accused had carnal knowledge of his victim on June 25, 2005, his guilt was nonetheless shown beyond reasonable doubt. A conviction for rape may rest on direct as well as circumstantial evidence. Thus, an accused like him can be declared guilty of rape even if the sole witness against him was the victim who had been rendered unconscious at the time of the consummation of carnal knowledge provided sufficient circumstantial evidence existed showing that the victim was violated, and that it was the accused and no other who had committed the violation.[24] To disallow such showing is to obstruct the successful prosecution of a rapist who renders his victim unconscious before the consummation.

Circumstantial evidence, also known as indirect or presumptive evidence,[25] consists of proof of collateral facts and circumstances from which the existence of the main fact may be inferred according to reason and common experience. It is sufficient to sustain a conviction if: (a) there is more than one circumstance; (b) the facts from which the inferences were derived have been established; and (c) the combination of all circumstances is such as to warrant a finding of guilt beyond reasonable doubt.[26] All the circumstances must be consistent with each other, consistent with the hypothesis that the accused is guilty and at the same time inconsistent with the hypothesis that he is innocent, and with every other rational hypothesis except that of guilt.[27] In other words, a judgment of conviction based on circumstantial evidence can be sustained when the circumstances proved form an unbroken chain that results in a fair and reasonable conclusion pointing to the accused, to the exclusion of all others, as the perpetrator.[28]

The Prosecution successfully established the following facts and circumstances that, when taken together, very well constituted evidence of the accused's guilt beyond reasonable doubt, to wit: (a) he and AAA lived in the same house; (b) while AAA was sleeping at 9:00 o'clock in the evening of June 25, 2005 in the same house, he crawled up and laid down beside her; (c) AAA tried to escape; (d) he then pulled AAA's hair, slapped her and punched her in the stomach; (e) AAA was rendered unconscious; (f) when AAA regained consciousness, she found blood in her panties, and her sando was already raised up to her neck; (g) AAA felt pain in her vagina; (h) AAA saw him in the act of putting on his pants; (i) he threatened to kill AAA if she would reveal the incident to anyone else; and (J) AAA sustained hymenal laceration. These circumstances, coupled with AAA's positive testimony that was corroborated by the examining physician's physical findings on her, lead to the inescapable conclusion that he raped AAA against her will on that occasion.

Fourthly, the accused contends that AAA gave self-serving testimonies; and that she really had no proof of his having raped her.

The contention of the accused fails scrutiny.

The RTC found sufficient circumstantial evidence to prove the guilt of the accused. Being the trial court, it was in the best and unique position to pass upon and assess the credibility of the witnesses and of their testimonies by virtue of its direct opportunity to observe the witnesses first hand and to note their demeanor, conduct, and attitude under rigorous examination that were significant in evaluating their sincerity as witnesses and determining the credibility of their testimonies. Considering that the RTC's findings were adopted by the CA, the Court is now bound by such findings unless the accused or the record turns up compelling reasons to disregard the findings,[29] like their being unnatural, or improbable, or devoid of evidentiary support. Yet, no such reasons were advanced by him, or turned up on the record.

Almost always, the victim's credibility assumes primordial consideration. Her testimony passes the test of

credibility if it is convincing and consistent with human nature and the normal course of things or events, and unflawed by any material or significant inconsistency. The accused may be convicted solely on the basis of her lone testimony.[30] To reiterate, both the RTC and the CA unanimously found AAA's testimony as credible. Thus, the Court must not depart from their unanimous findings.

The accused attacks AAA's credibility as doubtful because: (a) BBB and AAA's elder sister did not do anything even after having been told about the rape; (b) AAA allowed herself to be vulnerable to the subsequent rapes by continuing to live in the same house where he also lived; (c) the house had other occupants; (d) the victim's mother harbored a grudge against him for exposing her with infidelity, resulting in the mother's initiating the trumped-up rape charges against him.

The attack against AAA's credibility is untenable.

The lack of response on the part of BBB and the victim's elder sister and the fact that AAA continued to live in the same house where the accused lived did not diminish the veracity or reliability of AAA's incriminating testimony. It was obvious that AAA did not leave her grandmother's house because she did not have money or other means to live elsewhere. Also, she was forced to submit to his lewdness out of fear that he would harm her and her family. Being a minor and under the immediate care of her grandmother, who was also his mother, she could not just leave her care to go elsewhere for safety. A youthful victim of serial rapes like her could not be expected to think and act like a composed adult victim.[31] At any rate, we have no standard of behavior for all rape victims in the aftermath of their defilement, for people react differently to emotional stress.[32] Some may exhibit signs of stress, while others may act nonchalantly. We are assured of the untenability of his attack because, in the end, she did not hesitate to denounce his crimes against her once her own mother had arrived at the grandmother's home.

The presence of others as occupants in the same house where the accused and AAA lived did not necessarily deter him from committing the rapes. The crowded situation in any small house would sometimes be held to minimize the opportunity for committing rape, but it has been shown repeatedly by experience that many instances of rape were committed not in seclusion but in very public circumstances. Cramped spaces of habitation have not halted the criminal from imposing himself on the weaker victim, for privacy is not a hallmark of the crime of rape. Based on the manner by which AAA described his commission of the rapes, the accused really made sure that the likelihood of the other occupants seeing him when he raped his victim would be minimal. In that respect, his boldness to commit his crimes in the midst of other occupants, if any of them was then really around, should not prejudice the victim finally denouncing his crimes in order to ensure justice for herself and her honor.

The accused insinuates that the accusation for rape was impelled by the ill-motives of AAA's mother. We reject the insinuation, for the records do not disclose anything about AAA being a mere instrument of her mother's vengefulness against him. He had the burden to prove his insinuation, but he did not discharge such burden by simply claiming that her mother had such malice towards him. His insinuation is also improbable in light of the tendency of the accusation for very serious crimes against him exposing all of them to public ridicule and humiliation considering their close relationship as members of the same family.[33] Lastly, no mother would subject her child to the humiliation, disgrace, and trauma attendant to the prosecution for rape if she were not motivated solely by the desire to have the person responsible for her child's defilement incarcerated.[34]

Although the minority under 18 years of AAA at the time of the rapes, and the fact that the accused was her paternal uncle were established during the trial, the RTC nonetheless correctly convicted him only of four counts of simple rape instead of qualified rape because the special qualifying circumstance of minority was not alleged in the informations. The circumstances of minority of the victim and her relationship to the offender must concur to

qualify the crime of rape,[35] but only her relationship to the accused was alleged and proved. The trial court was precluded from considering the attendance of such qualifying or aggravating circumstances in the judgment because of the failure to properly allege them.[36] This conforms to Section 8 and Section 9, Rule 110 of the Rules of Court, to wit:

Section 8. Designation of the offense. — The complaint or information shall state the designation of the offense given by the statute, aver the acts or omissions constituting the offense, and specify its qualifying and aggravating circumstances. If there is no designation of the offense, reference shall be made to the section or subsection of the statute punishing it.

Section 9. Cause of the accusation. — The acts or omissions complained of as constituting the offense and the qualifying and aggravating circumstances must be stated in ordinary and concise language and not necessarily in the language used in the statute but in terms sufficient to enable a person of common understanding to know what offense is being charged as well as its qualifying and aggravating circumstances for the court to pronounce judgment.

Anent the civil liability, the CA ordered the accused to pay to AAA civil indemnity of P50,000.00 and moral damages of P50,000.00 for each count of rape.[37] Civil indemnity is mandatory upon the finding of the fact of rape, while moral damages are proper without need of proof other than the fact of rape by virtue of the undeniable moral suffering of AAA due to the rape. The amounts awarded are all in accord with prevailing jurisprudence.[38] However, the Court should award to AAA exemplary damages of P30,000.00 for each count of rape on account of the attendance of the circumstances of minority and relationship despite such circumstances not being considered in raising the criminal liability. Under Article 2230 of the Civil Code, exemplary damages may be granted if at least one aggravating circumstance attended the commission of the crime, which circumstance need not be specifically alleged in the information. It did not matter that the aggravating circumstance is a qualifying or attendant circumstance like minority and relationship. As the Court has said in *People v. Catubig*:[39]

The term "aggravating circumstances" used by the Civil Code, the law not having specified otherwise, is to be understood in its broad or generic sense. The commission of an offense has a two-pronged effect, one on the public as it breaches the social order and the other upon the private victim as it causes personal sufferings, each of which is addressed by, respectively, the prescription of heavier punishment for the accused and by an award of additional damages to the victim. The increase of the penalty or a shift to a graver felony underscores the exacerbation of the offense by the attendance of aggravating circumstances, whether ordinary or qualifying, in its commission. Unlike the criminal liability which is basically a State concern, the award of damages, however, is likewise, if not primarily, intended for the offended party who suffers thereby. It would make little sense for an award of exemplary damages to be due the private offended party when the aggravating circumstance is ordinary but to be withheld when it is qualifying. Withal, the ordinary or qualifying nature of an aggravating circumstance is a distinction that should only be of consequence to the criminal, rather than to the civil, liability of the offender. In fine, relative to the civil aspect of the case, an aggravating circumstance, whether ordinary or qualifying, should entitle the offended party to an award of exemplary damages within the unbridled meaning of Article 2230 of the Civil Code.[40]

In addition, the accused is liable to pay interest at the legal rate of 6% per annum on all the monetary awards for damages from the date of the finality of this decision until the awards are fully paid.

WHEREFORE, the Court AFFIRMS the decision promulgated on October 5, 2010 subject to the MODIFICATIONS that: (a) exemplary damages of P30,000.00 shall further be awarded for each count of rape; (b) all the items of civil liability shall earn interest of 6% per annum from the finality of this decision until fully paid; and (c) the accused shall pay the costs of suit.

SO ORDERED.

Sereno, C.J., Leonardo-De Castro, Perez, and Perlas-Bernabe, JJ., concur.

[1] The real names of the victim and of the members of her immediate family are withheld pursuant to Republic Act No. 7610 (Special Protection of Children Against Child Abuse, Exploitation and Discrimination Act), and Republic Act No. 9262 (Anti-Violence Against Women and Their Children Act of 2004). See *People v. Cabalquinto*, G.R. No. 167693, September 19, 2006, 502 SCRA 419.

[2] *Rollo*, pp. 5-6.

[3] *Id.* at 6.

[4] *Id.*

[5] *Id.*

[6] *Id.* at 6-7.

[7] *Id.* at 7.

[8] *Id.*

[9] *Id.* at 153

[10] *Id.* at 7.

[11] *Id.* at 153.

[12] *Id.* at 7.

[13] *CA rollo*, p. 40.

[14] *Id.*

[15] *Id.* at 35-42.

[16] *Id.* at 42.

[17] *Rollo*, pp. 3-23; penned by Associate Justice Nina G. Antonio-Valenzuela, with the concurrence of Associate Justice Edgardo A. Camello and Associate Justice Leoncia R. Dimagiba.

[18] *Id.* at 23.

[19] *People v. Umawid*, G.R. No. 208719, June 09, 2014, citing *Burgos v. Sandiganbayan*, G.R. No. 123144, October 15, 2003, 413 SCRA 385, 392.

[20] Section 11, Rule 110 of the Rules of Court provides:

Sec. 11. Date of commission of the offense. - It is not necessary to state in the complaint or information the precise date the offense was committed except when it is a material ingredient of the offense. The offense may be alleged to have been committed on a date as near as possible to the actual date of its commission.

[21] *TSN* dated December 4, 2006, pp. 6-7.

[22] *People v. Hilarion*, G.R. No. 201105, November 25, 2013, 710 SCRA 562, 565.

- [23] *People v. Linsie*, G.R. No. 199494, November 27, 2013, 711 SCRA 124, 135.
- [24] *See Diega v. Court of Appeals*, G.R. No. 173510, March 15, 2010, 615 SCRA 399, 407.
- [25] *People v. Pabol*, G.R. No. 187084, October 12, 2009, 603 SCRA 523, 530.
- [26] *Atienza v. People*, G.R. No. 188694, February 12, 2014, 716 SCRA 84, 98.
- [27] *People v. Casingal*, G.R. No. 87163, March 29, 1995, 243 SCRA 37, 44.
- [28] *Supra* note 24.
- [29] *People v. Colorado*, G.R. No. 200792, November 14, 2012, 685 SCRA 660, 669.
- [30] *People v. Manigo*, G.R. No. 1946 12, January 27, 2014, 714 SCRA 551, 553-554.
- [31] *See People v. Barcelá*, G.R. No. 208760, April 23, 2014.
- [32] *People v. Lomaque*, G.R. No. 189297, June 5, 2013, 697 SCRA 383, 400.
- [33] *See People v. Teczon*, G.R. No. 174098, September 12, 2008, 565 SCRA 182, 190.
- [34] *People v. Malibiran*, G.R. No. 173471, March 17, 2009, 581 SCRA 665, 667.
- [35] *People v. Malana*, G.R. No. 185716, September 29, 2010, 631 SCRA 676, 695.
- [36] *People v. Bragat*, G.R. No. 134490, September 4, 2001, 364 SCRA 425, 437.
- [37] *Rollo*, p. 152.
- [38] *People v. Dioquino*, G.R. No. 191390, April 2, 2014.
- [39] G.R. No. 137842, August 23, 2001, 363 SCRA 621.
- [40] *Id.* at 635.

ABOUT BATAS.ORG

Study smarter at BATAS.org

The Philippine bar review and law-school companion built around how your brain actually remembers.

The complete Philippine law library - free for everyone.

More than 100,000 Supreme Court decisions, Republic Acts, and executive issuances - full-text searchable, browsable by category and year, and always free. No paywall, no login. This PDF came from it.

Audio case-brief lectures.

Any decision becomes a podcast-style lecture - facts, issues, ruling, and doctrine - with read-along highlighting and a hands-free presentation mode. Study while commuting, working out, or resting your eyes.

Bar review built on the science of memory.

Complete, sequenced courses for all eight bar subjects, narrated like podcasts and reinforced with retrieval practice and spaced review - the study techniques with the strongest evidence behind them.

The full law-school curriculum.

One subscription unlocks the entire J.D. curriculum - every subject, every lesson, with your progress tracked down to the paragraph so you can pick up exactly where you left off, on any device.

Mock exams that tell you where you stand.

Timed multiple-choice exams graded instantly, with per-subject score breakdowns and focus suggestions that point you at your weakest topics first.

A study planner that keeps you on pace.

Set your schedule and BATAS tells you every day whether you are on track for bar day - and exactly which lesson to take next.

Start free at <https://batas.org>

The law library is free forever - and your first lesson is one click away.

The text of this document is an official public record and remains in the public domain. Formatting, presentation, and compilation © 2026 batas.org.

Downloaded free from the batas.org Law Library. Share it freely - the library is free for every law student, bar reviewee, and practitioner.