PWA v Republic (Criminal Appeal E123 of 2021)
[2023] KEHC 23022 (KLR) (28 September 2023) (Judgment)

Neutral citation: [2023] KEHC 23022 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT BUNGOMA

CRIMINAL APPEAL E123 OF 2021

REA OUGO, J

SEPTEMBER 28, 2023

BETWEEN

PWA ..... APPELLANT

AND

REPUBLIC ..... RESPONDENT

(Being an Appeal from the judgment of A.A Odawo, Senior Resident Magistrate at Bungoma Delivered on 7th December 2021, Criminal Case No. 46 of 2019 on Conviction and Sentence)

JUDGMENT

1. The appellant herein was charged with defilement of a child contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act* No 3 of 2006. The particulars of the offence are that on April 17, 2019 at [particulars withheld] location in Bungoma County, the appellant intentionally and unlawfully caused his penis to penetrate the vagina of M.N.W a child aged 13 years. The appellant also faced an alternative count to the main one, of an indecent act with a child contrary to section 11(1) of the *Sexual Offences Act* No 3 of 2006.

2. The appellant pleaded not guilty to the charges before the trial court and a full trial was conducted. The prosecution called five (5) witnesses.

3. This being a first appeal, it is the duty of this to reconsider, re-evaluate and reanalyse the evidence afresh and come to its own conclusion bearing in mind that the trial court had the advantage of seeing the witnesses as they testified and give due allowance for that. (See *Okeno v Republic* [1972] E A 32.)

4. MWN (Pw1) testified that she was a class seven student at and her parents were TNR and PWR. Pw1 knew the appellant as he was her father's brother and she referred to him as "baba". She clarified that the appellants grandfather and her grandfather were brothers. On April 17, 2019 she left home and went towards the river to get water. As she was walking, she saw the appellant standing by the sugarcane near the road. The appellant called her over to give her Kshs 5 to purchase cooking oil for mboga

(vegetables). Pw1 went to take the Kshs 5 from him whereupon the appellant grabbed her hand, refused to let go and dragged her towards the sugarcane. He told her that if she cried, he would stab her with a knife. She did not see the knife. They entered the sugar plantation and the appellant slept on her. She was shaking and crying as he removed her underwear and pulled her clothes up. The appellant was wearing his clothes so he unzipped his trouser while he held her down and slept on her. He took his 'sehemu' and inserted it. He did not take off his trousers entirely; only up to his 'sehemu' which he used to urinate and is found between his legs. In Bukusu it is called 'mafunga' while in Kiswahili it is called 'sehemu ya kukojolea'. He held his 'sehemu ya kukojolea' and inserted it in her 'sehemu ya kukojolea' and when he finished, he instructed her to wake up. She was still crying and shaking but the appellant continued to do things to her. He told her to stand but she refused. The appellant the forced her to stand straight and he inserted the Kshs 5 coin in the placed she used for urinating. He told her that if she told her father what had happened, 'nitakua nimeondoka kwa ugali'. He told her not to tell anyone. Pw1 testified that she could not walk but the appellant pushed her to leave the plantation. She wanted to scream but the appellant held her mouth. She walked with difficulty and went back home. He mother was still at the farm, so there was nobody home. When her mother returned, she asked why she was sleeping and she told her she had a headache.

5. Pw1 recalled that the following day she went for coaching at Madam Josephine but she felt pain in her stomach and started itching uncontrollably. Madam Josephine took a motorcycle and went to the hospital. Both her parents were at the hospital when she arrived but she did not know what was going on. She went back home with her parents. On 28th she told her mother that her neck and legs were aching. However, at night she told her mother the pain was ebbing away. On 8th May she went to Madam Josephine and started itching again. Madam Josephine put her on a motorcycle and took her to Mechimeru Hospital. Her parents were at the hospital as well. The doctor asked her why urine was coming out and she said someone had raped her. The doctor informed her parents that she had been raped and referred them to Bungoma.At Bungoma Hospital she told the doctor what happened. They also went to the police station to report the incident. On cross-examination, she testified that she was born in 2007.

6. TNR (Pw2) testified that she is a farmer and the appellant is her husband's in-law. On April 18, 2019 she went to the shamba, her husband told her that they had to go to the Hospital. They found Pw1 who could not hold her urine. She waited outside and her husband accompanied the child. When they were done, her husband told her that the child had been raped by a person known to her and were referred to Bungoma. Upon arrival at Bungoma, Pw1 told her that the appellant is the one who raped her when she was on her way to the river. She testified that before they went to Bungoma, the appellant met her at the hospital gate and asked if she was unwell. Pw2 told him that the child was unwell. Pw2 testified that she did not inform her husband that his brother was the perpetrator as she feared that her husband would hurt the appellant.Pw1 was referred to Eldoret for a scan and Philip took her. They went to Bungoma Police to report the matter but were directed to go to Nzoia Police Station. Pw2 was given and P3 form and age assessment form and instructed to fill them and return to the police. She went to Bungoma District Hospital to the lab where Pw1 was examined. The doctor made a prepared an age assessment report and filled the P3 form. On cross examination she testified that Pw1 was born in 2009. She approximated the distance from their home to the plantation as 50 meters.

7. PWR (Pw3) testified that he was a mason, the appellant was his cousin and Pw2 his wife. Pw1 who was his child was 13 years old. On April 18, 2019 he received a call from Mrs Kombe and she informed him that Pw1 was unwell and they were at Mechimeru Hospital. He went to the hospital and found the appellant with Pw1 and Pw2. He testified that he took Pw1 to Eldoret for a scan but results were not explained. On May 14, 2019 the appellant confessed that he defiled Pw1 and that he would pay

expenses related to her treatment. Pw3, the appellant, Rael Nasambu and Sarah Nanjala all signed the agreement. He testified that they never had any disagreements since birth.

8. Pw4 Alex Masinde, a clinical Officer testified that he had been working at Bungoma Referral Hospital since 2019. It was alleged that Pw1 had been defiled by a person known to her on April 17, 2019 at 3:00 pm. He requested for tests. Urine analysis showed no sperms given the duration Pw1 took before she saw him, vaginal swab was negative, there was presence of epithelial cells and some foists in the vagina, there were no sperms, hymen was missing and pregnancy test was negative. Dental review showed that she was thirteen (13) years old. On the P3 form the approximate age of injury was 2 weeks and probable type of weapon was a penis. Pw1 did psychological treatment and the degree of injury was grievous harm. He concluded that there was history of sexual intercourse and the missing hymen with the presence of epithelial cells confirmed it as defilement. During Cross examination he testified that there was no foreign object in the vagina and tests did not show that Pw1 contracted any STD. In section C of the p3 form No 2 he noted that there foul smell as per vaginal discharge and requested for a lab test but the results did not tally with the foul smell.

9. Sergeant Alice Nafula No 81544 (Pw5) testified that she was stationed at Matundu Police Station, but was previously at Nzoia Police station and was the investigating officer herein. The complainant alleged that she had been defiled by the appellant and a report was made a month later. The complainant was issued with a P3 form which was duly filled by BCRH. She recorded the witness statement and charged the appellant. The appellant was brought by members of the public to the police station. Age assessment was done and the minor was 13 years.

10. The appellant was put on his defence and he called upon three witnesses.

11. The appellant testified as Dw1. OnMay 15, 2019 he was working at home when he was called upon to go and assist in carrying maize at some house. He went and assisted. He said that people were gathered there and they slapped him and told him to sign the form or be thrown in the river. He was forced to sign. He was then taken to the police station and then to court. On cross-examination he denied defiling the complainant but testified that they are neighbors. He testified that he had a boundary dispute with his cousin but there was no case lodged.

12. Dw2, Hassan Baraza testified that he was in the jua kali industry who made bricks and was from Mechimeru. On 5th and May 6, 2019, he took the appellant from his house at 7:00 am, they made bricks the whole day and he went back home in the evening. On May 7, 2019 he travelled to Garissa to burn charcoal and when he returned, he didn't find the appellant. He was told that he had been arrested for defiling a girl but he hadn't seen him do that. Dw3, Alfred Wabwire, testified that on May 15, 2019 he went to the market and found the appellant kneeling down with people surrounding him. The appellant asked for his help and he tried to help him but he was stopped by the crowd.

13. After reviewing the evidence, the trial court convicted the appellant of the main charge and sentenced him to 20 years imprisonment. The appellant being dissatisfied with the conviction and sentence, filed a petition of appeal on December 17, 2021on the following grounds:

    1. That the appellant plead not guilty to the said offences.

    2. That, the trial magistrate erred in law and fact in convincing the appellant on contradictory evidence which was inconsistent and uncorroborated by the witnesses.

    3. That, the appellant was denied his fundamental rights as per the bill of rights article 25 of the *Constitution* of Kenya 2010.

    4. That the case against the appellant was not proved beyond reasonable doubt.

5. That the trial magistrate acted with bias and favored the prosecution side.

6. That the trial magistrate erred in law and fact by rejecting alibi defence adduced by the appellant during defence.

14. He urges the court to quash the conviction and set aside the sentence or any other measure that the court may deem just.

15. The appeal was canvassed by way of written submissions and parties have filed their rival submissions.

The Appellant's Submissions

16. The appellant identified the following in his submissions:

i. Whether the prosecution failed to discharge the burden of proof to the required standard to warrant the conviction; and

ii. Whether the appellant's right to fair trial was violated and /or denied by the trial court.

17. On the first issue, the appellant submitted that the prosecution failed to discharge the burden of proof to the required standard to warrant a conviction, that is, identification, age and penetration. In an offence of this nature, the age of the victim determines the nature of offence and consequences that flow from it; hence the matter of age must be proved beyond reasonable doubt. The testimonies of Pw1, Pw2, Pw3 and Pw4 were inconsistent and contradicting.

18. Pw1 testified that she was 13 years at the time of the offence but during cross-examination testified that she was born in 2007. Pw2 testified that the complainant was born in 2009 and Pw4 according the age assessment testified that the complainant was 13 years old. In *Eliud Waweru Wambui v Republic* (2019) eKLR Cr App No 102 of 2016 the court held that the age of the victim is an essential ingredient of the offence of defilement because the prescribed sentence is dependent on the age of the victim. He also relied in the case of *Alfayo Gombe Okello v Republic* Cr App No 2013 of 2009 where the court held that age is an ingredient which needs to be proved beyond reasonable doubt.

19. The appellant submitted on the second issue that the appellants right to fair trial enshrined under article 50 of the *Constitution* was violated, the product being unjust determination. The appellant mid trial sought the services of a new advocate on who came on record on March 24, 2021. The advocate made an application for de novo hearing so that a fair hearing to be achieved and for the appellant to prepare for the defence. The application was denied prompting the advocate to withdraw his services rendering the defendant unrepresented at a crucial stage of his case. His right to legal representation and to have adequate time and facilities to prepare his defence well to adduce and challenge evidence was violated denying him a fair trial.

20. The appellant further submitted that the trial court by disallowing the application to start de novo ignored the essence of provisions of section 200 of the *Criminal Procedure Code* which is to protect the right of the accused (appellant) to a fair trial enshrined in article 50 of the *Constitution* since the trial magistrate would have gotten an opportunity to study the demeanor of all parties giving evidence and aided her into carrying out a just trial process of the matters in dispute. In addition, the court made an erroneous conviction by stating that the accused was charged under section 8(2) of the *Sexual Offences Act* No 3 of 2006 as opposed to section 8(3) of the said Act.

21. The appellant submitted that it is unconstitutional for a court of law to be bound to issue mandatory sentencing. He relied on *Edwin Wachira & 9 others v Republic* constitutional petition No 97 of 2021

where the court declared the provisions of sections 8(2) (3) (4), 11(1), 20 (1) and 3) (3) of the *Sexual Offences Act* of 2006 are unconstitutional as far as they interfere with the court's discretion.

Respondent's Submissions

22. The appellant submitted that the appellant had two main points in his submissions. That the prosecution did not prove the case to the requisite standard of proof and that his rights were violated. On the first point he argues that the age of the complainant was not properly proven thereby all the ingredients of the offence were not satisfied and that the age determines the nature of the offence. This reasoning is misplaced because sexual contact with a minor regardless of age amounts to defilement. Age is only important in sentencing. The argument of the appellant is that the complainant was between 10-13 years but this means that she was a minor. The complainant testified that she was 13 years and this was confirmed by the assessment report. In *Daniel Maina Wambugu v Republic* (2018) eKLR the court held that the prosecution ought to prove the age of the child by either direct testimony of the parent, guardian or victim herself, birth certificate, medical age assessment or by other expert means to finally establish age. There was no error in establishing whether the victim was a minor.

23. The respondent also submits that section 200 of the *Criminal Procedure Code* is not mandatory. What is mandatory is for the appellant to be informed of the right to recall witnesses if he so wishes. In *Joseph Kamau Gichiki v Republic* (2013) eKLR and *Republic v Stephen Kiago Wangari* the courts laid down the factors that the court ought to consider before ordering a matter to start a fresh. This provision of the law should be used sparingly. The appellant did not suffer any prejudice by failure to start the matter a fresh as he was legally represented throughout the trial and when his advocate withdrew his services he consented to proceed without an advocate. The trial court had a duty to ensure that the rights of the victim were protected. It would not have been in the best interest of the child to have her testify again and go through the traumatic experience. The appellant is requesting the court to review an order that was not illegal or erroneous in any way or form. The right to fair trial was not violated in any way or form and as such the ground should fail.

24. The respondent submitted that the sentence for defilement of as per the *Sexual Offences Act* was 20 years imprisonment and his sentence was therefore lawful. They urge this court not to interfere with the discretion of the trial court since the conviction and sentence were proper in law.

Analysis and Determination

25. The issue raised in the appeal is whether the prosecution proved its case beyond reasonable doubt. The prosecution was required to establish the age of the victim, penetration and that the appellant was the person responsible for the offence.

26. The appellant argued that the prosecution evidence was marred with contradictions. He pointed out that the evidence of Pw1, Pw2, Pw3 and Pw4 did not give a clear picture on the age of the child. The trial magistrate found that the child was 13 years according to dental assessment and that this evidence was corroborated by the testimony of Pw1 and Pw2. Pw1 testified that she is 13 years old during the voire dire but on cross examination she testified that she was born in 2007, making her 12 years old at the time of the offence. The mother, Pw2 testified that Pw1 was born in 2009 and that would make her 10 years old at the time of the offence. The Court of Appeal in *Jackson Mwanzia Musembi v Republic*

[2017] eKLR quoted with approval its earlier decision in *Evans Wamalwa Simiyu v R* [2016] eKLR and held that:

> " Consequently, where actual age of a minor is not known, proof of his/her apparent age is sufficient under the *Sexual Offences Act*. Faced with a similar situation, as in this case, this court in *Evans Wamalwa Simiyu v R* [2016] eKLR, observed that –
>
> "As to whether the appellant's age fell within 12 and 15 years of age, the evidence was rather obscure. Although the complainant testified that her age was twelve years, she did not explain the source of this information. The complainant's mother did not offer any useful evidence in this regard as she did not say anything about the complainant's age. This leaves only the evidence of Dr Mayende who indicated at Part C of the P3 form that the estimated age of the complainant was 12 years. We have anxiously considered the purport of this evidence since the Doctor does not appear to have carried out a specific scientific age assessment. Nevertheless we do note that under part C of the P3 form the age required is estimated age and under the Children's Act "age" where actual age is not known means apparent age. This means that in the doctors opinion the apparent age of the complainant from his observation was 12 years. Thus, although the actual age of the minor complainant was not established, the apparent age was established as 12 years."
>
> Having taken the foregoing in mind, it is our considered view, that the minor's apparent age was proved by the P3 form."

27. The holding in *Evans Wamalwa Simiyu v R* [2016] eKLR can be distinguished from the facts of this case as the actual age of the child was established. According to the evidence on record age assessment form established the age of the child as 13 years. The P3 form also approximated the minor's age to be 13 years. Although the evidence of Pw1 and Pw2 was not clear on the age of the child, I find that there was conclusive evidence from the age assessment report and P3 form that the child was below the age of 18 years and more specifically 13 years at the time the offence was committed.

28. The appellant also argued that he was denied fair hearing on account of the court failing to allow the matter to start de novo. The right to recall witnesses or to commence a case de novo is provided under section 200 (3) and (4) of the *Criminal Procedure Code*:

> 200 (3) Where a succeeding magistrate commences the hearing of proceedings and part of the evidence has been recorded by his predecessor, the accused person may demand that any witness be re-summoned and reheard and the succeeding magistrate shall inform the accused person of that right
>
> (4) Where an accused person is convicted upon evidence that was not wholly recorded by the convicting magistrate, the High Court may, if it is of the opinion that the accused person was materially prejudiced thereby, set aside the conviction and may order a new trial.

29. The matter was first heard by Hon S.W Githogori and Hon A. Odawo took over the matter on November 16, 2020 after 4 witness had testified. She immediately complied with section 200 of the *Criminal Procedure Code* by reading the provisions to the appellant. The Court of Appeal in *Joseph Kamara Maro v Republic* [2014] eKLR stated:

> " Our summation of the above is that the appellant was informed of his rights under section 200(3) of the Criminal Procedure Code every time a new Magistrate came on board. The position in law is that a trial magistrate taking over a case that is partly heard is mandatorily

> obligated to inform an accused person of his right to recall witnesses. After an accused person has been informed of his right, he/she may elect to have the witnesses recalled. What happens thereafter is for the court to decide depending on the availability of witnesses, the length the trial had taken, because if it has taken too long, chances are that some witnesses may have left the jurisdiction of the court as was the case here or some may even have died. To this extent we are in agreement with the learned judges of the High Court that "this provision does not oblige the succeeding magistrate to start de novo" but what is mandatory is to inform an accused of his right under section 200(3) of the Criminal Procedure Code."

30. Interestingly, in this case the appellant elected to proceed with the matter in the presence of his counsel. However, later on March 24, 2021 the appellant engaged new counsel who sought to have the matter start de novo on grounds that she was not the advocate when the other prosecution witnesses testified. However, the essence of section 200(3) of the *Criminal Procedure Code* is to ensure that the judicial officer who makes a decision in a criminal trial has had the opportunity of hearing and seeing witnesses testify so as to be in a position to assess the demeanor of the witnesses for himself or herself (see *Republic v Arnold Ouma Munyekenye* [2018] eKLR). At the time the new counsel for the appellant raised the issue, section 200 of the *Criminal Procedure Code* had been complied with and the appellant elected that he was proceeding with the case from where it had reached. The appellant has therefore failed to demonstrate how his right to fair trial was violated.

31. On identification, it was not in dispute that the appellant was related to the child. Pw3 testified that the appellant was his cousin. Pw1 and Pw2 also testified that they knew the appellant and his home was not far from the home of the complainant. Pw1 also testified that the incident took place at 3:00 p.m. when there was sufficient light and she positively identified the appellant as the perpetrator.

32. There was evidence of penetration from the testimonies of Pw1, Pw2, and Pw4. Pw1 testified as follows:

> " He removed only my underwear and pulled my clothes up. He was wearing clothes (sic) he unzipped his trouser while he was holding me down and he slept on me. He took his 'sehemu' and inserted it. The trouser he did not remove it. It only reached his 'sehemu' which he used to urinate. It is found on his cloth in between his legs. It is called Mafunga in Bukusu in Kiswahili its 'sehemu ya kukojolea'. He held it and inserted it 'kwa sehemu yangu ya kukojolea'...when he finished, he told me to wake up. I was crying and shaking."

33. Pw2 testified that while at the hospital, the child told her that it was the appellant that had defiled her. The clinical officer, after examining Pw1 concluded that the child had been defiled as her hymen was missing. The trial court found that the prosecution had proved penetration through the testimony of Pw1 which was corroborated by the evidence of Pw4. She further observed that the lack of spermatozoa in the child' urine did not discount the fact that the minor had been defiled. I therefore find no reason to fault the judgment of the trial magistrate.

34. The appellant's defence was merely on his arrests and that of his witnesses too. The prosecution case was proved beyond reasonable doubt.

35. The appellant was charged with defilement of a child contrary to section 8(1) as read with section 8(3) of the *Sexual Offences Act* No 3 of 2006 and the evidence support that the child was 13 years. The trial court however convicted the appellant based on section 8(1) as read with section 8(2) of the *Sexual Offences Act* No 3 of 2006. Having found that the prosecution proved beyond reasonable doubt all the ingredients of defilement, the appellant was guilty of the offence of defilement contrary section 8(1) as read with section 8(3) of the *Sexual Offences Act* No 3 of 2006. Section 8 (3) of the *Sexual Offences Act*

provides that a person who commits an offence of defilement with a child between the age of twelve and fifteen years is liable upon conviction to imprisonment for a term of not less than twenty years. The appellant challenged the sentence of the trial magistrate and relied on the case of *Edwin Wachira & 9 others v Republic* constitutional petition No 97 of 2021 where the court held as follows:

a. A declaration be and is hereby issued that sentencing remains a discretionary power, exercisable by the court and involves the deliberation of the appropriate sentence. To the extent that the provisions of sections 8(2), (3), (4), 11(1), 20(1) and 3(3) of the *Sexual Offences Act* deprive the court the discretion to determine the appropriate punishment taking into account the individual circumstances of each case, then the said provisions offend the notion of a fair trial contemplated under article 50(1) of *the Constitution*.

b. A declaration be and is hereby issued that to the extent that the citizen in a given case of mandatory/minimum sentence has a right to put in a plea in mitigation to show that the imposition of the mandatory minimum sentence is not warranted in his case, then sections 8(2), (3), (4), 11(1), 20(1) and 3(3) of the *Sexual Offences Act* deprive an accused person the right to mitigate which is a core component of a fair trial contemplated under article 50(1) of *the Constitution*.

36. The Court of Appeal sitting at Kisumu inCriminal Appeal No 166 of 2016, *Cyrus Kavai Onzere v Republic* made the following observations on mandatory sentences:

23. The narrow holding in *Muruatetu* 1 was that the mandatory death sentence for murder prescribed by section 204 of the Penal Code is unconstitutional because it impermissibly stripped the sentencing court of the discretion to determine the appropriate sentence as a function of the crime committed; the individual circumstances of the offender and the environment; and the impact on the victims and society. This narrow holding is sometimes called the descriptive ratio decidendi of the case. The rare case on the same facts must be decided in exactly the same way.

24. The broad holding in *Muruatetu 1* was that that the mandatory death penalty is "out of sync with the progressive bill of rights" in Kenya's 2010 Constitution (para. 64) and an affront to the rule of law. The court also relied on global death penalty jurisprudence to find the mandatory death sentence "harsh, unjust and unfair" (para. 48). This broad holding is sometimes described as the prescriptive ratio decidendi of the precedent. The supreme court's prescriptive ratio decidendi is based on the constitutional impermissibility of the legislature denying a sentencing court the discretion to impose a sentence commensurate with the crime, the circumstances and the offender; the structure of our bill of rights – and, in particular, articles 28 and 50 of the *Constitution*; and the emerging norms of global norms of common decency discoverable from comparative law.

...

31. As Odunga J, (as he then was) and Mativo J. (as he then was) have made clear in *Maingi & 5 Others v Director of Public Prosecutions & Another* (Petition E017 of 2021) [2022] KEHC 13118 (KLR) and *Edwin Wachira & 9 others v Republic* consolidated with petition No88 and 90 of 2021, respectively, the broader reasoning in *Muruatetu 1* can be used analogously to find other parts of the Penal Code or other penal statutes unconstitutional for impermissibly abridging the discretion of judicial officers sitting as sentencing courts to take into consideration the individual circumstances of the offence, offender and victim in prescribing an appropriate sentence. However, such a case has to be properly pleaded and be placed before the court or preserved for appeal in the case of an appellate court such as ours.

37. The appellant is asking the court to consider the decision of Mativo J in *Edwin Wachira & 9 others v Republic* consolidated with petition No88 and 90 of 2021 and the analogous application of Muruatetu 1. The appellant in his sentence hearing sought a lenient sentence on account that he had one child. The prosecution also established that he was first offender. Although, the trial magistrate in her ruling stated that she had considered the appellant's mitigation and the fact that he was a first offender she still sentenced him to 20 years which sentence in view of the above decision was excessive. Having considered the appellant's mitigation and the fact that he was a first offender, a 15year sentence would be most appropriate.

38. In the end, I set aside the sentence of 20 years imprisonment and substitute it with a sentence of 15 years in prison. The appellant has a right of appeal within 14 days.

DATED, SIGNED AND DELIVERED AT BUNGOMA THIS 28TH DAY OF SEPTEMBER 2023.

R.E. OUGO

JUDGE

In the presence of:

Mr. Wekesa for the Appellant

Patrick Wanjala Amisi/ Appellant- Present

Mr. Ayekha- For the Respondent

Wilkister/ Okwaro C/A