Okudo v Republic (Criminal Appeal E001 of 2022)
[2023] KEHC 22873 (KLR) (25 September 2023) (Judgment)

Neutral citation: [2023] KEHC 22873 (KLR)

REPUBLIC OF KENYA

IN THE HIGH COURT AT VIHIGA

CRIMINAL APPEAL E001 OF 2022

JN KAMAU, J

SEPTEMBER 25, 2023

BETWEEN

SAMMY OMUGA OKUDO ..... APPELLANT

AND

REPUBLIC ..... RESPONDENT

(Being an Appeal from the Judgment of Hon M. Ochieng (PM) delivered at Hamisi in Principal Magistrate's Court in SO Case No 50 of 2019 on 17th December 2021)

JUDGMENT

Introduction

1. The Appellant herein was charged with the offence of sexual assault contrary to Section 5(1)(a)(i)(2) of the *Sexual Offences Act* No 3 of 2007. He had also been charged with an alternative offence of committing an indecent act with a child contrary to Section 11(1) of the *Sexual Offences Act*. He was tried and convicted on the main charge by the Learned Trial Magistrate, Hon M. Ochieng, Principal Magistrate who sentenced him to ten (10) years imprisonment.

2. Being dissatisfied with the said Judgement, on 17th January 2021, the Appellant lodged the Appeal herein. His Petition of Appeal was of even date. He set out twelve (12) grounds of appeal.

3. His Written Submissions were dated 19th September 2022 and filed on 21st September 2022 while those of the Respondent were dated and filed on 15th December 2022. The Judgment herein is based on the said Written Submissions which both parties relied upon in their entirety.

Legal Analysis

4. It is settled law that the duty of a first appellate court is to evaluate afresh the evidence adduced before the trial court in order to arrive at its own independent conclusion but bearing in mind that it neither saw nor heard the witnesses testify.

5. This was aptly stated in the case of Selle & Another vs Associated Motor Boat Co Ltd & Others [1968] EA 123 where the court therein held that the appellate court was not bound by the findings of fact of the trial court but that in re-considering and re-evaluating the evidence so as to draw its own conclusions, it always had to bear in mind that it neither saw nor heard the witnesses testify and thus make due allowance in that respect.

6. Having looked at the Appellant's Grounds of Appeal, his Written Submissions and those of the Respondent, it appeared to this court that the issues that had been placed before it for determination were as follows:-

    a. Whether or not the Charge Sheet was defective;

    b. Whether or not the Appellant's right to fair trial was infringed upon;

    c. Whether or not the Prosecution proved its case beyond reasonable doubt; and

    d. Whether or not in the circumstances of this case, the sentence that was meted upon the Appellant by the Trial Court was lawful and/or warranted.

7. The court dealt with the said issues under the following distinct and separate heads.

I. Charge Sheet

8. Grounds of Appeal Nos (8), (9), (10) and (11) of the Petition of Appeal were dealt with under this head as they were all related.

9. The Appellant pointed out that he was charged under Section 5(1)(a)(i)(2) of the *Sexual Offences Act* of 2007 which rendered the Charge defective and non-curable under Article 159(2)(d)of *the Constitution* of Kenya, 2010. He was emphatic he was charged under a non-existent Section and Act. He averred that he pleaded to the defective Charge at a time he was not represented by counsel contrary to Article 50 (2) (h) of *the Constitution* of Kenya, which guarantees an accused person a fair hearing under Article 50 of *the Constitution* of Kenya.

10. He further argued the error in the Section that he was charged with could not be taken lightly as everything stemmed from the law that an accused person was charged with.

11. He contended that he could not have objected to the Charge earlier as envisaged in Section 382 of the Criminal Procedure Code as he was unrepresented. It was his submission that he only got legal representation after he was found to have had a case to answer and put on his defence. He added that Section 382 of the Criminal Procedure Code was not a panacea of all errors as the Trial Court held. It therefore invited this court to make its own findings and draw its own conclusions.

12. On its part, the Respondent conceded that the Act under which the Appellant was charged with was 2006 and not 2007. It urged this court to consider the same as a typographical error that could be cured by Article 159(2)(d) of *the Constitution* of Kenya.

13. It was emphatic that the Trial Court correctly noted that Section 382 of the Criminal Procedure Code was meant to cure such irregularities where prejudice to the accused person was not discernible. In this

regard, it placed reliance on the case of Leonard Kipkemoi vs Republic [2017] eKLR where it was held that the test of whether or not a charge sheet was defective was if the offence was known to law and if it disclosed the offence so that the accused person could understand the ingredients of the offence he or she had been charged with.

14. This court perused the record and found that the Charge Sheet indicated the offence as having been sexual assault contrary to Section 5(1)(a)(i) (2) of the *Sexual Offences Act* No 3 of 2007. This was erroneous as the charge ought to have been sexual assault contrary to Section 5(1)(a)(i) as read with Section 5(2) of the *Sexual Offences Act* No 3 of 2006.

15. In the case of JMA vs Republic (2009) KLR 671, it was held that it was not in all cases where a defect in the charge was detected on appeal would render a conviction invalid because Section 382 of the Criminal Procedure Code was meant to cure such an irregularity where prejudice to the appellant was not discernible.

16. The applicable test by an appellate court when determining the existence of a defective charge and its effect on an appellants' conviction was whether or not the conviction based on the alleged defective charge occasioned a miscarriage of justice resulting in great prejudice to the appellant.

17. A typographical defect was therefore curable under Section 382 of the Criminal Procedure Code Cap 75 (Laws of Kenya) which provides that:-

> "Subject to the provisions hereinbefore contained, no finding, sentence or order passed by a court of competent jurisdiction shall be reversed or altered on appeal or revision on account of an error, omission or irregularity in the complaint, summons, warrant, charge, proclamation, order, judgment or other proceedings before or during the trial or in any inquiry or other proceedings under this Code, unless the error, omission or irregularity has occasioned a failure of justice."

18. The above statutory curative position was also envisaged in Section 214 (2) of Criminal Procedure Code which stipulates that:-

> "Variance between the charge and the evidence adduced in support of it with respect to the time at which the alleged offence was committed is not material and the charge need not be amended for the variance if it is proved that the proceedings were in fact instituted within the time (if any) limited by law for the institution thereof."

19. Notably, under Article 159(2)(d) of *the Constitution* of Kenya, courts have been mandated to administer justice without undue regard to procedural technicalities. In determining whether or not the Appellant herein was prejudiced by the Charge Sheet as was drawn, this court looked at the facts as had been set out in therein.

20. The facts to which the Appellant pleaded to were as follows:-

> "On the 12th day of October 2019 at around 1800 hours at Serem trading Centre, Shamakhokho Location in Hamisi Sub-County within Vihiga County, unlawfully used his fingers to penetrate the vagina of AN, a girl aged 15 years."

21. The Charge Sheet contained all the necessary information to inform him of the offence that he had been charged in a language that he understood, Kiswahili, to which he pleaded "Not guilty" whereupon the case proceeded to full trial. He could not be said to have been prejudiced as he denied the charge. The position would have been different if he would have admitted to the offence without understanding

what he was pleading to and/or if he admitted the charge without the benefit of legal advise having requested for the same and the court having declined his request and/or if the facts in the charge were so amorphous and/or ambiguous that a reasonable man could not comprehend the same.

22. This court was therefore not persuaded to find that the typographical error of the statute and/or the provision of the law under which the Appellant had been charged as shown in the Charge Sheet was incurable and/or that it prejudiced and/or caused him any miscarriage of justice. Indeed, the typographical errors were curable under Section 382 of the Criminal Procedure Code and by virtue of Article 159(2)(d) of *the Constitution* of Kenya.

23. In the premises foregoing, Grounds of Appeal Nos (8), (9), (10) and (11) of the Petition of Appeal were not merited and the same be and are hereby dismissed.

II. Fair Trial

24. Ground of Appeal No (2) of the Petition of Appeal was dealt with under this head.

25. The Appellant submitted that the Trial Court did not meet the requirements of Article 50(20)(g) of *the Constitution* of Kenya as he was not informed of his right to choose or to be represented by counsel and it was irrespective that he was represented by counsel at the defence stage.

26. In this regard, he placed reliance on the case of AMR vs Republic [2021] eKLR where it was held that the right to legal representation was a fundamental ingredient to fair trial and which case had cited the case of Pett vs Greyhound Racing Association (1968) 2 All ER 545 where the court therein found that not everyone could represent himself or herself and hence could require a lawyer to speak on his or her behalf.

27. On its part, the Respondent submitted that the Appellant was accorded a fair hearing as envisaged in Article 50 of *the Constitution* of Kenya more so that he acquired an advocate after he was put on his defence. It argued that the Appellant was at liberty to recall the witnesses who had testified but he did not do so.

28. It relied on the provisions of Section 146(4) of the *Evidence Act* that provides that a court may permit the recalling of a witness for further examination and/or for further cross-examination. It also referred this court to Section150 of the Criminal Procedure Code which stipulates that the court can summon any person as a witness, examine such witness or recall and re-examine provided that the prosecution and the defence shall be given an opportunity to cross-examine such witness.

29. Notably, Article 50(2)(h) of *the Constitution* of Kenya states that:-

> " Every accused person has the right to a fair trial, which includes the right to choose, and be represented by, an advocate, and to be informed of this right promptly".

30. As can be seen hereinabove, the Appellant herein was charged with the offence of sexual assault and an alternative charge of committing an indecent act with a child. A perusal of the proceedings did not show that he requested the Trial Court to be provided with legal representation and his request was declined and/or demonstrate that he was likely to suffer substantial injustice if the trial proceeded without legal representation. As this issue was not raised during trial when the Trial Court was expected to have pronounced itself on the same, it could now not be raised and considered on appeal.

31. Be that as it may, this court found it necessary to pronounce itself on the duty of a trial court to inform an appellant of his or her right to legal representation. As the Appellant correctly pointed out, there was no indication that the Trial Court informed of his right his right to be represented by counsel. This

was a great omission on part of the Trial Court as the obligation to have informed him was mandated by Article 50(2)(h) of *the Constitution* of Kenya.

32. Having said so, the question that now arose was whether or not he suffered any injustice and/or there was an infringement on his right to fair trial. It must be appreciated that it not always that such omission must cause an accused person injustice as it can be remedied.

33. As the Respondent correctly submitted, the Appellant had the liberty to recall the witnesses when his advocate took over conduct of his matter at the defence stage and before proceedings with the defence case.

34. Indeed, Section 146(6) of the *Evidence Act* Cap 80 (Laws of Kenya) provides as follows:-

> " The court may in all cases permit a witness to be recalled either for further examination-in-chief or for further cross-examination, and if it does so, the parties have the right of further cross-examination and re-examination respectively."

35. Further, Section 150 of the Criminal Procedure Code Cap 75 (Laws of Kenya) stipulates that:-

> " A court may, at any stage of a trial or other proceeding under this Code, summon or call any person as a witness, or examine any person in attendance though not summoned as a witness, or recall and re-examine a person already examined, and the court shall summon and examine or recall and re-examine any such person if his evidence appears to it essential to the just decision of the case:
>
> Provided that the prosecutor or the advocate for the prosecution or the defendant or his advocate shall have the right to cross-examine any such person, and the court shall adjourn the case for such time (if any) as it thinks necessary to enable the cross-examination to be adequately prepared if, in its opinion, either party may be prejudiced by the calling of that person as a witness."

36. It was therefore evident from the aforesaid provisions of the law that the Prosecution, the accused person and/or the court can recall a witness for examination-in-chief and/or further examination-in-chief, cross-examination and/or further cross-examination and re-examination and/or further re-examination at any given time during the proceedings but before judgment was delivered. An accused person who fails to take seize this opportunity could not thereafter be heard to argue that his right to fair trial had been violated and/or infringed upon. He would be deemed to have waived his right in that regard.

37. In view of the delays that would be occasioned by recalling witnesses due to failure by trial courts to promptly inform accused persons of their right to choose and be represented by an advocate and to be informed of this right promptly under Article 50(2)(h) and the right to have an advocate assigned to the accused person by the State and at State expense and bearing in mind substantial injustice that would otherwise result as provided in Article 50(2)(g) of *the Constitution* of Kenya, trial courts are called upon to comply with these provisions of the law when an accused person is first presented to court and before taking the plea as this is indeed the beast practise.

38. For the reasons that have been stated hereinabove and without belabouring this point, this court thus came to the firm conclusion that the he Appellant's constitutional and fundamental right to fair trial had not been breached merely because the Trial Court did not inform of his right of legal representation under Article 50(2)(h) of *the Constitution* of Kenya.

39. In the premises foregoing, Ground of Appeal (2) was not merited and the same be and is hereby dismissed.

III. Proof Of Prosecution's Case

40. Grounds of Appeal Nos (1), (3), (4), (5), (6), (7) and (12) were dealt with together under this head as they were all related.

41. As was held in the case of George Opondo Olunga vs Republic [2016] eKLR, the ingredients to prove the offence of defilement are proof of complainant's age, proof of penetration and identification of the perpetrator Penetration and age of the victim are not necessary ingredients to prove the offence under Section 5(1)(a)(i) as read with Section 5(2) of the *Sexual Offences Act*.

42. To prove sexual assault cases to the required standard, which in criminal cases is proof beyond reasonable doubt, the burden is on prosecution to demonstrate that the victim identified his or her perpetrator of the offence of sexual assault and that there was some sexual contact between the perpetrator and the victim without that victim's consent whether or not the said sexual contact caused any injury. Sexual assault could include fondling, unwanted sexual touching or kissing which might not necessarily cause any injury.

43. In this particular case, the Appellant and AN (hereinafter referred to as "PW 1") were not strangers to each other. Indeed, he admitted that he knew her. The question was whether or not he sexually assaulted her.

44. He submitted that the evidence that was adduced by the Prosecution witnesses was inconsistent. He asserted that although PW 1 told the Trial Court that he beat and slapped her, she did not have bruises. He pointed out that Onyole Ibrahim Kegoyo (hereinafter referred to as "PW 2") contradicted himself by saying that there were soft tissue injuries but no bruises. He added that although the incident was said to have occurred on 12th October 2019, the examination was done on 14th October 2019.

45. He was emphatic that this was a witch-hunt following a revenge mission of a debtor-creditor relationship that had turned sour and hence urged this court to examine the evidence that was adduced during trial and come up with its conclusion. In this regard, he referred this court to the case of Boaz Nyanoti Samwel vs Republic [2022] eKLR where the holding was that on first appeal, an appellate court was expected to subject the evidence to a fresh and exhaustive examination and to come up to its conclusion.

46. On the other hand, the Respondent urged this court to determine whether there were inconsistencies in the prosecution's case to the extent that a reasonable man would be left in doubt as to whether the charges were proved or whether the contradictions (if any) were so material that the trial court ought to have rejected the evidence.

47. It placed reliance on the case of MTG vs Republic Crim App E067 of 2022 that was quoted in the case of Twehangane Alfred vs Uganda Crim Appeal No 139 of 2001 (2003) UGCA, 6 where it was held that the court would ignore minor contradictions unless the court took the view that they pointed to a deliberate untruthfulness or they affected the main substance of the prosecution's case.

48. It submitted that although he who alleges must prove, the Appellant did not prove his assertions that there was witch-hunt and revenge due to a sour debtor-creditor relationship in his defence. It submitted that the court ought to consider inconsistent evidence together with the entire prosecution and defence evidence that was adduced.

49. According to PW 1, on the material date of 12th October 2019 at about 6.00 pm, she went to Nehema Butchery where the Appellant worked. She was accompanied by one Maureen, her in- law. He pushed her into a room, removed her bra, sucked her breasts and inserted his finger into her vagina. He tied her hands with a t-shirt. Although she tried to scream, she could not and he continued to such her breasts.

50. She got under the bed but he told her come out from under the bed or else he would insert a bottle in her vagina. When she got home, she informed her mother of what had happened. They went back to the butchery and found the Appellant who became violent. They then reported the incident to Serem Police Station. When she was cross-examined, she stated that her in- law did not hear scream from the shop and added that the Appellant had covered her mouth.

51. PW 2 was a Clinical Officer at Vihiga County Referral Hospital. He testified that he examined PW 1 and did not find any visible injuries to her breasts. He noted that although there was no penile penetration, the hymen was not intact and there was a smelly whitish discharge, bruises and hyperemic vaginal wall at 7 o'çlock and 5 o'clock respectively. He concluded that PW 1 had suffered sexual assault with soft tissue injuries.

52. No 97846 PC Lorna Chepkorir (hereinafter referred to as "PW 3") told the Trial Court that there were two (2) doors and if one shut the 2nd door, one could not hear anyone who was inside. She further averred that Maureen did not hear what transpired.

53. On his part, the Appellant's evidence that Maureen went to the shop alone and that they had an altercation regarding a debt she had in the shop. He denied having pulled PW 1 into the shop and was emphatic that PW 1 was did not accompany Maureen to the shop.

54. PW 1 was the only single identifying witness in the case. Under Section 124 of the *Evidence Act* Cap 80 (Laws of Kenya), a trial court can convict a person on the basis of uncorroborated evidence of the victim if it is satisfied that the victim is telling the truth.

55. Notably, the proviso of Section 124 of the *Evidence Act* states that:-

> " Notwithstanding the provisions of section 19 of the *Oaths and Statutory Declarations Act* (Cap. 15), where the evidence of the alleged victim is admitted in accordance with that section on behalf of the prosecution in proceedings against any person for an offence, the accused shall not be liable to be convicted on such evidence unless it is corroborated by other material evidence in support thereof implicating him:
>
> Provided that where in a criminal case involving a sexual offence the only evidence is that of the alleged victim of the offence, the court shall receive the evidence of the alleged victim and proceed to convict the accused person if, for reasons to be recorded in the proceedings, the court is satisfied that the alleged victim is telling the truth (emphasis)."

56. However, a trial court must exercise great caution before relying on the evidence of a single witness to convict an accused person as it would be one person's word against the other. Other corroborating evidence could assist the trial or appellate court to come with a determination as to who between the opposing witnesses was being truthful.

57. In this particular case, PW 2 testified he did not find any bruises on PW 1's breasts. However, he noted that she had soft tissue injuries in her vagina. This corroborated her evidence that the Appellant actually sexually assaulted her on the material date. The consistency of PW 1's and PW 2's evidence persuaded this court to believe the Appellant actually sexually assaulted PW 1.

58. This court found and held that the aforesaid Maureen was not a crucial witness and need not have been called as a witness. This is because she did not see the Appellant sexually assaulting PW 1 and the fact that the Prosecution has the sole mandate to decide the number of witnesses it wishes to call to prove a fact. Indeed, there is no particular number of witnesses that is required to prove a particular fact.

59. It is instructive to note that the Appellant did not demonstrate that there was any bad blood between him and the said Maureen. Their alleged strained and sour debtor-creditor relationship only came out during his submissions before this court. This defence appeared far- fetched considering that he was an employee at the shop where Maureen came to buy items and not the owner where a dispute of debtor-creditor was more likely to arise. He ought to have brought this defence during trial so that it could have been tested during cross-examination.

60. The above notwithstanding, there could not have been a clearer admission of the Appellant's guilt that he committed the offence he had been charged with than what his advocate stated during his mitigation. She stated as follows:-

> " We pray for leniency. Accused is a first offender. He is remorseful."

61. While it may be argued that an accused person ought to be convicted on the basis of the evidence that the prosecution adduced during trial, self-incrimination could be considered at any time before sentence was meted out. Notably, Article 50(2)(l) of *the Constitution* of Kenya, states that:-

> " Every accused person has the right to a fair trial, which includes the right to refuse to give self-incriminating evidence."

62. In a case where an accused person admits to the offence even during mitigation, it would be difficult to find otherwise on appeal. Indeed, an appellate court must consider what transpired during the entire trial concluding with the imposition of the sentence to ascertain to itself that the entire trial was fair from the very beginning to the end.

63. Accordingly, having looked at the circumstances of the case herein, this court found and held that the Prosecution proved its case beyond reasonable proof that the Appellant sexually assaulted PW 1.

64. In the premises foregoing, Grounds of Appeal Nos (1), (3), (4), (5), (6), (7) and (12) were not merited and the same be and are hereby dismissed.

IV. Sentence

65. Part of Ground of Appeal No (12) of the Petition of Appeal related to the sentence and was dealt with under this head. Although none of the parties submitted on this issue, this court noted that the penalty for sexual assault was a sentence between ten (10) years and life imprisonment.

66. Section 5(1)(a)(i) of the *Sexual Offences Act* provides that:-

> " Any person who unlawfully- penetrates the genital organs of another person with- any part of the body of another or that person is guilty of an offence termed sexual assault."

67. Further, Section 5(2) of the *Sexual Offences Act* states that:-

> " A person guilty of an offence under this section is liable upon conviction to imprisonment for a term of not less than ten years but which may be enhanced to imprisonment for life."

68. Having convicted the Appellant herein, the Trial Court did not therefore err when he sentenced him to ten (10) years imprisonment as that is what was provided by the law.

69. The above notwithstanding, this court took cognisance of the fact that there was emerging jurisprudence that the mandatory minimum sentences in defilement cases was unconstitutional and courts have a discretion to depart from the minimum mandatory sentences.

70. Prior to the directions of the Supreme Court in Francis Karioko Muruatetu and Another vs Republic [2017] eKLR on 6th July 2021 that emphasised that the said case was only applicable to murder cases, courts re-sentenced applicants for different offences, including sexual offences.

71. In the case of defilement matters, the High Court and subordinate courts were bound by the Court of Appeal decision in the case of Dismas Wafula Kilwake vs Republic [2018] eKLR where it held that Section 8 of the *Sexual Offences Act* must be interpreted so as not to take away the discretion of the court in sentencing offences.

72. With the directions of the Supreme Court which clarified that the case of Francis Karioko Muruatetu and Another vs Republic (Supra) was only applicable to re-sentencing in murder cases only, courts stopped re-sentencing applicants in sexual offences.

73. However, on 3rd December 2021 while the Supreme Court directions of 6th July 2021 were still in place, in the case of GK v Republic (Criminal Appeal 134 of 2016) [2021] KECA 232 (KLR), the Court of Appeal reiterated that the law was no longer rigid with regard to minimum mandatory sentences and would take into account the peculiar circumstances of each case.

74. On 15th May 2022 which was also after the directions of the Supreme Court, in the case of Maingi & 5 others v Director of Public Prosecutions & another (Petition E017 of 2021) [2022] KEHC 13118 (KLR), Odunga J (as he then was) held that to the extent that the *Sexual Offences Act* prescribed minimum mandatory sentences with no discretion to the trial court to determine the appropriate sentence to impose, such sentences fell afoul of Article 28 of *the Constitution* of Kenya, 2010. He, however, clarified that it was not unconstitutional to mete out the mandatory sentence if the circumstances of the case warranted such a sentence.

75. In the case of Joshua Gichuki Mwangi vs Republic [2022] eKLR, the Court of Appeal reiterated the reasoning in the case of Dismas Wafula Kilwake vs Republic (Supra) and held that it was impermissible for the legislature to take away the discretion of courts and to compel them to mete out sentences that were disproportionate to what would otherwise be an appropriate sentence.

76. The principle of sentencing is fairness, justice, proportionality and commitment to public safety. The main objectives of sentencing are retribution, incapacitation, deterrence, rehabilitation and reparation. The Sentencing Policy Guidelines in Kenya have added community protection and denunciation as sentencing objectives. The objectives are not mutually exclusive and can overlap.

77. Bearing in mind that the High Court is bound by the decisions of the Court of Appeal as far as sentencing in defilement cases is concerned, this court took the view that it could exercise its discretion to sentence the Appellant herein to lower than the ten (10) years imprisonment that has been prescribed in Section 5(2) of the *Sexual Offences Act*.

78. Taking all the circumstances of this case into consideration, this court came to the conclusion that a sentence of eight (8) years would be adequate herein to punish the Appellant for the offence that he committed and deter him from committing similar offences and for PW 1 and the society to find retribution in that sentence.

Disposition

79. For the foregoing reasons, the upshot of this court's decision was that the Appellant's Petition of Appeal that was lodged on 10th February 2021 was not merited and the same be and is hereby dismissed. The Appellant's conviction be and is hereby upheld as it was safe.

80. However, his sentence of ten (10) years that was imposed on him be and is hereby vacated and/or varied and/or set aside and reduced to eight (8) years imprisonment. It is hereby directed that the sentence shall run from 17th December 2021. The period of four (4) days he stayed in custody from 1st November 2019 when he was arrested until 5th November 2019 when he was released on bail/bond to be taken into account as provided in Section 333(2) of the Criminal Procedure Code Cap 75 (Laws of Kenya) while computing his sentence.

81. It is so ordered.

DATED AND DELIVERED AT VIHIGA THIS 25TH DAY OF SEPTEMBER 2023

J. KAMAU

.....

JUDGE

I certify that this is a true copy of the original

Signed

DEPUTY REGISTRAR