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ARISTOTLE'S *NICOMACHEAN ETHICS* AS THE ORIGINAL *LOCUS* FOR THE *SEPTEM CIRCUMSTANTIAE*

MICHAEL C. SLOAN

THE RHETORICAL DEVICE commonly called the seven circumstances enjoys a long history that is rooted in philosophy, but was eventually adopted by rhetoricians in the classical age, by literary commentators in the medieval era, and even today finds expression as the all-important "five W's (and one H)" for journalism. This article will not venture into the schema's efficacy for medieval or modern writers, but rather focuses on its origin and the effects of its prior misattribution. Classics scholars have heretofore located this rhetorical schema as originating from Hermagoras; however, this article will demonstrate that Aristotle and not Hermagoras is responsible for the first enunciation of the seven circumstances. What Hermagoras, as witnessed by Augustine, referred to as the seven circumstances (*quis*, *quid*, *quando*, *ubi*, *cur*, *quem ad modum*, *quibus adminiculis*)[1] were actually first listed by Aristotle in Book 3 of his *Nicomachean Ethics*.

This article will not only correct a long-standing historical inaccuracy and offer a new translation and understanding for an opaque passage of the *Nicomachean Ethics*, one that has continually been obscured in modern translations, but, perhaps most importantly, will also offer deeper insight into Aristotelian thought and reception. Because Aristotle employs this schema as a primordial crucible for defining the difference between voluntary and involuntary agents (a topic of incalculable importance in the works of Aristotle), the benefits of locating this schema within Aristotle, and ultimately providing clarification of the passage, may prove helpful to a number of disciplines. As Aristotle says (*Eth. Nic.* 1109b32–35): "It is necessary for students of virtue to differentiate between the Voluntary and Involuntary; such a distinction should even prove useful to the lawmaker for assigning honors and punishments."[2]

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1. August. *De rhetorica* 7.2–3. The latest critical work on this text was completed by R. Giomini 1990. In Giomini's introduction (pp. 77–118), he affirms Halm's assessment (1863) that the work is indeed by Aurelius Augustine, Bishop of Hippo. Copeland (1991), however, cites Halm's work but attributes the work to a Ps. Augustine. As Copeland's publication date is so close to Giomini's, she probably did not have the opportunity to evaluate Giomini's text and therefore followed the then-conventional theory of authorship for this text.

2. All translations are mine, except where otherwise indicated.

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Cicero, in particular, was indebted to Aristotle's presentation of this schema, a point treated below, and thus even simple assumptions about Cicero's employment of *stasis* theory within his *De inventione rhetorica* are worthy of review.

Two modern treatments of its historical development cite Hermagoras as the originator of the rhetorical schema known as the seven circumstances. Rita Copeland follows D. W. Robertson[3] when she writes, "The theory of the seven circumstances derives originally from Hermagoras of Temnos, a Greek rhetorician of the second century B.C."[4] As I will later demonstrate, citing Hermagoras as the originator is not limited to these authors alone. On the contrary, it seems to be a unanimous attribution by scholars, but these works in particular attempt to trace the history of the schema.

A New Translation and a Critique of Others

Aristotle's extant works are notorious for their cryptic style. H. Rackham, the venerable translator of the Loeb edition of *Nicomachean Ethics*, assumes that Cicero's and Quintilian's compliments of Aristotle's style must have been in reference to works now lost.[5] Referring generally to Aristotle's extant works, Rackham writes, "The transitional passages, summing up what has been said or outlining what is to come are often inaccurate, and some of the cross references are hard to trace."[6] Indeed, the passage in which the seven circumstances may be found, *Nicomachean Ethics* 1110b31–1111a21, is no exception, as it is riddled with vague constructions composed of prepositions combined with particles, and relative, demonstrative, and indefinite pronouns. As Rackham's latter comment anticipates, a single phrase, ἐν οἷς καὶ περὶ ἃ ἡ πρᾶξις, has eluded previous commentators and translators alike. The phrase, with some modification in form, appears in three places: (1) ἐν οἷς καὶ περὶ ἃ ἡ πρᾶξις (1110b34, the introduction), (2) περὶ τί ἢ ἐν τίνι πράττει (1111a4, the list of circumstances), (3) ἐν οἷς ἡ πρᾶξις (1111a16, 18, the conclusion).

Let us briefly consider the context of these phrases. Book 3 of *Nicomachean Ethics* begins by claiming that an act is only deemed virtuous or shameful when the agent performing an act is doing so voluntarily. Therefore, according to Aristotle, defining the difference between voluntary and involuntary acts ought to be helpful for students of ethics and legislators who administer awards and punishments. Thus in 3.1, Aristotle defines the difference between "voluntary" (ἑκούσιον) and "involuntary" (ἀκούσιον) acts.[7] He then notes that all acts due to ignorance are "nonvoluntary" (οὐχ ἑκούσιον),[8] but when they

3. Robertson 1946, 6–14. In this brief, eight-page article, he traces the use of the seven circumstances as a schema that became known to him through their appearance as a set of questions in the "famous twenty-first canon of the Fourth Lateran Council of 1215," which serves to assist confessors as they seek to judge the severity of crimes and "administer suitable remedies."

4. Copeland 1991, 67.

5. Rackham [1934] 1994, xvi.

6. Ibid.

7. Cf. Rowe 2002, 311.

8. Such is the way that Rackham ([1934] 1994, 116, n. *a*) and Ostwald (1999, 52, n. 1) translate these terms.

induce regret he classifies them as "involuntary." Such is the foundation for Aristotle's ensuing presentation of the seven circumstances.[9] His presentation then consists of an introduction (1110b30–1111a1–2), the list of circumstances (1111a3–6), illustrations for each circumstance (1111a6–15), and a summative statement (1111a15–21). In order to identify the specific circumstances, Aristotle's expressions in the introduction and conclusion must be correctly understood.

To introduce the circumstances, Aristotle qualifies ignorance by saying he is not referring to general ignorance, but particular ignorance with respect to the circumstances of an act (*Eth. Nic.* 1110b33–1111a1):

> ἀλλ' ἡ [ἄγνοια] καθ' ἕκαστα, ἐν οἷς καὶ περὶ ἃ ἡ πρᾶξις· ἐν τούτοις γὰρ καὶ ἔλεος καὶ συγγνώμη· ὁ γὰρ τούτων τι ἀγνοῶν ἀκουσίως πράττει.
>
> But particular ignorance, i.e., the matters surrounded by and issues concerned with the deed. For in these circumstances, the act is pitied and pardoned. For the one who acts unknowingly of any of these circumstances is an involuntary agent.

The phrase ἐν οἷς καὶ περὶ ἃ ἡ πρᾶξις, both vitally important and often misunderstood, is Aristotle's longer expression for the general circumstances of an act. The περὶ ἃ does not convey a particular distinction from ἐν οἷς, but rather a further clarification, as evidenced by its recapitulation as ἐν τούτοις in the following clause and also its shorthand rendering as ἐν οἷς ἡ πρᾶξις, which appears twice in Aristotle's summative remarks (1111a16, 18), both times referring to circumstances listed in 1111a3–6.

That ἐν οἷς ἡ πρᾶξις refers to the circumstances in general is made clear by Aristotle's preceeding claim that he will specify exactly what these circumstances entail, ἐν οἷς καὶ περὶ ἃ ἡ πρᾶξις (1111a3): ἴσως οὖν οὐ χεῖρον διορίσαι αὐτά, τίνα καὶ πόσα ἐστί ("therefore it is not a pointless endeavor to divide these circumstances by kind and number"). While Aristotle abbreviates his introductory description of circumstances (ἐν οἷς καὶ περὶ ἃ ἡ πρᾶξις) into simply ἐν οἷς ἡ πρᾶξις for his concluding remarks, it is the omitted phrase περὶ ἃ that is likely the inspiration for Hermagoras' introduction to the seven circumstances. Perhaps in an attempt to provide technical terminology for Aristotle's work, Hermagoras ultimately decides to use the compound word περίστασιν as his nominal term for general circumstances. Augustine serves as witness to Hermagoras' writing in his *De rhetorica* (7.4–9):

> est igitur circumstantia rerum, quam περίστασιν Hermagoras vocat, sine qua ulla omnino controversia non potest esse. quid sit autem peristasis, facilius partitione quam definitione eius deprehendi potest. sunt igitur partes circumstantiae, id est peristaseos, septem quas Hermagoras μόρια περιστάσεως vocat.
>
> For it is the circumstance of things, which Hermagoras calls *peristasis*, without which no dispute at all can exist. What is, however, a *peristasis*, can more easily be understood by its partition than by its definition. For there are seven parts of circumstance, that is, of *peristasis*, which Hermagoras calls "pieces of the circumstance."

9. This basic outline follows Joachim 1951, 95–96; and Grant 1885, 3–4.

The notion that the circumstances are easier to list than define reflects Aristotle's language and method of introduction for the same material. Aristotle's progression from the general into the specific is also reflected by Hermagoras in his description of the seven circumstances as μόρια περιστάσεως ("pieces of the circumstance"). It seems that Aristotle's transitions from referring to the circumstances collectively with plural pronouns (ἐν οἷς καὶ περὶ ἃ ἡ πρᾶξις) to representing two specific circumstances using singular pronouns (περὶ τί ἢ ἐν τίνι πράττει) were not lost on Hermagoras. These are circumstances 3 and 4 in my translation below of Aristotle's list of the seven circumstances.

Difficulties in interpretation have given rise to quite varied translations and perhaps even contributed to the failure to identify the *Nicomachean Ethics* as the original *locus* for the seven circumstances. Thus Aristotle proceeds from his introduction to a list of the circumstances (*Eth. Nic.* 1111a3–8):

> ἴσως οὖν οὐ χεῖρον διορίσαι αὐτά, τίνα καὶ πόσα ἐστί, τίς τε δὴ καὶ τί καὶ περὶ τί ἢ ἐν τίνι πράττει, ἐνίοτε δὲ καὶ τίνι, οἷον ὀργάνῳ, καὶ ἕνεκα τίνος, οἷον σωτηρίας, καὶ πῶς, οἷον ἠρέμα ἢ σφόδρα.
>
> Therefore it is not a pointless endeavor to divide these circumstances by kind and number: (1) the who, (2) the what, (3) around what place or (4) in which time something happens, and sometimes (5) with what, such as an instrument, (6) for the sake of what, such as saving a life, and (7) the how, such as gently or violently.

Regardless of the ambiguity of Aristotle's Greek, five of the seven circumstances are easily identifiable, namely, the "who" (τίς), "what" (τί), "by what means" (τίνι, οἷον ὀργάνῳ), "for the sake of what" or "why" (ἕνεκα τίνος), and "how" (πῶς). The other two circumstances, "where" and "when," may be found in the phrase περὶ τί ἢ ἐν τίνι πράττει. This phrase, similar to the phrase Aristotle used to describe the circumstances collectively, finds its limited meaning through Aristotle's use of singular pronouns, previously rendered in the plural. Regarding the transition from plural to singular, Rackham ([1934] 1994, ad loc.) notes, "ἐν τίνι seems to bear a more limited sense than ἐν οἷς 2.1, 16, 19, 24, which covers the circumstances of all sorts." The same conclusion ought to be applied to Aristotle's modification of περὶ ἃ to περὶ τί. The accusative singular object of περί may signify the place around which motion or an action takes place; thus, if we translate πράττει here as it also occurs in 1111a2, then πράττει may govern the prepositional phrase περὶ τί with a sense of locality.

The second half of the phrase, ἢ ἐν τίνι, refers to the temporal realm within which an act may happen. One need not specify this phrase as time in the strict sense of minutes or hours, etc., but even the broader notions of occasion or season may be applied.[10] If one does not grant a limited meaning to this phrase, thereby effecting a different meaning than its plural expression,

10. Rendering an ἐν + dative with the notion of time is a common application, but for parallel examples I refer the reader to Soph. *Phil.* 235, *OC* 88, *Trach.* 929; Herodotus 1.1.26; and even a Ps. Aristotelian work, *De mundo* 391a2; cf. LSJ, s.v. ἐν.

then Aristotle's explication by virtue of listing makes the phrases in the singular redundant and the other five circumstances meaningless.

The meaning of each circumstance does not depend upon Aristotle's catalogue alone as he subsequently illustrates each; unfortunately, though, for the phrase περὶ τί ἢ ἐν τίνι πράττει, Aristotle cites *Cresphontes*, a play by Euripides no longer extant. The corresponding illustration for this phrase reads, οἰηθείη δ' ἄν τις καὶ τὸν υἱὸν πολέμιον εἶναι ὥσπερ ἡ Μερόπη ("again, one might mistake a son for an enemy, just as Merope does"). Without knowing the circumstances of the scene to which Aristotle refers (the irony here is not lost), one may only make inferences. However, due to existing fragments, one can be certain that the plot centers on a returning exile.[11] In this play, as in other similar narratives, the mother is ignorant of the child's location and the occasion or timing of recognition is critical to the plot's substructure.[12] Thus, I propose that the purpose of the illustration does not lie in the fact that a son was mistaken for an enemy, but rather in the particular circumstances of which Merope (in particular) was ignorant, namely, a mother ignorant of her son's whereabouts and the time within which he returned and/or she discovered his true identity (just before the death blow).

Thus having claimed that an involuntary action is qualified by particular ignorance of circumstances and then having provided a list of specific circumstances followed by an illustration for each, Aristotle concludes this section with a summative statement. Immediately following the last illustration, Aristotle writes (*Eth. Nic.* 1111a15–20):

> περὶ πάντα δὴ ταῦτα τῆς ἀγνοίας οὔσης, ἐν οἷς ἡ πρᾶξις, ὁ τούτων τι ἀγνοήσας ἄκων δοκεῖ πεπραχέναι, καὶ μάλιστα ἐν τοῖς κυριωτάτοις· κυριώτατα δ' εἶναι δοκεῖ ἐν οἷς ἡ πρᾶξις καὶ οὗ ἕνεκα. τοῦ δὴ κατὰ τὴν τοιαύτην ἄγνοιαν ἀκουσίου λεγομένου ἔτι δεῖ τὴν πρᾶξιν λυπηρὰν εἶναι καὶ ἐν μεταμελείᾳ.
>
> Thus with ignorance as a possibility concerning all these things, that is, the circumstances of the act, the one who acts in ignorance of any of them seems to act involuntarily, and especially regarding the most important ones. And it seems that the most important circumstances are those just listed, including the "why."[13] Indeed inasmuch as an action has been called involuntary in accordance with such ignorance, still it is necessary that the deed evokes sorrow and regret.

This passage works as an epitome for the whole passage if we understand ἐν οἷς ἡ πρᾶξις as shorthand for ἐν οἷς καὶ περὶ ἃ ἡ πρᾶξις. Aristotle seems to concede that there could be a whole host of circumstances, but claims that the most important ones are those listed in the passage above, including the "why" (οὗ ἕνεκα). The "why" requires special emphasis on account of

11. Cf. Collard, Cropp, and Lee 1995, 121–47.

12. Such is the structure of Euripides' *Ion*; cf. Collard, Cropp, and Lee 1995, 121–25; and Webster 1967, 136–47.

13. If we accept this version of the Greek text, then I think the καί here acts as an intensifier similar in meaning to "actually" or "even," as it sometimes does (Verdenius 1976, 181). However, I would prefer a reading such as one presented in Rackham's text ([1934] 1994, 126 n. 4), where he offers a conjecture by Richards, πρᾶξις ‹ ὁ › καὶ οὗ ἕνεκα, which would then change the translation into "And it seems that the most important circumstances are the 'who' and the 'why.'"

its subjective nature, that is, it is not self-evident after the fact, as are the other circumstances in the list. Aristotle anticipates the objection that "why" does not properly belong to the sphere of circumstances, which are objective in nature.

My translation of the passages at 1110b333–1111a6 and 1111a15–21 differs from other translations by making the seven circumstances readily identifiable. I have chosen three current translations of these passages (by H. Rackham, Martin Ostwald, and Christopher Rowe) as examples of how the opacity of Aristotle's Greek has misled scholarly interpretations of this section of the *Nicomachean Ethics*; see table 1 below.

Any translator of this passage has to account for the repeated (albeit modified) use of the phrase ἐν οἷς καὶ περὶ ἃ ἡ πρᾶξις. Rackham's translation of this phrase as "the circumstances of the act and of the things affected by it" is linguistically justified, but causes problems as it reappears throughout the passage.[14] When Aristotle's discussion moves from general to specific circumstances, the phrase then changes from plural to the singular, signifying a refinement in meaning. Rackham himself claims that in the singular the phrase ἐν τίνι has a more limited meaning than ἐν οἷς, but he does not apply that principle to περὶ ἃ when it becomes περὶ τί. This omission undermines Aristotle's attempt to particularize the circumstances. Furthermore, the translation then projects onto the illustration a meaning that, in turn, makes the circumstance redundant. If one understands περὶ τί πράττει as "what is affected," then the corresponding illustration must be taken to highlight the son wrongly perceived as an enemy. This is essentially the same situation as illustrated for the second circumstance, the "what" or deed: "But a man may be ignorant of (2) what he is doing, as for instance when people say . . . they were not aware that the matter was a secret." Just as a secret was mistaken as public information, a son was mistaken as an enemy. In both cases, the doer of the deed did not know what they were doing. In this case, the reference to Merope offers no benefit to the reader as it makes her name an inconsequential detail.

Another critical difference between my and Rackham's translation of Aristotle's list of circumstances occurs in what he enumerated as the fifth circumstance. Rackham translates ἕνεκα τίνος as "the effect," whereas I translated it as "the cause of something," or "why." Rackham's translation misconstrues what I believe to be the purpose of Aristotle's ensuing illustration. Aristotle illustrates this circumstance by writing, καὶ ἐπὶ σωτηρίᾳ πίσας ἀποκτείναι ἄν ("a man who drank for preservation might die"). If Rackham's translation of ἕνεκα τίνος as "the effect" is correct, then the point of the illustration hinges on the death of the person. Everyone is ignorant of the effect before something happens, but no one is ignorant of the effect after it happens; therefore, there is no point belaboring ignorance of effects.

14. Rackham translates this phrase precisely as Stewart ([1892] 1999, 238) suggests. Stewart actually notes a "Peters" who translates it, "Ignorance of the particular occasion and circumstances of the act" (which is close to my own translation and one with which I would agree), but then Stewart writes "Better–" and provides his own translation.

TABLE 1: THREE TRANSLATIONS OF ARISTOTLE *NICOMACHEAN ETHICS* 1110b–1111a6, 1111a15–21

Rackham [1934] 1994	Ostwald 1999	Rowe 2002
(1110b–1111a6): but particular ignorance, ignorance of the circumstances of the act and of the things affected by it; for in this case the act is pitied and forgiven, because he who acts in ignorance of any of these circumstances is an involuntary agent. Perhaps then it will be as well to specify the nature and number of these circumstances. They are (1) the agent, (2) the act, (3) the thing that is affected by or is the sphere of the act; and sometimes also (4) the instrument, for instance, a tool with which the act is done, (5) the effect, for instance, saving a man's life, and (6) the manner, for instance, gently or violently. (1111a.15-21): Ignorance therefore being possible in respect of all these circumstances of the act, one who has acted in ignorance of any of them is held to have acted involuntarily, and especially so if ignorant of the most important of them; and the most important of the circumstances seem to be the nature of the act itself and the effect it will produce.	(1110b–1111a6): rather, it is ignorance which constitute the circumstances and the issues involved in the action. It is on these that pity and pardon depend, for a person who acts in ignorance of a particular circumstance acts involuntarily. It might, therefore, not be a bad idea to distinguish and enumerate these circumstances. They are: (1) who the agent is, (2) what he is doing, (3) what thing or person is affected, and sometimes also (4) the means he is using, e.g., some tool, (5) the result intended by his action, e.g., saving a life, and (6) the manner in which he acts, e.g., gently or violently. (1111a.15-21): As ignorance is possible with regard to all these factors which constitute an action, a man who acts in ignorance of any one of them is considered as acting involuntarily, especially if he is ignorant of the most important factors. The most important factors are the thing or person affected by the action and the result. An action upon this kind of ignorance is called involuntary, provided that it brings also sorrow and regret in its train.	(1110b–1111a6): but rather ignorance at the level of particular things which is where action is located and what action is about. For both pity and sympathy depend on particulars; it is the person who is in ignorance of one of these that acts counter-voluntarily. Perhaps, then, it is no bad thing to determine what these particular factors are, and how many they are. So: there is the matter of who is acting, what he is doing, in relation to what or affecting what, sometimes also with what (as for example with a tool), what the action is for (e.g. saving someone), and how it is done (e.g. gently or vigorously). (1111a.15-21): Given, then that ignorance is possible in relation to all these factors, in which action is located, it seems that the person who was ignorant of any one of these things has acted counter-voluntarily, and most of all if the ignorance is related to the things that most determine the nature of the action; and these are what things are affected and what the action is for. In the case, then, of what is said to be counter-voluntary on the basis of this sort of ignorance, the action must in addition cause distress to the agent and involve regret.

The ignorance in question is regarding the cause of an effect. In terms of the illustration, the intention is to save a life, the effect is the person's death, and the medicine is the cause of the effect. Hence, it is ignorance with respect to the nature of the medicine and why it would kill as opposed to preserve. Ultimately, the person is ignorant of "why."

Whether or not an action achieves its intended end, every action has a cause.[15] This cause, which brings about either an intended or unintended result, may be known as the οὗ ἕνεκα. ἕνεκα may be translated two ways according to Aristotle: it may mean "for which" something happens, that is, the purpose for which something happens, but this is best employed when the intended result is achieved; or "for the sake of which" something happens, which is best designated when the end was not intended.[16] In both cases, the Greek term Aristotle most often employs is οὗ ἕνεκα. Thus, the οὗ ἕνεκα is an encompassing technical term for "why" something happens, regardless of the agent's intention and the final outcome.

This use of the term ἕνεκα is consistent with its employment in Aristotle's other works as well, as Monte Johnson has shown.[17] Due to the lack of attention that this important phrase has received in Aristotelian scholarship, Johnson dedicates significant space to its grammatical analysis.[18] Johnson's discussion of ἕνεκα centers on the five places that Aristotle explicitly notes the ambiguity of the phrase (*Ph.* 194a35–36; *De an*. 415b2–3, 415b20–21, *Metaph.* 1072b1–3, *Eth. Eud.* 1249b15).[19] Johnson does not consider the meaning of the phrase in the context of the seven circumstances within the *Nicomachean Ethics*; nonetheless, his observations are thorough and illuminating for my purposes. Johnson claims the most common renderings of this phrase as "purpose" or "aim" are inadequate, and calls for an admittedly "awkward English phrase like 'that for the sake of which' or, more technically, 'the [cause] for the sake of which' to translate the awkward Greek phrase."[20]

Further support for my suggestion that οὗ ἕνεκα / ἕνεκα τίνος is suitably rendered as "why" within the context of the seven circumstances appears in 3.3 of Johnson's work, his discussion of "end, limit, and the complete." Johnson writes: "If I can ascertain that for the sake of which something is produced or exists, then I can begin to understand its structure, constituents, history, development, and so forth. But the cause for the sake of which is clearly not an end in every sense. In particular, it is not the end as the terminal point or final stage."[21] Considering the technical and uniform notion

15. On the difference between action (*praxis*) and production (*poiesis*) and ends and function, considerable topics for Aristotelian thought and philosophy, see Ackrill 1980; and Reeve 1995, 123–27.

16. Cf. Arist. *De an.* 415b20–22; Broadie 2007, 87.

17. Johnson 2005.

18. Ibid., 64. See especially nn. 2 and 4, where he counts only three German scholars, one Italian scholar, and two English scholars who have focused on the distinction of this phrase, and this including articles and commentaries on Aristotle's work.

19. Ibid., 65.

20. Ibid., 64.

21. Ibid., 83.

that ἕνεκα + genitive noun bears, Rackham's translation of οὗ ἕνεκα as "the effect," as it appears in Aristotle's concluding remarks on the seven circumstances, meets the same objections.

Understanding 1111a15–19 as Aristotle's concluding remarks for the seven circumstances is predicated on the idea that Aristotle is discussing a schema with a coherent meaning and intentionally reusing the same phraseology with the same meaning as rendered in the introduction. Rackham's translation of this summative passage is acceptable until line 18. Until this point, Rackham was content to render ἐν οἷς ἡ πρᾶξις as the circumstances in general and even makes a note of it; however, in its final use within the entire context of the seven circumstances, line 18, he renders the phrase as "the nature of the act itself." It seems unlikely that Aristotle would use the same phrase three times consistently only to change his meaning in a fourth use. The second half of the sentence, καὶ οὗ ἕνεκα as "the effect" has already been dealt with. The impact of translating this final sentence as Rackham does dissolves the continuity Aristotle establishes through the latter's recycling of terms.

Ostwald's and Rowe's translations differ from Rackham's at the precise points of contention that I have raised. This suggests a general confusion as to exactly what Aristotle may be conveying. I will not treat Ostwald and Rowe exhaustively, but offer some cursory remarks to demonstrate further the general confusion regarding this difficult passage. Ostwald's translation of ἐν οἷς καὶ περὶ ἃ ἡ πρᾶξις as "the circumstances and the issues involved in the action" is a nice beginning, but when the phrase becomes singular in the list (what Ostwald enumerates as the third circumstance) he, like Rackham, misses the idea of location and time as the elements around or within which an act happens. His rendering of ἕνεκα τίνος (his fifth circumstance) is also troublesome. Just as this circumstance cannot mean effect, it cannot mean the result intended. No sane person is ignorant of their intentions. Furthermore, when this phrase is used in the summative statements, he renders οὗ ἕνεκα simply as "the result," a synonym for "the effect," and hence incurs the same objections raised against Rackham. Rowe's translation of ἐν οἷς καὶ περὶ ἃ ἡ πρᾶξις as "where action is located and what action is about" is too particular and forces variant renderings as the similar phrases appear throughout. When it appears in the singular, Rowe actually grants it a broader meaning, "in relation to what or affecting what." While he does not translate πράττει passively as do Rackham and Ostwald, his rendering nonetheless changes the force of πράττει and lacks the precision that this construction allows, particularly in view of the corresponding illustration. Much like Ostwald's translation of the fifth circumstance, Rowe understands ἕνεκα τίνος as "what the action is for." Rendering this phrase as analogous to intention misses Aristotle's larger purpose of suggesting circumstances of which the agent may be ignorant. Further, Rowe's translation of line 1111a18 does not mirror his translation of the same phrase as it occurs in the introduction. Instead, it is now simply the plural version of the third circumstance. The translation of the phrase ἐν οἷς ἡ πρᾶξις, which appears three times (I am not here including its modified version in the singular) in the

whole passage is translated respectively by Rowe as (1) "where action is located," (2) "in which action is located," (3) "what things are affected." When it appears in the singular as ἐν τίνι, he translates it as "in relation to what." Thus Rowe's translation also lacks the continuity invited by Aristotle's recycling of terms.

Through my own translation and my critique of these three prominent translations, I hope to have shown that the rhetorical trope of the seven circumstances appears first in Aristotle and that by recognizing this trope, Aristotle's notoriously difficult passage may be more readily understood. The final part of this paper will deal with the effect that attributing this schema to Hermagoras and not Aristotle has had on modern scholarship.

THE EFFECT OF CITING HERMAGORAS AS INVENTOR

Besides being historically inaccurate, this misattribution has obscured a critical schema in the work of Aristotle. Aristotle uses this schema as the primordial crucible for defining the difference between voluntary and involuntary acts. Because Aristotle presented this schema within the larger context of just and unjust actions and its immediate context of regretted actions, the total effect of locating this schema as originating from Aristotle is not yet realized. Considering the broad parameters of its context, one may project that many of Aristotle's known avenues of influence may be broadened even further.

One such area, for example, is Aristotle's impact on Cicero's rhetorical theories within *De inventione rhetorica*. Because of the common misattribution of this schema to Hermagoras specifically, previous scholarship may have misunderstood the methodological difference between Hermagoras' employment of this tool and Cicero's subsequent departure from him. Cicero's presentation of the seven circumstances informs the majority of classical and medieval rhetorical doctrine on this device, and ultimately Cicero's *stasis* theory, which uses the seven circumstances as its point of departure, becomes the sine qua non for subsequent generations. Cicero himself suggests that such a leap without due cause would be inexcusable (*Inv. rhet.* 1.9.12): "But that error of his [Hermagoras'], as we consider it, seems worthy of criticizing in no small way, but briefly, lest if we were to have passed by silently, we may have been thought to have not followed him without cause. . . ."

As an effort to justify Cicero's departure from Hermagoras, scholars have demonstrated varying degrees of Aristotelian influence within Cicero's rhetorical theory, especially with respect to his development of *stasis* theory.[22] In A. C. Braet's article on such a subject, he writes:

> The most important conclusion to be drawn from their [other scholars'] studies is almost a communis opinio: despite the fact that the *Rhetoric* contains all four main categories (. . .) and several subcategories of Hermagoras' stasis system, it cannot be maintained that Aristotle presents a "true" doctrine of stasis (i.e., an exhaustive system for choosing a position in a discussion and inventing arguments).[23]

22. Solmsen 1941; Braet 1999; Leff 1983.
23. Braet 1999, 408.

Cicero achieved this "true doctrine of stasis" through his employment of the seven circumstances, and what scholars have noted is that not only does his list slightly differ from Hermagoras, but he criticizes Hermagoras for giving them a definitional role.[24] Regarding Cicero's departure from Hermagoras and the role of the seven circumstances in status theory, Michael Leff writes:

> Cicero had attacked Hermagoras for including the thesis within the domain of rhetoric, arguing that the material of rhetoric consisted entirely in the hypothesis. Moreover, a close examination of Cicero's enumeration of argumentative topics reveals that his first three major categories incorporate the seven circumstances that define the hypothesis and thus mark out the boundaries of rhetorical subject matter. . . . These resources [the circumstances] achieve status as artistic topics, as common grounds for invention, since they do not consider the specific subject of any particular case, but rather the generic subject of all rhetorical arguments.[25]

As I will demonstrate, Cicero's authority for using the seven circumstances derives from Aristotle's presentation of the seven circumstances within the *Nicomachean Ethics*.[26]

As Aristotle noted, defining and enumerating those circumstances would be beneficial not just to students of ethics, but also those in the realm of law where awards and punishments are decided upon. Cicero wrote *De inventione rhetorica* at an early age, and although he would criticize the work later in life, it nonetheless became a prominent resource for Latin rhetoricians, especially for those in the medieval age.[27] The work systematically treats the art of rhetoric, often citing Hermagoras as well as Aristotle. Cicero criticizes the lack of sound *philosophical* principles within the work of Hermagoras,[28] but praises Aristotle as one who has added more to the subject of rhetoric than anyone else.[29] This comment is particularly intriguing as the circumstances come not from Aristotle's Rhetorica, but his *Nicomachean Ethics*. The *philosophical* function of the circumstances, as explained in Aristotle's *Nicomachean Ethics*, is embedded throughout Book 1 of *De inventione rhetorica*.

After a basic introduction to oratory, which comprises chapters 1 through 8, Cicero begins to define and classify the different elements of oratory. Chapter 9 asserts "invention" as the most important division of a speech and contains Cicero's rationalization for discussing it only and not the rest of the divisions (hence the title, *De inventione rhetorica*). Then chapter 10 contains strong resemblances to Aristotle in thought and language as he

24. Leff 1983, 28–29.

25. Ibid.

26. The following section of my paper is not to diminish previous findings regarding Cicero's use of Aristotle and Hermagoras, but to demonstrate that Cicero's use of Aristotle for the purposes of rhetoric was not restricted to Aristotle's works of rhetoric alone, and his employment of Aristotle for rhetorical purposes may therefore be more prevalent than previously believed.

27. Cf. Guérin 2006, 61–62, for an interesting theory as to why this work was so widely received despite Cicero's own censure of it.

28. Cic. *Inv. rhet.* 1.6.8.

29. Ibid., 1.5.7.

divides all disputes into four categories, those of "fact," "name," "type," or "action," and the burden of the speaker, in any speech containing a dispute, with respect to defending the intention of an act or affair. Cicero writes (*Inv. rhet.* 1.8.10):

> omnis res, quae habet in se positam in dictione ac disceptatione aliquam controversiam, aut facti aut nominis aut generis aut actionis continet quaestionem. eam igitur quaestionem, ex qua causa nascitur, constitutionem appellamus. constitutio est prima conflictio causarum ex depulsione intentionis profecta, hoc modo: "fecisti"; "non feci"; aut "iure feci."
>
> Every matter, which has in itself any controversy positioned in speech or discussion, contains a question either of fact or name or type or of proceeding. That question, therefore, out of which a cause is born, we call the issue. The issue is the first conflict of causes having been brought forth by a defense of intention, in this way; "You did it"; "No, I did not"; or, "I did it lawfully."

The link to Aristotle is located in the phrase *constitutio est prima conflictio causarum ex depulsione intentionis profecta*. This statement is an explicit claim that a dispute hinges on intention, and it mirrors Aristotle's philosophy that a deed can only be judged after investigating whether or not an agent is acting in "ignorance" or "awareness" of certain circumstances. Chapter 10 is concluded after he lists and defines each category of dispute. Next, Cicero provides a longer explanation of each category by giving hypothetical situations for each. In Cicero's example of a controversy of type, he again echoes Aristotle's claim that knowing certain circumstances of an act will help judge its merit. In *De inventione rhetorica* 1.9.12, he writes:

> generis est controversia, cum et, quid factum sit, convenit et, quo id factum nomine appellari oporteat, constat et tamen, quantum et cuiusmodi et omnino quale sit, quaeritur, hoc modo: iustum an iniustum, utile an inutile, et omnia, in quibus, quale sit id, quod factum est, quaeritur sine ulla nominis controversia.
>
> It is a controversy of type, when both what has been done and by what name the deed ought to be called is agreed and nevertheless it is questioned "how important" and "of what type" and "of what nature it is," in this way: whether it be just or unjust, useful or unuseful, and all other circumstances, "in what," "what type it is," and "what has been done" is questioned without any debate concerning the "name" of the deed.

He is not at this point defining or listing the circumstances as he does later, but merely points out that they must be considered. Though he only briefly alludes to a few circumstances here, one can nevertheless recognize the similarity of these questions to the circumstances listed by Aristotle: they are questions that inquire about the nature and physical setting of an act. Also similar to Aristotle is Cicero's contextual employment of the circumstances as points of reference that can verify the intention of an agent and ultimately help decide the merit of a deed: "whether just or unjust, useful, or unuseful."

Cicero lists the circumstances once he begins his discourse on the "narration" aspect of an oration. In *De inventione rhetorica* 1.21.29, he writes:

> probabilis erit narratio, si in ea videbuntur inesse ea, quae solent apparere in veritate; si [1] personarum dignitates servabuntur; si [2] causae factorum existabunt; si fuisse [3] *facultates* faciundi videbuntur; si [4] tempus idoneum, si *spatii* satis, si [5] locus opportunus ad eandem rem, qua de [6] re narrabitur, fuisse ostendetur; si [7] res et ad eorum, qui agent, naturam et ad vulgi morem et ad eorum, qui audient, opinionem accommodabitur. ac veri quidem similis ex his rationibus esse poterit.
>
> A narration will be probable if there will be seen to be within it those things which normally appear in the truth; if the dignity of the persons will be preserved, if the causes of deeds exist, if the means of performance seem to have been existent, if the time was suitable, if there was a sufficient interval, if the place for performing that same action, the deed about which the narration is concerned, will be shown to have been ideal, if the matter will be applied to the nature of those who will do it, and to the cultural norm of the people and to the opinion of those who will listen. And the narration consisting of these elements will be able to be like the truth.

The first and last lines of this excerpt are intratextually linked with his opening line about *inventio* (*Inv. rhet.* 1.7.9): *inventio est excogitatio rerum verarum aut veri similium, quae causam probabilem reddant* ("Invention is the devising of true things or things that seem like the truth, which render the cause as probable"). Per the previous statement, these circumstances are the nucleus around which a speech of "dispute" (or one containing a "cause") is built, yet another example of the Aristotelian function that the circumstances fulfill in the context of a speech.

A close comparison of this excerpt with Aristotle's list of circumstances reveals the two as remarkably similar. The differences are easily rationalized when one takes into account the change of perspective. Aristotle is writing from a philosophical context to qualify an act as voluntary or involuntary, so that a deed may ultimately be deemed as virtuous or shameful. Thus, for Aristotle the perspective originates with the agent's personal awareness (or lack thereof) of the circumstances, whereas Cicero is writing from the perspective of a lawyer, and these circumstances are questions to investigate for the purpose of building a defense. So, the *character* of the person is important (an issue that Cicero later discusses), but is a trait absent from Aristotle's list; likewise, Aristotle's πῶς ("how") is important to Cicero inasmuch as the lawyer can relate it to the nature of the agent *and* the opinion of the hearers. Thus, what I have enumerated as the seventh circumstance in Cicero represents Aristotle's category of "how."

In *De inventione rhetorica* 1.24.34, Cicero again provides a list of circumstances, again equaling seven in number, though slightly modified from those appearing in 1.21.29, and then explains what he considers to be the necessary questions to consider in order to apply them in a speech. Here, he claims that the circumstances are a means for confirming an argument, or adding faith and authority to one's speech, in effect echoing his conviction that the circumstances serve to make a narration probable. In laymen's terms, any statement must be made plausible or convincing by adding detailed information. The template of the seven types of circumstance then serves as a basic set of questions one ought to pursue in order to supply substantial information to corroborate one's statement. In more rhetorically technical terms, Cicero contends that every speech hinges on one or several ques-

tion(s), that is, a prompt. Every prompt then is either about the law or general reasoning. The ensuing stating of the case requires the confirmation of precepts or proofs. Cicero writes (*Inv. rhet*. 1.24.34 and 1.26.38):

> (1.24.34): omnes res argumentando confirmantur aut ex eo, quod [1] personis, aut ex eo, quod negotiis est adtributum. . . . (1.26.38): in gestione autem [2] negotii, qui locus secundus erat de iis, quae negotiis adtributa sunt, quaeretur [3] locus, [4] tempus, [5] modus, [6] occasio, [7] facultas.
>
> All claims are confirmed by argumentation, or by that which is attributed to [1] persons, or by that which is ascribed to the matters. . . . Regarding the [2] action of a matter [i.e., the what], which was the second topic about these things that were ascribed to the matters, [3] the place, [4] the time, [5] the mode, [6] the occasion, and [7] the means will be investigated.

The ellipses are after the "person" because Cicero here discusses the various questions one has to ask in order to discover all the necessary information about the "person" in paragraphs 34–37. It is important to note that the topics here omitted by the ellipsis, and that follow after *quis* or "person," are related to the thirteen circumstances connected to the subject, which Cicero lists in *Topica*, a work he claims is based upon Aristotle. The character and various other attributes that make up a person are important for Cicero's purpose, though they were not contextually necessary for Aristotle's presentation.

Once Cicero ends his discussion on the "person," he then lists circumstances two through seven as enumerated above. After listing circumstances two through seven, he examines each one in much the same way he did for the "person," though to a slightly lesser degree in regard to length. While he uses many of the same words in the above chapters (1.24.34–41) that he uses in the previous list of circumstances (1.21.29), a comparative reading reveals a few changes. Within his explication of *modus* (1.27.41), he includes both: the "how," which is represented by the clause *si res . . . accomodabitur* in 1.21.29, and the "why," which is represented in 1.21.29 by the term *causa*. Also *satis spatii* (from 1.21.29) represents what Cicero here broadly calls *tempus*, and *tempus idoneum* (from 1.21.29) here represents *occasio*.[30] This suggests an influence of Aristotle over Hermagoras, as Hermagoras, according to Augustine's *De rhetorica*, uses specific terms of "when" and "where," whereas Aristotle's phrases περὶ τί and ἐν τίνι may be understood more broadly as the spherical realm, such as an occasion or season, etc., as argued above.

CONCLUSION

The burden of this study has been to demonstrate that Aristotle's *Nicomachean Ethics* is the original *locus* for the seven circumstances and the section from which it derives has heretofore been misunderstood and mistranslated. While

30. One could perhaps argue that *spatii satis* in fact represents *occasio* and *tempus idoneum* represents *tempus*, but either way—a comparison of the two texts clearly shows that *occasio* and *tempus* are accounted for in those other two statements.

this article does not claim to highlight all of the cultural and societal consequences that this proposition may have, it does, as an example, indicate how Aristotle's presentation of the seven circumstances provides the authority for Cicero's departure from Hermagoras regarding the seven circumstances and their role in his *stasis* theory. Finally, the longtime lament as articulated by Friedrich Solmsen seems to be answered:

> For this reason (and others) scholars have assumed that the elaborate theory of the circumstances in the form in which we find it in Cicero's *De Inventione* and in later *artes* is closely connected with that of the *status* and owes much to Hermagoras and to the Stoics who inspired him. It may be wise to leave the matter at that without indulging in further guesses about the inventor.[31]

Aristotle's presentation of the seven circumstances is written in the style of an originator lacking the precise terminology incumbent upon later writers whose thought and language nonetheless are parallel to Aristotle's. Thus, I suggest that future readers of this passage of Aristotle's *Nicomachean Ethics*, and especially commentators and translators, bear this revision in mind, as it not only illuminates Aristotle's work, but also clarifies the history of a rhetorical trope often used, not only by classical and medieval writers, but even by journalists and jurists today.[32]

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31. Solmsen 1941, 173.

32. There is likely no end to the arenas in which the circumstances have been used; see, for example, Rudyard Kipling's famous poem at the end of "The Elephant's Child" in his *Just So Stories*.

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