

Кримінальний процес та криміналістика

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Riabykh Nataliia

*Candidate of Law, Associate Professor,
Associate Professor of the Department of Law
Lutsk National Technical University*

Рябих Наталія Володимирівна

*кандидат юридичних наук, доцент,
доцент кафедри права
Луцький національний технічний університет*

ORCID: 0009-0007-4177-698X

Visyn Valentyn

*Doctor of Historical Sciences,
Professor of the Department of Law
Lutsk National Technical University*

Вісин Валентин Васильович

*доктор історичних наук, професор,
професор кафедри права
Луцький національний технічний університет*

ORCID: 0000-0001-9122-9158

**CRIMINAL PROCEDURAL MECHANISMS FOR INVESTIGATING
CRIMES IN THE CONSTRUCTION SECTOR: CURRENT ISSUES OF
PROOF AND METHODOLOGICAL APPROACHES TO THEIR
RESOLUTION**

**КРИМІНАЛЬНО-ПРОЦЕСУАЛЬНІ МЕХАНІЗМИ
РОЗСЛІДУВАННЯ ЗЛОЧИНІВ У БУДІВЕЛЬНІЙ СФЕРІ:**

АКТУАЛЬНІ ПРОБЛЕМИ ДОКАЗУВАННЯ ТА МЕТОДОЛОГІЧНІ ПІДХОДИ ДО ЇХ ВИРІШЕННЯ

Summary. *Introduction.* This scientific study is dedicated to a comprehensive analysis of criminal procedural mechanisms for investigating crimes in the construction sector of Ukraine. The relevance of the chosen topic is due not only to the key role of the construction sector in the state's economy, which generates a significant part of the GDP and provides employment, but also to the high level of corruption risks, technological complexity of processes, specificity of legal relations, and significant financial volumes, all of which create a fertile ground for various criminal manifestations. These offenses not only undermine the investment climate and trust in state institutions but also pose a direct threat to the safety of citizens, who are the ultimate consumers of construction services, and cause significant economic losses.

Objective. *The research aims to comprehensively identify and in-depth analyze current problems of proof in criminal proceedings related to crimes committed in the construction sector of Ukraine, as well as to develop scientifically substantiated, practically applicable methodological approaches for their effective resolution. To achieve this goal, the following tasks were set: to analyze current criminal procedural legislation and special regulatory legal acts, to study relevant judicial practice, and to develop comprehensive recommendations for improving investigative and evidentiary activities.*

Materials and Methods. *The work is based on a systematic analysis of the provisions of the Criminal Procedural Code of Ukraine, special laws regulating construction activities, and relevant judicial practice over the past five years, which includes the study of over 150 court decisions and materials from pre-trial investigations. The empirical base also contains analyses of departmental statistics, expert opinions, and case studies of the most high-profile cases. Systemic, comparative legal, formal-logical, statistical, and empirical methods of*

scientific cognition were applied. In particular, regulatory legal acts were analyzed for gaps and conflicts; the generalization of judicial practice enabled the identification of typical errors and successful evidentiary strategies; and expert interviews with practicing investigators and prosecutors provided valuable insights into real challenges in investigations.

Results. The study identified key problems that significantly complicate the investigation of crimes in the construction sector. These include: the high technical complexity of criminal acts, associated with the specifics of construction technologies, the complexity of project documentation, and the need to involve highly specialized knowledge; the insufficient qualification level of investigative bodies, which often lack the necessary engineering-technical, financial, and legal expertise in the construction field; systematic falsification of primary documentation, including overstatement of work volumes, use of low-quality materials, and forgery of permits; and difficulties in establishing the responsibility of officials due to complex hierarchy and division of duties. To overcome these challenges, several solutions are proposed: the creation of interdisciplinary investigative and operational groups, which will include not only law enforcement officers but also engineers, architects, financiers, and IT specialists; standardization of procedures for construction-technical and economic expertises with the development of unified methodological recommendations; implementation of digital technologies in evidentiary processes, particularly the use of blockchain technologies for data registration, BIM modeling, and big data analysis to detect anomalies; and systematic improvement of the qualifications of law enforcement specialists through specialized training and courses.

Perspectives. The practical significance of the research lies in the development of specific recommendations, tailored to Ukrainian realities, for law enforcement agencies, courts, prosecutors, and other participants in criminal proceedings. Implementing the proposed approaches and mechanisms will

significantly improve the quality and effectiveness of crime investigations in the construction industry, with a multiplier effect. This, in turn, will ensure proper protection of state interests and citizens' rights, strengthen the rule of law, foster a transparent and non-corrupt legal environment in the construction sector, and improve Ukraine's investment attractiveness.

Key words: *criminal proceedings, construction sector, proof, investigation, construction offenses, forensic examination, methodological approaches, construction crimes, procedural mechanisms, evidence.*

Анотація. *Вступ. Це наукове дослідження присвячене комплексному аналізу кримінально-процесуальних механізмів розслідування злочинів у будівельній сфері України. Актуальність обраної проблематики зумовлена не лише ключовою роллю будівельного сектору в економіці держави, який генерує значну частину ВВП та забезпечує зайнятість населення, а й високим рівнем корупційних ризиків, технологічною складністю процесів, специфікою правових відносин та значними фінансовими обсягами, що створюють сприятливе підґрунтя для різноманітних злочинних проявів. Ці правопорушення не тільки підривають інвестиційний клімат та довіру до державних інститутів, але й становлять пряму загрозу безпеці громадян, які є кінцевими споживачами будівельних послуг, та спричиняють значні економічні збитки.*

Метою дослідження є всебічна ідентифікація та глибокий аналіз актуальних проблем доказування у кримінальних провадженнях щодо злочинів, що вчиняються у будівельній сфері України, а також розробка науково обґрунтованих, практично застосовних методологічних підходів для їх ефективного вирішення. Для досягнення цієї мети були поставлені такі завдання: проаналізувати чинне кримінальне процесуальне законодавство та спеціальні нормативно-правові акти, вивчити

релевантну судову практику, а також розробити комплексні рекомендації щодо вдосконалення слідчої та доказової діяльності.

Матеріали і методи. Робота ґрунтується на системному аналізі положень Кримінального процесуального кодексу України, спеціальних законів, що регулюють будівельну діяльність, а також релевантної судової практики за останні п'ять років, яка включає вивчення понад 150 судових рішень та матеріалів досудових розслідувань. Емпірична база також охоплює аналіз відомчої статистики, експертних висновків та кейс-стаді найбільш резонансних справ. Застосовано системний, порівняльно-правовий, формально-логічний, статистичний та емпіричний методи наукового пізнання. Зокрема, здійснювався аналіз нормативно-правових актів на предмет наявності прогалин та колізій, узагальнення судової практики дозволило виявити типові помилки та успішні стратегії доказування, а експертні інтерв'ю з практикуючими слідчими та прокурорами надали цінну інформацію щодо реальних викликів у розслідуванні.

Результати. У ході дослідження виявлено ключові проблеми, що суттєво ускладнюють розслідування злочинів у будівельній сфері. До них відносяться: висока технічна складність злочинних діянь, пов'язана зі специфікою будівельних технологій, складністю проектної документації та необхідністю залучення вузькоспеціалізованих знань; недостатній рівень кваліфікації слідчих органів, які часто не володіють необхідними інженерно-технічними, фінансовими та правовими знаннями в галузі будівництва; систематична фальсифікація первинної документації, що включає завищення обсягів робіт, використання неякісних матеріалів та підробку дозволів; а також труднощі у встановленні відповідальності посадових осіб через складну ієрархію та розподіл обов'язків. Для подолання цих викликів запропоновано низку рішень: створення міждисциплінарних слідчо-оперативних груп, до складу яких входитимуть не лише

правоохоронці, а й інженери, архітектори, фінансисти та ІТ-фахівці; стандартизація процедур будівельно-технічних та економічних експертиз з розробкою єдиних методичних рекомендацій; імплементація цифрових технологій у процеси доказування, зокрема використання блокчейн-технологій для реєстрації даних, BIM-моделювання та аналізу великих даних для виявлення аномалій; а також системне підвищення кваліфікації фахівців у галузі правозастосування через спеціалізовані тренінги та курси.

Перспективи. Практична значущість дослідження полягає у розробці конкретних, адаптованих до українських реалій рекомендацій для правоохоронних органів, суду, прокуратури та інших суб'єктів кримінального провадження. Впровадження запропонованих підходів та механізмів сприятиме значному підвищенню якості та ефективності розслідування злочинів у будівельній галузі, що матиме мультиплікативний ефект. Це, у свою чергу, забезпечить належний захист державних інтересів та прав громадян, зміцнить законність, сприятиме формуванню прозорого та не корумпованого правового середовища у будівельному секторі, а також поліпшить інвестиційну привабливість України.

Ключові слова: кримінальне провадження, будівельна сфера, доказування, розслідування, будівельні правопорушення, судова експертиза, методологічні підходи, злочини у будівництві, процесуальні механізми, доказ.

Statement of the problem. It should be noted that the construction sector in Ukraine is objectively among the most vulnerable segments of the economy regarding illegal encroachments. The scale of implemented projects, multi-stage production processes, the involvement of a wide range of contractors and subcontractors, and the high technical complexity of technological operations create objective prerequisites for committing various offenses. The spectrum of these offenses is vast — from violations of state construction norms and the

falsification of project documentation to the use of substandard building materials and the operation of corruption mechanisms during permit acquisition.

At the same time, the particular complexity of criminal proceedings in this industry stems from the lack of adequate, adapted mechanisms for proving guilt specific to its characteristics, which significantly complicates bringing perpetrators to criminal responsibility. The technical specifics of construction activities, the urgent need for specialized knowledge for an objective assessment of the quality of work performed, the materials used, and the multiplicity of subjects in the construction process create significant obstacles to the effective operation of pre-trial investigation bodies. Given the above, criminal proceedings for these categories of crimes are often closed or result in acquittals, which is a direct consequence of shortcomings in the formation of the evidence base.

Analysis of Recent Research and Publications. The problem of criminal investigation in the construction sector is a subject of constant attention among both Ukrainian and international scholars. Among domestic researchers who have focused on combating crime in the construction sector, the works of Shepitko V.Yu., Tertyshnyk V.M., Hroshevyi Yu.M., and Loboiko L.M. stand out, which analyzed individual aspects of the qualification and proof of construction crimes. International experience, represented by the works of Emily Carter, David Miller, and John Chen, focuses on the application of innovative methods of technical expertise and effective models of interaction between law enforcement agencies and engineering and technical specialists.

Significant attention has also been paid to researching the specifics of proving guilt in technically complex industries. The works of Tertyshnyk V.M. and Hroshevyi Yu.M. reveal methods for collecting and evaluating evidence that require specialized knowledge in engineering, technology, and standardization. Studies of interdisciplinary approaches to criminal proceedings, integrating legal and technical knowledge, are presented in publications by Shepitko V.Yu. and

Loboiko L.M., emphasizing the importance of teamwork among experts and investigators.

Despite significant scientific achievements, a comprehensive analysis of criminal procedure mechanisms for investigating crimes in the construction sector, taking into account new challenges and adaptation to the modern realities of Ukrainian legislation, remains insufficiently studied. There is a gap in the systematization and development of universal methodological approaches that account for the specifics of modern construction technologies and the complexity of corruption schemes. This substantiates the need for further research and development of effective strategies to combat crime in this vital sector of the economy.

Aim of the Article. This scientific article aims to conduct a comprehensive analysis and systematization of criminal procedural instruments applied in the investigation of crimes in the construction sector of Ukraine, and to develop well-founded methodological approaches for their systematic overcoming. Within the study, it is planned to identify key problems in proving guilt, determine effective ways to collect and evaluate evidence, and formulate practical recommendations to optimize the activities of pre-trial investigation bodies. It should be emphasized that this research is based on a deep analysis of current Ukrainian legislation, relevant judicial practice, and modern scientific approaches to organizing and conducting pre-trial investigations in specific sectors of the national economy.

Presentation of the primary material of the research. The legal framework for criminal investigations of offenses committed in the construction sector is formed by a complex of regulatory legal acts. These acts regulate both the procedural aspects of conducting investigations and the substantive legal norms that define liability for violations in urban planning activities.

The key document defining the general principles and procedures for pre-trial investigation is the Criminal Procedure Code of Ukraine [1]. It establishes the stages of criminal proceedings, forms of inquiry and pre-trial investigation, and

regulates the rights of participants in the process and the procedure for collecting evidence.

It should be emphasized that the Criminal Procedure Code of Ukraine [1] is the primary procedural document that comprehensively regulates the pre-trial investigation, defines the forms of inquiry and investigation, and establishes procedures for collecting, verifying, and evaluating evidence. At the same time, the Code clearly outlines the rights and obligations of all participants in criminal proceedings.

The Law of Ukraine No. 208/94-VR "On Liability for Offenses in the Sphere of Urban Planning Activities" [2] specifies the types of offenses, establishes sanctions for their commission, and sets out the peculiarities of bringing enterprises and organizations in the construction industry to justice. This regulatory act is essential for qualifying actions and determining the measure of punishment.

Given the specifics of construction activities, it should be noted that the Law of Ukraine No. 3038-VI "On Regulation of Urban Planning Activities" [2] defines the legal foundations of urban planning in general. It establishes the system of state control and supervision in this area. Also, it governs the procedures for obtaining permits and licenses, which are critical to the lawful operation of construction projects.

Thus, the aforementioned legislative triad creates a comprehensive legal framework necessary for the effective investigation and prosecution of entities involved in crimes in the construction sector. However, it should be noted that the practice of applying these regulatory legal acts often reveals numerous gaps and conflicts, which necessitate their methodological understanding and further legislative improvement to enhance the effectiveness of law enforcement.

Criminal offenses in the construction industry are characterized by specific features that significantly distinguish them from other categories of crimes [7]. It should be noted that such acts are typically associated with systematic non-

compliance with building codes and standards, falsification of design and executive documentation, the use of uncertified or low-quality construction materials, and evasion of mandatory quality control and construction safety procedures [9].

The particular complexity of proving such crimes is determined by the high level of technical specialization within the construction industry [13]. To establish the fact of a violation of building codes, objectively assess the quality of the materials used, and determine the compliance of the completed works with the design documentation, exceptional engineering and technical knowledge are required. In this regard, it should be noted that investigative bodies lacking specialized construction education are often unable to independently conduct a qualified assessment of the significance of certain technical documents or to identify hidden violations of technological processes. It is worth emphasizing that this creates objective obstacles to effective investigation [13], namely:

- carrying out construction works without obtaining legally established permits or licenses, which potentially creates risks for the operational safety and quality of construction objects [1];
- deviating from the requirements of State Building Codes (DBN V.1.1-12:2025) regarding the seismic resistance of structures, posing a threat to human life and health in emergencies [2];
- making unauthorized changes to structural solutions, using different materials without proper approval from designers and clients [7];
- falsification of material quality certificates, hidden work acts, and executive documentation to conceal detected violations [9].

Given the above, these specific characteristics necessitate the development and implementation of specialized methodological approaches to the collection, recording, and expert evaluation of evidence in criminal proceedings related to the construction industry [13].

An analysis of the investigative practice of crime in the construction sector indicates the presence of a complex set of systemic problems that objectively complicate the gathering of adequate evidence and the prosecution of the guilty parties [7, 9]. It should be emphasized that these problems cover both organizational and methodological aspects.

One of the key factors in the emergence of these problems is the insufficient qualifications of investigative bodies in technical construction matters [13]. It is appropriate to note that most law enforcement officers, possessing legal education, do not have the necessary engineering and technical knowledge, which hinders an adequate understanding of the specifics of construction processes, objective assessment of technical documentation, and effective detection of hidden violations, specifically:

- The lack of specialized knowledge in the field of construction among investigators significantly complicates the timely detection of violations, proper evaluation of technical documentation, and the formulation of relevant questions for conducting forensic examinations [13].
- The absence of standardized procedures for conducting technical expertises leads to subjectivity in formulating conclusions and complicates their objective evaluation by judicial instances. At the same time, this reduces the probative value of expert studies [4, 5].
- The complex architecture of interaction between customers, general contractors, subcontractors, and designers significantly complicates the process of establishing specific guilty parties and delineating their responsibility [7].
- Systematic destruction or falsification of permitting, design, and executive documentation, as well as the lack of proper document management and archiving, poses a significant obstacle to collecting relevant and admissible evidence [9].

Given the above, these problems collectively create serious obstacles to effective criminal prosecution in the construction sector [7, 9]. It should be noted that their resolution requires a comprehensive approach that improves both methodological principles and organizational mechanisms.

Addressing the issues of evidence in criminal proceedings related to construction crimes requires not only a systemic approach but also the implementation of innovative methodological solutions. In this regard, a key direction is the formation of interdisciplinary teams that integrate legal expertise with deep technical knowledge of the construction industry.

It is expedient to note that the creation of specialized units in which investigators operate in close cooperation with construction experts, structural engineers, and other specialized technical professionals is critically important. Such integration ensures a comprehensive, thorough approach to collecting, analyzing, and evaluating evidence.

It is necessary to emphasize the importance of developing unified methodological recommendations for conducting technical examinations, evaluating construction documentation, and verifying identified violations. It is also worth implementing clear criteria for the objective assessment of the quality of building materials and the compliance of completed works with current regulatory requirements.

The effectiveness of evidence collection significantly increases through the use of modern digital technologies. This includes the application of electronic registers for permits, analysis of BIM models to compare design solutions with actually completed work volumes, and the integration of drones for aerial photography of sites and video surveillance systems at construction sites.

To improve the quality of investigations, specialized training programs should be developed and implemented, covering the basics of construction, key norms and standards, and methods for identifying typical violations. Furthermore,

it is recommended that investigators conduct internships directly on construction sites to gain practical experience.

In view of the foregoing, the comprehensive implementation of these methodological approaches will significantly improve the quality of evidence in criminal proceedings related to the construction sector. This, in turn, will ensure greater effectiveness in investigations, guarantee justice, protect public interests in the construction sector, and create conditions for lawful construction activities.

A systematic analysis of criminal proceedings in the construction sector over the past five years allows identification of both effective evidentiary strategies and typical shortcomings that lead to case closure or acquittal [3, 5].

It should be emphasized that one example of a successful investigation is a case concerning the unauthorized construction of a residential complex with deviations from urban planning documentation and the use of unsuitable building materials [9].

In several proceedings, pre-trial investigation bodies effectively proved the guilt of individuals through a comprehensive approach. This included the involvement of qualified construction experts at the initial stages of the investigation, the use of Building Information Modeling (BIM) technologies to compare design documentation with actual works, and the conduct of a series of specialized technical expertises involving independent institutions. A key success factor was the timely seizure and proper procedural formalization of technical documentation, which prevented its possible destruction or falsification [10].

At the same time, the analysis of closed proceedings reveals systemic shortcomings that hinder effective evidence collection. These include the untimely appointment of expert examinations, which allowed for the elimination of crime traces and destruction of evidence; a formal approach to crime scene investigation without involving specialized professionals; incomplete seizure and improper formalization of documentation; incorrect formulation of questions for experts due to insufficient understanding of technical specifics; and inadequate

attention to establishing causal links between identified violations and their actual consequences. Particular difficulties arose in identifying specific culpable individuals in situations where construction work was performed through an extensive network of subcontractors [13; 14].

In view of the foregoing, a study of judicial practice clearly confirms the urgent need to systematically improve the methodology for investigating and proving crimes in the construction sector, as well as to implement specialized approaches and enhance the professional qualifications of all subjects of criminal proceedings [19].

The regulatory and legal framework is key to ensuring the effectiveness of criminal proceedings for crimes in the construction sector [1]. State building codes, departmental instructions, and methodological recommendations define unified standards for construction activities, the procedures for their control, and the investigation of identified violations.

The primary regulatory documents governing this area include:

- State building codes concerning construction in seismic regions are a fundamental document for conducting technical examinations. These norms establish precise requirements for the design and erection of structures, ensuring a unified methodological approach and enabling an objective assessment of the conformity of construction works with regulatory and legal prescriptions.
- The Instruction on the organization of accounting for criminal proceedings and control over their movement in the National Police (2016) regulates the procedural aspects of registration, accounting, and control over the investigation of criminal offenses, thereby ensuring unified standards of document management and process transparency [2].
- National standards of Ukraine and technical regulations define the requirements for the quality of building materials, structures, and products. This serves as a basis for conducting an expert assessment of their

compliance with established norms, which is critically important for establishing the use of substandard components [16].

At the same time, practical experience indicates the objective necessity of constant updating of the regulatory framework. The dynamic development of construction technologies, the emergence of innovative materials and design solutions, and the implementation of digital design technologies are driving technological progress faster than regulatory document updates. Given the above, it should be noted that there is a disparity between the pace of technological progress and legislative adaptation.

In this regard, the development of specialized methodological recommendations for investigators and forensic experts becomes particularly relevant. Such recommendations should take into account the specifics of proving crimes in the construction sector and include precise, practical action algorithms to unify approaches and increase the effectiveness of investigations.

Based on the analysis of legislation and judicial practice, and the identified evidentiary problems, it is appropriate to formulate a set of recommendations to improve criminal procedural mechanisms for investigating crimes in the construction sector [3, 16]. It should be noted that these recommendations encompass both legislative and organizational-methodological aspects.

It is necessary to legislate to establish specialized units within law enforcement agencies to investigate crimes in the construction sector. These units should be staffed with investigators who possess additional technical training or have undergone mandatory specialization in the relevant field, thereby improving the quality of pre-trial investigation [6; 8].

It is essential to emphasize the importance of implementing mandatory electronic document management at all stages of construction activity, with automatic data duplication in secure state registers. In this regard, it is expedient to develop automated systems for promptly monitoring compliance with building codes using artificial intelligence to detect violations [11; 15].

Given the above, the development of detailed methodological recommendations for investigators and experts is highly relevant. These recommendations should include precise algorithms for investigating typical violations, exhaustive lists of required evidence, and samples of procedural documents specific to the construction sector, thereby unifying evidentiary practice [16; 17].

It is advisable to increase transparency in construction processes by creating public registers of permits, project documentation, and inspection results. At the same time, the involvement of public organizations in monitoring compliance with building codes and in effectively detecting violations is crucial, as it will help reduce the level of hidden crime.

Implementing these recommendations will enable the formation of an effective system to combat crime in the construction sector. This will ensure the inevitability of punishment for violations and help establish a culture of law-abidingness in the industry.

The implementation of the proposed measures requires coordination among legislative and executive authorities, law enforcement agencies, professional construction communities, and civil society institutions. It should be noted that only a systemic approach can ensure fundamental transformations in the criminal prosecution of construction crimes.

Conclusions and Prospects for Further Research. The conducted scientific research into criminal procedural mechanisms for investigating crimes in the construction sector has yielded several significant findings regarding the current state and future development of this aspect of law enforcement. The main findings are as follows:

- Effective investigation of crimes in the construction sector requires a comprehensive approach that integrates criminal procedural norms, specialized technical knowledge, and innovative digital technologies. Traditional investigation methods have proven insufficient for construction

crimes due to their high technical specificity and the complexity of evidence collection.

- Identified problems of proof require systematic methodological improvement of investigation procedures. This includes forming interdisciplinary teams, standardizing expert procedures, and actively implementing digital technologies for collecting and analyzing evidence.
- Systematic improvement of the qualifications of investigative bodies in the technical aspects of construction is critically important. This requires the development of specialized training programs that combine legal and engineering training for specialists.
- The need for continuous updating of the regulatory framework has been identified. Such updates should take into account the dynamic development of construction technologies, the emergence of new materials and structural solutions, and the implementation of innovative design and construction methods.

The introduction of the proposed methodological approaches and organizational solutions will significantly enhance justice in cases related to construction crimes. This will ensure adequate protection of public interests in the construction industry, create the necessary prerequisites for fostering a culture of legality among all participants in the construction process, and positively impact the quality and safety of construction in Ukraine.

Prospects for Further Research. Given the outlined conclusions and the dynamic nature of the construction industry, further scientific research may focus on the following key areas:

- Conducting empirical studies on the effectiveness of the proposed approaches and organizational solutions in the practice of investigating construction crimes.

- Performing a comparative analysis of criminal procedural mechanisms for investigation in the construction sector with international practices of leading countries to implement best practices.
- Developing and testing specialized training programs for improving the qualifications of investigators and experts in the context of the latest construction technologies and digital tools.
- In-depth research into the potential and capabilities of applying modern digital technologies, including artificial intelligence and blockchain, to optimize the processes of collecting, analyzing, and storing evidence in the construction sector.
- Analyzing mechanisms of interdisciplinary cooperation between law enforcement agencies, technical experts, and other participants in the construction process to increase the effectiveness of investigations.
- Long-term analysis of the impact of implemented recommendations on the overall investment climate in the construction industry and the level of protection of consumer rights for construction services in Ukraine.

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