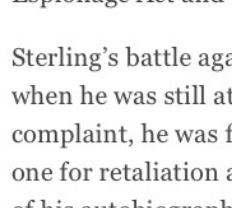


THE WHISTLEBLOWER'S TALE

How Jeffrey Sterling Took on the CIA — and Lost Everything



Peter Maass
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HIS IS HOW it ended for Jeffrey Sterling. A former covert officer for the Central Intelligence Agency, Sterling sat down in a federal courtroom with a lawyer on either side, looking up at a judge who would announce in a few moments whether he would go to prison for the next 20 years. A few feet away, three prosecutors waited expectantly, hoping that more than a decade of investigation by the FBI would conclude with a severe sentence for a man who committed an “unconscionable” crime, as one of them told the judge.

On Sterling’s blind spot, behind his left shoulder, his wife tried not to sob so loudly that the judge would hear. A social worker, she had been interrogated by FBI agents, her modest home was searched, she had been made to testify before a grand jury, and she had given up her hopes for an ordinary life — a child or two rather than the miscarriages she had, a husband who could hold a job, a life that was not under surveillance, and friends who were free of harassment from government agents asking for information about her and her husband.

One of Sterling’s lawyers stood up to ask for leniency. Sterling was a good person, the lawyer said, not a traitor. He was the first in his family to graduate from college. After leaving the CIA, he worked as a healthcare investigator and won awards for uncovering millions of dollars in fraud. He loved his wife. He did not cause any harm and did not deserve to be locked up until he was an old man for talking to a *New York Times* reporter about a classified program that he believed had gone awry. Please let the sentence be fair, the lawyer said.

It was time for Sterling to say a few words. His lawyers followed him to the lectern, standing a half step behind, as though to steady him if he wavered. A tall man with a low voice, Sterling thanked the court for its efforts to conduct the trial and thanked the judge for delaying its start so he could attend the funeral of one of his brothers. He did not say whether, as the jury had decided, he was guilty of what they had convicted him for — violating the Espionage Act and other laws related to disclosing classified information.

Sterling’s battle against the government had begun more than 15 years earlier, when he was still at the CIA. After he lodged a racial discrimination complaint, he was fired by the agency and filed two federal lawsuits against it, one for retaliation and discrimination, another for obstructing the publication of his autobiography. He also spoke as a whistleblower to Congress. Soon, his savings ran out and he became all but homeless, driving around the country, lost in despair. He eventually returned to his hometown near St. Louis and rebuilt his life, finding the woman who became his wife and landing a job he thrived at.

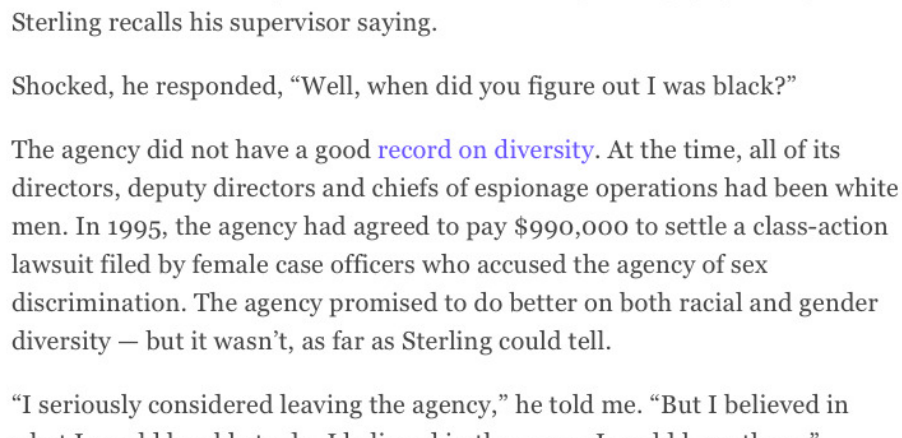
His new life was torn apart when FBI agents came to his workplace in 2011, placing him in handcuffs and parading him past his colleagues. A few days later, still in jail, he was fired because he had not shown up for work. The drama ended in a wood-paneled courtroom in Alexandria, Virginia on a warm afternoon in May, after Sterling finished his brief statement to the judge.

Sterling’s case has drawn attention primarily for two reasons: it was part of the Obama Administration’s controversial crackdown on leakers and whistleblowers, and prosecutors had tried to force the *Times* reporter, James Risen, to divulge the name of his source, whom the government believed was Sterling. The case, known as *United States of America v. Jeffrey Alexander Sterling*, was treated mainly as a freedom-of-the-press issue, with Risen as the *heroic centerpiece*. Lost in the judicial briefs about the First Amendment was the black man in the middle.

This is Sterling’s story.

DURING HIS LAST year of low school in St. Louis, Sterling was reading a newspaper between classes. He noticed an advertisement that showed a man standing at the edge of a body of water and looking at the horizon in an inspirational way. See the world, the ad said. Serve your country. Join the CIA.

It got him.



As a teenager, Sterling had become fascinated with the rest of the world. When he arrived home from high school, he would watch the MacNeil/Lehrer Report on PBS. Attending a racially mixed high school, he didn’t fit in. He remembers being called an Oreo, black on the outside and white on the inside, because his interests didn’t coincide with some people’s concept of what a black kid should do or think or say. Within hours of reading the CIA ad he began working on his application.

His first day at Langley — what people at the agency call their “EOD,” or Entrance On Duty — was May 13, 1993. He was told to park behind the main building and enter through the back doors used by most employees. But Sterling made a detour around the long sides of the building to walk through the *grand entrance* — the one with the shiny CIA emblem on the marble floor, where you walk by a wall that has stars for each CIA officer killed in the line of duty.

“That was a thrill,” he told me. “I actually did that for the first few days. It meant that much to me, to be able to walk in that front door knowing that I was part of something special. I was so proud of it.”

I met Sterling in April, at his home in O’Fallon, on the outskirts of St. Louis. It had been three months since the jury *convicted him*, and he was waiting for the hearing at which he would find out whether he would receive the term recommended under federal sentencing guidelines — between 19 to 24 years in prison. He was surprisingly tranquil, occasionally stroking his gray-flecked goatee as he talked about his long fight with the government. Other than discussing his case in a *short documentary* directed by Judith Ehrlich and produced by Norman Solomon, Sterling has not talked publicly about it. The Justice Department, asked to respond to his account, refused to provide any comment.

I DID NOT take long, apparently, for the color of Sterling’s skin to set him apart at the CIA.

Once he had completed the agency’s version of basic spy training, Sterling was assigned to the Iran Task Force and dispatched to language school to learn Farsi. In 1997, just before he was to leave for his first overseas post in Germany, he was told that somebody

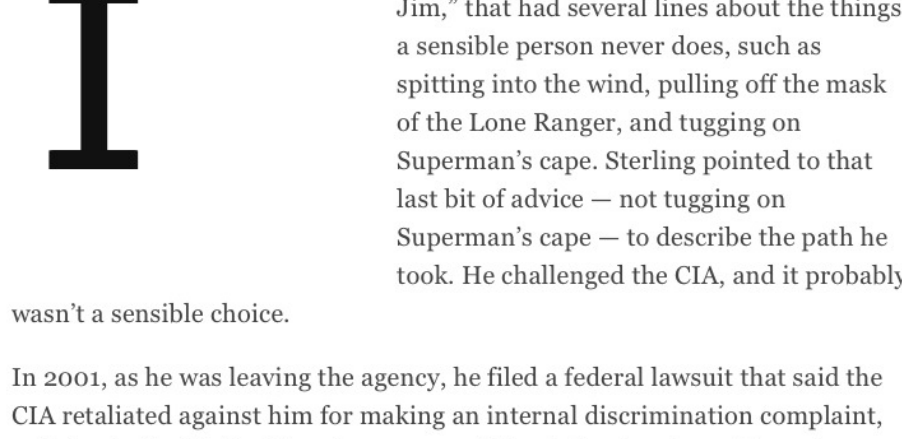
else was going instead.

“We’re concerned that you would stick out as a big black guy speaking Farsi,” Sterling recalls his supervisor saying.

Shocked, he responded, “Well, when did you figure out I was black?”

The agency did not have a good *record on diversity*. At the time, all of its directors, deputy directors and chiefs of espionage operations had been white men. In 1995, the agency had agreed to pay \$990,000 to settle a class-action lawsuit filed by female case officers who accused the agency of sex discrimination. The agency promised to do better on both racial and gender diversity — but it wasn’t, as far as Sterling could tell.

“I seriously considered leaving the agency,” he told me. “But I believed in what I would be able to do. I believed in the career I could have there.”



A few months later, he accepted a different overseas assignment. Shortly before he was to leave, a supervisor said he would instead go to the position in Germany that he had previously been turned down for, because the officer they were planning to send had pulled out. Sterling, a proud man, said he didn’t want to take a position for which he had been deemed second-best.

“You either go where we want or you’re going nowhere,” Sterling says he was told.

He went.

“I was like, OK, I can deal with this, I at least have an assignment,” Sterling told me. “I’ll prove to them how I’m a great case officer.”

Sterling recalls being the only black officer at the agency’s station in Bonn. His cover was as an Army logistics officer rather than a State Department officer, and he says this made it more difficult to gain entry to the social and political circles where foreign spies are recruited; doors that open for diplomats are closed to logistics officers. He believes his bosses thought the color of his skin meant he wouldn’t do as well as other officers, so they didn’t bother giving him a good cover.

“I couldn’t get into a janitor’s convention,” he said.

Sterling returned to the U.S. and was assigned to the counter-proliferation division at the agency’s headquarters before being dispatched to the New York station, where he says that once again he was the only black officer. Things did not go smoothly. He was *given an unusual ultimatum* — start recruiting three new spies, hold three meetings with each of them, or leave New York. He felt singled out, asked to do more than other officers while lacking the cover they had.

“That was the last I could take of it,” Sterling recalled. “I just said ‘No, I don’t accept this and I’m going to file a complaint.’”

He was transferred back to Langley, where he was given a closet-sized office that he and the co-worker he shared it with jokingly called “the penalty box.” He filed an internal racial discrimination complaint that didn’t succeed, and soon he was fired. John Brennan, who at the time was the agency’s deputy executive director and is currently its director, *told the New York Times* that “it was an unfortunate situation because Jeffrey was a talented officer and had a lot of skills we’re looking for, and we wanted him to succeed. We were quite pleased with Jeffrey’s performance in a number of areas. Unfortunately, there were some areas of his work and development that needed some improvement.”

In O’Fallon, Sterling and I met at the single-story home he shares with his wife and two cats in a community of nearly identical red-and-white houses. “We’re really outside the beltway here,” he joked at one point. He has a voice that’s made for radio — deep and fluid, a bass that usually stays in the same comfortable register. He was dressed in jeans and a short-sleeved shirt, with sandals on his feet. On the wall, there was a *print by Salvador Dali* of two butterflies dancing in the air. His tone varied only once or twice, when his steady voice sharpened into a knife.

“I had dedicated myself to that agency,” he said, when I asked why he chose to confront the CIA rather than, as many people might have done, carry on quietly or resign without filing a lawsuit. “I couldn’t just walk away from something that was so vital to me and that I couldn’t just go out, proved I was good at. That was it for me. ... No, you are not going to treat me that way.”

I N 1972, JIM CRESS came out with a hit song, “You Don’t Mess Around with Jim,” that had several lines about the things a sensible person never does, such as spitting into the wind, pulling off the mask of the Lone Ranger, and tugging on Superman’s cape. Sterling pointed to that last bit of advice — not tugging on Superman’s cape — to describe the path he took. He challenged the CIA, and it probably

wasn’t a sensible choice.

In 2001, as he was leaving the agency, he filed a federal lawsuit that said the CIA retaliated against him for making an internal discrimination complaint, and that he had indeed faced a pattern of discrimination there. The suit was dismissed by a judge after the CIA successfully argued in pre-trial motions that a trial would expose state secrets by disclosing sources and methods of intelligence-gathering. An appeals court upheld that ruling, though it *noted* that the dismissal “places, on behalf of the entire country, a burden on Sterling that he alone must bear” by being deprived of his right to a trial. The dismissal spared Sterling’s supervisors from testifying about their interactions with him. The government has not provided specific responses, in court or to the media, about his accusations of racial discrimination, other than to generally state that he faced none.

He tugged on the CIA’s cape in other ways. He wrote a memoir, tentatively titled *Spook: An American Journey Through Black and White*, and submitted chapters for pre-publication review. According to a lawsuit Sterling filed in 2003, the CIA determined that his manuscript contained classified information that should not be published, and demanded that he add information that, his suit said, was “blatantly false.” Facing a tough legal battle with a presiding judge who seemed sympathetic to the CIA, Sterling eventually agreed to drop the suit. His manuscript has not been published.

Also in 2003, Sterling met staffers from the Senate Select Committee on Intelligence to let them know his concerns about the mismanagement of a classified program he worked on at the agency. Merlin, as the program was called, involved the CIA giving Iran faulty nuclear blueprints. If the blueprints were used, Iran’s nuclear program would be delayed. The blueprints were given to the Iranians by a Russian scientist who lived in the United States, and Sterling was his CIA handler. The CIA has said the program worked well, but Sterling told the committee staffers it was botched and that the Iranians learned the blueprints were flawed; the Iranians might have gained nuclear insights from the accurate parts.

By the time he talked to the Senate staffers, Sterling had become radioactive by Washington standards. This is the usual whistleblower’s fate. He applied for jobs with the private-sector contractors that tend to eagerly recruit experts like him, and they initially seemed quite interested. Sterling recalls, but their attention vanished suddenly, presumably when they learned about his disputes with the CIA. His descent began in full. Running out of money, he sold his belongings on Craigslist, gave his cats to a woman who had a farm, and packed a few things into his car and took off.

The idea was to drive to his mother’s house in Missouri, but he wandered, parking at truck stops at night and sleeping in his car. “I had nowhere to go,” he recalled. “I had worked hard and it all fell apart.” He eventually visited friends in St. Louis who had a newborn and they made a deal — Sterling cared for their baby and lived rent-free in their house. “It was very humbling to go from being a case officer with the Central Intelligence Agency to now I’m a nanny,” Sterling noted.

Then, as things do, his life turned around. In 2004 he landed a job as a healthcare investigator at WellPoint, and he also met a woman, Holly Brooke, and after a few months moved into her house. He now had a job, a life partner, a home. Everything was great until, on the morning of New Year’s Eve in 2005, the CIA’s top lawyer, John Rizzo, was woken up at home by a phone call on his secure line.

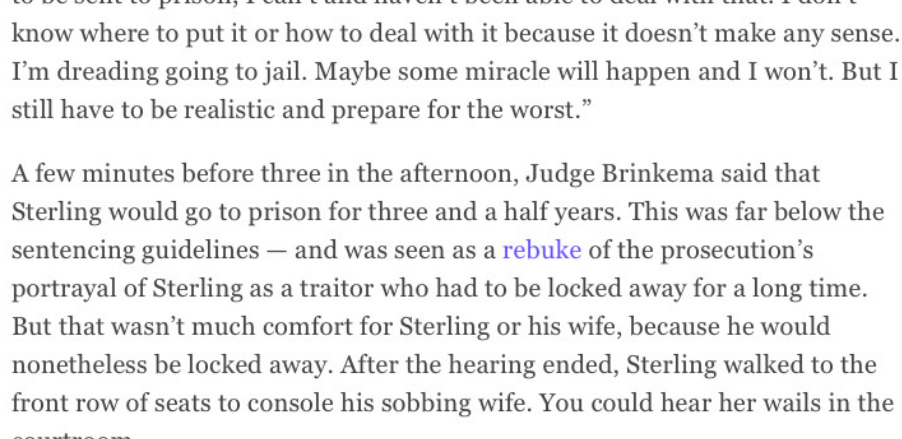
RIZZO GROGGILY ANSWERED the phone and was told by an official at the National Security Council that a book was about to be published that disclosed one of the CIA’s most sensitive intelligence programs. The book, by James Risen, was called *State of War*, and it described the Merlin program as perhaps “one of the most reckless operations in the modern history of the CIA.” Risen’s book did not identify who

his source, or sources, were.

Rizzo, who described the day’s events in his *memoir*, threw on his clothes and drove into town to get the book from the NSA official, then drove to Langley to share it with senior officials who had been dragged from their homes to figure out what to do. The White House wanted to take the extraordinary step of stopping the book from being published. President Bush’s top lawyer, Harriet Miers, asked Rizzo to call Sumner Redstone, the chairman of Viacom, which owned Simon & Schuster, the book’s publisher. In the end, Rizzo didn’t call Redstone, but he made a mental note to file a crimes report with the Department of Justice; the leaker had to be found.

Within a month, two FBI agents were at Sterling’s house outside St. Louis. They claimed they were concerned that an Iranian was on the loose who might do harm to him. Sterling sensed it was a ruse; he told the FBI agents he’d be able to spot someone following him, particularly an Iranian because there were no Iranians where he lived. The agents then asked if they could come inside and Sterling refused. They had a copy of Risen’s book and asked if he knew about it.

“I was like, ‘I don’t know anything about that book. That was the first I had ever seen of that,’” Sterling told me.



This wasn’t the first time Sterling was questioned by the FBI. Risen had interviewed Sterling in 2002 and *published a story* about his discrimination lawsuit. The next year, Risen reported a story about the Merlin program, but it wasn’t published. Risen asked the CIA for pre-publication comment on the story and was soon summoned to the White House, along with his editor. They were told by then-National Security Adviser Condoleezza Rice that the story, if published, would reveal a valuable covert program and could cost lives. *The Times* decided to *kill it*.

The Justice Department launched a criminal investigation in 2003 and FBI agents questioned Sterling that year. However, until the agents showed up at his doorstep in 2006 with Risen’s book, Sterling thought his struggles with the government were behind him.

After that visit, Holly was subpoenaed to testify before a grand jury. She was questioned for seven hours at FBI headquarters in Washington and, she told me, the next day she spent three hours before the grand jury in Alexandria, Virginia. When she returned to St. Louis, she got a call from her lawyer, who said the FBI was coming to search her home. More than a dozen agents soon showed up to confiscate some of the couple’s belongings.

“They left and I had a meltdown,” Holly said during lunch at a pub near her home. “As easy-listening rock music played in the background, I was sobbing and crying and couldn’t understand this. I attempted to go to work the next day and I just lost it. My boss came to me and she said, ‘You need to leave. I think you are suffering from post-traumatic stress disorder.’”

Then, as mysteriously as it had intruded into their lives, the FBI’s investigation seemed to dissipate. In the fall of 2010, Sterling’s lawyer called him to say the case appeared to be winding down.

O N JANUARY 6, 2011, Sterling was asked to attend a meeting at his office. He was on medical leave after a knee-replacement operation, so he hobbled into work with a cane, and after checking on the mail that had piled up on his desk, a colleague told him the security staff needed to see him because there was a problem with his badge. It was urgent, Sterling was told. When he visited the security staff he was confronted, he says, by several FBI agents and police officers who placed him under arrest. His cane was taken away, his arms were handcuffed behind his back, and he was marched out of the building, limping, as his co-workers gaped. The *indictment* accused him of leaking to Risen out of “anger and resentment” at the CIA.

The timing of his arrest was unusual. The exchanges between Sterling and Risen began in 2001 and finished in 2005, according to records of their phone calls and emails that were listed in the indictment. Why was Sterling arrested six years after he last communicated with Risen and five years after his home was searched by the FBI? If, as the government claimed, he had caused so much harm, why did prosecutors wait so long to press charges?

The answers appear to be political. Until Barack Obama was elected president, the Department of Justice rarely prosecuted leakers. Obama promised, as a candidate, to create the most transparent administration ever, but he has presided over more leak prosecutions under the Espionage Act than all previous administrations combined. Dennis Blair, the director of national intelligence during Obama’s first term, *told the Times* that a decision was made in 2009 to “hang an animal once in a while,” as Blair put it, to show would-be leakers they should not talk to the press. The Justice Department did not charge high-level officials, however; mid-level officials were the *principal targets*, and it appears that Sterling’s all-but-shut case was brought back to life as part of the crackdown.

Sterling, detained for weeks, became despondent.

“All of it came crashing down on me, sitting in that jail cell,” he said. “So many years, so many struggles, and I had gotten to a point where I had picked myself up and was just moving on. But this behemoth of anger, of retaliation, was having its way. It was an extremely low feeling that I was going through, disbelief, shock.”

He stopped eating until Holly was allowed to visit.

“Just seeing her face shocked me back into knowing that here’s this woman who loves me and she’s been with me through thick and thin,” he said. “I made a promise to her that I would stay alive, I won’t try to hurt myself.”

RELEASED FROM JAIL Sterling no longer had a job and could not find a new one, due to the taint of an Espionage Act indictment, and he had to wait four years for his trial to begin. A large part of the delay was due to a legal battle between the prosecution and Risen — the prosecution wanted Risen to name his source, whom the government believed was Sterling, but Risen refused to cooperate, raising the prospect of a journalist going to jail for defying the government. The Obama administration, criticized for violating First Amendment protections, backed off just before the trial began.

On January 13, the trial opened with the lead prosecutor, James Trump, telling the jury that Sterling was a traitor.

“The defendant betrayed his country,” Trump *said*. “He betrayed his colleagues. He betrayed the CIA and compromised its mission. And most importantly, he betrayed the Russian asset, a man who literally placed his trust and his life into the defendant’s hands.”

Trump addressed the question of motive.

“And why?” he asked. “Anger, bitterness, selfishness. The defendant struck back at the CIA because he thought he had been treated unfairly. He had sued the agency for discrimination and demanded that they pay him \$200,000 to settle his claim. When the agency refused, he struck back with the only weapon he had: secrets, the agency’s secrets.”

The government’s case consisted mostly of records of emails and phone calls between Sterling and Risen that began in 2001 and continued into 2005. The emails were very short, just a line or so, and did not reference any CIA programs. The phone calls were mostly short too, some just a few seconds, and the government did not introduce recordings or transcripts of any of them.

Sterling was represented by two lawyers, Edward MacMahon Jr. and Barry Pollack. In his opening statement, MacMahon pointed to the lack of hard evidence against his client.

“Mr. Trump is a fine lawyer,” MacMahon *said*. “If he had an email with details of these programs or a phone call, you would have heard it, and you’re not going to hear it in this case Mr. Trump told you that [Sterling] spoke to Risen. Did you hear where, when, or anything about what happened? No. That’s because there isn’t any such evidence of it whatsoever You don’t see a written communication to Mr. Risen from Mr. Sterling about the program at all, no evidence they even met in person.”

After a two-week trial that included some CIA witnesses testifying from behind a screen, so that their identities would not be revealed, the jury convicted Sterling, based on what the judge, Leonie Brinkema, described at the *sentencing* as “very powerful circumstantial evidence.” She added, “In a perfect world, you’d only have direct evidence, but many times that’s not the case in a criminal case.”

Sterling sat motionless as she explained the reasoning behind the sentence that she was about to announce. I had asked Sterling, when we met in St. Louis, what he expected would happen.

“This process has destroyed a lot of me,” he began, his voice shifting in the hollow way that means anguish has broken loose. “The thought that I’m going to be sent to prison, I can’t and haven’t been able to deal with that. I don’t know where to put it or how to deal with it because it doesn’t make any sense. I’m dreading going to jail. Maybe some miracle will happen and I won’t. But I still have to be realistic and prepare for the worst.”

A few minutes before three in the afternoon, Judge Brinkema said that Sterling would go to prison for three and a half years. This was far below the sentencing guidelines — and was seen as a *rebuke* of the prosecution’s portrayal of Sterling as a traitor who had to be locked away for a long time. But that wasn’t much comfort for Sterling or his wife, because he would be nonetheless be locked away. After the hearing ended, Sterling walked to the front row of seats to console his sobbing wife. You could hear her sobs in the courtroom.

His lawyers requested that he be allowed to serve his sentence in his home state of Missouri, so that his wife and other family members could easily visit him. Earlier this week, Sterling reported to the prison that was selected for him. It is in Colorado.

Read also:

- [Stephen Kim Spoke To A Reporter. Now He's In Jail. This Is His Story.](#)
- [CIA's Jeffrey Sterling Sentenced to 42 Months for Leaking to New York Times Journalist](#)
- [Petracus Gets Leniency for Leaking — And Risen's CIA Source Should Too, His Lawyers Say](#)
- [Lawyers for CIA Leaker Cite Selective Prosecution After Petraeus Plea Deal](#)
- [After Petraeus Plea Deal, Lawyer Demands Release of Stephen Kim](#)
- [Petraeus Plea Deal Reveals Two-Tier Justice System for Leaks](#)
- [The Surrender](#) (a short documentary by Stephen Maing)

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Photo: Kevin Wolf/AP

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