

PEOPLE OF THE PHILIPPINES, APPELLEE, VS. RODOLFO CAPITILE AND ARTURO NAGARES, APPELLANTS.

G.R. No. 175330. January 12, 2011

Ponente: CARPIO, J.

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CARPIO, J.:

The Case

This is an appeal from the 27 January 2006 Decision[1] of the Court of Appeals in CA-G.R. CR-HC No. 01479. The Court of Appeals affirmed the 28 April 2000 Decision[2] of the Regional Trial Court, National Capital Judicial Region, Pasig, Branch 267, in Criminal Case No. 105733, convicting appellants Rodolfo Capitle and Arturo Nagares for the crime of murder.

The Facts

The Court of Appeals summarized the facts of the case as follows:

The historical backdrop shows that at around 7:40 a.m. of August 6, 1993, at Orambo Drive, Orambo, Pasig City, Barangay Chairman Avelino Pagalunan was gunned down by four (4) men who thereafter ran towards Shaw Blvd. The incident was witnessed by Ruiz Constantino and Solomon Molino who were seated six (6) arms length away and conversing on the flower pots planted with bougainvillea lined along Orambo Drive corner St. Jude Street, Orambo, Pasig City. Barangay Chairman Avelino Pagalunan was thereafter brought to Medical City Hospital where he expired due to multiple gunshot wounds in the body, in the neck and in the head. The most fatal wound was the one sustained in the head.

On that same day, at around 10:30 a.m., Solomon Molino, a Barangay Kagawad, gave his statement to the District Central Investigation Branch, Eastern Police District Command relating the incident he saw but failed to identify the assailants.

On September 29, 1993, Arturo Nagares was apprehended by the Pasig Police on account of his conviction in another case for Frustrated Homicide. He was later to be taken custody by the National Bureau of Investigation at its detention center along Taft Avenue where the next day, on September 30, 1993, Ruiz Constantino gave his statement identifying Arturo Nagares y De Leon from the four (4) pictures presented to him as one of the three (3) armed assailants of Barangay Captain Pagalunan on August 6, 1993.

Arturo Nagares was likewise identified from the four (4) pictures shown to another witness, Rodolfo Paat, who claims to be at Orambo Drive corner Shaw Blvd., Pasig City, when he heard several gun shots with people shouting "nagbabarilan, nagbabarilan." Moments later, from the corner of St. Jude St. and Orambo Drive, he saw four (4) men each carrying guns running from Orambo Drive towards Shaw Blvd. and boarded a jeep going to Mandaluyong, Metro Manila.

The third witness to give a statement to the NBI on same day was Solomon Molino who likewise identified Arturo Nagares from the four (4) pictures laid before him.

On October 19, 1993, while under detention at the NBI, Arturo Nagares executed an extrajudicial confession to the killing of Barangay Chairman Avelino Pagalunan before Atty. Orlando V. Dizon, Chief, SOG, NBI. Assisting him in the confession was practicing lawyer, Atty. Esmeralda E. Galang, who was at the NBI following up the implementation of a warrant of arrest in one of the cases she was handling. In Nagares' extrajudicial confession, he implicated Vice Mayor Anching De Guzman as the mastermind, and Rodolfo Capitle a.k.a. Putol, Elymar Santos and a John Doe as his cohorts in the killing of the Barangay Chairman.

On January 21, 1994, witness Solomon Molino executed his third affidavit before the NBI and identified Ramil Marquina in a police line-up as one of those who fired at Pagalunan.

Then again, on March 21, 1994, the same Solomon Molino gave a written statement before the Pasig Police identifying Rodolfo Capitle, who was earlier arrested by the police by virtue of a warrant of arrest issued by Judge Milagros V. Caguioa of the Pasig Court for Frustrated Homicide.

On March 26, 1994, witness Rodolfo Paat executed another statement before the NBI identifying Rodolfo Capitle from the 20 pictures shown him as one of those armed men he saw on August 6, 1993 running from Orambo Drive to Shaw Blvd.

On April 4, 1994, a criminal charge sheet for Murder was filed against Rodolfo Capitle and Arturo Nagares.

On September 29, 1994, the Information was amended to include Ramil Marquina as one of the accused, together with Rodolfo Capitle and Arturo Nagares. The Amended Information reads:

The undersigned 2nd Asst. Provincial Prosecutor accuses RODOLFO CAPITLE, ARTURO NAGARES and RAMIL MARQUINA of the crime of MURDER, committed as follows:

That on or about the 6th day of August 1993 in the Municipality of Pasig, Metro Manila, Philippines and within the jurisdiction of this Honorable Court, the above-named accused, conspiring and confederating together, with intent to kill, evident premeditation, treachery, and with abuse of superior strength, did then and there willfully, unlawfully and feloniously attack, assault and shot Brgy. Chairman Avelino Pagalunan on the vital parts of his body, thereby inflicting upon the latter mortal and fatal gunshot wounds which caused his death.

CONTRARY TO LAW.

On April 17, 1997, all three (3) accused were properly arraigned. Assisted by their respective counsels, they entered a "not guilty" plea. After the case was set for pre-trial conference, trial on the merits followed.

During the trial, prosecution witness Ruiz Constantino testified and identified accused Arturo Nagares as one of those he saw shooting the victim, Barangay Chairman Avelino Pagalunan, but could not identify the rest of the assailants. Another witness for the People, Solomon Molino, with whom Constantino was conversing at the time, claimed to have witnessed the shooting incident and even prepared a sketch as to the respective positions of the victim, the assailants and where they were seated. Nevertheless, he found it hard to identify the gun wielders.

The third eyewitness, Rodolfo Paat, who claims that during the incident he was at the end of the tricycle line along Orambo Drive between Shaw Blvd. and St. Peter St. when he heard gunshots coming from Orambo Drive corner St. Jude St. about 80 meters away from where he was. Upon hearing the gunshots, people in the vicinity scampered for cover but he stayed put and saw four (4) persons with guns emerged from the smoke running towards Shaw Blvd. He later on identified two (2) of them in open court as accused Arturo Nagares and Rodolfo Capitle.

Accused Arturo Nagares offered alibi as a defense. He was sleeping at the house of his sister Gaudelia Mercado at 92 F. Asedillo St., Bagong Katipunan, Pasig City, as he was suffering from fever due to boil ("pigma") at the right leg, he said. This testimony found corroboration from his sister, Gaudelia, and even

narrated she accompanied Arturo to the Rizal Medical Center where he was treated and given medication by a certain Dr. Ong. As to the extrajudicial confession, Nagares claimed that he was violated, forced, coerced and tortured into admitting the crime, and to sign the already prepared extrajudicial confession.

For his part, accused Rodolfo Capitle as well put forth the defense of alibi insisting that on the day of the shooting, he was at their house at Bambang, Pasig, with his wife and children cleaning and feeding the hogs. Afterwards, he continued, he took a bath and rested for the rest of the day. His wife substantiated his testimony. Rodolfo went on saying that on March 18, 1994, he was arrested and detained at the Pasig Police Headquarters for another crime. On March 23, 1994, the NBI took custody of him at the NBI Headquarters along Taft Avenue. While at the NBI Headquarters, he complained of having been tortured by placing a plastic bag on his face, boxed on the chest and abdomen, electrocuted and was forced to admit to the killing of the Barangay Captain but was able to refuse, nonetheless.

x x x x[3]

The Ruling of the Trial Court

After trial, the trial court rendered a Decision dated 28 April 2000 finding appellants guilty as charged, while acquitting Ramil Marquina. The dispositive portion of the decision reads:

WHEREFORE, premises considered, the Court finds accused ARTURO NAGARES and RODOLFO CAPITLE GUILTY beyond reasonable doubt of the felony of MURDER defined and penalized under Article 248 of the Revised Penal Code as amended and each accused is hereby sentenced to suffer the penalty of reclusion perpetua. Upon the other hand, considering that the Court failed to prove the guilt of the accused RAMIL MARQUINA beyond reasonable doubt, the aforesaid accused is hereby ACQUITTED of the crime charged.

Accordingly, the Court orders accused Nagares and Capitle to pay jointly in solidum the widow of the victim, Merlie Pagalunan, the following amounts, to wit:

- PhP50,000.00 as indemnity;
- PhP 100,000.00 as moral damages;
- PhP 50,000.00 as exemplary damages;
- PhP 50,000.00 representing actual and compensatory damages;
- PhP 30,000.00 as attorney's fees;
- And costs.

The Jail Warden of the Pasig City Jail where accused Rodolfo Capitle is presently detained during the pendency of this case, is accordingly ordered to immediately transfer the person of the aforesaid accused to the National Bilibid Prisons (NBP) of the Bureau of Corrections in Muntinlupa City, Metro Manila, as he is now considered an insular prisoner. Let therefore the corresponding Order/s of Commitment (Mittimus) be issued pursuant to Circular No. 4-92-A, dated April 20, 1992 and Circular No. 66-97 dated October 14, 1997 of the Office of the Court Administrator of the Supreme Court.

In the meantime, the Director of the National Bilibid Prisons (NBP) where accused Arturo Nagares is already serving sentence for another crime, is hereby informed of the latter's conviction in the present case for his appropriate action and guidance.

Costs de oficio.

SO ORDERED.[4]

In convicting appellants, the trial court found that two out of three eyewitnesses, in the persons of Ruiz Constantino and Rodolfo Paat, positively identified appellants as among the perpetrators of the crime. The trial court discarded appellants' alibis and denial as such cannot prevail over the positive identification made by the prosecution witnesses. The trial court likewise rejected appellants' claims of "frame-up" and torture as unsubstantiated.

The trial court found no violation of appellant Nagares' constitutional rights insofar as his confession is concerned. Nagares' Sinumpaang Salaysay is presumed to be voluntary and Nagares failed to overthrow such presumption. Further, there was sufficient evidence that Nagares was assisted by an independent and effective counsel during the custodial investigation, belying Nagares' allegations.

The Ruling of the Court of Appeals

On appeal, the Court of Appeals affirmed the trial court's decision, disposing of the case as follows:

IN VIEW OF ALL THE FOREGOING, finding no reversible error in the appealed judgment, the same is hereby AFFIRMED in toto. Costs de officio.

SO ORDERED.[5]

In affirming the conviction of appellants, the Court of Appeals found the extrajudicial confession executed by Nagares admissible since it was (1) voluntary; (2) made with the assistance of a competent and independent counsel; (3) express; and (4) in writing. The Court of Appeals pointed out that the specific information stated in the impugned confession "not only categorically detailed [Nagares'] participation in the crime, it likewise show[ed] badges and traits of voluntariness of the confession."

The Court of Appeals concurred with the trial court that Nagares was duly assisted by an independent counsel during the custodial investigation. According to the Court of Appeals, "the photographs during the custodial investigation, and execution of the 6-page 70 questions and answers extrajudicial confession are at war against the presence of uncivilized practice of extracting confession by coercion."

As regards Capitle, the Court of Appeals held that "an extrajudicial confession is binding only on the person making it (Nagares) and is not admissible against his co-accused (Capitle)." Hence, there was no direct evidence linking Capitle to the crime. Nevertheless, the Court of Appeals found sufficient circumstantial evidence warranting Capitle's conviction for the crime charged.

The Issues

Appellants raise the following issues:

- WHETHER THE CONSTITUTIONAL RIGHTS OF APPELLANTS WERE VIOLATED THEREBY RENDERING THE EVIDENCE PURPORTEDLY OBTAINED THROUGH SAID VIOLATION AS NULL AND VOID.
- WHETHER THE PROSECUTION WAS ABLE TO ESTABLISH THE GUILT OF APPELLANTS BEYOND REASONABLE DOUBT.[6]

The Ruling of this Court

We sustain the appellants' conviction.

Nagares' extrajudicial confession is admissible in evidence

Nagares challenges the admissibility of his extrajudicial confession, claiming that it was made under duress and that he was not assisted by an independent counsel during the custodial investigation. Nagares maintains such flaws in the investigation violated his right guaranteed under Section 12, Article III of the Constitution. This provision reads:

Section 12. (1) Any person under investigation for the commission of an offense shall have the right to be informed of his right to remain silent and to have competent and independent counsel preferably of his own choice. If the person cannot afford the services of counsel, he must be provided with one. These rights cannot be waived except in writing and in the presence of counsel.

(2) No torture, force, violence, threat, intimidation, or any other means which vitiate the free will shall be used against him. Secret detention places, solitary, incommunicado, or other similar forms of detention are prohibited.

(3) Any confession or admission obtained in violation of this or Section 17 hereof shall be inadmissible in evidence against him.

(4) The law shall provide for penal and civil sanctions for violations of this section as well as compensation to the rehabilitation of victims of torture or similar practices, and their families.

Based on the records, Nagares' extrajudicial confession was voluntarily given, and thus admissible. As found by the Court of Appeals, (1) there is no evidence of compulsion or duress or violence on the person of Nagares; (2) Nagares did not complain to the officers administering the oath during the taking of his sworn statement; (3) he did not file any criminal or administrative complaint against his alleged malefactors for maltreatment; (4) no marks of violence were observed on his body; and (5) he did not have himself examined by a physician to support his claim. Moreover, appellant's confession is replete with details, which makes it highly improbable that it was not voluntarily given.

Likewise negating Nagares' claim of a coerced confession are the photographs taken during the signing, thumbmarking, and swearing of the extrajudicial confession. All the pictures depicted a "cordial and pleasant atmosphere" devoid of any sign of torture, threat, duress or tension on Nagares' person. In fact, the photographs showed Nagares smiling.

Further, the records show that Nagares was duly assisted by an effective and independent counsel during the custodial investigation in the NBI. As found by the Court of Appeals, after Nagares was informed of his constitutional rights, he was asked by Atty. Esmeralda E. Galang whether he accepts her as counsel.[7] During the trial, Atty. Galang testified on the extent of her assistance. According to her, she thoroughly explained to Nagares his constitutional rights, advised him not to answer matters he did not know, and if he did not want to answer any question, he may inform Atty. Galang who would be the one to relay his refusal to the NBI agents. She was also present during the entire investigation.

Moreover, Nagares' extrajudicial confession was corroborated by evidence of corpus delicti.[8] Corpus delicti has been defined as the body, foundation, or substance of a crime.[9] Here, the fact of death and the criminal agency had been sufficiently established by the death certificate (Exhibit "F") and the medico-legal report (Exhibit "C") the veracity of which had been affirmed on the witness stand by the examining physician.[10]

Based on the foregoing, there is clearly no basis for Nagares' plea that his extrajudicial confession should have been excluded from the evidence because it was obtained in violation of his rights under Section 12 of Article III of the Constitution.

Nagares was positively identified as one of the victim's assailants

Apart from Nagares' valid extrajudicial confession, the positive identification made by Ruiz Constantino strengthened the prosecution's case. During the trial, Constantino identified Nagares as one of the victims' assailants, to wit:

ATTY. BLANES:

Q You said you will be able to remember the face of those who shot Avelino Pagalunan, now, if you see them again, will you be able to identify them?

A Yes, sir.

Q If they are inside the courtroom, will you be able to identify them?

A Yes, sir.

Q Will you please point those who shot Avelino Pagalunan.

INTERPRETER

(witness pointing to a man in the first row wearing orange polo shirt and when asked he answered by the name of Arturo Nagares)[11]

x x x x

COURT:

You said that you saw the three (3) person who were shooting the victim and you have identified one of the assailants a certain Arturo Nagares are the two (2) others inside the Courtroom?

A I cannot exactly say because my attention at that time was only with Arturo Nagares.[12]

Appellants' attempt to discredit Constantino must fail since there was no showing of any improper motive on Constantino's part that would induce him to testify falsely against Nagares.[13] Further, settled is the rule that the trial court's evaluation of the credibility of witnesses is generally accorded great weight and will not be disturbed on appeal since the trial court was in a better position to decide thereon, having personally heard the witnesses and observed their deportment and manner of testifying during the trial.[14]

Nagares' alibi and denial deserve scant consideration. Well-entrenched is the rule that alibi, which is inherently weak, cannot prevail over the positive identification made by the eyewitnesses at the crime scene.[15] Here, Constantino positively identified Nagares as one of the perpetrators of the crime overthrowing the latter's alibi and denial. More importantly, Nagares miserably failed to establish the physical impossibility for him to be at the crime scene at the time of the commission of the felony. Nagares testified that on that fateful day, he was sleeping in his sister's house on F. Asedillo Street, Katipunan, Pasig City. He also claimed that on that day he was treated at Rizal Medical Center. It was not shown that it was impossible for Nagares to reach and be at the crime scene whether he was coming from his sister's residence or from the hospital. Further, the defense failed to present any hospital record substantiating Nagares' claim.

Capitle is guilty beyond reasonable doubt of murder
based on circumstantial evidence

To further establish appellants' guilt, prosecution witness Paat testified, thus:

Q: What was that incident that took place?

A: I heard successive gun shots.

Q: Now in relation to where you were from what direction did you hear this successive gun shots?

A: At the corner of St. Jude and Oranbo Drive, sir.

Q: What did you notice, if any at the corner of Oranbo Drive and St. Jude?

A: I saw 4 men coming from the smoke.

Q: More or less, Mr. Witness, could you estimate the distance from where you were to the corner of Oranbo Drive & St. Jude?

A: More or less 80 meters.

Q: Now, you said, you saw men coming from the corner of Oranbo Drive and St. Jude where there was smoke, how many men more or less?

A: 4 men, sir.

Q: Where, where they headed to and when you had seen these 4 men coming from that direction?

A: On their way going to Shaw Blvd.

Q: Did you notice if they were holding something?

x x x x

A: I saw each one of them holding a gun.[16]

x x x x

Q: Now of these 4 men running and holding caliber 45 did you recognize any of them?

A: Yes, sir.

Q: If those whom you recognized is or are inside this court room, will you be able to point to them?

A: Yes, sir.

Q: Will you please point to them, Mr. Witness?

INTERPRETER: Witness pointing to two (2) male persons, one (1) the right wearing an orange polo who when asked his name answered Arturo Nagares and a man beside him wearing yellow t-shirt who when asked his name answered Rodolfo Capitle.[17]

x x x x

Q: How at that time, you take a look at the alleged persons, four (4) persons whom you allegedly saw holding a gun?

A: More or less one (1) minute.

Q: Could you make an estimate if it is less than one (1) minute.

ATTY. BLANES:

He said more or less your Honor, from the corner of Oranbo Drive and he said more or less.

Q: Is it less than one (1) minute?

A: More or less one (1) minute.

Q: And that they were running?

A: Yes sir. Almost on the jogging phase.[18]

As correctly observed by the Court of Appeals, there was no direct evidence linking Capitle to the crime charged, only circumstantial evidence.

Section 4, Rule 133 of the Revised Rules on Evidence provides:

Section 4. Circumstantial evidence, when sufficient. -- Circumstantial evidence is sufficient for conviction if:

- (a) There is more than one circumstance;
- (b) The facts from which the inferences are derived are proven; and
- (c) The combination of all the circumstances is such as to produce a conviction beyond reasonable doubt.

Hence, to justify a conviction based on circumstantial evidence, the combination of circumstances must be interwoven in such a way as to leave no reasonable doubt as to the guilt of the accused.[19]

Based on Paat's testimony, there is sufficient circumstantial evidence justifying Capitle's conviction. There is more than one circumstance: (1) the victim was gunned down at the corner of Orambo Drive and St. Jude St., Mandaluyong City; (2) Paat heard several gunshots coming from that area; (3) Paat saw four men, including Nagares and Capitle, coming from the corner of Orambo Drive and St. Jude St. and running away towards Shaw Blvd.; (4) the four men, including Nagares and Capitle, were all carrying guns; and (5) prosecution witness Constantino saw Nagares, together with several other men, shot the victim. To the unprejudiced mind, the foregoing circumstances, when analyzed and taken together, leads to no other conclusion except that of appellants' culpability for the victim's death.[20]

Modification in the award of damages

When death occurs due to a crime, the following damages may be awarded: (1) civil indemnity ex delicto for the victim's death; (2) actual or compensatory damages; (3) moral damages; (4) exemplary damages; and (5) temperate damages.[21]

We sustain the award of P50,000 civil indemnity, which is mandatory and granted to the victim's heirs without need of proof other than the commission of the crime.[22]

For lack of factual basis, we delete the award of actual or compensatory damages. The party seeking actual damages must produce competent proof or the best evidence obtainable, such as receipts, to justify an award therefor.[23] No such documents were offered as evidence in this case. Nevertheless, we award P25,000 as temperate damages when no evidence of burial or funeral expenses is presented in the trial court. Under Article 2224 of the Civil Code, temperate damages may be recovered, as it cannot be denied that the victim's heirs suffered pecuniary loss although the exact amount was not proved.[24]

While we sustain the award of moral damages, which does not require allegation and proof other than the victim's death, we reduce the amount from P100,000 to P50,000 pursuant to prevailing jurisprudence.[25]

Since the qualifying circumstance of treachery was proved in this case, the award of exemplary damages is proper. However, we reduce the amount of exemplary damages from P50,000 to P30,000 consistent with prevailing jurisprudence.[26]

The award of P30,000 attorney's fees lacks factual and legal basis and thus must be deleted.

WHEREFORE, we DISMISS the appeal and AFFIRM with MODIFICATION the 27 January 2006 Decision of the Court of Appeals in CA-G.R. CR-HC No. 01479. We award temperate damages in the amount of P25,000. The amounts of moral damages and exemplary damages are reduced to P50,000 and P30,000, respectively. The award of actual damages and attorney's fees is deleted.

SO ORDERED.

Peralta , Bersamin,[*] Abad, and Mendoza, JJ., concur.

[*] Designated additional member per Raffle dated 15 June 2009.

[1] Rollo, pp. 3-19. Penned by Associate Justice Conrado M. Vasquez, Jr., with Associate Justices Mariano C. Del Castillo (now a member of this Court) and Magdangal M. De Leon concurring.

[2] CA rollo, pp. 36-57. Penned by Judge Florito S. Macalino.

[3] Rollo, pp. 3-8.

[4] CA rollo, pp. 56-57.

[5] Rollo, p. 18.

[6] CA rollo, p. 95.

[7] See Records, p. 572. Nagares' sworn statement, dated 19 October 1993, given to the police investigators pertinently reads:

02 T: Nais naming ipaalam sa iyo na ikaw ay may karapatang hindi kumibo at ang lahat ng iyong sasabihin ay maaaring gamitin laban sa iyo sa isang kriminal, sibil o administratibong pag-uusig. Naiintindihan mo ba ito?

S: Opo.

03 T: Nais din naming ipaalam sa iyo na ikaw ay may karapatang kumuha ng isang abogado na iyong mapipili. At kung hindi mo kayang kumuha ng iyong sariling abogado, kami ay hihirang ng isa para sa iyo na tutulong sa iyo sa pagsisiyasat na ito. Naiintindihan mo ba ito?

S: Opo.

04 T: Ngayon, matapos mo malaman ang iyong mga karapatan sa ilalim ng ating Saligang Batas, ikaw ba ay nakahandang magbigay ng isang malaya at kusang-loob na salaysay sa tulong ni ATTY. ESMERALDA GALANG na narito ngayon upang ipaliwanag sa iyo ang iyong mga karapatan sa ilalim ng ating Saligang Batas at tulungan ka sa iyong mga sagot dito sa iyong salaysay?

S: Opo.

[8] Section 3, Rule 133 of the Rules of Court.

[9] *People v. Tunicao*, G.R. No. 185710, 19 January 2010, 610 SCRA 350, 355.

[10] See *People v. Bacor*, 366 Phil. 197, 220 (1999).

[11] TSN, 5 June 1995, p. 7.

[12] *Id.* at 32-33.

[13] *People v. Caraang*, 463 Phil. 715, 749 (2003).

[14] *People v. Jadap*, G.R. No. 177983, 30 March 2010, 617 SCRA 179, 187; *People v. Garcia*, G.R. No. 177740, 5 April 2010, 617 SCRA 318, 331.

[15] *Arceno v. People*, 326 Phil. 576, 594 (1996); *People v. Torrefiel*, 326 Phil. 388, 396 (1996); *People v. Caritativo*, 326 Phil. 1, 8 (1996).

[16] TSN, 24 July 1995, pp. 6-9.

[17] *Id.* at 10-11.

[18] TSN, 31 July 1995, p. 44.

[19] *Bastian v. Court of Appeals*, G.R. No. 160811, 18 April 2008, 552 SCRA 43, 55.

[20] *People v. Nanas*, 415 Phil. 683, 699 (2001).

[21] *People v. Domingo*, G.R. No. 184343, 2 March 2009, 580 SCRA 436, 456.

[22] *Id.*

[23] *Id.*

[24] *Id.* at 456-457.

[25] *Id.* at 457.

[26] *People v. Gutierrez*, G.R. No. 188602, 4 February 2010, 611 SCRA 633, 647.

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