

**Summary of Administrative Review Board Proceedings for ISN 968**

*The Administrative Review Board was called to order.*

*The Detainee entered the proceedings.*

*The Presiding Officer announced the convening authority and purpose of the Administrative Review Board proceedings.*

*The Designated Military Officer (DMO) was sworn.*

*The Board Reporter, Translator, Assisting Military Officer (AMO) and Board Members were sworn.*

*The Presiding Officer asked the Detainee if he wishes to make a statement under oath. (Muslim oath offered).*

Detainee (through translator): I have sworn two times and I will do it again.

*The Detainee took the Muslim oath.*

*The Presiding Officer read the hearing instructions to the Detainee and confirmed that he understood.*

Detainee (through translator): Yes.

*The Assisting Military Officer presented the Notification of the Decision of the Administrative Review Board, Exhibit EC-A, to the Administrative Review Board.*

*The Assisting Military Officer presented the Enemy Combatant Election Form, Exhibit EC-B, to the Administrative Review Board.*

*The Assisting Military Officer read the AMO Comments from the Enemy Combatant Election Form, Exhibit EC-B.*

Assisting Military Officer: The detainee's ARB interview was conducted on 16 October 2006. After reviewing the ARB's purpose and procedures, the Pashtu translated Unclassified Summary of Evidence was read to the detainee. When asked if he wanted to attend the ARB, present a written or oral statement, or have the AMO speak on his behalf, the detainee stated he wanted to attend the ARB. The detainee was very cooperative, attentive and polite throughout the interview. Copies of both the English and Pashtu translated Unclassified Summary were provided to the detainee upon his request. Additional comments: on 17 October 2006, the detainee appeared at his follow-up interview wearing a white uniform. The detainee presented to the AMO an 11 page document to be presented at the ARB.

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*The Designated Military Officer presented the Unclassified Summary of Evidence, Exhibit DMO-1; the FBI Redaction Memorandum, DMO-2; the CITF Redaction Memorandum, DMO-3; and the Terrorist Organization Reference Guide, DMO-4 to the Administrative Review Board.*

*The Designated Military Officer stated that a copy of these exhibits had been previously distributed to the Assisting Military Officer and Detainee.*

*The Presiding Officer noted from the Enemy Combatant Election Form that the detainee wanted to respond to each item of information from the Unclassified Summary as it was presented.*

Detainee (through translator): Yes.

*The Designated Military Officer gave a brief description of the contents of the Unclassified Summary of Evidence, Exhibit DMO-1, to the Administrative Review Board.*

Designated Military Officer: (3.a.1) A source stated that the 40-man unit is a part of the Taliban and receives money and weapons from al Qaida.

Detainee (through translator): I'm not aware of it.

Designated Military Officer: (3.a.2) A source stated that the detainee had been a member of the Taliban for six years.

Detainee (through translator): I mention that several times. When the Taliban took over we ran away. We ran away to Pakistan until the Taliban got ousted then we came back to our country.

Board Member: Was that a no? He was not part of Taliban.

Detainee (through translator): No, I'm 27 years old. When I was captured I was 24. Before that, according to you, when I worked 6 years for Taliban, maybe I was 16. At that young age anyone can work for the government? As I said, if I worked 6 years you get some rank. Can you show me my rank? I mention again when the Taliban came my family went to Pakistan. When the Taliban got ousted, we came back.

Designated Military Officer: (3.a.3) A source stated that the detainee provided some tactical information for the 40-man team and used a short-range radio and a long-range satellite telephone to communicate.

Detainee (through translator): The governor gave me the satellite cell phone. The card was with me and they took cell phone plus card from me. That card had been signed by the Governor. I was working for the current government. I was working in

transportation. The governor gave that cell phone for if we had problems or family issues. If you find out about telephone conversations, you can find out what I said.

Board Member: Did he know the Governor personally?

*Detainee (through translator):* Yes, I was friend of the Governor. He gave me the cell phone.

Board Member: What was his position?

*Detainee (through translator):* Gereshk is a county. I was Director of Transportation in that county.

Board Member: Did other people have satellite cell phone?

*Detainee (through translator):* No, the rest were lower rank.

Board Member: Was the telephone for official use?

*Detainee (through translator):* Sometimes.

Presiding Officer: How did you become Director of Transportation since you were quite young?

*Detainee (through translator):* I did not know. My brother was a driver for Helmand Governor. My brother told me to go and see the Governor of Helmand. The governor of Helmand said, I can go and take care of Gereshk Transportation. When I got there I started to perform my duties.

Board Member: Can you tell us what year?

*Detainee (through translator):* I don't remember.

Board Member: Can you tell us how many people you supervised?

*Detainee (through translator):* 3-4 office workers and 4 security for transports.

Designated Military Officer: (3.a.4) Leaders of a terrorist organization directed the detainee to find the local Afghans that were helping the Americans and kill them. The detainee was augmented with 25 armed personnel and three trucks from a known Taliban supporter. The detainee traveled the streets of a city in Afghanistan at night, asking questions about the Americans and those who spoke to them.

*Detainee (through translator):* I went to congratulate the governor. When I got there an American was sitting with him. The Governor introduces me to the Americans. The governor told Americans that I was the man in the Gereshk. The American gave me his number. I gave him my number. At the time if you need, you contact me when I return

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to Gereshk county. I became sick when I return. The doctor gave me serum. Someone shouted that one of my friends was captured by Americans. I got up and removed the serum from my body. I had my telephone in my hand. I tried to approach Americans close to my room. I greeted the Americans. I saw they captured a Commander and his sister. His sister was married to the Governor's brother. I started talking to Americans as a mediator. I thought they knew me since the Governor introduced me to them.

Board Member: Did he participate or direct others in locating Americans in Afghanistan?

Detainee (*through translator*): The story I started will give you your answer. All I was trying to say, I reached this point because of my friendship with the Americans. I talk to them about this man. The Americans said come with us for five minutes to our compound. I then jumped into the car and went with the Americans. I have been gone from that point up until now.

Board Member: Have you participated in locating Afghans who have helped Americans?

Detainee (*through translator*): I was helping Americans.

Board Member: Was this the same Americans he was introduced to?

Detainee (*through translator*): Yes.

Designated Military Officer: (3.b.1) A source stated that the detainee worked for the Commander of the 40-man assassination group on the terrorist team.

Detainee (*through translator*): No.

Designated Military Officer: (3.b.1) A known Taliban supporter tried to get the detainee released because he had a lot of information on the former Taliban.

Detainee (*through translator*): If that person was trying to get me released and he was a known supporter of Taliban, why he was not captured too?

Designated Military Officer: (4.a.1) The detainee claims he has never had any association with the Taliban.

Detainee (*through translator*): Yes.

Designated Military Officer: (4.b.2) The detainee denied having any affiliation with the 40-man team and denied knowing the commander of the 40-man team. The detainee stated that the Commander of the 40-man team was his enemy and so was the Taliban.

Detainee (*through translator*): Yes.

Board Member: Does he know this Commander of the 40 man team?

Detainee (*through translator*): No, I don't know he who he was.

Board Member: Do you know any Taliban?

Detainee (*through translator*): I have not spent any time with Taliban. No.

Designated Military Officer: (4.c.1) The detainee claimed that he had no knowledge of the Taliban in his region.

Detainee (*through translator*): True.

Designated Military Officer: (4.d.1) The detainee claims he has never used his employment to provide any service to the Taliban.

Detainee (*through translator*): Yes, I have not done it.

Designated Military Officer: (4.e.1) The detainee stated that he had no reason to watch Americans or tell anyone what Americans do because he considers the Americans his friends.

Detainee (*through translator*): Yes.

Designated Military Officer: (4.f.1) The detainee claims he has never provided armed guards for any Taliban tasking.

Detainee (*through translator*): Yes.

***The Designated Military Officer confirmed that he had no further unclassified information and requested a closed session to present classified information relevant to the disposition of the Detainee.***

***The Presiding Officer acknowledged the request.***

***The Presiding Officer opened the Administrative Review Board to the Detainee to present information with the assistance of the Assisting Military Officer.***

The Detainee made the following statement:

Detainee (*through translator*): I just want to say, I'm innocent. I have been given to you based on personal rivalry or animosity. When I came to Transportation at Gereshk, the people did not like me because I became the boss. They were trying to set me up or set up a conspiracy against me. Finally they gave me to Americans. The people who gave me to Americans were enemies of the Governor of the province. They tried to go after the Governor but could not do anything. They only gave me to Americans. I request you

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consider my case and give a good recommendation. You are aware of the conditions of Afghanistan. Even if they are fighting over water, they are trying to set me up for something. I also have an attorney. You can talk to my attorney. The attorney has met with my brother. The lawyer knows my family and what I have done in my life. Right now, my brother is working for the current government. We are his current government people.

***The Assisting Military Officer had the following questions:***

Assisting Military Officer: What are your plans or goals for the future if release or transferred?

Detainee (*through translator*): We are the current government people. We have no other choice, me and my family. We are standing beside the current government. If the current government exists, we will stay. If the current government does not exist, we will be gone.

Board Member: Is your brother assisting you with getting another government job?

Detainee (*through translator*): Maybe I will help my brother in government or help him in some business. I had a store before and when we went to Pakistan I opened a store there also. I will serve with my brother. My brother and I will support our families doing business in trade or something.

Assisting Military Officer: Why do you consider yourself no longer a threat to US and its Allies?

Detainee (*through translator*): As I said two time before, I have not said a word against US and I will not.

***The Designated Military Officer had no questions for the Detainee.***

***The Administrative Review Board Members had no further questions for the Detainee.***

***The Presiding Officer read the post-Administrative Review Board instructions to the Detainee and adjourned the open session of the Administrative Review Board.***

***The Presiding Officer opened the classified portion of the session.***

***The Presiding Officer adjourned the classified portion of the session and the Administrative Review Board was closed for deliberation and voting.***

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AUTHENTICATION

I certify the material contained in this transcript is a true and accurate summary of the testimony given during the proceedings.



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Authorization

Date: 10 Feb 2006


My name is Haji Mohammad Wali. I am acting as next friend for my Brother, whose name is Haji Bismillah, a citizen of Afghanistan, who is being held in Guantánamo Bay.

I know that he would want me to act on his behalf to secure legal representation for him. I hereby authorize Michael Ratner and Barbara Olshansky of the *Center for Constitutional Rights* and any person assigned by these lawyers to act on my behalf and on my relative's behalf, to secure any documents and information concerning my relative that are necessary for his defense, and to seek whatever redress they believe to be in his best interests, in the Courts of the United States and in any other legal forum available.

Signature: 

Print Name: Haji Mohammad Wali

Witnessed by: 

Print Name: 

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UNITED STATES COURT OF APPEALS  
DISTRICT OF COLUMBIA CIRCUIT

----- X  
HAJI BISMULLAH a/k/a HAJI BISMILLAH a/k/a :  
HAJI BESMELLA (ISN # 968), :  
Detainee, Guantanamo Bay Naval Station :  
Guantanamo Bay, Cuba, :

HAJI MOHAMMAD WALI,  
As Next Friend of Haji Bismullah

*Petitioners/Plaintiffs*

v.

DONALD RUMSFELD  
Secretary, United States  
Department of Defense  
1000 Defense Pentagon  
Washington, D.C. 20301-1000

*Respondent/Defendant*  
----- X

DECLARATION OF HAJI  
MOHAMMED WALI

No. \_\_\_\_\_

HAJI MOHAMMED WALI declares as follows:

1. I am a citizen of Afghanistan and currently reside in Helmand province, located in the southern part of Afghanistan.
2. I am the older brother of Petitioner Haji Bismullah, who is being wrongfully detained by the United States military in Guantanamo Bay, Cuba. Because Haji Bismullah cannot act on his own behalf, I am acting as his "next friend" in this action.
3. From 2002 until December 2005, I served in the post-Taliban provincial government as chief spokesperson for and senior aide to Sher Mohammed Akhundzada ("Akhundzada"), then Governor of Helmand province. When Sher Mohammad was appointed a senator in the national legislature by Hamid Karzai, the new governor asked me to continue in my post, but I am currently devoting my time to freeing my brother from captivity.

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4. As spokesman for Helmand province, I was in frequent contact with the United States and international press and have been quoted in numerous articles. I was also in frequent contact with American officials in Afghanistan.
5. My family and I have lived and worked in Helmand province and we are prominent members of the community. As spokesman for the provincial government, I was well informed about events occurring in the Province. As Haji Bismullah's older brother, I have known him all of his life. I therefore have personal knowledge of each fact contained in this Declaration.

**My Family's Role In Helmand Province And The Fight Against The Taliban**

6. From 1992, I, Haji Bismullah and other members of our family lived in Helmand province. In 1996, the Taliban began taking over parts of Afghanistan. Several of my brothers and I fought against the Taliban in Helmand Province. After Taliban forces took control of Helmand, we left the province, joining with anti-Taliban forces, first in Herat, then in Kabul and finally in northern Afghanistan. We eventually fled to Quetta, Pakistan, where we lived as refugees.
7. At this time, Haji Bismullah was only fifteen years old. Because he was too young to fight, he remained in Helmand province with other members of my family. Haji Bismullah worked in a fabric store owned by another brother, Haji Mohammed Salim.
8. With the Taliban in control, I feared for the safety of family who remained in Helmand. I sent for my family, and in about late 1996 or early 1997, Haji Bismullah and others fled the province and joined me in Pakistan. While we were living in Pakistan, Haji Bismullah and I opened a small fabric store where Haji Bismullah worked.

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9. Until we returned to Afghanistan in late 2001 to drive the Taliban from power, Haji Bismullah remained in Pakistan. Very occasionally, he would travel from Quetta to Helmand province and back to escort female relatives who visited us in Pakistan. Under the Taliban, women could not travel without related males as their escorts.
10. In 2001, Hamid Karzai ("Karzai") called on other anti-Taliban refugees, including Akhundzada and me, to join him in Uruzgan province to help drive the Taliban out of Afghanistan. After we arrived in Uruzgan, Karzai asked Akhundzada to take a group of men into the Kajaki mountains in order to capture Kajaki district, located on the border of Helmand province. I was part of this group of fighters. The Americans gave Karzai several satellite phones. Karzai gave Akhundzada one of these phones to take with him to the mountains. We could use the phone to call for coalition air support if needed. We also used the phone to speak with Karzai. We were in contact with Karzai-- who remained in Uruzgan with the Americans-- each hour.
11. From the Kajaki mountains I called for my brothers, including Haji Bismullah, to leave Pakistan and join me in the fighting. Haji Bismullah was dispatched to a town in Kajaki district called Aliabad. In Aliabad, Haji Bismullah gathered supplies to assist in the fighting including three cars. On the same day that Haji Bismullah delivered the cars to us in the Kajaki mountains, we attacked Kajaki district and succeeded in defeating the Taliban there. From that time on, Haji Bismullah stayed with me and was ready to fight the Taliban. After the battle in Kajaki district, we moved on to Musakala district and drove the Taliban out of that area. Karzai then ordered us to Lashkargah, the capital of Helmand province. The Taliban quickly surrendered.

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12. After we defeated the Taliban in late 2001, the entire family (including Haji Bismullah) returned to live in Helmand province.
13. Akhundzada became governor of the province shortly thereafter, in about February 2002. I was appointed chief spokesperson for Helmand Province by Akhundzada. Haji Bismullah was appointed chief of transportation for the Greshk district of Helmand province. As chief of transportation, Haji Bismullah's primary duties involved the collection of tolls and issuance of permits.

## Members Of A Rival Clan Made False Accusation Against Haji Bismullah

14. Haji Bismullah and the rest of my family are members of the Ali Zai clan. During the Taliban's reign, a member of the Barak Zai, a rival clan, held the chief of transportation position. Despite their ties to the Taliban, the Americans hired members of the Barak Zai clan as external security for their base in Greshk. The guards were led by two brothers named Mohammed Quodouz and Mohammed Daoud. These brothers were well known as sub-commanders to Malim Mohammed Mirwali, a local warlord. For many years, Mirwali was a commander in Hizb-i-Islami, a group associated with Gulbeddin Hekmatyar. Hekmatyar and Akhundzada have been involved in a blood feud since the early 1990s, when Hekmatyar assassinated Akhundzada's uncle [REDACTED]  
[REDACTED]  
[REDACTED]

15. I believe that the Barak Zai were jealous of Haji Bismullah's important position and wanted to reclaim it for themselves. I also believe that the Barak Zai, who were loyal to

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Hekmatyar, wanted to undermine Governor Akhundzada, who has had a long standing conflict with Hekmatyar over control of Helmand province.

16. As a result, it is my understanding that the Barak Zai made false allegations about Haji Bismullah which lead to his improper detention. Governor Akhundzada told me that after Haji Bismullah was arrested, members of the Barak Zai, including Mualim Khodai Nazar, asked him to appoint someone from their clan as Transportation Chief. When the Governor refused, they looted Haji Bismullah's office and stole his car. I saw Mohammed Daoud driving the car openly in Greshk and Lashkargah for the next two years.
17. Beyond their mistreatment of Haji Bismullah, the Barak Zai guards at the Greshk base were disliked in the local community because they threatened to hand over innocent people to the Americans. The guards' abuse of power was well known to everyone, including me, Governor Akhundzada and other elders met regularly with the Americans in Greshk and Lashkaghar. Akhundzada told me that during these meetings many people complained about the lawlessness of the Barak Zai guards. Sometime in late 2004 or early 2005, as a result of these complaints, [REDACTED] whose first name is [REDACTED] dismissed almost all of the guards, retaining only those who were no longer loyal to Mirwali and Hekmatyar.

**Haji Bismullah's Arrest And Detention**

18. I am familiar with the circumstances surrounding Haji Bismullah's arrest based on conversations I had with Dost Mohammed, a security officer neighboring Nauzad District, who was with Haji Bismullah at

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19. On the day Haji Bismullah was arrested, Dost Mohammed and another man, whose name I do not remember, were passing by Haji Bismullah's office. Apart from the fact that they were both officials of the provincial government, I do not believe that Haji Bismullah knew Dost Mohammed. [REDACTED]  
[REDACTED]
20. The American forces came to arrest Dost Mohammed, believing that he was a member of the Taliban. Haji Bismullah tried to explain to the American soldiers that Dost Mohammed was not a member of the Taliban, but a provincial official. The Americans asked Haji Bismullah to accompany Dost Mohammed to the base to verify Dost Mohammed's identity for the superior officer. Haji Bismullah, Dost Mohammed, the companion and an employee of the Transportation Department named Jan Agha all went to the American base.
21. Upon their arrival, all four men were arrested without explanation and detained overnight. The next day, Dost Mohammed, his companion and Jan Agha were released, but Haji Bismullah was not.

## Efforts Of Afghan Government Officials To Have Haji Bismullah Released

22. Shortly after his release, Dost Mohammed met me back at Haji Bismullah's office in Lashkaghar and informed me of what had happened. Dost Mohammed told me that he and Haji Bismullah had been separated, and that my brother was still being held at the base. I quickly went to Governor Akhundzada's office and he and I and other provincial officials, including the Helmand Security Chief, Daad Mohammed, and Intelligence Chief, Abdul Raham Jan, went to the base to explain to American officials that Haji

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Bismullah had no connection with the Taliban, Al Qaida or other insurgent group and that he was the victim of false charges by a rival clan.

23. When we arrived at the American military base in Greshk, only Governor Akhundzada was permitted to enter. The Governor told me that he had spoken with high ranking officials at the base who promised that Haji Bismullah would be released after brief questioning. We then returned to the Governor's office.
24. The next day, Mohammed Qudouz and Mohammed Daoud were in the market place bragging to fellow guards and others in the community about having had Haji Bismullah's arrested and that Haji Bismullah had been taken to Kandahar by the Americans. Because Mohammed Qudouz and Mohammed Daoud were bragging so openly, I heard about it.
25. From the time of Haji Bismullah's arrest, Governor Akhundzada, provincial officials and I have made many attempts to explain to high ranking American military officials and diplomats that Haji Bismullah is innocent and that his detention is in error.
26. Shortly after my brother was detained, around February 2003, Governor Akhundzada and I met with [REDACTED], Governor Sherzai of Khandahar province and others in Khandahar. At this meeting, we told [REDACTED] that Bismullah was not associated with the Taliban or Al Qaida and that he had been mistakenly arrested by United States forces. Akhundzada explained that a rival tribe, that coveted Bismullah's government position, made a false report which resulted in Bismullah's wrongful detention. [REDACTED] took notes as we spoke. At this same meeting, I gave [REDACTED] a letter explaining Haji Bismullah's innocence.

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27. Around March 2003, Governor Akhundzada and I again met with [REDACTED] at Bagram Air Base. [REDACTED] informed us that Bismullah had been taken to Guantánamo. [REDACTED] said that he would pursue Bismullah's release and gave me a gift of pistachios for Bismullah's wife and children.
28. I gave a petition signed by the elders of Helmand province to [REDACTED] attesting to Haji Bismullah's innocence. I have given similar letters to all senior United States military officials passing through Greshk including [REDACTED] who I met twice along with Governor Akhundzada, once in Helmand province and once at his residence in [REDACTED] district in Kabul
29. I personally spoke with [REDACTED] about Haji Bismullah. I also gave two letters to [REDACTED] confirming that Haji Bismullah was not associated with the Taliban or al Qaida and explaining his innocence. Tribal elders met with [REDACTED] and he promised us that he would do whatever he could to get Haji Bismullah released, including contacting the commander of Bagram Air Base.
30. After [REDACTED] left his position, a man named [REDACTED] took over. I gave [REDACTED] a letter explaining Haji Bismullah's innocence. [REDACTED] told me he would send a report to Bagram about Haji Bismullah which included [REDACTED] findings. I followed up with [REDACTED] several times.
31. In addition, I have discussed Haji Bismullah's case with the head of the United Nations Assistance Mission in -Kandahar and members of human right groups. I also gave a petition signed by members of the newly elected Senate to the Commission of Peace and Reconciliation and to President Karzai and former interior minister Jalali.

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32. I understand that Governor Akhundzada has also discussed Haji Bismullah's case with President Karzai, [REDACTED] and other high ranking Afghan and American officials. Governor Akhundzada has told these people that Haji Bismullah was never associated with the Taliban or al Qaida, was an official in the provincial government and has never taken any actions against American or coalition forces.
33. Haji Bismullah is not and has never been a member of the Taliban, Al Qaida or any insurgent group. He is a long standing opponent of the Taliban and fought to drive the Taliban out of Afghanistan. He was a member of the post-Taliban provincial government and cooperated with the Americans and coalition forces in rebuilding our country.
34. Haji Bismullah has a wife and three young children. His daughter, Roushana, is six years old, his son, Rafiullah, is five years old and his youngest son, Samiullah, is three years old. Samiullah was born while Haji Bismullah was in the custody of the United States military. The boy has never seen his father.

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35. Haji Bismullah is innocent and has been wrongfully detained. I and other friends of Haji Bismullah have done all we can to bring these facts to the attention of American and Afghan officials.
36. Had I been contacted by the American government in connection with Haji Bismullah's Combatant Status Review Tribunal, I would have testified to the facts stated herein under oath, either on the phone or in person

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed in Kabul, Afghanistan,  
on this \_\_\_\_ day of May 2006

On this day of \_\_\_\_\_ 1385 (Afghan Calendar)

\_\_\_\_\_  
Haji Mohammed Wali

Witnessed:  
  
\_\_\_\_\_

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