

No. _____

IN THE

Supreme Court of the United States

VICKIEL VINCENT VAUGHN, PETITIONER,

v.

UNITED STATES OF AMERICA, RESPONDENT

*ON PETITION FOR A WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT*

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

When determining whether to impose supervised release and the length of that term, a district court may not consider the retributive factors identified in 18 U.S.C. § 3553(a)(2)(A) and *Esteras v. United States*, 145 S.Ct. 2031 (2025).

The question presented is as follows:

Whether a district court actually relies on § 3553(a)(2)(A), at least by unmistakable implication, when it expressly invokes those factors in an undifferentiated explanation immediately before imposing imprisonment and supervised release, without limiting the factors to imprisonment?

PARTIES TO THE PROCEEDING

The parties are Vickiel Vincent Vaughn and the United States of America.

RELATED PROCEEDINGS

United States Court of Appeals for the Fifth Circuit:

United States of America v. Vickiel Vincent Vaughn, No. 25-50136,
judgment entered April 24, 2026.

United States District Court for the Western District of Texas:

United States of America v. Wilkerson et al, No. 2:23-cr-01062-AM-2,
judgment as to petitioner entered February 7, 2025.

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OPINIONS BELOW

The unpublished decision of the Fifth Circuit Court of Appeals is attached as [App. A]. The district court's judgment is attached as [App. B].

JURISDICTION

The decision of the Fifth Circuit Court of Appeals was entered on April 24, 2026 [App. A]. The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1). The jurisdiction of the court of appeals was invoked under 28 U.S.C. § 1291 and 18 U.S.C. § 3742.

STATUTORY PROVISIONS

This case concerns the factors a district court may consider when determining whether to impose supervised release and the length of that term. The relevant statutory provisions are 18 U.S.C. § 3553(a)(2)(A) and § 3583(c). The relevant statutory provisions are as follows.

Section 3553(a) provides, in relevant part:

(a) Factors To Be Considered in Imposing a Sentence.—**The court shall impose a sentence sufficient, but not greater than necessary, to comply with the purposes set forth in paragraph (2) of this subsection. The court, in determining the particular sentence to be imposed, shall consider—

(1) the nature and circumstances of the offense and the history and characteristics of the defendant;

(2) the need for the sentence imposed—

(A) to reflect the seriousness of the offense, to promote respect for the law, and to provide just punishment for the offense;

(B) to afford adequate deterrence to criminal conduct;
(C) to protect the public from further crimes of the defendant; and
(D) to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

Section 3583(c) provides:

(c) Factors To Be Considered in Including a Term of Supervised Release.— The court, in determining whether to include a term of supervised release, and, if a term of supervised release is to be included, in determining the length of the term and the conditions of supervised release, shall consider the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7).

STATEMENT OF THE CASE

This case concerns whether a district court may rely on retributive sentencing considerations when imposing supervised release, even though Congress excluded those considerations from 18 U.S.C. § 3583(c). On March 16, 2023, near Del Rio, Texas, petitioner Vickiel Vincent Vaughn was riding in the front passenger seat of a vehicle driven by his cousin. United States Border Patrol agents stopped the vehicle at a temporary checkpoint and discovered in the rear seat three individuals who lacked lawful immigration status. A grand jury in the Western District of Texas charged Mr. Vaughn with conspiracy to transport undocumented individuals, in violation of 8 U.S.C. § 1324(a)(1)(A)(v)(I).

At trial, the government alleged that Mr. Vaughn participated in the transportation arrangement. The jury found Mr. Vaughn guilty. In explaining the

sentence, the court stated that, in assessing a sentence in this case, it considered “the seriousness of the offense,” “the need to promote respect for the law,” and the need “to provide just punishment for the offense.” Those factors are the retributive purposes identified in 18 U.S.C. § 3553(a)(2)(A). Under 18 U.S.C. § 3583(c), Congress omitted § 3553(a)(2)(A) from the factors governing whether to impose supervised release and the length of that term. After pronouncing the term of supervised release, the court returned to Mr. Vaughn’s recent positive THC test. The court stated that the test showed that Mr. Vaughn remained “in the pattern of making not good decisions” and imposed special conditions requiring substance-abuse treatment, testing, and abstention from intoxicants.¹ The court did not state that those considerations were the basis for imposing supervised release or selecting a three-year term, and it did not clarify that the retributive considerations it had previously announced applied only to imprisonment. Mr. Vaughn did not separately object to the supervised-release term at sentencing, but he challenged that term on appeal.

On appeal, the Fifth Circuit affirmed the district court’s sentence. The Fifth Circuit reviewed for plain error and held that the record did not show that the district court relied on § 3553(a)(2)(A) “expressly or by unmistakable implication” when imposing supervised release. The court reached that conclusion even though the district court expressly identified the seriousness of the offense, respect for the law, and just punishment as considerations used in assessing a sentence in this case and

¹ ROA 455–56.

did not separate those considerations from its decision to impose three years of supervised release.

This petition follows.

REASONS FOR GRANTING THE WRIT

I. The Fifth Circuit’s decision cannot be reconciled with *Esteras* and leaves without meaningful enforcement Congress’s exclusion of retribution.

The decision below cannot be reconciled with the text of 18 U.S.C. § 3583(c) or this Court’s decisions in *Esteras*, *Tapia*, and *Concepcion*.² Those authorities establish a categorical rule: Retribution may not enter the decision whether to impose supervised release.³

Here, immediately before imposing three years of supervised release, the district court announced that, “[i]n assessing a sentence in this case,” it considered the three retributive purposes identified in § 3553(a)(2)(A): “the seriousness of the offense,” “the need to promote respect for the law,” and the need “to provide just punishment for the offense.”⁴ After pronouncing sentence, the district court discussed petitioner’s positive THC test and imposed substance-abuse conditions. But the court did not identify that discussion as the basis for imposing supervised release or

² *Esteras v. United States*, 145 S.Ct. 2031 (2025); *Tapia v. United States*, 564 U.S. 319 (2011); *Concepcion v. United States*, 142 S.Ct. 2389 (2022).

³ 18 U.S.C. § 3583(c).

⁴ ROA 451–52.

selecting a three-year term. Nor did the court clarify that the retributive factors it had just announced applied only to imprisonment. The record therefore contains an undifferentiated sentencing explanation that expressly includes the prohibited factors, followed by a separate explanation addressing particular conditions of supervision. The Fifth Circuit nevertheless held that the record did not show reliance on § 3553(a)(2)(A), either “expressly or by unmistakable implication.”⁵

That conclusion turns *Esteras* on its head.⁶ A court impermissibly relies on retribution when the record shows that it “actually relied on § 3553(a)(2)(A)” either expressly or by unmistakable implication in determining the supervised-release component of the sentence.⁷ Review is therefore warranted for three reasons. First, the decision below conflicts with this Court’s precedents categorically excluding retribution from the supervised-release calculus.⁸ Second, the question presented is important and recurring because imprisonment and supervised release are ordinarily pronounced together, often under a single sentencing explanation, making the rule governing undifferentiated explanations consequential to the administration of federal sentencing. Third, this case is an appropriate vehicle because the district court invoked the statutory language Congress excluded, the Fifth Circuit squarely

⁵ Pet. App. 3a.

⁶ *Esteras*, 145 S.Ct 2031.

⁷ *Esteras*, 145 S.Ct. at 2045;

⁸ *Esteras*, 145 S.Ct. at 2045; *Tapia*, 564 U.S. at 326.

resolved whether that record established reliance under *Esteras*, and *Esteras* itself supplies the standard governing the acknowledged plain-error posture.⁹

II. The decision below conflicts with this Court’s categorical rule that retribution may not influence the imposition or length of supervised release.

A. Congress deliberately excluded every retributive purpose from the supervised-release calculus.

Section 3583(c) governs both whether supervised release should be imposed and the length of the resulting term. The statute directs district courts to consider specified portions of § 3553(a), including deterrence, protection of the public, and rehabilitation, but it omits § 3553(a)(2)(A), which concerns “the seriousness of the offense,” “respect for the law,” and “just punishment for the offense.”¹⁰ This Court has repeatedly treated that omission as deliberate and controlling. When Congress enumerates certain sentencing factors while omitting another, the omission must be given effect rather than treated as an invitation to consider the excluded factor implicitly.¹¹ In *Tapia*, this Court explained that, “when imposing a term of supervised release,” a sentencing court “may not take account of retribution.”¹² In *Concepcion*, the Court stated the rule even more directly: “In determining whether

⁹ *Esteras*, 145 S.Ct. at 2045.

¹⁰ 18 U.S.C. §§ 3553(a)(2)(A), 3583(c).

¹¹ *Esteras*, 145 S.Ct. at 2045–46.

¹² *Tapia*, 564 U.S. at 326.

to include a term of supervised release, and the length of any such term, Congress has expressly precluded district courts from considering the need for retribution.”¹³

Most recently, *Esteras* confirmed that the omission of § 3553(a)(2)(A) from the supervised-release provisions means exactly what the prior related cases above said it means. The Court explained that “for supervised release—and for supervised release only—Congress omitted § 3553(a)(2)(A).”¹⁴ The Court described that omission as “a distinction with a difference” and held that Congress’s decision to enumerate most sentencing factors while omitting § 3553(a)(2)(A) requires courts to exclude retribution from the supervised-release calculus.¹⁵

Although *Esteras* arose from revocation under § 3583(e), the Court expressly relied on the parallel rule governing the initial imposition of supervised release under § 3583(c). The Court explained that it had already interpreted § 3583(c) “to mean that district courts may not consider” § 3553(a)(2)(A) when imposing supervised release.¹⁶ The Court then stated the controlling principle categorically: “The omission of § 3553(a)(2)(A) from the list of factors means that courts may not consider it.”¹⁷

That rule reflects the distinct statutory purpose of supervised release: “Supervised release, in contrast to probation, is not a punishment in lieu of

¹³ *Concepcion*, 142 S.Ct. 2400–01.

¹⁴ *Esteras*, 145 S.Ct. at 2041.

¹⁵ *Esteras*, 145 S.Ct. at 2041.

¹⁶ *Esteras*, 145 S.Ct. at 2041.

¹⁷ *Esteras*, 145 S.Ct. at 2041–42.

incarceration.”¹⁸ Supervised release is intended to fulfill “rehabilitative ends, distinct from those served by incarceration,” and to provide defendants with postconfinement assistance.¹⁹ Imprisonment may address the defendant’s just deserts for the offense, but supervised release must look forward to permissible purposes such as deterrence, public protection, rehabilitation, and reentry.²⁰

B. The district court invoked the statutory language Congress prohibited and applied it to an undifferentiated sentencing decision.

The record presents the prohibited considerations in their clearest possible form. Immediately before pronouncing sentence, the district court stated:

In assessing a sentence in this case, the Court takes into account the advisory guidelines as well as the policy statements of those guidelines together with other sentencing factors such as the nature and circumstances of the offense, the seriousness of the offense, the history and characteristics of the defendant, the need to promote respect for the law and to provide just punishment for the offense, the need to deter future criminal conduct and to protect the public.²¹

The court did not merely discuss facts that might indirectly relate to the offense’s seriousness. It recited nearly every component of § 3553(a)(2)(A): seriousness of the offense, promoting respect for the law, and providing just punishment.²²

¹⁸ *United States v. Granderson*, 511 U.S. 39, 50 (1994).

¹⁹ *United States v. Johnson*, 529 U.S. 53, 59–60 (2000).

²⁰ 18 U.S.C. §§ 3553(a)(2), 3583(c); *Esteras*, 145 S.Ct. at 2043.

²¹ ROA 451–52.

²² 18 U.S.C. § 3553(a)(2)(A); ROA 451–52.

The court introduced those considerations by expressly identifying them as factors it used “[i]n assessing a sentence in this case.”²³ The court then imposed 30 months of imprisonment followed by three years of supervised release without dividing its announced reasoning between the two components.²⁴ The district court did not state that the retributive considerations applied only to imprisonment. It did not begin a separate analysis of supervised release. And it did not explain why three years, rather than a shorter period, were required.²⁵

The explanation accompanying the sentence therefore included the precise considerations Congress excluded from the decision whether to impose supervised release and how long that supervision should last. The court was permitted to consider those factors when selecting the term of imprisonment. But because the court announced a single set of considerations “[i]n assessing a sentence in this case,” it was required at least to make clear that the prohibited factors did not influence the supervised-release component. Nothing in the court’s formal explanation drew that distinction.

The later discussion of petitioner’s THC test does not eliminate the problem. That discussion accompanied the imposition of substance-abuse conditions and may explain why the court selected those conditions. It did not explain why supervised release was imposed for three years, and it did not withdraw or limit the court’s

²³ ROA 451–52.

²⁴ ROA 451–55.

²⁵ ROA 451–55.

previously announced reliance on retribution. The existence of a permissible consideration does not establish that the prohibited considerations played no role in the imposition or length of supervision.

Under plain-error review, the relevant inquiry is whether it is clear or obvious that the district court actually relied on § 3553(a)(2)(A), “because it did so either expressly or by unmistakable implication.”²⁶ Here, the district court expressly identified the prohibited factors as part of the framework it used “[i]n assessing a sentence in this case” and then imposed supervised release as part of that sentence without limiting those factors to imprisonment.²⁷ That record establishes reliance at least by unmistakable implication.

A sentencing court’s formal explanation identifies the decisional framework it used to select the sentence. When that explanation applies to a sentence containing both imprisonment and supervised release, the natural implication is that the announced considerations informed both components unless the court states otherwise. Here, nothing in the court’s formal explanation confined the retributive considerations to imprisonment. The Fifth Circuit’s contrary conclusion deprives unmistakable implication of independent meaning and warrants this Court’s intervention.

Absent this Court’s intervention, the Fifth Circuit and other courts applying the same approach will remain free to uphold imprecise, combined sentencing

²⁶ *Esteras*, 145 S.Ct. at 2045.

²⁷ ROA 451–55.

explanations that obscure whether impermissible retributive considerations influenced the term of supervised release. This recurring practice permits additional criminal consequences imposed on multiple defendants to evade meaningful appellate review, particularly when courts of appeals invoke plain-error review to excuse the very ambiguity created by district courts' failure to distinguish between imprisonment and supervised release.

C. The Fifth Circuit's decision converts *Esteras* into the very magic-words rule this Court rejected.

The Fifth Circuit acknowledged that petitioner challenged the supervised-release term on the ground that the district court relied on § 3553(a)(2)(A).²⁸ It nevertheless concluded, in a single sentence, that “the record does not show the court relied on § 3553(a)(2)(A) . . . ‘expressly or by unmistakable implication’ when imposing supervised release.”²⁹ That conclusion is irreconcilable with the sentencing court's own words. The district court announced that it considered the exact statutory language of § 3553(a)(2)(A) “[i]n assessing a sentence in this case,” imposed supervised release as part of that sentence, and never limited those considerations to imprisonment.³⁰

²⁸ Pet. App. 2a–3a.

²⁹ Pet. App. 3a.

³⁰ ROA 451–55.

If that record does not establish reliance expressly or by unmistakable implication, an unpreserved defendant could prevail only by identifying an express statement that the court was imposing supervised release for retribution. But *Esteras* did not require those magic words. The Court rejected the suggestion that enforcing § 3583’s exclusion of retribution would create a “substance-free reverse magic-words requirement.”³¹ The Court instead directed appellate courts to examine whether the record establishes reliance “either expressly or by unmistakable implication.”³²

The Fifth Circuit’s approach deprives unmistakable implication of independent meaning. Under the decision below, an appellate court may presume that expressly invoked retributive purposes concerned only imprisonment even when the sentencing court gave a single explanation and drew no distinction between imprisonment and supervised release. *Esteras* provides no basis for that presumption. When an objection is made, a sentencing court may clarify that a reference to the offense’s seriousness was “intended to bear on another § 3553(a) factor or merely prefatory.”³³ Here, however, the district court never described its invocation of § 3553(a)(2)(A) as prefatory, never withdrew it, and never explained that it applied only to imprisonment.³⁴

³¹ *Esteras*, 145 S.Ct. at 2045.

³² *Esteras*, 145 S.Ct. at 2045.

³³ *Esteras*, 145 S.Ct. at 2045.

³⁴ ROA 451–55.

The government characterized the court’s statements as “prefatory,” “passing,” and “stray,” but those post hoc characterizations cannot alter the district court’s express statement of the factors it used “[i]n assessing a sentence in this case.”³⁵ Sentencing explanations are required so that the parties and reviewing court can understand the district court’s actual reasons and conduct meaningful appellate review.³⁶

That requirement loses its force when an appellate court may treat later remarks concerning particular conditions of supervision as though the district court had identified them as the basis for imposing supervision and selecting its length. The decision below therefore reduces Congress’s prohibition to a formality. Under the appellate court’s reasoning, a court may announce reliance on all three excluded factors, impose imprisonment and supervised release under one rationale, and remain insulated from correction so long as it does not separately repeat that retribution applies specifically to supervision. That is not the rule Congress enacted or the rule this Court announced.³⁷

³⁵ Gov’t Reply Br. 8–9; ROA 451–52.

³⁶ *Gall v. United States*, 552 U.S. 38, 50 (2007); *Rita v. United States*, 551 U.S. 338, 356 (2007).

³⁷ 18 U.S.C. § 3583(c); *Esteras*, 145 S.Ct. 2031; *Concepcion*, 142 S.Ct. at 2400–01; *Tapia*, 564 U.S. at 326.

III. The question presented is important and recurring because the decision below permits undifferentiated sentencing explanations to evade *Esteras*.

The question presented extends beyond petitioner’s sentence. Federal sentencing ordinarily requires the district court to pronounce imprisonment and supervised release during the same proceeding while explaining the sentence sufficiently to permit appellate review. When a district court gives one explanation for the combined sentence and that explanation includes both permissible and prohibited purposes, courts need a workable rule for deciding whether retribution entered the supervised-release calculus.

This Court anticipated the precise problem presented here in *Esteras*. Justice Alito’s dissent observed that imprisonment and supervised release are commonly imposed during the same proceeding even though retribution may be considered when selecting imprisonment but not when determining supervised release.³⁸ Although the dissent disagreed with the Court’s statutory holding, its description of the practical problem followed directly from the rule adopted by the Court. The dissent also noted that supervised release was imposed in 50,865 federal cases in 2024.³⁹ Mr. Vaughn’s case now presents the concrete problem the dissent anticipated: The district court announced one set of sentencing considerations, including the three

³⁸ *Esteras*, 145 S.Ct. at 2056 (Alito, J., dissenting). (Addressing how sentencing courts should separate those two inquiries, the dissent remarked, “How this will work in practice is anyone’s guess.”).

³⁹ *Esteras*, 145 S.Ct. at 2056.

retributive factors, and then imposed imprisonment and supervised release without explaining which considerations governed which component.

Esteras supplied the “expressly or by unmistakable implication” standard for reviewing an unpreserved claim, but it did not apply that standard to the initial imposition of supervised release under an undifferentiated explanation. This case therefore presents an appropriate opportunity to resolve a practical question identified in *Esteras* itself and recurring throughout federal sentencing.

The decision below demonstrates the substantial enforcement problem anticipated in *Esteras*. Section 3583(c)’s exclusion of § 3553(a)(2)(A) has little practical force if appellate courts may presume that an undifferentiated invocation of retribution concerned only imprisonment.⁴⁰ Unless the sentencing court identifies which considerations governed which component of the sentence, an appellate court cannot determine whether the court imposed supervised release—or selected its length—partly because of the offense’s seriousness, the need to promote respect for the law, or the desire to provide just punishment.

The Fifth Circuit’s approach also creates incentives contrary to *Esteras*.⁴¹ A district court that supplies no separate explanation for supervision receives greater protection than one that candidly identifies the basis for that component, because the absence of a distinct rationale permits the appellate court to presume that every forbidden consideration applied only to imprisonment. That result conflicts with this

⁴⁰ 18 U.S.C. § 3583(c).

⁴¹ *Esteras*, 145 S.Ct. 2031.

Court's repeated instruction that a sentencing explanation must permit meaningful appellate review and promote the perception of fair sentencing.⁴²

An explanation that combines permissible and impermissible considerations cannot serve those purposes unless reviewing courts take the district court's announced rationale seriously. The need for clarification is particularly pressing after *Esteras*.⁴³ That decision resolved whether retribution may enter the supervised-release calculus, but the decision below demonstrates continuing uncertainty over how the “expressly or by unmistakable implication” standard applies when imprisonment and supervised release are imposed together under a single explanation.⁴⁴ The Court should make clear that when a district court expressly invokes § 3553(a)(2)(A) as part of an undifferentiated explanation for a sentence that includes supervised release and does not confine those factors to imprisonment, reliance on retribution is established at least by unmistakable implication.

IV. This case is a good vehicle because the record presents the prohibited factors and the Fifth Circuit squarely resolved the *Esteras* question.

This case presents the question well. Mr. Vaughn argued in the Fifth Circuit that the district court relied on § 3553(a)(2)(A) when imposing supervised release, the government responded that the references were merely prefatory or secondary, and

⁴² *Gall*, 552 U.S. at 50; *Rita*, 551 U.S. at 356–57.

⁴³ *Esteras*, 145 S.Ct. 2031.

⁴⁴ *Esteras*, 145 S.Ct. at 2045.

the Fifth Circuit expressly held that the record did not establish reliance under *Esteras*.⁴⁵ The relevant record is complete and undisputed. The district court recited the components of § 3553(a)(2)(A), identified them as factors considered “[i]n assessing a sentence in this case,” and then imposed 30 months of imprisonment followed by three years of supervised release.⁴⁶ The court subsequently discussed petitioner’s THC test and imposed substance-abuse conditions. The legal question is whether that later discussion prevents the earlier undifferentiated explanation from establishing actual reliance on retribution by unmistakable implication.

No threshold issue prevents review. Petitioner raised the claim in the Fifth Circuit, the government responded to it, and the Fifth Circuit expressly resolved it under *Esteras*. There is likewise no major legal issue preventing the Court from reaching the question. The Fifth Circuit acknowledged that plain-error review applied and squarely held that Mr. Vaughn failed to establish clear or obvious reliance on a prohibited factor. The plain-error posture does not prevent review because *Esteras* itself prescribed how an unpreserved claim should be reviewed. Under *Esteras*, a defendant must show that “the district court actually relied on § 3553(a)(2)(A),” either “expressly or by unmistakable implication,” and satisfy the remaining requirements of plain-error review.⁴⁷

⁴⁵ Pet. App. 2a–3a.

⁴⁶ ROA 451–55.

⁴⁷ *Esteras*, 145 S.Ct. at 2025; (citing *United States v. Olano*, 507 U.S. 725, 734 (1993)).

In this case, the district court announced reliance on the language of § 3553(a)(2)(A), gave no separate explanation for supervision, and imposed a three-year term.⁴⁸ The district court imposed three years of supervised release after expressly including retribution in its announced sentencing calculus. Although the court later identified drug use as a basis for substance-abuse conditions, it did not state that the same three-year term would have been imposed after excluding retribution. There is therefore a reasonable probability that application of the correct statutory framework would have produced a shorter term of supervision. Supervised release is not a technical appendage to imprisonment. It imposes continuing legal restrictions, and violations of its conditions may expose the defendant to renewed imprisonment.⁴⁹

The requested relief is narrow. Mr. Vaughn does not challenge his conviction or the custodial term in this petition. The Court may vacate the judgment below and remand so that the supervised-release component may be reconsidered under the permissible statutory factors. Because the question was pressed, passed upon, and resolved under the standard supplied by *Esteras*, this case provides a direct vehicle for clarifying when an undifferentiated sentencing explanation establishes actual reliance on retribution.⁵⁰

⁴⁸ ROA 451–55.

⁴⁹ See *United States v. Haymond*, 139 S.Ct. 2369, 2374 (2019) (plurality opinion) (a supervised-release violation may result in “a new prison term”).

⁵⁰ Pet. App. 2a–3a; *Esteras*, 145 S.Ct. 2031.

CONCLUSION

For these reasons, the petition for a writ of certiorari should be granted.

Respectfully submitted,

A handwritten signature in black ink that reads "Joseph Ostini". The signature is written in a cursive, flowing style.

/s/ Joseph Ostini
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