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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

R. Keith Kelly, Circuit Court Judge

Appellate Case No. 2015-000667

The State,

Respondent,

v.

Annie Jackson,

Appellant.

RECORD ON APPEAL

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ATTORNEYS FOR RESPONDENT

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2014-CP-42-4712

STATE OF SOUTH CAROLINA)

IN THE MAGISTRATE'S COURT

)

OF SPARTANBURG COUNTY

THE STATE)

PLAINTIFF,)

MAGISTRATE'S RETURN

VS.)

2013A4210203533

ANNIE JACKSON)

2013A4210203534

DEFENDANT,)

The above styled cases came for a jury trial in the Spartanburg Magistrate Court on October 28, 2014, with Judge William R. Chumley, presiding. The defendant was charged with Public Disorderly Conduct and Trespassing on the following warrants: 2013A4210203533 and 2013A4210203534. The facts of the case stem from an incident which took place at a retail shoe sales establishment on South Church St. in Spartanburg. Under sworn testimony, the officer testified that he was employed with the "Spartanburg City Police" and was dispatched on the day in question to "South Church Street." The state's witness testified that she was employed at Shoe Show on South Church St. in Spartanburg and was employed there on this day of the incident.

The defendant's motion for a directed verdict was denied. This appeal resulted.

Attached to this return are all documents relating to the case, including the original charging document.

Respectfully submitted this 25th day of November, 2014.

William R. Chumley, Judge

M. HOPE BRACKLEY

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CLERK OF COURT
SPARTANBURG COUNTY

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS

Annie Jackson,)

Appellant,)

v.)

State of South Carolina,)

Respondent)

ORDER AFFIRMING CONVICTIONS

C.A. No. 2014-CP-42-4712

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The Appellant, Annie Jackson, was convicted of Public Disorderly Conduct, warrant 2013A4210203533, and Trespassing, warrant 2013A4210203534, in a jury trial on October 28, 2014 at the Spartanburg County Magistrate Court. The Appellant appealed both of those convictions to this Court. This Court conducted a hearing on Tuesday, January 20, 2015. This Court heard this appeal simultaneously with the appeal of Willie Jackson v. State of South Carolina because both appeals involved the same facts and very similar issues.

The Appellant was represented by Assistant Public Defender Mary Frances Dassel. The Respondent was represented by Assistant Solicitor Daniel Cude.

FACTS/PROCEDURAL BACKGROUND

Officer Bryan Shaw of the Spartanburg Police Department was dispatched to a business called Shoe Show at 550 South Church Street in Spartanburg. The store clerk, Ms. Janice Littlejohn, reported to police that the Appellant and her father, Willie Jackson, were trying to compel her to refund the Appellant's money for a previous purchase. Ms. Littlejohn said she could not refund the money.

Officer Shaw testified that he told the Appellant repeatedly to leave the store, but that she refused. Ms. Littlejohn testified that neither the Appellant nor Mr. Jackson would leave the store. Officer Shaw testified that when he tried to arrest the Appellant, that Mr. Jackson assaulted him and that he believed Mr. Jackson was trying to choke him. Officer Shaw said he struck Mr. Jackson, and Mr. Jackson then picked up a theft deterrent stand and came at the officer. Officer Shaw said that when he drew his firearm, Mr. Jackson stopped trying to assault him. Police ultimately arrested both the Appellant and Mr. Jackson.

The Appellant testified that she wanted a refund for shoes she purchased from Shoe Show. The Appellant testified that neither she nor Mr. Jackson acted in a disorderly manner.

ANALYSIS

The Appellant's Explanation of Appeal states that she "appeals from the court's denial of a Directed Verdict/Motion of acquittal (sic) based on the State's failure to establish the authority and jurisdiction of the arresting Spartanburg Public Safety Officer."

(RKK)

The Appellant's attorney argued that the Magistrate committed an error of law by denying the Appellant's motion for Directed Verdict during the trial.

The Appellant argued that the Respondent failed to establish jurisdiction as to either the Public Disorderly Conduct charge or the Trespassing charge. The Appellant stated there was no testimony during the trial expressly stating that the events testified about took place in the city limits of Spartanburg.

But the Appellant and Respondent both agree that there was testimony during the trial that the events underlying the case took place in "Spartanburg." The witness Janice Littlejohn testified at trial that she worked at Shoe Show, located at 550 South Church Street in Spartanburg. In the Magistrate's return, it notes that Officer Bryan Shaw testified he was employed with the "Spartanburg City Police."

The Respondent argued that in proving jurisdiction it is not necessary that the county in which the crime was committed be proved affirmatively if there is sufficient evidence from which it can be inferred, citing *State v. Williams*, 321 S.C. 327, 333, 468 S.E. 2d 626, 630 (1996). The Respondent's position is that similarly, the city in which a crime was committed need not be proven affirmatively but can be inferred if sufficient evidence is presented.

In reviewing a motion for directed verdict, the trial judge is concerned with the existence of the evidence, not its weight. *State v. Walker*, 349 S.C. 49, 53, 562 S.E. 2d 313, 315 (2002). On appeal from the denial of a directed verdict, an appellate court must review the motion in the light most favorable to the State. *State v. Bailey*, 368 S.C. 39, 44, 626 S.E. 2d 898, 901 (2006). If there is any direct evidence or substantial circumstantial evidence reasonably tending to prove the guilt of the accused, an appellate court must find the case was properly submitted to the jury. *State v. Lollis*, 343 S.C. 580, 584, 541 S.E. 2d 254, 256 (2001).

This Court finds there was sufficient evidence to support the Magistrate's decision to deny the Appellant's motion for directed verdict and submit the case to the jury. The Court finds that the Magistrate did not commit an error of law in denying the Appellant's motion for directed verdict.

The verdict of the trial court is AFFIRMED.

IT IS SO ORDERED.

17 February 2015
Spartanburg, South Carolina

R. Keith Kelly
The Honorable R. Keith Kelly
Chief Administrative Judge, Common Pleas

STATE OF SOUTH CAROLINA) IN THE COURT OF COMMON PLEAS
) SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)

ANNIE JACKSON)
)
vs.) CASE NO. 2014-CP-42-04712
)

STATE OF SOUTH CAROLINA)
)
) TRANSCRIPT OF RECORD

WILLIE JACKSON)
)
vs.) CASE NO. 2014-CP-42-04713
)

STATE OF SOUTH CAROLINA)

JANUARY 20, 2015
SPARTANBURG, SOUTH CAROLINA

BEFORE THE HONORABLE R. KEITH KELLY

MATTHEW W. SHEALY, ASSISTANT PUBLIC DEFENDER
SPARTANBURG, SOUTH CAROLINA

ATTORNEY FOR THE PLAINTIFF, WILLIE JACKSON

MARY FRANCES DASSEL, ASSISTANT PUBLIC DEFENDER
SPARTANBURG, SOUTH CAROLINA

ATTORNEY FOR THE PLAINTIFF, ANNIE JACKSON

DAN CUDE, ASSISTANT SOLICITOR
SPARTANBURG, SOUTH CAROLINA

ATTORNEY FOR THE STATE

SHIRLEY BROOM
16TH Circuit Court Reporter

I-N-D-E-X

NO TESTIMONY TAKEN

E-X-H-I-B-I-T-S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
P-1	CD	6	
D-1	CD	7	

1 THE COURT - Okay, are we at Annie and Willie
2 Jackson? Is that where we are?

3 MS. DASSEL - Yes, sir, Your Honor.

4 THE COURT - 4712 and 13. Do we need to -- is it
5 the same issue in both, or are they consolidated or ---

6 MR. SHEALY - I have an extra issue, but our
7 primary issue is the same. Judge, I represent Willie
8 Jackson. My name is Matthew Shealy. I'll put that on the
9 record.

10 THE COURT - Yes, put your name on the record for
11 me. Marcy Frances?

12 MS. DASSEL - I represent Annie Jackson. I'm Mary
13 Frances Dassel.

14 THE COURT - Yes, sir.

15 MR. CUDE - Your Honor, I'm Daniel Cude for the
16 State.

17 THE COURT - All right.

18 MR. SHEALY - And just to make sure, I'm Matthew
19 Shealy for Willie Jackson.

20 THE COURT - All right, let's hear from -- let's
21 hear from Annie Jackson's position first. How about that?
22 Let's do them in that order. That's the way they are on
23 here.

24 MS. DASSEL - Yes, sir, Your Honor. This is an
25 appeal from Magistrate's Court in which Ms. Jackson was

1 convicted of public disorderly conduct and trespass after
2 notice on October 28th of last year. Your Honor, Officer
3 Brian Shaw with the Spartanburg City Police Department was
4 the arresting officer in this case. The issue on appeal,
5 it is our position that the State did not sufficiently
6 establish evidence that would establish jurisdiction to
7 make the arrest in this case. Specifically, there was not
8 sufficient testimony that the arrest in this case occurred
9 within the city limits of Spartanburg city. Your Honor,
10 I'd like to pass up South Carolina Code Section 17-13-40 as
11 well as a copy of State vs. Padgett.

12 (WHEREUPON, DOCUMENT HANDED UP TO THE COURT)

13 THE COURT - Okay.

14 MS. DASSEL - Your Honor, as you can see, South
15 Carolina Code Section 17-13-40 requires that a police
16 authority of the city conduct an arrest within the city
17 limits of that city. Your Honor, in State vs. Padgett is
18 a Court of Appeals case from 2003. In that case the Court
19 held that Section 17-13-40 operates to limit the
20 jurisdiction of city police officers. In that case it was
21 an appeal of a failure to stop conviction in which the
22 Court held that there was conflicting testimony as to
23 whether or not the pursuit of the failure to stop started
24 in the city limits, and because there was conflicting
25 testimony, the Court denied the appeal. Your Honor, in

1 this case, there just simply was not sufficient evidence
2 for which the jury could conclude that the arrest took
3 place in the city of Spartanburg. Your Honor, I have here
4 a copy of the recording of the trial I'd like to make an
5 exhibit for the record.

6 THE COURT - Yes, ma'am.

7 (WHEREUPON, DOCUMENT MARKED AS PLAINTIFF'S
8 EXHIBIT 1.)

9 MS. DASSEL - And, Your Honor, there are four
10 recordings on that CD. The first recording is the one I'm
11 going to refer to because it includes the relevant portion.
12 Your Honor, there are two -- two witnesses in this case,
13 Officer Brian Shaw. He testified, Your Honor,
14 specifically, at 11 minutes and 11 seconds on that first
15 recording that he is employed with the Spartanburg City
16 Police Department. He then testified at 11 minutes 30
17 seconds that he was dispatched to the Shoe Show at 550
18 South Church Street. There was no testimony from Officer
19 Shaw that that street is located within the city limits of
20 Spartanburg. The second witness was Ms. Janice Littlejohn
21 with the Shoe Show. She testified at 23 minutes 59 seconds
22 that she is employed at the Shoe Show at 550 South Church
23 Street in Spartanburg. Your Honor, as you may know, an
24 address can have a Spartanburg address without necessarily
25 being within the city limits of Spartanburg. And there was

1 no testimony that specifically stated that that address is
2 located within the city limits. So we would respectfully
3 request that you grant the appeal, remand the case back to
4 Magistrate Court and direct the Judge to grant a directed
5 verdict motion.

6 THE COURT - Mr. Cude?

7 MR. CUDE - Thank you, Your Honor. We ask that
8 you deny the Defendant's appeal on that issue, Your Honor.
9 We -- I think the record shows there was sufficient
10 evidence to support Judge Chumley's denial of a directed
11 verdict on that issue, Your Honor. And again -- actually
12 if I can hand up out copy of the recording just for
13 records, because I'm -- and if I may, Your Honor, in part,
14 just because I use -- I actually have different markers
15 just -- that I'd ask the Court to consider -- ask this be
16 Exhibit -- Exhibit from the State.

17 THE COURT - Okay.

18 (WHEREUPON, DOCUMENT MARKED AS DEFENDANT'S
19 EXHIBIT.)

20 MR. CUDE - And, Your Honor, there are actually
21 three audio files. It was broken into three audio files on
22 my copy, and I believe this is on -- our first audio file -
23 - again, it's actually -- I'm asking the Court to consider
24 just similar testimony. There's testimony on the first
25 audio file. It's 17 minutes 43 seconds or thereabouts that

1 the officer was dispatched to 550 South Church Street, Your
2 Honor. He does testify again that he's part of the
3 Spartanburg City Police Department, and again, on my
4 recording, Your Honor, I believe that it's still on the
5 first audio file, at about 30 minutes and 13 seconds
6 there's testimony from this lay witness, Janice Littlejohn,
7 that she works at the Shoe Show at 550 South Church Street
8 in Spartanburg, and, Your Honor, my wording may not be
9 exact, but again, Ms. Littlejohn does testify -- the
10 substance of it is that she works at 550 South Church
11 Street in Spartanburg. We argue that's sufficient evidence
12 that it took place in the city limits, Your Honor. I had a
13 case as well, Your Honor, and I -- the facts may not be
14 precisely in point, but the Courts upheld just on the issue
15 of jurisdiction that it's -- on the issue of whether an
16 offense was considered in a certain county that -- if I may
17 -- in State vs. Williams, 321 SC 327, that for the purpose
18 of establishing jurisdiction it is not necessary that the
19 county in which the crime be committed be proved
20 affirmatively if there is sufficient evidence from which it
21 can be inferred, and Your Honor I -- to be candid with the
22 Court I wouldn't say the facts are on point, but I argue
23 the principle should hold here as well. There was
24 testimony that this officer is a Spartanburg -- employed by
25 the Spartanburg Police Department, and Ms. Littlejohn said

1 this incident occurred at the Shoe Show in Spartanburg. I
2 think that's sufficient evidence from which a jury can
3 infer that jurisdiction was appropriate, Your Honor, and I
4 think it's sufficient evidence to support the Magistrate's
5 denial of a directed verdict. If I can hand these ---

6 THE COURT - Well, let me ask this, Mr. Cude. Is
7 that a question of fact or is that a question of law? The
8 550 South Church Street, are we talking about down here at
9 the Shoe Show that's on South Church past the Pepsi
10 Bottling Company?

11 MS. DASSEL - I believe so, Your Honor. Before
12 the Pepsi Bottling ---

13 THE COURT - Well, coming into town, it'd be on
14 the left before you get to the Pepsi Bottling Company, not
15 -- on the right? Shoe Show ---

16 MS. DASSEL - It's on the right coming from
17 Charlotte.

18 MR. SHEALY - Judge, I believe that it would be --
19 having testified to it, that it would be within -- probably
20 within the city limits of Spartanburg, probably, whether
21 they testified to it or not, so it would be our position
22 that that -- if they had -- would be something that a Judge
23 could determine as to whether a reasonable jury could
24 determine that they had jurisdiction or not.

25 THE COURT - Okay.

1 MR. SHEALY - The problem is the absence of the
2 evidence in the record.

3 MR. CUDE - May I approach with this case, Your
4 Honor.

5 THE COURT - Yes, please.

6 (WHEREUPON DOCUMENT IS HANDED UP TO THE COURT.)

7 THE COURT - Anything else, Ms. Dassel?

8 (No response)

9 THE COURT - If not, I'm going to turn to Mr.
10 Shealy.

11 MS. DASSEL - Your Honor, I would just add that
12 South Carolina Code 17-13-40 operates to limit the
13 jurisdiction of the officer. It would not have been
14 difficult for him to testify that this occurred in the city
15 limits of Spartanburg, and I feel that just saying it's in
16 Spartanburg, like I said earlier, you know, it could be
17 within the County of Spartanburg, but not necessarily in
18 the city limits of Spartanburg, and that just wasn't
19 testified to in this case, Your Honor.

20 THE COURT - Okay. Mr. Shealy, we're now on 4713
21 would be Mr. Jackson, wouldn't it?

22 MR. SHEALY - Yes, Your Honor, and I -- more or
23 less as to the jurisdiction issue, I would join in with Ms.
24 Dassel largely, Judge. I would only point out that State
25 vs. Padgett talks about at the directed verdict stage or

1 the reason the appeal was denied was because there was
2 evidence in the record from which a jury could determine
3 that the chase began within the city limits of Saluda --
4 it's Saluda City -- oh, no Ridge Spring, Your Honor.
5 Judge, as to Mr. Cude's case, that's dealing with a
6 homicide in a Circuit Court. I think that the -- that the
7 questions of jurisdiction in a Circuit Court's going to be
8 a little bit different than in a Magistrate Court, because
9 like I say, that's a murder case. The question I think
10 there would be more whether the venue was appropriate or
11 not. Here we're talking about actual jurisdiction to
12 arrest. A city police officer has to have the jurisdiction
13 conferred upon him by the city to arrest, and I believe the
14 jury does have to make that determination, Your Honor, that
15 he did, in fact have jurisdiction, and there was no
16 evidence within this record from which a reasonable jury
17 could make that determination, because the officer simply
18 didn't testify to it, neither did Ms. Littlejohn. Your
19 Honor, I also have the issue of whether or not my client --
20 whether or not there was any evidence in the record from
21 which a reasonable jury could believe that Mr. Jackson --
22 that Mr. Jackson had been trespassed from that area. And,
23 Judge, I've listened to it; there is no evidence in the
24 record as to that. In denying the motion for directed
25 verdict on that ground, Judge Chumley simply denied it.

1 Didn't give any ground, didn't give any reasons, the same
2 with the jurisdictional issue. In the return I don't see
3 any mention as to why he denied that trespassing, that
4 directed verdict on the trespassing. Judge, the closest
5 that I have is Ms. Littlejohn testifies at -- I believe
6 it's around 29, 28 from the -- from the 29 minutes 28
7 seconds on Ms. Dassel's copy of the recording, that Ms. --
8 asked her to leave, but she wouldn't do it. Mr. Jackson
9 wouldn't do it. I don't know what that means, but that
10 isn't testifying that they told him to leave. Nobody ever
11 puts him on trespass notice throughout the record. They
12 speak about placing Ms. Jackson on trespass notice, asking
13 her to leave, all of this stuff. Nobody ever says that
14 they asked Mr. Jackson to leave. Nobody ever says that
15 they put him on trespassing notice. Judge, we appeal these
16 things -- it's not just for the people that we represent.
17 These appeals have a systemic purpose, and that's making
18 sure that the convictions that we get down in Magistrate's
19 Court are good convictions, that everybody testifies to
20 things that they need to testify to and that we can have
21 faith in the way those convictions were adopted. Judge,
22 they just didn't testify to the things they needed to
23 testify to, and to let them say, well, in Spartanburg is
24 enough, that doesn't -- it doesn't allow us to have faith
25 in the convictions we're getting down in Magistrate's

1 Court, because we don't know how many of these things don't
2 get appealed. Judge, my clients were given fines and often
3 times you aren't going to appeal a fine. Often times that
4 just doesn't happen, so, Judge, we need to take these
5 opportunities to correct these errors so that in the future
6 Officer Shaw will testify that he had jurisdiction, so that
7 we can have faith in the convictions that we get. Judge,
8 and simply saying that it happened at 550 South Church
9 Street in Spartanburg is not the same as saying in the City
10 of Spartanburg and County of Spartanburg, which is what he
11 should've said, what they should've said, what they
12 should've testified to. Judge, there's just not sufficient
13 evidence in this record. Thank you.

14 THE COURT - Yes, sir, Mr. Cude?

15 MR. CUDE - Your Honor, on the trespassing issue,
16 you know, I do have to agree with Mr. Shealy. I didn't
17 hear any expressed testimony in the record that Mr. Willie
18 Jackson was told he was on trespass notice. Beg the
19 Court's pardon. You know, I -- you know, I would argue
20 that there is some evidence to support the Magistrate
21 denying a directed verdict on that ground. I did also
22 hear, as Mr. Shealy did, the statement that Mr. Jackson
23 wouldn't leave either. The testimony did show that, you
24 know, Mr. Jackson entered the store, you know, he was asked
25 to come in by his daughter. He did speak to the clerk in

1 what -- and this is my characterization -- I think the
2 clerk would describe as an aggressive manner. You know,
3 when the officer arrived, I understand Mr. Jackson came
4 back into the store along with his daughter. The office --
5 the testimony would show the officer did try to place Annie
6 Jackson under arrest, that she resisted and, you know, a
7 struggle ensued. I -- they say there's some evidence --
8 again to concede -- to be honest, Your Honor, or to be
9 candid, you know, the evidence did show that he expressly
10 told Annie Jackson she was on trespass notice. I'd argue
11 there's some evidence from which a jury could infer that he
12 was on trespass notice, as well.

13 MR. SHEALY - If I may, Judge. The statute's
14 trespassing after notice. You have to be given notice.
15 That's not sufficient that Mr. Jackson wouldn't do it --
16 and we have to be precise, because that's what we're
17 dealing with here is who testified to what, what evidence
18 was actually in the record. It'd be our position it was
19 wouldn't do it, and that's -- that's not notice, Judge.
20 Thank you.

21 THE COURT - Thank you, gentlemen, lady. Watch
22 your e-mail.

23 MR. CUDE - Yes, sir.

24 MS. DASSEL - Thank you, Your Honor.

25 THE COURT - Thank you.


(END OF TRANSCRIPT)

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C E R T I F I C A T E

I, Shirley Broom, Official Court Reporter for the Sixteenth Judicial Circuit for the State of South Carolina, do hereby certify that the foregoing 15 pages is a true, accurate and complete Transcript of Record of the proceedings had and the evidence introduced in the proceedings of Annie Jackson vs. State of South Carolina and Willie Jackson vs. State of South Carolina as taken by me in the Court of Common Pleas for the Seventh Judicial Circuit on January 20, 2015, and provided by me this the 14th day of April, 2015.

I do further certify that I am neither of kin, counsel, nor interest to any party herein.



Shirley Broom, CVR-M
Official Court Reporter,
Certified Verbatim Reporter, In and
for the State of South Carolina.

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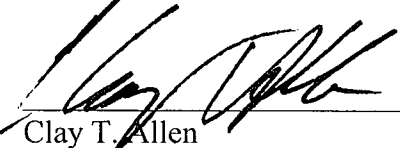
JUL 08 2016

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

July 5, 2016



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Circuit Public Defender

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ATTORNEY FOR APPELLANT

THE STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

JUL 08 2016

SC Court of Appeals

The Honorable R. Keith Kelly, Circuit Court Judge

Appellate Case No. 2015-000667

The State of South Carolina, Respondent,

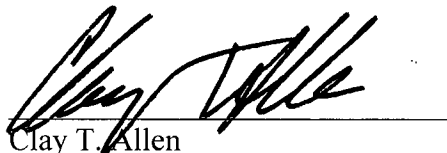
v.

Annie Jackson, Appellant

PROOF OF SERVICE OF
RECORD ON APPEAL

I certify that I have served the Record on Appeal on the State by depositing a copy of it in the United States Mail, postage prepaid, on July 6, 2016, addressed to its attorney of record, V. Henry Gunter, Jr., Assistant Attorney General, P.O. Box 11549 Columbia, South Carolina 29211.

July 6, 2016



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