

Indiana Civil Rights Commission

BEFORE THE STATE OF INDIANA

CIVIL RIGHTS COMMISSION

- - -

PUBLIC MEETING OF SEPTEMBER 21, 2018

ORIGINAL

PROCEEDINGS

in the above-captioned matter, before the Indiana Civil Rights Commission, Adrienne L. Slash, Chairperson, taken before me, Lindy L. Meyer, Jr., a Notary Public in and for the State of Indiana, County of Shelby, at the Indiana Government Center North, 100 North Senate Avenue, Room N300, Indianapolis, Indiana, on Friday, September 21, 2018 at 1:02 o'clock p.m.

- - -

William F. Daniels, RPR/CP CM d/b/a
ACCURATE REPORTING OF INDIANA
12922 Brighton Avenue
Carmel, Indiana 46032
(317) 848-0088

1 APPEARANCES:

2 COMMISSION MEMBERS:

3 Adrienne L. Slash, Chairperson
4 Sheryl Edwards
5 Alpha Blackburn
6 Steven A. Ramos (telephone)
7 Holli Harrington (telephone)

8 CIVIL RIGHTS COMMISSION STAFF PRESENT:

9 Caroline Ryker
10 Anehita Eromosele

11 ALSO PRESENT:

12 Betsy Huffman
13 Michael Rabinowitch

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1 1:02 o'clock p.m.
September 21, 2018

2 - - -
3 CHAIRPERSON SLASH: All right. And
4 welcome. So, would you like to announce the
5 agenda?

6 MS. RYKER: Yes, and at the onset,
7 I'd like to just briefly say my name is Caroline
8 Stephens Ryker, and I'm one of the staff
9 attorneys here today, and because there is no
10 current ALJ for our office, and Director Wilson
11 and Deputy Director Posey are not here, I'll be
12 helping present the agenda today.

13 So, the agenda that we have, I believe you
14 all have copies of it. We have a few different
15 issues. The Director's Report I know is
16 scheduled early on. Deputy Director Posey will
17 be joining us later, and so, that'll be closer to
18 the close of today's meeting --

19 CHAIRPERSON SLASH: Okay.

20 MS. RYKER: -- as opposed to the
21 beginning.

22 CHAIRPERSON SLASH: Okay. All right.
23 So, we'll go ahead and we'll get started. So,

1 we'll go through our Old Business. This is where
2 I messed up. I was supposed to have -- do you
3 have the copies of Comm. Long's responses?

4 MS. EROMOSELE: Yes.

5 CHAIRPERSON SLASH: Thank you. Thank
6 you very much.

7 Okay. So, in her absence, Comm. Long is
8 traveling internationally, so she submitted
9 her -- she has submitted her decisions in
10 writing. So, in the case of -- we'll do the
11 first one -- actually I don't believe that that
12 one's in order, so her -- the second one, in the
13 case of Katrina [sic] Wilson versus M/I Homes of
14 Indiana, she recommends upholding no probable
15 cause to believe that discriminatory acts
16 occurred as alleged.

17 Can I hear a motion on that one?

18 COMM. EDWARDS: So moved.

19 COMM. BLACKBURN: Second.

20 CHAIRPERSON SLASH: All in favor?

21 COMM. EDWARDS: Aye.

22 COMM. BLACKBURN: Aye.

23 COMM. HARRINGTON: Aye.

1 CHAIRPERSON SLASH: Aye. Okay.

2 There's that one.

3 No. 3, Comm. Blackburn?

4 COMM. BLACKBURN: The case of Natalie
5 Smart versus Valparaiso Community Schools, I
6 uphold the Deputy Director's finding of no
7 probable cause.

8 CHAIRPERSON SLASH: Okay. I think
9 that's -- can I hear a second?

10 COMM. EDWARDS: Second.

11 COMM. HARRINGTON: Second.

12 CHAIRPERSON SLASH: All in favor?

13 COMM. EDWARDS: Aye.

14 COMM. BLACKBURN: Aye.

15 CHAIRPERSON SLASH: Aye. All right.

16 And then in the case --

17 COMM. HARRINGTON: Aye.

18 COMM. BLACKBURN: The case of
19 Antoinette Green versus Oakwood Properties-Bob
20 McGinnis, I recommend that we, in that case, also
21 uphold the finding of no probable cause.

22 CHAIRPERSON SLASH: Thank you.

23 Can I hear a second?

1 COMM. EDWARDS: Second.

2 CHAIRPERSON SLASH: All in favor?

3 COMM. EDWARDS: Aye.

4 COMM. BLACKBURN: Aye.

5 COMM. HARRINGTON: Aye.

6 CHAIRPERSON SLASH: Aye. Thank you.

7 Comm. Edwards.

8 COMM. EDWARDS: Erica Tate versus
9 Yorktown Farms Associates, I recommend upholding
10 the finding of no reasonable or probable cause.

11 CHAIRPERSON SLASH: Thank you.

12 Do I hear a second, please?

13 COMM. HARRINGTON: Second.

14 CHAIRPERSON SLASH: All in favor?

15 COMM. EDWARDS: Aye.

16 COMM. BLACKBURN: Aye.

17 COMM. HARRINGTON: Aye.

18 CHAIRPERSON SLASH: Aye.

19 And the next one?

20 COMM. EDWARDS: Vicki Linder versus
21 Tempo Properties, I recommend upholding the
22 finding of no reasonable or probable cause.

23 CHAIRPERSON SLASH: Thank you.

1 Second, please?

2 COMM. BLACKBURN: Second.

3 CHAIRPERSON SLASH: All in favor?

4 COMM. EDWARDS: Aye.

5 COMM. BLACKBURN: Aye.

6 COMM. HARRINGTON: Aye.

7 CHAIRPERSON SLASH: Aye.

8 MS. EROMOSELE: I don't think there
9 was anything on Carolyn King.

10 CHAIRPERSON SLASH: Okay.

11 MS. EROMOSELE: I'm not sure I have
12 that one.

13 CHAIRPERSON SLASH: No, that's not
14 the one that I have.

15 MS. EROMOSELE: Oh, that's not the
16 one --

17 CHAIRPERSON SLASH: The one that she
18 responded to is the case Donevette Evans --

19 MS. EROMOSELE: I have that.

20 CHAIRPERSON SLASH: -- versus
21 Horseshoe Casino Indiana.

22 MS. EROMOSELE: Yeah, this was from
23 the previous -- I forgot to put it on here.

1 CHAIRPERSON SLASH: Okay. Well, we
2 can still add it for --

3 MS. EROMOSELE: Yes.

4 CHAIRPERSON SLASH: -- the record;
5 correct? Okay.

6 MS. RYKER: And can we get the ICRC
7 number for that case? Do you have that?

8 MS. EROMOSELE: I'll go get it.

9 MS. RYKER: Can you get it?

10 CHAIRPERSON SLASH: Yes, I do not
11 have it. So, we can -- do you want to cover this
12 at the end, for the record, or would you like to
13 do it now?

14 MS. RYKER: We can cover it at the
15 end.

16 MS. EROMOSELE: Okay.

17 CHAIRPERSON SLASH: Okay. All right.
18 And so, for the record, the case of Carolyn King
19 versus Maple Creek Village Apartments we will
20 revisit once we figure out who it was actually
21 assigned to and get the information on that one.
22 And we will, at the end of this meeting, come
23 back to the case of Donevette Evans versus

1 Horseshoe Casino Indiana.

2 Okay. All right. Moving along to New
3 Business, we have one case to assign, and I'll do
4 what I did last month, in which we just had one,
5 we'll come across this way. Would you mind
6 taking it?

7 COMM. EDWARDS: I can take it.

8 CHAIRPERSON SLASH: Okay. So, we
9 will assign the case of Mark Zak versus Lowes to
10 Comm. Edwards.

11 Okay. And so, we have a hefty list of ALJ
12 Orders to be reviewed today. Would you like to
13 walk us through those?

14 MS. RYKER: Yes.

15 CHAIRPERSON SLASH: Okay.

16 MS. RYKER: So, there are five
17 separate orders that need to be reviewed by the
18 Commission. As the Indiana Administrative Orders
19 and Procedures Act states, this Commission is the
20 final authority for this agency, and so it alone
21 has the ability to either affirm, revise or deny
22 the proposed order issued by, in this case,
23 Administrative Law Judge Burkhardt, who was the

1 former Administrative Law Judge.

2 The first two orders that appear, that
3 would be ICRC (Jillian Phillips) versus DePauw
4 University, and then that same case appears as
5 no. 2 on our agenda. Although these are separate
6 orders, they really come together for the
7 purposes of review.

8 The very first order was a denial of the
9 notice of election that Respondent had put into
10 the record by reason of failing to serve the
11 aggrieved person. And I will disclose at this
12 time that I am the counsel on this case, so as
13 far as the parties agreeing via stipulation that
14 notice was valid, myself, I signed that record,
15 and then presented it for Complainant, Director
16 Gregory Wilson, in this matter.

17 At this time, I would like to note that
18 opposing counsel is also here to support these
19 motions, and the central issue is what forum
20 these cases should proceed in, whether they
21 should stay before the Administrative Law Judge
22 or be moved to State Court.

23 CHAIRPERSON SLASH: Uh-huh.

1 MS. RYKER: The second order that was
2 issued by Administrative Law Judge Burkhardt was
3 a denial of that stipulation, or the agreement
4 that the parties entered into, stating that the
5 notice of election was valid. He entered that
6 denial primarily because he felt the subject
7 matter was inappropriate, particularly with
8 respect to extending the deadline for the
9 Commission to file in the State Court.

10 CHAIRPERSON SLASH: Okay.

11 MS. RYKER: I will note that the
12 motion to reconsider does accurately state that
13 Complainant was still able to file in State Court
14 without having to actually use that extension
15 that raised that cause for concern in the initial
16 stipulation.

17 CHAIRPERSON SLASH: So, as I'm
18 understanding this correctly, with both -- with
19 both 1 and 2 --

20 MS. RYKER: Uh-huh.

21 CHAIRPERSON SLASH: -- that both
22 parties are agreeing to the same thing --

23 MS. RYKER: Correct.

1 CHAIRPERSON SLASH: -- correct?

2 Okay.

3 MS. RYKER: And feel free to jump in,
4 unless --

5 MR. RABINOWITCH: Yes --

6 MS. RYKER: -- you agree.

7 MR. RABINOWITCH: -- that's correct.

8 CHAIRPERSON SLASH: Okay. Thank you.

9 And so, are there any questions by any of
10 the Commissioners for further clarity?

11 COMM. BLACKBURN: No.

12 COMM. EDWARDS: No.

13 CHAIRPERSON SLASH: Okay. So, with
14 that being stated and with both parties
15 requesting the same thing, I move -- or I would
16 like to receive a motion that we uphold the
17 request.

18 COMM. EDWARDS: So moved.

19 COMM. BLACKBURN: Second.

20 COMM. HARRINGTON: Second.

21 MS. RYKER: Thank you. So, in this
22 particular set of circumstances, as there is no
23 Administrative Law Judge in the office, would it

1 be appropriate for me to propose some language
2 for a revised order for the Commission to sign?

3 CHAIRPERSON SLASH: Correct, yes,
4 please.

5 MS. RYKER: Thank you very much.

6 CHAIRPERSON SLASH: Thank you.

7 Going on to No. 3.

8 MS. RYKER: No. 3 is Administrative
9 Law Judge Burkhardt issued a decision after a
10 hearing in Ky'Alla Williams versus School City of
11 Mishawaka. In this case, there have been no
12 objections filed by either party, so the
13 Commission can either raise an objection on its
14 own or can affirm the Administrative Law Judge's
15 opinion.

16 CHAIRPERSON SLASH: Are there any
17 questions by any other Commissioners?

18 (No response.)

19 CHAIRPERSON SLASH: Okay. Hearing
20 none, I'll accept a motion to affirm the ALJ's --
21 was it an order?

22 MS. RYKER: (Nodded head yes.)

23 CHAIRPERSON SLASH: Okay.

1 COMM. EDWARDS: So moved.

2 COMM. BLACKBURN: Second.

3 CHAIRPERSON SLASH: Okay. Thank you.

4 MS. RYKER: I'll note for the record
5 that that has been affirmed.

6 The fourth issue is Lawrence Key versus
7 Campangna Academy, Inc. This, again, is arising
8 out of the hearing that was conducted by
9 Administrative Law Judge Burkhardt. In this
10 case, Complainant has filed objections, and at
11 this time is requesting that the Commission set a
12 deadline for submitting briefs and for oral
13 argument.

14 CHAIRPERSON SLASH: Okay. To my
15 understanding, in past when we've done so, we
16 have granted 30 days for briefs and around 60
17 days for argument.

18 MS. RYKER: Correct.

19 CHAIRPERSON SLASH: Would that be --
20 are there any questions or other recommendations
21 on behalf of other Commissioners?

22 COMM. EDWARDS: No.

23 CHAIRPERSON SLASH: So, feel free to

1 make that --

2 MS. RYKER: (Nodded head yes.)

3 CHAIRPERSON SLASH: Okay. I'll
4 accept a motion on those same lines.

5 COMM. EDWARDS: So moved.

6 COMM. BLACKBURN: Second.

7 MS. RYKER: So, the deadlines, then,
8 would be a -- 30 days from today --

9 CHAIRPERSON SLASH: Uh-huh.

10 MS. RYKER: -- for briefing, and then
11 oral arguments to occur in two Commission
12 meetings from now?

13 CHAIRPERSON SLASH: Correct. That
14 sounds good to me.

15 MS. RYKER: It is the same set of
16 circumstances arising with the fifth order, Lynne
17 Farmer versus Evansville Vanderburgh School
18 Corporation. There was a hearing held by
19 Administrative Law Judge Burkhardt. He issued
20 the order, and Complainant has filed objections,
21 and is again requesting a deadline for briefs and
22 oral argument.

23 CHAIRPERSON SLASH: Okay. Well, I

1 guess we can't make one set of recommendations
2 for one and not the other. Would there be any
3 concerns or questions to doing the same for this
4 case as well?

5 COMM. EDWARDS: No questions. We can
6 do the same.

7 CHAIRPERSON SLASH: Okay. I'll
8 accept a motion.

9 We need a motion; right?

10 MS. RYKER: (Nodded head yes.)

11 CHAIRPERSON SLASH: Okay.

12 COMM. EDWARDS: I move that we do the
13 same for No. 5 that we did for No. 4. Is that
14 appropriate, or should I --

15 MS. RYKER: Uh-huh.

16 COMM. EDWARDS: Okay.

17 CHAIRPERSON SLASH: The case is Lynne
18 Farmer versus Evansville Vanderburgh School
19 Corporation, for the record.

20 MS. RYKER: So, with both Lawrence
21 Key and Lynne Farmer, a briefing deadline of 30
22 days from today, and oral arguments to be set at
23 the November Commission meeting?

1 CHAIRPERSON SLASH: Uh-huh.

2 MS. RYKER: The very last new
3 business issue does not require any action on the
4 part of the Commission at today's meeting, but it
5 is something that you need to be aware of. In
6 the ICRC (Emily Torres) versus Creative Approach
7 Realty case, there has been a motion for summary
8 judgment that was filed on behalf of Complainant.
9 Respondent does have the opportunity to enter
10 that reply before any ruling is issued by the
11 Commission, and that deadline is September 30th.

12 CHAIRPERSON SLASH: Okay. And you
13 need nothing from us?

14 MS. RYKER: Nothing from you other
15 than to note it for the record.

16 CHAIRPERSON SLASH: Okay. Thank you
17 very much.

18 All right. So, we've made it through most
19 of that. Do we have anyone that's here for
20 public comment today?

21 (No response.)

22 CHAIRPERSON SLASH: Okay. It doesn't
23 sound like we do. Understanding that Executive

1 Director Wilson is in transit and/or that he or
2 Doneisha Posey will be coming to give remarks,
3 would it be -- would it be right for us to just
4 take a short recess until their arrival?

5 MS. RYKER: That seems appropriate.

6 COMM. EDWARDS: Yes.

7 CHAIRPERSON SLASH: Okay.

8 MS. RYKER: And I'll take that time
9 to call Deputy Director Posey and see where she
10 is.

11 CHAIRPERSON SLASH: Okay.

12 Holli, are you on the phone, still?

13 COMM. HARRINGTON: Yes, I'm still
14 here.

15 CHAIRPERSON SLASH: Okay. We're
16 going to take a brief recess and await the
17 arrival of Deputy Director Posey.

18 COMM. HARRINGTON: Okay. Do you want
19 me just to stay on? I'm going to be in -- I'm
20 approaching the parking structure, so --

21 CHAIRPERSON SLASH: We can keep our
22 recess until you get inside as well.

23 COMM. HARRINGTON: Okay.

1 CHAIRPERSON SLASH: Okay.

2 COMM. HARRINGTON: Bye-bye.

3 CHAIRPERSON SLASH: All right. At
4 this point, we are now in recess.

5 (Recess taken.)

6 (Comm. Ramos now on telephone.)

7 CHAIRPERSON SLASH: All right. So,
8 it's about 1:23. We're going to go ahead and
9 call us back to order. And for the time being,
10 Comm. Ramos, thanks for joining us on the phone.

11 We have made it through our Old Business
12 as well as our New Business, and an update can be
13 available if you'd like to see following the
14 meeting, if you'd like. But we'll go ahead and
15 hear announcements at this time.

16 MS. RYKER: And do we need to go back
17 through and receive a ruling as to case number --
18 as to Donevette Evans versus --

19 CHAIRPERSON SLASH: Oh, yes. So,
20 back to Old Business; my apologies. The case of
21 Donevette Evans versus Horseshoe Hammond LLC.
22 The Case Number is PAr91711380. And so, with
23 this case, Comm. Long is recommending upholding

1 the finding of no probable cause of
2 discrimination. And that was the last of hers
3 received.

4 And then the last one listed on the
5 agenda, which is Carolyn King versus Maple Creek
6 Village Apartments, we will -- we will hold that
7 one until next month pending a recommendation
8 from Comm. Long.

9 Okay. And now we'll move along to
10 announcements.

11 MS. RYKER: Thank you. As was
12 mentioned, we will be receiving the Deputy
13 Director/Director's Report electronically.

14 The announcement that I have for the
15 Commission is regarding Region V and the
16 Conference that will be coming up on October 10th
17 and October 12th. We would like to invite the
18 Commission to attend at no cost, particularly the
19 second day of the Conference, which includes a
20 short section on adjudication that would be
21 pertinent to this Commission's function.

22 With respect to the free attendance, there
23 is a specific code, ICRC-100, and if the

1 Commissioners use that code, they will be able to
2 sign up on Eventbrite without having to pay the
3 attendance fee, either for the full Conference or
4 for any particular one section that you would
5 want to attend.

6 COMM. EDWARDS: Okay. Great.

7 CHAIRPERSON SLASH: Thank you. Is
8 that your announcement?

9 MS. RYKER: (Nodded head yes.)

10 CHAIRPERSON SLASH: Okay. Awesome.

11 So, I stand corrected. We have now
12 announced this case multiple times, but I stand
13 corrected. I do have the decision from
14 Comm. Long, Carolyn King versus Maple Creek
15 Village Apartments, HOral8030118. She recommends
16 that we uphold the finding of no probable cause
17 of discrimination.

18 COMM. EDWARDS: I move that we accept
19 her recommendation.

20 CHAIRPERSON SLASH: Thank you.

21 Is there a second?

22 COMM. BLACKBURN: Second.

23 CHAIRPERSON SLASH: Okay. All in

1 favor?

2 COMM. EDWARDS: Aye.

3 COMM. BLACKBURN: Aye.

4 COMM. HARRINGTON: Aye.

5 CHAIRPERSON SLASH: Aye.

6 COMM. RAMOS: Aye.

7 CHAIRPERSON SLASH: All right. We
8 have now closed our Old Business.

9 MS. RYKER: Yes. And I apologize;
10 did we do the approval of the previous minutes?

11 COMM. EDWARDS: No.

12 CHAIRPERSON SLASH: No, we didn't.
13 Thank you. I don't know how I read past that
14 every single time. I would like to call for a
15 motion to approve the previous meeting minutes.

16 COMM. EDWARDS: So moved.

17 COMM. BLACKBURN: And a second.

18 COMM. RAMOS: Second.

19 CHAIRPERSON SLASH: Thank you.

20 All in favor?

21 COMM. EDWARDS: Aye.

22 COMM. BLACKBURN: Aye.

23 COMM. HARRINGTON: Aye.

1 CHAIRPERSON SLASH: Aye. All right.
2 Motion carries.

3 COMM. RAMOS: Aye.

4 CHAIRPERSON SLASH: Now we're
5 officially through anything else. So, if there's
6 anyone who has any announcements.

7 (Discussion off the record.)

8 CHAIRPERSON SLASH: Thank you very
9 much. So, I'd like to go back and have a motion
10 to accept Comm. Long's vote to uphold the finding
11 of no probable cause.

12 COMM. EDWARDS: So moved.

13 COMM. RAMOS: Second.

14 CHAIRPERSON SLASH: Thank you.

15 All in favor?

16 COMM. EDWARDS: Aye.

17 COMM. BLACKBURN: Aye.

18 COMM. HARRINGTON: Aye.

19 COMM. RAMOS: Aye.

20 CHAIRPERSON SLASH: Aye. Thank you.

21 Thank you for that point of order.

22 Okay. I think we have made it through the
23 strange month of September, and without hearing

1 any further announcements, we've already cleared
2 the room of public -- oh, you do have one?

3 COMM. BLACKBURN: Yeah, I have a
4 couple of announcements.

5 CHAIRPERSON SLASH: Perfect.

6 COMM. BLACKBURN: Occurring on
7 October 11th, the Skyline Club will host its
8 Annual Charity Classic to raise money to support
9 local and national charities, and this year we
10 are sponsoring Augie's Quest, Gleaners Food Bank,
11 and then the Employee Partners Care Foundation,
12 which takes care of those employees who have some
13 serious need beyond their capacity to handle, and
14 that's October 11th.

15 And on October 26th, I will be presenting
16 a fashion show with Macy's Department Store to
17 raise money for the American Cancer Society, and
18 that show will be in the evening of October 26th.

19 Please call the Skyline Club for either
20 one of these events, which are not restricted to
21 members only, but any member of the public can
22 call and make a ticket purchase to attend either
23 one of those events.

1 COMM. EDWARDS: Uh-huh.

2 COMM. BLACKBURN: But they do sell
3 out.

4 COMM. EDWARDS: Okay.

5 CHAIRPERSON SLASH: Awesome.

6 Any other announcements?

7 COMM. EDWARDS: No.

8 CHAIRPERSON SLASH: Comm. Ramos, do
9 you have an announcement?

10 COMM. RAMOS: The Indiana Latino Expo
11 is coming up. I don't have the date in my hand,
12 but you may have it in your calendar anyway, but
13 a great opportunity and a great cultural
14 exchange.

15 CHAIRPERSON SLASH: That's October --
16 Saturday, October 13th. It's changed a whole lot
17 this year, so if you can make it to the
18 Fairgrounds for that, I think it'll be a really
19 extreme -- a wonderful experience, and I think
20 it's from 8:00 to 5:00 on that day.

21 COMM. RAMOS: Yes.

22 CHAIRPERSON SLASH: All right.

23 COMM. RAMOS: That's all I had.

1 CHAIRPERSON SLASH: That was going to
2 be my announcement, too, so thank you.

3 Without any further ado, we will go ahead
4 and -- do I have to take a motion for
5 adjournment?

6 MS. RYKER: Yes.

7 COMM. EDWARDS: So moved.

8 CHAIRPERSON SLASH: Thank you.

9 COMM. BLACKBURN: Second.

10 CHAIRPERSON SLASH: All right. We
11 stand adjourned for the month of September.
12 Thank you.

13 - - -
14 Thereupon, the proceedings of
15 September 21, 2018 were concluded
16 at 1:31 o'clock p.m.
17 - - -

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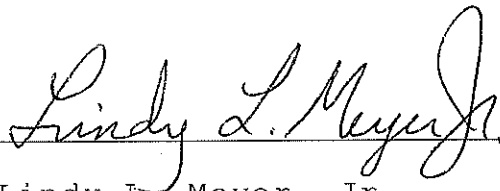
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CERTIFICATE

I, Lindy L. Meyer, Jr., the undersigned Court Reporter and Notary Public residing in the City of Shelbyville, Shelby County, Indiana, do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me on Friday, September 21, 2018 in this matter and transcribed by me.



Lindy L. Meyer, Jr.,

Notary Public in and

for the State of Indiana.

My Commission expires August 26, 2024.

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