

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
NORTHERN DIVISION**

MICHAEL DUNMIRE, MARCUS JACKSON,  
and AMANDA HESTER, on behalf of themselves  
and all similarly situated inmates, and ASHLEY  
BUSH and SARA DUNMIRE,

Plaintiffs,

Hon.

v.

Case No.

ISABELLA COUNTY, a municipal corporation;  
LEO MIODUSZEWSKI, Isabella County Sheriff,  
in his official capacity; and LT. THOMAS  
RECKER, Jail Administrator, Isabella County  
Correctional Facility, in his official and  
individual capacity.

**CLASS ACTION**

Defendants.

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Sarah L. Mehta (P76024)  
Michael J. Steinberg (P43085)  
Kary L. Moss (P49759)  
American Civil Liberties Union  
Fund of Michigan  
2966 Woodward Avenue  
Detroit, MI 48201  
(313) 578-6823  
smehta@aclumich.org  
msteinberg@aclumich.org  
kmoss@aclumich.org

Daniel E. Manville (P39731)  
Cooperating Attorney, American Civil  
Liberties Union Fund of Michigan  
Michigan State University College of Law  
Civil Rights Clinic  
610 Abbot Rd.  
East Lansing, MI 48823  
(517) 336-8088, ext. 1137  
daniel.manville@law.msu.edu

**COMPLAINT**

Plaintiffs Michael Dunmire, Amanda Hester, Marcus Jackson, Ashley Bush, and  
Sara Dunmire, by their attorneys, bring this Complaint for Declaratory, Injunctive Relief and

Other Relief against Defendants Isabella County, Sheriff Leo Mioduszezewski and Lt. Tom Recker for the reasons that follow:

**INTRODUCTORY STATEMENT**

1. Plaintiffs are current and former inmates at Isabella County Correctional Facility in Mount Pleasant, Michigan. The facility holds both male and female pre-trial detainees and sentenced inmates from not only Isabella County but also other municipalities in Michigan.

2. Although male and female inmates may be detained at Isabella County Correctional Facility (ICCF) for over a year, they are not permitted any out-of-cell exercise for the duration of their detention. Not only do inmates lack the chance to exercise but they have very limited opportunities to leave their cells at all. Inmates eat, sleep, and shower in their cells, which they share with several other inmates, and, with some limited exceptions, are essentially on lockdown 24 hours a day, seven days a week.

3. Additionally, female inmates at ICCF are denied opportunities available to male inmates. For example, certain male inmates at ICCF may serve as trustees, a position that entitles them to time off their sentence. However, female inmates have been repeatedly told that they will never be allowed to serve as trustees because “this is a man’s jail.” Similarly, male inmates are permitted to perform their court-ordered community service during their jail sentence, but women inmates have been told they cannot enroll.

4. Plaintiffs Michael Dunmire, Amanda Hester, and Marcus Jackson bring this action, on behalf of themselves and a proposed class of all current and future inmates at ICCF, to vindicate their Eighth Amendment rights against cruel and unusual punishment. Pursuant to 42 U.S.C. § 1983, these plaintiffs seek declaratory relief and a preliminary and permanent injunction requiring the facility to provide inmates with regular out-of-cell exercise.

Additionally, Plaintiffs Ashley Bush and Sara Dunmire seek damages for the violation of their clearly established Eighth Amendment rights.

5. Plaintiffs Ashley Bush, Sara Dunmire and Amanda Hester also bring this action against Defendants Isabella County, Sheriff Leo Mioduszewski and Lt. Thomas Recker to vindicate their rights under the Equal Protection Clause of the Fourteenth Amendment. Pursuant to 42 U.S.C. § 1983, they seek a declaration that the facility's custom, policy or practice violates the right to be free from gender discrimination. Further, Plaintiff Hester seeks a preliminary and permanent injunction requiring the facility to provide her an opportunity to participate in the trustee and community services programs at the facility on an equal basis as male applicants. Additionally, Plaintiffs Ashley Bush and Sara Dunmire seek damages for the violation of their clearly established rights under the Fourteenth Amendment.

**PARTIES, JURISDICTION AND VENUE**

6. Plaintiff Michael Dunmire is an inmate at Isabella County Correctional Facility in Isabella County, which falls within the Northern Division of the Eastern District of Michigan.

7. Plaintiff Marcus Jackson is an inmate at Isabella County Correctional Facility in Isabella County, which falls within the Northern Division of the Eastern District of Michigan.

8. Plaintiff Amanda Hester is an inmate at Isabella County Correctional Facility in Isabella County, which falls within the Northern Division of the Eastern District of Michigan.

9. Plaintiff Sara Dunmire, during the events at issue in this complaint, was an inmate at Isabella County Correctional Facility in Isabella County, which falls within the Northern Division of the Eastern District of Michigan. She currently resides in Battle Creek.

10. Plaintiff Ashley Bush, during the events at issue in this complaint, was an inmate at Isabella County Correctional Facility in Isabella County, which falls within the Northern

Division of the Eastern District of Michigan. She was released in December 2010 and now lives in Grandville, Michigan.

11. Defendant Isabella County is located within the Northern Division of the Eastern District of Michigan.

12. Defendant Leo Mioduszewski is sued in his individual capacity and in his official capacity as Sheriff of Isabella County. Upon information and belief, he resides within the Northern Division of the Eastern District of Michigan.

13. Defendant Lt. Thomas Recker is sued in his official capacity as Jail Administrator at Isabella County Correctional Facility in Isabella County. Upon information and belief, he resides within the Northern Division of the Eastern District of Michigan.

14. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331 and 1343, because federal questions are presented in this action under the Eighth Amendment to the United States Constitution and 42 U.S.C. § 1983.

15. Venue is proper under 28 U.S.C. § 1391(b)(1) and (2) because this is a judicial district where either or both defendants reside and where a substantial part of the events or omissions giving rise to the claims occurred and/or will occur.

## STATEMENT OF FACTS

### **General Allegations**

16. Isabella County Correctional Facility (“ICCF”) houses close to 200 inmates on a daily basis, including inmates from Isabella County and inmates from several other Michigan cities, including Livonia, Midland and Westland. On June 4, 2012, ICCF had 192 inmates, approximately 17% of whom were women.

17. Neither male nor female inmates receive any out-of-cell exercise while at ICCF. Prisoners can spend up to a year in detention at ICCF with no opportunity to exercise outside of their cells.

18. Inmates not only sleep in their cells but eat their meals, wash, use the toilet, and spend all their time in the cell unless they are able to participate in a class, have a medical appointment or a visitor, or have the opportunity to attend religious services.

19. The size of the cells varies but most are roughly 20 feet by 25 feet. While most cells have four bunk beds for eight inmates, the cells routinely hold more people, with some inmates sleeping on mattresses on the floor.

20. ICCF inmates spend the vast majority of their time in detention in one room with several other people, 24 hours a day, without any opportunity to exercise outside of the cell.

21. Some of the cells have no windows or access to natural light.

22. There is a recreation room at ICCF, and in the past, inmates had the ability to exercise outside the cell at the facility both inside and outdoors. However, neither option is currently provided to inmates. The recreation room is currently used for some classes and religious services, when they occur.

23. Inmates who participate in the trustee program at ICCF have the opportunity to “work off” some of their criminal sentence time. For every week that inmates work as trustees, a certain number of days are removed from their sentences, thereby enabling them to be released from ICCF sooner.

24. The ICCF Inmate Guide provides the eligibility requirements for prisoners to serve as trustees, which include the requirement that they have at least 30 days remaining on

their sentence, medical clearance, and minimum custody status. It does not mention the gender of the inmate.

25. Male inmates regularly serve as trustees at ICCF.

26. However, women at ICCF, including the named Plaintiffs, have asked to be trustees, but their requests have either been explicitly rejected or ignored.

27. On several occasions, Defendant Lt. Recker rejected requests by women to be trustees, telling the women who requested to be trustees, and sometimes all the women in the cell, that ICCF is a “male-oriented jail” or a “man’s jail” and that that he will not allow women to be trustees because they cause too much trouble.

28. Both male and female inmates at ICCF have received sentences that contain a community service component.

29. Eligible male inmates who participate in the community service program are released from the jail during the day and able to complete all or part of the community service component of their sentence while at ICCF.

30. Upon information and belief, prior to July 2010, women were permitted to participate in a community service program at ICCF that allowed them, like men, to complete the community service part of their sentence while incarcerated.

31. However, women at ICCF are now excluded from participation in the community service program.

### **Allegations Regarding Denial of Exercise Opportunities**

#### ***Michael Dunmire***

32. Michael Dunmire arrived at ICCF on April 12, 2012 and expects to be released in July 2013.

33. Mr. Dunmire is confined to a cell roughly 20 feet by 20 feet in size.

34. The cell has four bunk beds for eight inmates, although ten inmates are sometimes placed in the cell, with two sleeping on the cell floor.

35. The cell also contains a picnic table and leaves only a little room in the cell to walk around it.

36. Like all inmates at ICCF, Mr. Dunmire is required to eat his meals, sleep, wash, and spend virtually all his time in the cell.

37. The cell has only a small window near the ceiling which looks into the recreation within the facility, but even that window is covered with tape.

38. Mr. Dunmire has not had any out-of-cell exercise and has had few, if any, opportunities to see natural light since he arrived at ICCF in April 2012, more than six months ago.

39. The lack of exercise and natural light, combined with the constant confinement in a cell with several other inmates, has significantly impacted Mr. Dunmire's mental and emotional health.

40. Mr. Dunmire has written two grievances regarding the lack of exercise but never received any response.

41. When Mr. Dunmire asked correctional officers why prisoners were not able to have any exercise time, and the officers have told him that that the television is their "recreation."

***Marcus Jackson***

42. Marcus Jackson arrived at ICCF on April 20, 2012 and expects to be released in February 2013.

43. Mr. Jackson is confined to a cell with four bunk beds for eight inmates, although the cell currently houses 10 inmates. Two men sleep on the cell floor.

44. The cell is roughly 24 feet by 26 feet in size.

45. Like all inmates at ICCF, Mr. Jackson is required to eat his meals, sleep, wash, and spend virtually all his time in the cell, which does not have a window.

46. Mr. Jackson has not had any exercise outside of his cell since he arrived in April 2012 and is only able to move outside his cell to walk to his GED class within the facility.

47. Because of the lack of exercise and the stress of being in one crowded cell throughout his time at ICCF, Mr. Jackson is experiencing emotional and mental stress.

48. Mr. Jackson wrote a grievance on the lack of any out-of-cell exercise, and Defendant Lt. Recker verbally told him the grievance was denied.

49. When Mr. Jackson asked why there were no exercise opportunities for inmates, Defendant Lt. Recker told him that it is because ICCF is a “maximum” facility and that television is their recreation.

***Amanda Hester***

50. Ms. Hester has been detained at ICCF since May 2012 and expects to be released in March 2013.

51. Since arriving at ICCF over four months ago, Ms. Hester has not had any exercise outside of her cell.

52. Ms. Hester is in a cell with four bunk beds for eight inmates, although there are currently nine inmates in the cell, one of whom sleeps on the floor.

53. At times there have been 13 women in the cell.

54. Given these crowded conditions, there is little to no space to exercise in the cell.



55. Ms. Hester has mental health difficulties, which are exacerbated by the lack of any opportunity for exercise outside of the cell at ICCF.

56. Ms. Hester has sent over a dozen written complaints or “kites” on the issue of exercise but has never received a response.

***Sara Dunmire***

57. Ms. Dunmire was detained at ICCF from April 7, 2012 until September 20, 2012.

58. During her nearly-six months at ICCF, Ms. Dunmire did not have any exercise time outside of her cell.

59. Except for her last three weeks at ICCF, when she participated in a drug recovery class three hours a week, Ms. Dunmire had few opportunities to leave her cell at all in her nearly-six months at ICCF.

60. Ms. Dunmire was detained in a cell roughly 20 feet by 25 feet in size. For most of her time at ICCF, Ms. Dunmire was held in a cell with no window.

61. She had little space to exercise or even move around inside the cell.

62. Ms. Dunmire’s cell had bunk-beds for eight women but the cell sometimes held up to 13 women.

63. During her last three weeks at ICCF, in September 2012, there were 13 women in the cell.

64. On or around August 14, 2011, Ms. Dunmire grieved the lack of ability to exercise but her grievance was rejected.

65. On September 20, 2012, Ms. Dunmire was transferred to Calhoun County Correctional Facility.

66. At the Calhoun County Correctional Facility, Ms. Dunmire is able to exercise in an outdoor yard for several hours a day. Inmates are only locked down in their cells during the day for meals and are otherwise able to move around the facility.

***Ashley Bush***

67. Ms. Bush was an inmate at ICCF from April 26, 2010 until December 24, 2010.

68. While at ICCF, Ms. Bush was detained in a cell that was roughly 15 feet by 20 feet.

69. There were four bunk beds for eight inmates in the cell; however, the cell sometimes held up to 12 women with four sleeping on mats on the floor.

70. Ms. Bush participated in a GED class and work release program but did not receive any out-of-cell exercise during her eight months at ICCF.

**Class allegations on denial of exercise claim**

71. Plaintiffs Michael Dunmire, Amanda Hester and Marcus Jackson seek to represent a class of all current and future inmates at ICCF pursuant to Rule 23(a) and Rule 23(b)(2) of the Federal Rules of Civil Procedure.

72. On information and belief, the current number of inmates at ICCF is approximately 192.

73. Given the likely size of the class, and the inherent difficulty in identifying all class members—many of whom will be admitted while this action proceeds—the class is so numerous that joinder of all members is impracticable.

74. All class members are, or will be, harmed by Defendants' policy or practice of denying any exercise time or space outside of the cell to all inmates at ICCF. There are questions

of law and fact that are common to the class, namely whether ICCF provides any out-of-cell exercise time to inmates, and whether the failure to provide out-of-cell exercise opportunities violates the Eighth and Fourteenth Amendments to the U.S. Constitution.

75. Plaintiffs' claims are typical of the claims of the class because ICCF does not provide any out-of-cell exercise time or space to any inmate, and so all class members are affected by ICCF's policies and practices.

76. Plaintiffs will fairly and adequately represent the interests of the class. Plaintiffs are committed to vigorous prosecution of the class's claims, and they have retained attorneys who have extensive experience in civil rights, prisoner rights, and class action litigation.

77. Defendants have acted or refused to act on grounds generally applicable to the class, and final injunctive relief or corresponding declaratory relief with the respect to the class as a whole would therefore be appropriate.

78. The common questions of fact and law enumerated above would predominate in this litigation.

79. Moreover, a class action is superior to other methods for the speedy and efficient adjudication of this controversy, and a class action regarding the issues in this case would not create any problems of manageability.

### **Gender Discrimination**

#### ***Sara Dunmire***

80. Sara Dunmire was detained at ICCF from April 7, 2012 until September 20, 2012.

81. In May 2012, Ms. Dunmire and several other inmates made written requests or wrote "kites" to Defendant Lt. Recker, asking to be made trustees. In response, Defendant Lt.

Recker came into the cell and said that women will never be trustees at ICCF as long as he was in charge, and told them not to bother “kiting” this issue again because “this is a man’s jail.”

82. When Ms. Dunmire and the others asked why women couldn’t be trustees, Lt. Recker said something to the effect of “because I run this jail and that’s what I say.”

83. In June, Ms. Dunmire and her cellmates tried again to become trustees. On behalf of the whole cell, one female inmate wrote a kite asking if women could be trustees. They received a written response on the kite— “No”—which was shoved under the door of their cell.

84. On August 11, 2012, Ms. Dunmire requested a grievance form from corrections officer J.C. Carrier. Officer Carrier asked her why she needed the grievance form, and when Ms. Dunmire explained that she wanted to grieve the lack of recreation time and the facility’s policy or custom of excluding women from the trustee program, the officer refused to give her a grievance form.

85. Officer Carrier said these were “not grievable issues” as women were not allowed to participate in the trustee program and the facility does not provide recreation time. Officer Carrier then told Ms. Dunmire that if she attempted to grieve these issues, she would get the same response.

86. Later that day, however, Officer Carrier returned and said she had changed her mind and would give Ms. Dunmire a grievance form. Ms. Dunmire then wrote a grievance addressing the lack of out-of-cell exercise and women’s exclusion from the trustee program.

87. On or around August 14, 2012, Defendant Lt. Recker came to Ms. Dunmire’s cell and called her to the hallway, with her grievance in his hand. Defendant Lt. Recker said that taxpayers did not pay for recreation time so the facility would not provide it.

88. Regarding the trustee issue, Defendant Lt. Recker said he had to keep men and women separate.

89. Ms. Dunmire asked why they couldn't have separate shifts for men and women, to which Defendant Lt. Recker replied that this issue was "not a negotiable situation."

90. Ms. Dunmire then asked if he would write that explanation on the grievance form, and Defendant Lt. Recker said there was no need to as she had received his verbal answer.

91. Ms. Dunmire had received a court-ordered community service sentence of 104 hours and wanted to participate in the ICCF community service program.

92. Ms. Dunmire also asked Defendant Lt. Recker if she could participate in the community service program.

93. Defendant Lt. Recker said that while women might be able to participate in the program, there were few spots available and the open slots went to male prisoners first. He explained that it was therefore unlikely a woman would be able to join.

94. Defendant Lt. Recker also said Ms. Dunmire would need to have a lower classification to participate in the community service program.

95. Ms. Dunmire then asked how to get reclassified and Defendant Lt. Recker told her to write a kite requesting reclassification.

96. Ms. Dunmire submitted approximately seven kites requesting reclassification but never received a response.

97. On September 20, 2012, Ms. Dunmire was transferred to Calhoun County Correctional Facility.

98. Upon arrival at Calhoun County Correctional Facility, Ms. Dunmire filled out an application to be a trustee and was approved.

***Ashley Bush***

99. Plaintiff Ashley Bush was incarcerated at ICCF from April 2010 to December 2010 and was classified as minimum security.

100. In July 2010, Ms. Bush and several of her cellmates wrote kites to Defendant Lt. Recker and requested to become trustees. When Ms. Bush was out of the cell, Defendant Lt. Recker came to the cell and said that this was a “male-oriented” jail and women could not be trustees.

101. In July, Ms. Bush also applied in a kite to participate in the ICCF community service program but was rejected. When the kite was returned to her, on the bottom, it was written that ICCF was no longer accepting women in the program and she should instead apply to be in the school.

102. Ms. Bush’s boyfriend also called ICCF to find out why she was rejected and was told by a program coordinator that women were not permitted to participate in the community service program.

103. Ms. Bush was released from ICCF in December 2010.

***Amanda Hester***

104. Ms. Hester was admitted to ICCF in May 2012 and expects to be released in March 2013.

105. Ms. Hester was in a mental health class at the jail that consisted of both female and male inmates, including one male inmate who was a trustee. The male inmate told Ms. Hester that trustees could earn days off their sentence from the work they did at the facility.

106. Ms. Hester wanted to apply to be a trustee in order to reduce her sentence.

107. In May 2012, before Ms. Hester had been sentenced, she was in a cell when several of her cellmates requested to be trustees.

108. Defendant Lt. Recker came to the cell and, in Ms. Hester's presence, told the women that ICCF is "a man's jail" and women could not be trustees.

109. Since she was sentenced in June, Ms. Hester has written approximately four kites to become a trustee but has never received a response.

110. Correctional officers have told Ms. Hester that she would never be allowed to be a trustee because she is a woman.

111. In August or September 2012, in response to a request to be a trustee from another of Ms. Hester's cellmates, one correctional officer came into Ms. Hester's cell and said that women could not be trustees because they cause too much trouble

112. In August 2012, Ms. Hester was in a cell with Plaintiff Sara Dunmire and heard her ask Defendant Lt. Recker if she could participate in the community service program. Ms. Hester heard Defendant Lt. Recker say that there were not enough spots for women to join the program.

113. Ms. Hester would like to participate in the community service program but believes she needs to be reclassified as minimum security. In order to participate in both the community service and trustee programs at ICCF, Ms. Hester has requested to be reclassified as minimum security.

114. Ms. Hester has never received a reply to her written requests to be reclassified.

## **CAUSES OF ACTION**

### **COUNT 1**

**EIGHTH AMENDMENT AND 42 U.S.C. § 1983**  
***For Injunctive and Declaratory Relief—Plaintiffs Michael Dunmire, Amanda Hester and***  
***Marcus Jackson Against All Defendants***  
***For Damages—Plaintiffs Ashley Bush and Sara Dunmire Against All Defendants***

115. Plaintiffs re-allege and incorporate by reference the allegations contained in the previous paragraphs as if fully set forth herein.

116. The Eighth Amendment to the U.S. Constitution protects prisoners from cruel and unusual punishment.

117. Persons violating the Eighth Amendment under color of state law are liable at law and in equity under 42 U.S.C. § 1983.

118. By denying, as a rule, out-of-cell exercise all inmates at ICCF, Defendants have violated and continue to violate Plaintiffs' rights under the Eighth Amendment.

119. Plaintiffs were denied the opportunity to exercise out of their cells pursuant to Defendants' practice, policy and/or custom.

120. Plaintiffs' rights to exercise are clearly established.

**COUNT 2**

**EQUAL PROTECTION CLAUSE OF THE FOURTEENTH AMENDMENT**  
***For Injunctive and Declaratory Relief—Plaintiff Amanda Hester Against All Defendants***  
***For Damages—Plaintiffs Ashley Bush and Sara Dunmire Against All Defendants***

121. Plaintiffs re-allege and incorporate by reference the allegations contained in the previous paragraphs as if fully set forth herein.



122. The Equal Protection Clause of the Fourteenth Amendment to the United States Constitution provides all persons equal protection of the law and so prohibits the state from discriminating against a person on the basis of sex.

123. Persons violating the Equal Protection Clause under color of state law are liable at law and in equity under 42 U.S.C. § 1983.

124. In refusing to allow women to participate in the trustee programs at ICCF, Defendants have violated and continue to violate the clearly established constitutional rights of female inmates to equal protection of the laws.

125. In refusing to allow women to participate in the community service at ICCF, Defendants have violated and continue to violate the clearly established constitutional rights of female inmates to equal protection of the laws.

126. Plaintiffs were denied the opportunity to participate in the trustee and community service program pursuant to Defendants' practice, policy and/or custom of excluding women from these programs.

127. Plaintiffs' rights to equal protection of the law are clearly established.

### **REQUEST FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that this Court:

1. Certify a class of all current and future inmates at ICCF who have been, and continue to be, denied the ability to exercise outside their cells.

2. Declare that Plaintiffs' and proposed class members' constitutional rights under the Eighth Amendment have been and are being violated by the absence of out-of-cell exercise space and time;
3. Declare that Defendants violated Plaintiffs Ashley Bush and Sara Dunmire's Eighth Amendment rights by denying them the opportunity to exercise outside their cells;
4. Declare that Plaintiff Hester's constitutional right to equal protection is being violated by defendants' practice or policy of excluding women from trustee positions and the community service program;
5. Declare that Plaintiffs Bush and Dunmire's constitutional right to equal protection was violated by defendants' practice and policy of excluding women from trustee positions and the community service program;
6. Grant a preliminary and permanent injunction enjoining defendants from denying out-of-cell exercise to current and future inmates;
7. Grant a preliminary and permanent injunction enjoining defendants from excluding Plaintiff Hester from applying for trustee positions and the community service program on an equal footing with male inmates;
8. Award Plaintiffs Ashley Bush and Sara Dunmire compensatory damages on their equal protection claims and Eighth Amendment claims;
9. Award plaintiffs reasonable attorneys' fees pursuant to 42 U.S.C. § 1988; and
10. Grant any other relief the Court deems appropriate.

Respectfully submitted,

s/Sarah L. Mehta  
Sarah L. Mehta (P76024)  
Michael J. Steinberg (P43085)  
Kary L. Moss (P49759)  
American Civil Liberties Union  
Fund of Michigan  
2966 Woodward Avenue  
Detroit, MI 48201  
(313) 578-6823  
[smehta@aclumich.org](mailto:smehta@aclumich.org)  
[msteinberg@aclumich.org](mailto:msteinberg@aclumich.org)  
[kmoss@aclumich.org](mailto:kmoss@aclumich.org)

s/ Daniel E. Manville  
Daniel E. Manville (P39731)  
Cooperating Attorney, American Civil Liberties  
Union Fund of Michigan  
Michigan State University College of Law  
Civil Rights Clinic  
610 Abbot Rd  
East Lansing, MI 48823  
(517) 336-8088, ext 1137  
[daniel.manville@law.msu.edu](mailto:daniel.manville@law.msu.edu)

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