Prayer lawsuit shifted focus following Supreme Court ruling

By Josh Bergeron
josh.bergeron@salisburypost.com

Rowan County’s prayer lawsuit is two months away from oral arguments, but recent court filings show a shift away from the most significant part of an initial complaint.

When the American Civil Liberties Union, on behalf of three Rowan County residents, filed suit in 2013, the organization focused on the content of prayers.

"To plant sectarian prayers at the heart of local government is a prescription for religious discord," the original complaint states.

In the following pages, the complaint places its largest focus on the idea that sectarian prayer affiliates Rowan County with one particular faith — Christianity. The case was brought specifically to challenge the practice of delivering sectarian prayers a multi-million dollar expansion.

One of Rowan’s largest employers is asking county commissioners to extend a current tax incentive agreement to enable manufacturing plant, which produces Freightliner trucks, is preparing to spend nearly $38 million on a new vehicle logistics center. During Monday’s 6 p.m. meeting, county commissioners will consider extending a 5-year incentive agreement for the project.

Daimler’s Cleveland plant expanding, requesting tax incentives

By Josh Bergeron
josh.bergeron@salisburypost.com

Rory Collins, chief of the Salisbury Police Department since 2010, is retiring next month.

"A lot more thought and prayer. I am making this decision 100 percent on my own, as I simply feel the time is right to begin that next chapter of my life," Collins said in an email to his staff Friday night. "That chapter, I assure you, will be one that involves much less stress than the chapter I am now cleaving to close."

A statement issued by the City of Salisbury on Saturday said Collins "has announced his intention to retire from the city effective Thursday, Dec. 31."

Collins, 46, has been a lightning rod for criticism as the city has grappled with violent crime, particularly in the West End neighborhood. He reorganized his department more than once and said statistics "have announced his intention to retire from the city effective Thursday, Dec. 31."

Collins stepping down

By Hugh Fisher
hugh.fisher@salisburypost.com

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The 6 p.m. commissioners meeting will

See Daimler, 5A

Today’s forecast

46°/ 32° Sunny, light winds

Deaths

Alekse M. Frost
Jeane "Jenni" Pickeral
James A. Duffner
Benjamin F. Wolfe

Alone at home, Kit E. Beck
Charles H. Cook
Praghe Brown
Pauline Riderhour

Today’s forecast

64°/ 32° Sunny, light winds

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911 W. Henderson St., Suite 300, Salisbury, NC
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Carolina Women’s Health Associates
Welcome...
Procrastibation from graduate to program

NORMAN HONEYCUTT, executive director of the Family Resource Center, District 4, consolidated the board's vision of the early care field of work and the potential of the Family Resource Center, District 4 to empower families.

Honeycutt named a master of early care at meetings and challenged program practices and philosophies.

The N.C. Department of Public Safety and GEO Reentry Services, through its Early Care Program, created a transitional celebration for formerly incarcerated parents. The program is important to the treatment of children, decreasing recidivism rates, and providing a structured environment.

The board will be challenged in its efforts to provide a structured and supportive environment and to empower families and offenders on every level. The board's mission is to empower families and offenders to lead productive lives.

The Honeycutt name on the front page of the paper for exceptional service to the community.

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Blizzard packing mighty winds cripplles East Coast; 18 dead

NEW YORK (AP) — A blizzard with hurricane-force winds brought much of the East Coast to a standstill Saturday, dumping as much as 3 feet of snow, stranding tens of thousands of travelers and shutting down the nation's capital and its largest city.

After days of weather warnings, most of the 60 million people in the storm's path headed requests to stay home and off the roads, which were largely deserted. Yet at least 18 deaths were blamed on the weather, resulting from car crashes, drowning and hypothermia. And more snow was to come, with dangerous conditions expected to persist until early Sunday, forecasters warned.

"This is going to be one of those generational events, where your parents talk about how bad it was," Ryan Maue, a meteorologist for WeatherBill Analytics, said from Tallahassee, Fla., which also saw some flakes. The system was mammoth, dropping snow from the Gulf Coast to New England. By afternoon, areas near Washington had surpassed 30 inches. The heaviest unofficial report was in a rural area of West Virginia, not far from Harp- er's Ferry, with 40 inches.

As the storm picked up, forecasters increased their snow predictions for New York City, which could see as much as 18 inches of snow Saturday night.

Gov. McCrory calls it 'inexcusable behavior'

By Mark Winska

CHINA GROVE — Authorities are looking for the operator of an all-terrain vehicle who reports say purposely hit a highway patrol- man early Saturday morning in a southern Rowan County subdivision off N.C. 153.

The ATV's driver turned around and at- tempted to hit the injured trooper again be- fore the trooper responded by discharging his gun, a press release from the N.C. De- partment of Public Safety said.

According to reports, the trooper sus- tained "serious, but not life-threatening injuries" and was transported to Carolinas Medical Center-Northeast.

According to Danny Jenkins, president of the North Carolina Troopers Association, the four wheeler broke the trooper's lower leg and cut his close.

State officials did not release the trooper's name Saturday afternoon, and the North Carolina Highway Patrol identified him as Robert Cha- mberlin.

The incident happened about 2 a.m. while the trooper was on patrol during the winter storm.

"The trooper observed an all-terrain vehi- cles (four-wheelers) riding in the travel lanes of N.C. 153. He activated his car's emergen- cy lights, and the operator turned around and accelerated to flee the scene," according to the press release from the N.C. Highway Patrol.

By Josh Bergeron

Rowan County's prayer lawsuit that started in 2013 will have its day in court this week.

Oral arguments in the prayer suit are scheduled for Wednesday morning in the U.S. Court of Appeals for the Fourth Circuit. Oral arguments will be held in Richmond, Va.

At its core, the case is about whether legislators such as Rowan County Commis- sioners are able to offer prayers before meetings. When the American Civil Liberties Union initially filed its lawsuit in 2013, it focused on the sectarian content of prayers. The prayer giver's identity was mentioned in the original court filing, but has gained more attention as the case has moved through the courts.

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City Council talks strengths and weaknesses at retreat

By Amanda Raymond
amanda.raymond@salisburypost.com

The theme of the retreat was “Our Legacy: Tailoring a Vision.” The meeting started with Tom Westall, the meeting's facilitator, stating the desired outcomes of this retreat, which were to review the current state of the organization and establish a shared vision for the city; develop goals to support the vision and build a foundation for collaboration and teamwork going forward.

Before setting goals for the future, Westall said it was important to identify what Salisbury can be proud of. Some things are the city’s strengths, and some things are weaknesses.

City: SPD officer fired for misconduct
Second police officer resigned same day

By Shavonne Walker
shavonne.walker@salisburypost.com

Two officers are no longer employed by the Salisbury Police Department as one of them was fired this week. Salisbury Police Sgt. Richard Willis, 40, was terminated from the department effective Monday, city officials said, for misconduct, harassment and conducting himself as an officer.

Mayor Darrell Hindman said he was the guest speaker for a luncheon on Wednesday hosted by the Salisbury City Council. He talked about how his city included the community in major decisions and planning.

Hindman: Community buy-in brought Kannapolis back

By Amanda Raymond
amanda.raymond@salisburypost.com

To kick off the 31st Annual Future Directions and Goal Setting Retreat, the Salisbury City Council hosted a luncheon on Wednesday.

Former mayors, school board members, business owners and education community members were invited to hear Kannapolis Mayor Darrell Hindman talk about how Kannapolis came back from its hardships, including the Pillowtex closing in 2003 that left thousands jobless.

“At every meeting, city councils came to speak before the council and men and women both wrote in letters as they were trying to figure out what they were going to do with their life,” Hindman recalled. “Mayor Darrell Hindman said the city

Petitioning a higher power

Fourth Circuit judges hear arguments in appeal of ruling that Rowan commissioners’ prayer unconstitutional

By Josh Bergeron
josh.bergeron@salisburypost.com

RICHMOND, Va. — A three-judge panel on Wednesday considered whether Rowan County Commissioners violated the U.S. Constitution during opening invocations from 2007 to 2013.

Attorneys on both sides of the Rowan commissioners’ prayer lawsuit were in federal appeals court Wednesday for oral arguments. It was the first time attorneys have presented oral arguments in the case since the ACLU first filed the lawsuit in 2011 on behalf of three Rowan County residents. More significantly, it’s also the first time a federal appeals court has addressed the issue since a 2014 U.S. Supreme Court decision — Town of Greece, N.Y. v. Galloway.

At the heart of the lawsuit is the issue of whether Rowan Commissioners Chairman Greg Edds, who prays over Rowan County commissioners’ practices, was constitutionally allowed to do so.

The event, originally planned for Jan. 22, was rescheduled because of last week’s snowstorm and now will be held Friday, starting at 9 a.m. and continuing until noon. It will be at the former J.C. Penney’s building in the West End Plaza, 1935Jake Alexander Blvd W.

The event, originally planned for Jan. 22, was rescheduled because of last week’s snowstorm and now will be held Friday, starting at 9 a.m. and continuing until noon. It will be at the former J.C. Penney’s building in the West End Plaza, 1935 Jake Alexander Blvd W.

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Back and forth
Ho spoke first during oral arguments. She said legislators at all levels pray before meetings. They have since the nation’s founding, she said. It happens in state legislatures, Congress and local government. Ho then presented principles she saw as essential to the case — the ‘out’ in ‘outspoken’ has shifted since it was filed in 2013, and prayer is allowed as long as it does not demeanize others or precipitate conversion. She said the court would need to find a pattern in the prayer she described, not just one instance.

She had just reached the third of three principles when one of the judges fired off a question — a common occurrence during oral arguments. Judges also acted as equal-opportunity interlocutors for both attorneys.

In response to one of the initial questions, she said Rowan County’s prayers from 2007 to 2013 — the period cited in the lawsuit — were 100 percent Christian. Her answer prompted a follow-up question from Judge Dennis Shedd, who asked how the prayers could be considered nondiscriminatory with that statistic.

In her response, Ho said the prayers weren’t divisive because commissioners rotated the responsibility of giving an opening invocation. Another notable exchange between attorneys and judges came when Shedd asked Brooks if whether a prayer would be unconstitutional if commissioners directed a prayer about members of the military to soldiers who were in the audience. Giving a hypothetical example, Shedd said a commissioner might pray to keep soldiers safe.

Brooks hesitated as Shedd asked the question again. Ho asked for clarity about the question, which came as Brooks was arguing that Rowan County commissioners directed prayers at members of the public. Commissioners’ requests directed the public to pray for themselves, she said.

“Is there a difference?”

Brooks said the prayer would be constitutional.

Constitutional questions
Substantive discussion turned from the identity of prayer givers and coerced — two main themes of fast-paced questioning.

Quickly after starting his oral argument, Brooks gave multiple examples of prayer by commissioners. Among the examples was a prayer from former County Commissioner Carl Ford, who said “we pray that our citizens will love you, Lord.” Brooks claimed Ford’s prayer and others were examples of invocations directed at the public. It countered an argument made earlier by Ho — that commissioners only pray for the benefit of themselves. Brooks claimed previous court decisions plainly prohibit prayers directed at members of the public.

Ho said commissioners directed the public to participate in prayers with statements such as “please pray with me.” She asked the statement “please pray with me” seemed more like a request than a direction.

When addressing the issue of identity, Ho said it doesn’t matter whether a prayer giver is a volunteer chaplain or commis- sioner Rowan’s case is no different than the Greece, N.Y., case, she said.

“Either way, it’s the government speaking,” she said.

Judge J. Harvie Wilkinson III, who served on the New York case and Rowan County is that commissioners deliver prayers and invocations repeatedly referencing one faith — Christianity.

Reaction
David Gibbs III, who represents Rowan County, said the next step in Rowan’s case will likely be a written ruling. Judges could request more information, but he said it’s unlikely. After oral arguments, people on both sides of the case spoke with reporters and outlined significant parts of arguments.

ACLU spokesman Mike Mooney said it’s important to analyze judges’ questions too closely. It’s a judge’s job to ask tough questions, Mooney said.

Robert Voelker, who attended Wednesday’s oral arguments, said the fact that commissioners have changed from offering prayers themselves to a pre-selected, volunteer chaplain is “an acknowledgment that they’re doing something wrong.”

Currently, Rowan County Sheriff’s Office Chaplain Michael Taylor gives opening prayers on behalf of the county commissioners. Chairman Greg Edds gives a disclaimer at the beginning of meetings. One disclaimer informs attenders of his or her right to leave or not participate in prayers.

Gibbs responded to Land and Voelker’s claim by saying he and other attorneys only advised Rowan County how to minimize its liability. A number of options exist for prayer before meetings, and a pre-selected, voluntary chaplain is one, according to Edds.

Cost to the county
Since the start of its prayer lawsuit, Rowan County has been represented by Texas-based National Center for Life and Liberty. The group is representing Rowan County for free. Gibbs said other attorneys from various states also have donated time — at no cost to Rowan County — to help with the case.

Gibbs said the National Center for Life and Liberty brought Ho onto Rowan County’s case specifically for oral arguments. He is a Texas-based attorney and partner at firm Morgan Lewis.

Although Rowan County isn’t paying its attorneys, it could be responsible for legal fees if the U.S. Court of Appeals for the Fourth Circuit upholds a ruling from the North Carolina Middle District Court that found the county’s prayer practices unconstitutional.

Edds, the chairman of the county board, said Rowan doesn’t yet have a commitment to pay legal fees from any outside entity or group. Rowan has paid County Attorney Jay Dees less than $3,000 in connection to the prayer lawsuit. Dees previ- ously told the Salisbury Post that most of the money stems from the costs incurred immediately after the lawsuit was filed.

Contact reporter Josh Bergeron at 704-797-4246.
ROWAN COUNTY — In classic car circles, there weren't too many people who didn't know Jimmie Long and his sleek Black 1958 Chevy Impala.

He was the kind-hearted man who sold his produce on the honor system. He was a veteran and the owner of an automotive dealership. A month ago, Long and his wife, Linda, were headed in the Impala to dinner and a movie. The three drivers, Asia Lane-Shocke, 21, were charged with misdemeanor death by vehicle and careless and reckless driving. N.C. Highway Patrol officials said there was no immediate known reason why Shocks left the road.

Jimmie Long was the 10th traffic fatality of the year in Rowan County, up from the six lives tragically taken by the same time last year.

“I’ve known Jimmie since the ’60s. We both went to the '60s. We both went to the same thing happened during last year’s event.

See Berry, 4A

Very berry, baby

Vendors bring out themed products for Blackberry Festival

By Amanda Raymond

HIGH ROCK LAKE — Lisa Hill, event coordinator for the Blackberry Festival at Hill’s Minnow Farm, said she was much more prepared this year.

“I learned a lot from last year,” she said.

The second annual Blackberry Festival was held on Saturday under cloudy skies during the morning hours. The festival started at 9 a.m. and ended at 4 p.m., but Hill said all of the blackberries were picked by 11 a.m. The festival started at 9 a.m. and ended at 4 p.m. Many blackberries were picked by 11 a.m.

Among themselves and publicly, residents say. Teresa Marcum, who lives on Stone Road, says she of Granite Quarry, the residents say. Teresa Marcum, who lives on Stone Road, says she was especially upset when she found a dead seen a shovel to bring the cat back into the neighborhood. A reader who witnessed the feral cat /fight among the animals is a daily nuisance for the cat colony with a population of roughly 20 felines.

As a result, Hill said the colony was heavily controlled. The animals are a daily nuisance for the cat colony with a population of roughly 20 felines. The animals are a daily nuisance for the cat colony with a population of roughly 20 felines.

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Lawsuit

Continued from 1A

Fourth Circuit, where the case currently sits.

On July 27, it will be six months from the date of oral arguments. Rowan County’s case has been pending for slightly longer than the average amount of time it takes the Fourth Circuit to rule. However, that’s not an indicator of a potential outcome, said University of North Carolina law professor Bill Julian.

“There are so many different reasons,” Marshall said. “Judge could be having a difficult time working through the legal issues. Other cases may have come up that demanded more attention. …There are not that many tea leaves to read into.”

One complicating factor: a court decision discussed extensively in Rowan’s prayer case still left some things undecided, according to Marshall. He said the case—Town of Greece, N.Y. vs. Galloway—did not decide all legislative prayers were OK. However, the case decided that some factors make legislative prayer OK, Marshall said.

Many of the arguments made before judges and contained in court documents hinge on Greece vs. Galloway, a Supreme Court case in which judges decided the Town of Greece could permit volunteer chaplains to open meetings with a prayer. “I think, to some extent, the judges now have to work through what the Supreme Court meant in Town of Greece,” said Carl Tobis, a University of Richmond law professor and Fourth Circuit Court observer.

Tobis said members of the three-judge panel could be trying to convince another of the merits or faults in particular arguments made in court.

To go with the usual time required for legal decision making, judges also appear to be dealing with an increased workload, according to Fourth Circuit statistics.

The latest available filing statistics for the current year show a 23 percent increase over the prior year. During the 2013 fiscal year, for example, the Fourth Circuit saw a total of 4,586 filings. The court is also projected to see 5,627 filings during the 2016 fiscal year.

The projected 2016 numbers would be the highest in at least 10 years, according to court statistics. The earliest online statistics are for the 2006 fiscal year, when 3,461 cases were filed.

“That’s a lot of workload,” said attorney David Gibbs, who is representing Rowan County in the prayer lawsuit. “We do know in Washington (D.C.) that they’ve been slow to confirm judges on different levels. I think you’re also looking at some of the Washington gridlock.”

Regardless of when the decision comes, Gibbs said the Fourth Circuit’s opinion would affect government throughout its coverage area, which includes Maryland, North Carolina, South Carolina, Virginia and West Virginia.

The North Carolina ACLU declined to comment on the Rowan County prayer case for this story.

Contact reporter Josh Bergeron at 704-797-4246.
Dr. Jessica Blumenthal, Dr. James Murphy & Dr. Holly Stevens Welcome…

SALISBURY — Rowan County commissioners on Monday scored a major court victory when a federal appeals court, by a 2-1 count, overruled a prior ruling in a controversial prayer case.

The U.S. Court of Appeals for the 4th Circuit ruled that a lowered court erred when it declared unconstitutional commissioner prayers practiced from 2007 to 2013. A U.S. District Court judge found sectarian prayers at the start of county commissioners' meetings to be in violation of the First Amendment's establishment clause. At issue was the fact that sectarian prayers were delivered only by county commissioners.

Writing for the majority, Judge G. Steven Agee said the district court treated the Supreme Court's 2005 decision, in McCreary County vs. ACLU, as excluding county commissioners from giving opening prayers. In Monday's 4th Circuit ruling, Agee said the lower court ruling is “not sustainable.”

Agee wrote that Rowan County’s prayer practices from 2007-2013 fit within the longstanding tradition of lawmaker-led prayer. Taken as a whole, the county commissioners' prayer practices do not coerce or disparage. Agee wrote that the court found no evidence the Board of County Commissioners was a board, crafted prayers to say before meetings. Instead, prayers were a personal exhortation. The prayers were also given for the benefit of members of the board, Agee noted.

When asked about the decision on Monday, commissioners praised the ruling.

Chairman Greg Edds praised the ruling in a short statement emailed to the Salisbury Post.

“We are very pleased with the decision and think the court properly decided the matter," Edds said.

Dr. Erin Grey

Gas pains
Pipeline break leads to price spikes, rush on the pumps

By Rebecca Riddler and Shavonne Walker

ROWAN COUNTY — Dustin Stirewalt topped off his gas tank Monday for the second time in two days after hearing fears of gas shortages in the area due to a ruptured pipeline in Alabama.

Gas stations across the county temporarily ran out of gas Monday as supplies dwindled after last week’s Colonial Pipeline break. Gas prices are expected to increase.

Dustin Stirewalt pumps gas Monday at Tobaccoe House on Airport Road. Stirewalt topped off his gas tank for the second time in two days after hearing fears of gas shortages in the area due to a ruptured pipeline in Alabama. By Josh Bergeron

South Carolina Republicans have proposed a local law that would require sexual and transgender people. To pass a local ordinance that would have lead Charlotte’s City Council act first but only if the Democrats who have offered to consider rescinding the law, but only if the Democrats who part of a package of changes that the administration building. By Josh Bergeron

Gas stations across the county temporarily ran out of gas Monday as supplies dwindled after last week’s Colonial Pipeline break. By Josh Bergeron

Today’s forecast

B1 / 67°

JOSH BERGERON/SALISBURY POST

Gas stations across the county temporarily ran out of gas Monday as supplies dwindled after last week’s Colonial Pipeline break. By Josh Bergeron

New county law requires humane dog restraints

By Tom Foreman Jr. and Gary D. Robertson

CHARLOTTE (AP) — North Carolina’s Republican leaders and gay-rights supporters are at odds over a proposed local law that would essentially admit they were wrong to pull out of the state. They have offered to consider rescinding the law, but only if the Democrats who want Charlotte’s City Council act first and essentially admit they were wrong to pass a local ordinance that would have expanded protections for lesbian, gay, bi, transgender, and gender-expansive people.

Charlotte Mayor Jennifer Roberts backed Monday that this won’t be happening at their council meetings anytime soon, and said there’s nothing

Will either side blink over House Bill 2?

By Josh Bergeron

SALISBURY — In a rare divided vote, Rowan County commissioners on Monday approved a measure that will have a significant affect on animal restraint laws in the county.

By a 4-1 count that nearly included another “no” vote, commissioners approved regulations that aim to create more humane conditions for dogs kept outdoors. The regulations were proposed by Commissioner Craig Pierce and require owners to design and placed in a manner that prevents strangulation. Pierce’s regulations propose a number of alterations, more humane ways to keep animals outside, etc. Pierce framed his proposal as one part of a package of changes that the administration building.

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Will either side blink over House Bill 2?
Prayer
Continued from 1A

“While a small group of legislators can diversify their appointment of prayer-givers at will, it may be more difficult to expect voters to elect representatives of minority religious faiths,” Wilkinson wrote. “Failure to pray in the name of the prevailing faith risks becoming a campaign issue or a tacit political debt, which in turn deters those of minority faiths from seeking office.

Commissioner candidates have discussed the prayer lawsuit as a campaign issue. Near the end of his dissent, Wilkinson says, “Americans are encouraged to practice and advocate religion, but it shouldn’t be established through the state.”

Contact reporter Josh Bergstrom at 704-797-4246.
Dissent in Rowan prayer lawsuit could affect future of case

By Josh Bergeron
josh.bergeron@salisburypost.com

SALISBURY — One judge’s opinion could have a significant impact on the future of Rowan County’s prayer case.

By a 2-1 count, federal judges on Monday overturned a lower court ruling and declared county commissioners’ prayer practices constitutional. Two George W. Bush appointees united to form the majority opinion. It’s the dissenting opinion, however, that some law professors are focusing on.

Judge J. Harvie Wilkinson III, appointed to the 4th Circuit Court of Appeals by former president Ronald Reagan, offered a cautionary tale about what might happen as a result of a ruling in favor of Rowan County. More than once, Wilkinson has been mentioned as a potential nominee to the U.S. Supreme Court.

He also authored the majority opinion in a case relating to Forsyth County commissioners. In that case, also before the 4th Circuit Court of Appeals, federal judges upheld a lower court ruling that the Forsyth Coun-
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Oates has loved music, and Mecklenburg Police Department on Saturday shows

Evening: Pick 3: 3-7-1, Pick 4: 0-0-3-2, Cash 5: 9-19-22-30-33

I studied those records...I'm very conscious as recording...I don't tire of hearing of it, and I don't take it for granted."

The 4th Circuit's decision, UNC

We're Here To Help You Hear..."

The current chief judge Roger Gregory was appointed by former President Bill Clinton during a recess of the U.S. Senate. Gregory was later renominated by George W. Bush.

If the 4th Circuit declines the en banc request, Rowan's prayer case could also be appealed to the U.S. Supreme Court. The composition of the U.S. Supreme Court will be relevant in whether the highest court takes up the case, according to Marshall and Tobias. One seat on the Supreme Court remains vacant following the death of Justice Antonin Scalia.

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