

David Szeles, SBN 279244
Global Law Group San Diego, P.C.
1455 Frazee Road, Ste. 500
San Diego, California 92108
Telephone: (858)833-2020
Facsimile: (619) 839-3152

Attorney for Petitioner **Karen Pastor-Galeana**

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Karen Pastor-Galeana

Petitioner,

v.

**CHRISTOPHER J. LAROSE, Senior
Warden, Otay Mesa Detention Center;
PATRICK DIVVER, Field Office
Director, San Diego Office of
Detention and Removal, U.S.
Immigration and Customs
Enforcement; TODD M. LYONS,
Acting Director, U.S. Immigration and
Customs Enforcement, U.S.
Department of Homeland Security;
and MARKWAYNE MULLIN,
Secretary, U.S. Department of
Homeland Security,**

Respondents.

CASE NO.: '26CV3249 JES MMP

**PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS; COMPLAINT
FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

**CHALLENGE TO UNLAWFUL
INCARCERATION; REQUEST FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

I. INTRODUCTION

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3 1. Petitioner Karen Pastor-Galeana (“Petitioner” or “Ms. Karen Pastor-
4 Galeana”) is a Mexican asylum seeker detained at Otay Mesa Detention Center in
5 San Diego, California. Ms. Pastor-Galeana fled domestic violence and threats in
6 Mexico arising from abuse by the father of her daughter, [REDACTED]
7
8 She also suffered threats from her abuser’s mother.

9 2. Ms. Pastor-Galeana previously entered the United States lawfully on
10 multiple occasions with a tourist visa. She last entered the United States on or
11 around February 28, 2023, when her visa was revoked and she was detained. She
12 was given conditional parole when immigration authorities released her on her
13 own recognizance. *See Exhibit A, Order of Release on Recognizance.*

14 3. Since her release, Ms. Pastor-Galeana has complied with
15 immigration requirements and has built substantial family and community ties in
16 the United States. She is the primary caregiver of her daughters, including
17 [REDACTED]
18 a United States citizen child. *See Exhibit B, U.S. birth*
19 *certificate.*

20 4. While it is unclear whether the government has formally revoked Ms.
21 Pastor-Galeana’s conditional parole or release on her own recognizance, the
22 government’s actions are unlawful regardless. If the agency did not revoke her
23 parole, then it violated that parole by detaining her. And if the agency *did* revoke
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her parole, then it did so in violation of the statute and regulations, which require written notification and a determination that the purposes of the parole have been served, as well as the Constitution, which requires pre-deprivation notice and hearing. Either way, the agency's actions violated the Administrative Procedures Act and the Due Process Clause. Thus, this Court should reinstate her release.

2. JURISDICTION

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101, *et seq.*

6. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction), art. I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and 28 U.S.C. § 1346 (U.S. as defendant), and 28 U.S.C. § 1651 (All Writs Act).

7. Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 787 (2001) (same); *Y-Z-L-H v. Bostock*, No. 3:25-CV-965-SI, 2025 WL 1898025, at *3 (D. Or. July 9, 2025) (same); *Garcia v. Andrews*, No. 1:25-CV-01006 JLT SAB, 2025 WL 2420068, at *7 (E.D. Cal. Aug. 21, 2025) (same).

8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201, *et seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Court's inherent equitable powers.

3.VENUE

9. Venue is proper because Petitioner is in Respondents' legal and physical custody at Otay Mesa Detention Center in San Diego, California. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, where Petitioner is now in Respondents' legal and physical custody, including her current and ongoing detention under the legal and physical custody of Respondent LaRose, warden of Otay Mesa Detention Center. 28 U.S.C. § 1391(e); *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004) (habeas petition must be addressed to the federal district court of confinement); *Wairimu v. Dir., Dep't of Homeland Sec.*, No. 19-CV-174-BTM-MDD, 2019 WL 460561, at *2 (S.D. Cal. Feb. 5, 2019) (district of confinement is the preferable forum even if the Court otherwise has personal jurisdiction). For these same reasons, venue should be found proper under Local Civil Rule HC.1.

4.CUSTODY AND REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

10. The Court must grant the petition for writ of habeas corpus or issue an

1 order to show cause (“OSC”) to the Respondents “forthwith,” unless Petitioner is
2 not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must
3 require Respondents to file a return “within three days unless for good cause
4 additional time, not exceeding twenty days, is allowed.” *Id.*

6 11. Courts have long recognized the significance of the habeas statute in
7 protecting individuals from unlawful detention. The Great Writ has been referred
8 to as “perhaps the most important writ known to the constitutional law of
9 England, affording as it does a swift and imperative remedy in all cases of illegal
10 restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

13 12. Ms. Pastor-Galeana is “in custody” for the purpose of 28 U.S.C. § 2241
14 because she was arrested by Respondents and remains in their legal and physical
15 custody at Otay Mesa Detention Center in San Diego, California. She is under
16 Respondents’ and their agents’ direct control.

18 5. PARTIES

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20 13. Ms. Pastor-Galeana (“Petitioner”) is a 26-year-old citizen and national
21 of Mexico. She left Mexico and came to the United States lawfully on multiple
22 occasions, but following the revocation of her visa, she later entered in the United
23 States on or around February 28, 2023 to seek asylum, withholding of removal, or
24 protection under the Convention Against Torture after fleeing abuse and death
25 threats in Mexico. The persecution she suffered in Mexico included suffering
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1 [REDACTED]
2 [REDACTED]
3 [REDACTED]
4 [REDACTED]
5 [REDACTED] She is not married. She has two daughters,
6 one of which is a U.S. citizen. She was released by immigration authorities under
7 an order of release on recognizance, dated March 02, 2023.
8

9 14. Ms. Pastor-Galeana is currently residing in Respondents' custody at
10 Otay Mesa Detention Center in San Diego, California, as of the time of the filing
11 of this petition.
12

13 15. Respondent Christopher LaRose ("LaRose") is the Senior Warden at
14 Otay Mesa Detention Center in San Diego, California, where Ms. Pastor Galeana
15 is detained. LaRose is responsible for the day-to-day operations and confinement
16 of non-citizens detained at that facility. He acts at the direction of Respondents
17 Divver, Lyons, and Mullin. LaRose is a custodian of Ms. Pastor Galeana and is
18 named in his official capacity.
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21 16. Respondent Patrick Divver ("Divver") is the Field Office Director of
22 ICE in San Diego, California. He acts at the direction of Respondents Lyons and
23 Mullin. ICE is responsible for local custody decisions relating to non-citizens
24 charged with being removable from the U.S., including the arrest, detention,
25 custody status, and removal of non-citizens. The San Diego Field Office's area of
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1 responsibility includes San Diego and Imperial Counties in California.

2 Respondent Divver is a custodian of Ms. Pastor-Galeana and is named in his
3
4 official capacity.

5 17. Respondent Todd Lyons (“Lyons”) is the Acting Director of ICE, and he
6 has authority over the actions of Respondents LaRose and Divver. ICE is
7
8 responsible for local custody decisions relating to non-citizens charged with being
9 removable from the U.S., including the arrest, detention, custody status, and
10 removal of non-citizens. Respondent Lyons is a custodian of Ms. Pastor-Galeana
11 and is named in his official capacity.
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13 18. Respondent Markwayne Mullin (“Mullin”) is the Secretary of DHS and
14 has authority over the actions of all other DHS Respondents in this case, as well
15 as all operations and federal agencies of DHS, including ICE. In his capacity as
16 Secretary of DHS, Respondent Mullin is charged with faithfully administering the
17 immigration and naturalization laws of the United States. 8 U.S.C. § 1103(a).
18 Respondent Mullin is a custodian of Ms. Pastor-Galeana and is named in his
19 official capacity.
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22 19. Respondent ICE is responsible for local custody decisions relating to
23 non-citizens charged with being removable from the U.S., including the arrest,
24 detention, custody status, and removal of non-citizens.
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26 20. Respondent DHS is the federal agency that has authority over the
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1 actions of ICE and all other DHS Respondents.

2 21. This action is commenced against Respondents LaRose, Divver, Lyons,
3 and Mullin (collectively, "Respondents") all in their official capacities.
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6 **6.EXHAUSTION OF ADMINISTRATIVE REMEDIES**
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8 22. Petitioner has no administrative remedies to exhaust. She has filed a
9 petition for bond and has a bond hearing scheduled for May 28, 2026 with IJ
10 Sameit at 8:00 am. However, IJ Sameit always claims that his court does not have
11 jurisdiction to conduct bond hearings for those individuals who are classified as
12 arriving aliens or those with NTAs marking them as "present in the United States
13 who has not been admitted or paroled." Ms. Pastor Galeana's NTA classifies her
14 as such. DHS therefore argues lack of jurisdiction under Matter of Yajure
15 Hurtado and IJ Sameit, and other judges at Otay Mesa agree and follow Matter of
16 Yajure Hurtado instead of Matter of Maldonado Bautista. Petitioner therefore has
17 no remedy in immigration court for a bond.
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21 23. Ms. Pastor-Galeana received an NTA on March 01, 2023. *See Exhibit*
22 *C, NTA*. On or around March 02, 2023, she was given an Order of Release on
23 Recognizance. She was then detained in April 2026 at the Otay Mesa Detention
24 Center.
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26 24. Ms. Pastor-Galeana is also challenging the unlawfulness of
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1 Respondents' decision to detain her, independent of any decision made by any
2 Immigration Judge in removal proceedings.
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4 25. Therefore, a writ of habeas corpus is the sole avenue to vindicate Ms.
5 Pastor-Galeana constitutional, statutory, and regulatory rights and restore her
6 liberty.
7

8 **7. CLAIMS FOR RELIEF**

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10 **I. Count 1: ICE failed to comply with its own regulations in revoking Ms.**
11 **Pastor-Galeana's parole under 8 C.F.R. § 212.5, violating the**
12 **Administrative Procedures Act and Due Process.**
13

14 26. When ICE detained Ms. Pastor Galeana in April of 2026, it did not
15 say that it was revoking her parole, so it is unclear whether a revocation occurred.
16 Either way, the government's actions violate the Administrative Procedures Act
17 and Due Process.
18

19 27. Under the Administrative Procedures Act (APA), an agency action may
20 be held unlawful and set aside if it is "arbitrary, capricious, an abuse of discretion,
21 or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A). An action is an
22 abuse of discretion if the agency "entirely failed to consider an important aspect
23 of the problem, offered an explanation for its decision that runs counter to the
24 evidence before the agency, or is so implausible that it could not be ascribed to a
25 difference in view or the product of agency expertise." *Nat'l Ass'n of Home*
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1 *Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle*
2 *Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43
3 (1983)). For a challenged agency action to be upheld, the agency “must explain
4 the evidence which is available, and must offer a rational connection between the
5 facts found and the choice made.” *Motor Vehicle Mfrs*, 463 U.S. at 52 (1983)
6 (internal quotations omitted) (quoting *Burlington Truck Lines, Inc. v. United*
7 *States*, 371 U.S. 156, 168 (1962)).
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11 28. Here, regardless of whether the agency formally revoked Ms. Pastor
12 Galeana’s parole, it violated the APA. If the agency did *not* revoke her parole, then
13 it inexplicably violated its own parole decision by detaining Petitioner. Doing so
14 violated the APA because the agency did not “offer a rational connection between
15 the facts found and the choice made”—i.e., the fact that Ms. Pastor Galeana was
16 issued a conditional parole, yet the agency decided to detain her. *Motor Vehicle*
17 *Mfrs*, 463 U.S. at 52. And nothing suggests that there *was* a “rational” reason for
18 this choice, given that Ms. Pastor Galeana has complied with all the conditions of
19 her parole and was not engaging in criminal activity at the time of her arrest. This
20 was the epitome of an “arbitrary” and “capricious” act under the APA. 5 U.S.C.
21 § 706(2)(A).
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25 29. But assuming the agency *had* revoked her parole, it also violated the
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1 APA. Per ICE regulations, a person shall only be “returned to the custody from
2 which he was paroled” when “the purposes of such parole . . . have been served.”
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4 8 U.S.C. § 1182(d)(5)(A); *see also* 8 C.F.R. § 212.5(e)(2)(i) (parole may only be
5 terminated “upon accomplishment of the purpose for which parole was
6 authorized”); *Y-Z-L-H*, 2025 WL 1898025, at *12 (same). Alternatively, the
7 regulations permit revocation of parole when “neither humanitarian reasons nor
8 public benefit warrants the [noncitizen’s] continued presence.” 8 C.F.R.
9 § 212.5(e)(2)(i). But under either scenario, parole shall only be “terminated upon
10 written notice to the alien.” 8 C.F.R. § 212.5(e)(2)(i). So under the statute and the
11 regulations, the agency may only revoke parole and re-detain a noncitizen when
12 the parole’s purpose is served or no humanitarian reasons warrant it *and* the
13 noncitizen receives written notice.
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17 30. None of this occurred here. Because “the purpose of Ms. Pastor
18 Galeana’s parole” was to allow her to apply for asylum, that purpose has not yet
19 “been served” because her asylum claim is still pending. 8 U.S.C. §
20 1182(d)(5)(A). And the humanitarian reasons for parole—to avoid unnecessary
21 detention when an asylum seeker poses no danger or flight risk—remains the
22 same. Put differently, “upon Petitioner’s entry into the United States, Respondents
23 determined that Petitioner was suitable for parole. Respondents have not provided
24 a reasoned explanation or any changed circumstances that would justify their
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1 current departure from their prior decision.” *Y-Z-L-H v. Bostock*, 792 F. Supp. 3d
2 1123, 1146 (D. Or. 2025). Under the APA, “[i]t is Respondents’ burden to
3 provide a reasoned explanation for their action,” which they will not be able to do.
4
5 *Id.*

6 31. What’s more, Ms. Pastor Galeana never received any written
7 notification of a revocation under 8 C.F.R. § 212.5(e). So if the agency revoked
8 her parole, this decision violated both the statute and the regulation and was “not
9 in accordance with law” under the APA. 5 U.S.C. § 706(2)(A).
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12 32. Several courts have released parolees on this basis. *See Arias v. Larose*,
13 No. 3:25-CV-02595-BTM-MMP, 2025 WL 3295385, at *3 (S.D. Cal. Nov. 25,
14 2025); *Noori v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal.
15 Oct. 1, 2025); *Salazar v. Casey*, No. 25-cv-2784 JLS-VET, 2025 WL 3063629
16 (S.D. Cal. Nov. 3, 2025); *Perez v. LaRose*, No. 25-cv-02620-RBM-JLB, 2025 WL
17 3171742 (S.D. Cal. Nov. 13, 2025); *Y-Z-L-H v. Bostock*, No. 25-cv-965-SI, 2025
18 WL 1898025, at *13 (D. Or. July 9, 2025); *Teran Hurtado v. LaRose* 3:26-cv-977-
19 BTM-DDL; *Quispe Cardens v. LaRose* 3:26-cv-02352-JO-JLB; *Sanchez Ledesma*
20 *v. LaRose* 3:26-cv-01974-RBM-AHG.
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24 **II. Count 2: The Due Process Clause required notice and a chance to be**
25 **heard before parole was revoked.**
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27 33. Additionally, “the revocation of Ms. Pastor Galeana’s parole without
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1 justification or consideration of her individualized circumstances violates the Due
2 Process Clause.” *Perez v. LaRose*, No. 3:25-CV-02620-RBM-JLB, 2025 WL
3 3171742, at *4 (S.D. Cal. Nov. 13, 2025). Petitioner was “entitled to notice of the
4 reasons for revocation of his parole and a hearing before an immigration judge to
5 determine whether detention is warranted” before ICE revoked his parole. *Id.* at *7.
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8 34.“The Fifth Amendment guarantees that ‘[n]o person shall be ... deprived
9 of life, liberty, or property, without due process of law.’” *Salazar*, 2025 WL
10 3063629, at *3 (quoting U.S. Const. amend. V). “[T]he Due Process Clause applies
11 to all ‘persons’ within the United States, including aliens, whether their presence
12 here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S.
13 678, 693 (9th Cir. 2001).
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16 35.“Generally, due process protections depend on the situation and must
17 account for (1) the private interest at issue, (2) the risk of erroneous deprivation of
18 that interest through the procedures used, and (3) the Government's interest.” *Noori*
19 *v. LaRose*, No. 25-cv-1824-GPC-MSB, 2025 WL 2800149 (S.D. Cal. Oct. 1, 2025);
20 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). Weighing those considerations
21 here, Respondents violated the Due Process Clause by revoking parole with no
22 notice or hearing.
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25 36.First, Petitioner has a private interest in remaining free, which developed
26 over the 3 years she resided in the United States. This is especially true given she
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1 gave birth to a U.S. citizen child on September 30, 2023 in the state of Colorado
2 and started a family here in the U.S. It does not matter that parole is temporary or
3 discretionary. “For example, *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)—
4 though analyzing the criminal parole context—found that ‘the liberty of a parolee,
5 although indeterminate, includes many of the core values of unqualified liberty and
6 its termination inflicts a grievous loss on the parolee and often others ... [thus it]
7 must be seen within the protection of the [Fifth] Amendment.’” *Id.*

10 37. “Second, the risk of an erroneous deprivation of such interest is high as
11 Petitioner's parole was revoked without providing [her] a reason for revocation or
12 giving [her] an opportunity to be heard.” *Salazar*, 2025 WL 3063629, at *4. “Civil
13 immigration detention is permissible only to prevent flight or protect against danger
14 to the community.” *Perez*, 2025 WL 3171742, at *5. But here, “[s]ince DHS's initial
15 determination that Petitioner should be paroled because [she] posed no danger to
16 the community and was not a flight risk, there is no evidence that these findings
17 have changed.” *Id.*

21 38. “Third, the Government's interest in detaining Petitioner without notice,
22 reasoning, and a hearing is low.” *Salazar*, 2025 WL 3063629, at *5 (cleaned up).
23 “Detention for its own sake, to meet an administrative quota, or because the
24 government has not yet established constitutionally required pre-detention
25 procedures is not a legitimate government interest.” *Pinchi v. Noem*, 792 F. Supp.
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3d 1025, 1036 (N.D. Cal. 2025).

39. Thus, because Respondents did not provide “proper notice, reasoning, and a pre-deprivation hearing” before revoking parole, Ms. Pastor Galeana’s detention violated the Due Process Clause. *Salazar*, 2025 WL 3063629, at *5.

8. This Court must hold an evidentiary hearing on any disputed facts.

40. Resolution of a detention-based habeas petition may require an evidentiary hearing. *Owino v. Napolitano*, 575 F.3d 952, 956 (9th Cir. 2009). Ms. Pastor Galeana hereby requests such a hearing on any material, disputed facts.

9. Prayer for relief

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Order Respondents to immediately release Petitioner from custody, subject to the conditions of her preexisting parole;
2. Order that prior to any re-detention of Petitioner, that Petitioner is entitled to notice of the reasons for revocation of her parole and a hearing before an immigration judge to determine whether detention is warranted. Respondents should bear the burden of establishing, by clear and convincing evidence, that Petitioner poses a danger to the community or a risk of flight at that hearing; and

1 3. Order any other relief that the Court deems just and proper.
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5 Respectfully submitted,
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9 Dated: May 26, 2026

/s/ David Szeles

10 _____
11 David Szeles, Esq.

12 Attorney for Petitioner
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