SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Criminal Division

Clara Shortridge Foltz Criminal Justice Center Dept. - 100

BH014469 | **January 17, 2024**

In re: | **8:30 AM**

KRENWINKEL, PATRICIA

Honorable William C. Ryan, Judge
B. Perez, Judicial Assistant | Not Reported, Court Reporter

PC1473

NATURE OF PROCEEDINGS: Hearing on Writ of Habeas Corpus

The following parties are present for the aforementioned proceeding:

No Appearances

The matter is called for Hearing on Writ of Habeas Corpus.

The Court having read and considered the Defendant's Petition for Writ of Habeas Corpus filed on Friday, June 30, 2023, the petition is denied.

ORDER RE: MEMORANDUM OF DECISION (HABEAS CORPUS)
(Underlying Crim. Case No.: A253156)

IN CHAMBERS

Petition for writ of habeas corpus by Patricia Krenwinkel, represented by Keith Wattley, Esq. and Lilliana Paratore, Esq. Respondent, the Honorable Gavin Newsom, Governor of the State of California, represented by the Office of the Attorney General. Denied.

INTRODUCTION

In 1969, Petitioner was a member of the Manson Family,[1] led by Charles Manson. In August 1969, two sets of homicides were committed in the Los Angeles area that became known as the "Tate killings" and the "LaBianca killings," and collectively, the "Tate-LaBianca Murders." Petitioner participated in both sets of murders. The killings were extraordinarily gruesome, terrorized the people of Southern California, and captivated the nation and beyond.

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In 1971, a jury convicted Petitioner of seven counts of first degree murder and one count of conspiracy to commit murder for her role in the Tate-La Bianca Murders.[2] Petitioner was initially sentenced to death, but the California Supreme Court commuted her sentence to life with the possibility of parole after finding California's death penalty statute unconstitutional. (People v. Manson, et al. (1976) 61 Cal.App.3d 102, 217 (Manson).) She is currently incarcerated in the California Institution for Women in Corona, California.

GRANT OF PAROLE BY BOARD OF PAROLE HEARINGS

On May 26, 2022, the Board of Parole Hearings ("Board") convened Petitioner's latest parole suitability hearing. The Board found Petitioner suitable for parole, concluding that her "deep understanding" of the character factors that contributed to her crimes, exemplary institutional behavior, extensive programming, limited prior criminal history, release plans, experience of intimate partner battery, youth offender factors, and elderly parole factors outweighed the aggravating factors of her commitment offense and unstable social history. (Hearing Transcript ("HT"), dated May 26, 2022, at pp. 100-114.)

GOVERNOR'S REVIEW AND REVERSAL

On October 14, 2022, the Governor reversed the Board's grant of parole, finding in contrast to the Board that Petitioner demonstrated a lack of insight into her decisions and minimization of her role in the murders, which outweighed the mitigating factors. The Governor argued that Petitioner continued to shift disproportionate blame to others and lacked sufficient insight into the internal processes that led her to perpetrate extreme violence. The Governor considered the youth and elderly parole factors and recognized that Petitioner was susceptible to Manson's influence, coercion, and abuse. (Reversal, dated Oct. 14, 2022, at pp. 3-7, attached to Petn. as Exh. D.)

CHALLENGE TO GOVERNOR'S REVERSAL

On June 30, 2023, Petitioner through her attorneys Keith Wattley, Esq. and Lilliana Paratore, Esq. filed this petition for writ of habeas corpus challenging the Governor's decision. Petitioner contends that because she is eligible for "every special parole consideration that exists," the court should require "substantial evidence" of current dangerousness instead of merely "some evidence" in reviewing the Governor's decision. (Petn. at pp. 24-25.) Petitioner alleges that the Governor failed to give any weight to her experience of intimate partner battering, much less the "great weight" required by law, in finding that she lacked insight and minimized her responsibility for the crimes. (Petn. at p. 29.) Petitioner alleges that the Governor failed to give adequate consideration to the youth and elderly parole factors. (Petn. at pp. 47-51.) Petitioner also argues that the use of insight as a basis for parole denials is unconstitutional because insight has no empirical nexus to current dangerousness (Petn. at pp. 52-63) and that the Governor's reversal power violates her right to due process (Petn. at pp. 68-77), both arguments that this court is bound to deny.[3]

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This court is cognizant of the Court of Appeal's recent opinion rejecting the Governor's reliance on lack of insight as the basis for reversing the Board's grant of parole to Petitioner's co-conspirator and co-perpetrator Leslie Van Houten. (In re Van Houten (2023) 92 Cal.App.5th 1 (Van Houten).) On August 16, 2023, the court requested an informal response addressing: (1) the applicability of Van Houten to Petitioner's case; (2) whether the Governor mischaracterized Petitioner's explanation of the causative factors of her conduct in stating that she had not developed sufficient insight (see id. at pp. 33-34); (3) whether the Governor relied on unsupported intuition or subjective perceptions in stating that Petitioner's rehabilitative efforts had not sufficiently reduced her risk for future dangerousness (see id. at pp. 35-37); and (4) the extent to which Van Houten is distinguishable from Petitioner's case, with reference to Presiding Justice Rothschild's dissenting opinion.

On October 2, 2023, Respondent filed an informal response, arguing that Van Houten, supra, 92 Cal.App.5th 1 is distinguishable from Petitioner's case and that the Governor's findings were supported by some evidence in the record. Respondent cautions that the factors to determine parole suitability must be considered on an individual basis. (Response at p. 2.) Respondent notes the dissenting opinion of Presiding Justice Rothschild that Van Houten's record contained some evidence of current dangerousness because she minimized her role in the murders and failed to identify a connection between her relationship with Manson and her subsequent marriage to a man who sought to take advantage of her. (Response at fn. 1; Van Houten, at pp. 41-42 (dis. opn. of Rothschild, P. J.).) Respondent points out that Petitioner's brutality "far exceeded that of Van Houten's." (Response at p. 3.)

Respondent argues that the Governor has the authority to review the record de novo and the discretion to be more stringent or cautious than the Board. (Response at p. 5.) Respondent claims that although the Governor did not rely on the commitment offense alone in reversing Petitioner's parole grant, the crime was such that it could be one of the "rare and particularly egregious cases" in which the crime alone is sufficient to be predictive of current dangerousness.[4] (Response at p. 6.) Respondent contends the Governor did not mischaracterize the evidence that Petitioner lacks sufficient understanding of the causative factors leading to her crime because Petitioner gave inadequate explanations for a series of her conscious decisions over several years, despite accepting responsibility and expressing remorse for the crime itself. (Response at p. 7.) Finally, Respondent argues the Governor did not rely on unsupported intuition or subjective perceptions as to Petitioner's insight, which contained factually identifiable deficiencies in the characterization of her drug use and participation in the murders. (Response at pp. 8-9.)

On November 15, 2023, Petitioner filed a reply, arguing that Van Houten, supra, 92 Cal.App.5th 1 is analogous to Petitioner's case and that there is no rational nexus between Petitioner's commitment offense and her current dangerousness. Petitioner notes that both she and Van Houten had a "sense of loyalty and obligation to Manson" and "no original thoughts or senses of value" when they committed their crimes. (Reply at p. 2.) Petitioner claims that both she and Van Houten reflected on the common causative factors of unstable parental relationships, unhealthy relationships, and poor self-worth. (Reply at p. 2.) Petitioner highlights her exemplary rehabilitative efforts and recognition by the Board for being cooperative, polite, honest, and insightful. (Reply at p. 3.) Petitioner contends that the Governor repeated the same errors as those present in the Van Houten

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reversal decision that the Court of Appeal rejected—the failure to identify any latent underlying causative factor that Petitioner did not adequately address, and the failure to consider Petitioner's repeated acknowledgments that she willingly participated in the murders. (Reply at pp. 4-5.)

Petitioner asserts that the Response impermissibly discusses the commitment offense as a ground for reversal because the Governor did not rely on this ground whatsoever in his decision. (Reply at p. 6.) Petitioner argues that even unusually heinous commitment offenses do not in and of themselves provide some evidence of current dangerousness. (Reply at pp. 6-7.) Petitioner then alleges that Respondent cites inapplicable case law to support its interpretation of Petitioner's insight statements, arguing that the subject in each cited case, unlike Petitioner, lacked a readily identifiable aspect of insight. (Reply at pp. 7-12.) Finally, Petitioner contends that the Governor's refusal to accept her admission of responsibility, understanding of the causative factors, and expression of remorse may not form the basis of a conclusion that she lacks sufficient insight. (Reply at pp. 12-14.)

SUMMARY

Having independently reviewed the documents filed by the parties along with the record and giving due deference to the broad discretion of the Governor in parole matters, the court concludes the record contains "some evidence" to support the Governor's determination that Petitioner currently poses an unreasonable risk of danger to society and that the Governor gave due consideration to all relevant and statutorily-required evidence. Thus, the instant petition challenging the Governor's reversal must be denied.

BACKGROUND AND COMMITMENT OFFENSES

Petitioner's Youth

Petitioner was born in Los Angeles, CA in 1947 to married parents. She lived with her parents and her older stepsister in her early years. According to Petitioner, her stepsister had criminal and addiction problems which kept her parents preoccupied, leading Petitioner to "learn[] to be silent and not say anything about how [she] felt about things." By the time Petitioner was eight years old, her sister was married, pregnant, addicted to heroin, and in and out of the home causing disruption. Petitioner's father was misogynistic and unfaithful, which sent her mother into depression. This indirectly caused Petitioner to eat too much and become overweight. She recalls feeling unsupported by her family. (Comprehensive Risk Assessment ("CRA"), dated Mar. 4, 2022, at p. 2, attached to Petn. as Exh. B.)

When Petitioner was 15 years old, her parents divorced. Petitioner began drinking and her sister introduced her to illicit drugs. Petitioner moved to Alabama with her mother. She felt cut off from all her connections and struggled to make any friends in Alabama. A few years later, she returned to California, graduated high school, returned to Alabama briefly to attend one semester of college, and returned to California again. She then lived with her sister, because she had no money and no "core values or strengths or self-esteem." Her sister's life was

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chaotic and unstable. Petitioner said that her formative experiences left her feeling worthless, unlovable, and different. (CRA at pp. 2-3.) Over time, Petitioner developed a resentment toward her sister who received all the attention. (HT at pp. 15-16.) However, she still gravitated toward her sister because her sister was the only person in the family with whom she could get "any kind of relationship" and she "saw a truth" in her sister. (HT at p. 19.)

Petitioner's Involvement with Manson

Petitioner later met Manson while still living with her sister. Her sister told Manson that he could stay with them in their apartment. Petitioner recalls being attracted to Manson because he seemed to have "great insight" whereas she was lost in life. At some point, Petitioner's sister attempted suicide. Petitioner had hoped to be able to move out from her sister's apartment, but she was never able to do so. In this context, Petitioner saw inspiration in Manson's view of the world. (HT at pp. 22-24.) Petitioner felt that Manson was very attentive and manipulative, making her feel that he understood her. She was 19 years old when she entered into a relationship with Manson. The relationship eventually became a plural relationship with more women. Petitioner felt that Manson "had a plan for [her] life" and surrendered all control, becoming completely dependent on him. Manson isolated her from her family, and he believed he was God. Others joined the group, forming the "Manson Family." They traveled up the West Coast and took drugs including hallucinogens. Manson demanded complete and utter trust in him and was physically and mentally abusive. He was misogynistic and believed women were beneath him. With Manson, Petitioner felt both fear and love, but she did not feel strong enough to stand up to him. (CRA at pp. 4-5.)

Petitioner thought that Manson would change over time if she stayed, but she also accepted his "survivalist to the max" and "racist to the max" beliefs in their entirety. (HT at p. 33; CRA at pp. 5, 9.) Manson did not tolerate dissent—the group members would tell on each other, and dissenters would be punished with threats, humiliation, degradation, or violence. (HT at p. 35.) During their travels, Petitioner engaged in criminal acts directed by Manson, including theft and prostitution. (HT at pp. 28-29; CRA at p. 3.) Manson became paranoid, and the group carried weapons to protect themselves from imagined enemies. (CRA at p. 12-13.) Manson became obsessed with the idea of an apocalyptic race war or revolution. He convinced the group that they had to be the "biggest [and] baddest on the block" to protect themselves. (HT at p. 31; CRA at p. 13.) Eventually, Manson asked Petitioner if she would kill for him, and Petitioner told him that she would. (HT at p. 30.)

The Commitment Offenses

In 1969, Manson believed that he would have to start his imagined race war by killing members of the wealthy white establishment (a group he referred to as "pigs") and making it appear that Blacks had perpetrated the killings. At the time, Petitioner was 21 years old.

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On August 8, 1969, Petitioner, Charles "Tex" Watson, Susan Atkins, and Linda Kasabian broke into the Los Angeles home of actress Sharon Tate Polanski [5] on Manson's orders. Once inside the house, the group murdered Abigail Folger, Wojiciech Frykowski, Jay Sebring, Steven Parent, and Sharon Tate Polanski, who was pregnant at the time. "Substantial amounts of blood and blood trails were found about the property. The word 'Pig' was written in blood on the front door. Examination of the bodies by the coroner revealed that the victims suffered numerous injuries. Tate Polanski suffered 16 stab wounds. Folger was found to have been stabbed 28 times. Sebring's body showed seven penetrating stab wounds and one fatal gunshot wound. Frykowski's body exhibited 51 stab wounds and his scalp had 13 lacerations apparently inflicted with a blunt instrument; Frykowski's body had two gunshot wounds. Parent's body had five gunshot wounds." (Manson, supra, 61 Cal.App.3d at pp. 124-125.) Petitioner was particularly involved in the murder of Folger. As Watson attempted to bind Folger with a length of rope, she was able to escape, and attempted to flee the house. On Watson's order, Petitioner pursued Folger. Petitioner caught Folger outside the house and began stabbing her "again and again until she was . . . begging for her life." As noted, Folger's body ultimately showed 28 distinct stab wounds. (CRA at p. 13.)

Sometime the following day, on August 9, 1969, Petitioner and Atkins told Leslie Van Houten about the murders they had committed the previous night. Van Houten felt left out and wanted to be included in the next murders. Manson then approached Van Houten to ask her if she wanted to participate.[6]

That night, Petitioner, Manson, Watson, Atkins, Kasabian, Van Houten, and Steven Grogan invaded the home of Leno and Rosemary La Bianca, in the Los Feliz area of Los Angeles. Manson and Watson entered first, surprising and tying up the La Biancas. Manson took a wallet from the victims and then instructed Petitioner and Van Houten to enter the home and follow Watson's instructions, while the rest of the group left. Manson had Kasabian plant the wallet in a gas station restroom hoping that it would be discovered by a Black person who would use the credit card and be blamed for the crimes. Watson instructed Petitioner and Van Houten to take Rosemary La Bianca into the bedroom and kill her. The two took Rosemary La Bianca into her bedroom. They each retrieved a knife from the kitchen. They returned to the bedroom, and both began to stab Rosemary La Bianca as she resisted. Rosemary La Bianca could hear her husband being stabbed in the next room by Watson and tried to escape, prompting Van Houten to hold Rosemary La Bianca down while Petitioner stabbed her with such force that the knife blade bent on her collarbone.[7] Rosemary La Bianca could hear her husband pleading for their lives and began to call out to him.[8] Van Houten then called for Watson, who came into the bedroom and stabbed Rosemary La Bianca with a bayonet. In all, Rosemary La Bianca was stabbed 41 times. After the stabbing, Van Houten wiped away any fingerprints. Petitioner remembered that Manson had told her to do something "witchy," so she retrieved a carving fork and stabbed Leno La Bianca's dead body in the stomach. Petitioner then wrote in blood "Death to the Pigs" and "Rise" on the walls and "Helter Skelter" (Manson's name for the race war) on the refrigerator. Altogether, Leno La Bianca was stabbed 13 times and received 14 puncture wounds from the tines of the carving fork. He was found with his face covered with a blood-soaked pillowcase, his hands tied behind his back, an electric cord knotted around his neck, a knife protruding from his neck, the carving fork stuck in his stomach, and the word 'War' carved onto his stomach. (Manson, supra, 61 Cal.App.3d at pp. 125, 133, 227; CRA at p. 13.)

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APPLICABLE LEGAL PRINCIPLES

The Governor is constitutionally authorized to make "an independent decision" as to parole suitability for persons convicted of murder. (Cal. Const., art. V, § 8, subd. (b); In re Rosenkrantz (2002) 29 Cal.4th 616, 660 (Rosenkrantz).) His parole decisions are governed by Penal Code section 3041.2 and section 2402 of title 15 of the California Code of Regulations.[9] The Governor must consider "[a]ll relevant, reliable information available" (§ 2402, subd. (b)), and his decision must not be arbitrary or capricious. (Rosenkrantz, supra, at p. 677.)

Although the Governor must consider the same factors as the Board, he may weigh them differently. (In re Prather (2010) 50 Cal.4th 238, 257, fn. 12 (Prather).) The paramount consideration in making a parole eligibility decision is the potential threat to public safety upon an inmate's release. (Id. at p. 252.) The Governor's decision must be based upon some evidence in the record of the inmate's current dangerousness not merely the presence of a particular factor that may indicate unsuitability. (In re Lawrence (2008) 44 Cal.4th 1181, 1205-1206 (Lawrence).) Only a modicum of such evidence is required. (Id. at p. 1226.) "This standard is unquestionably deferential, but certainly is not toothless, and 'due consideration' of the specified factors requires more than rote recitation of the relevant factors with no reasoning establishing a rational nexus between those factors and the necessary basis for the ultimate decision—the determination of current dangerousness." (Id. at p. 1210.)

Factors tending to show unsuitability for parole include the nature of the commitment offense, a previous record of violence, an unstable social history, sadistic sexual offenses, psychological factors, and institutional behavior constituting serious misconduct. (§ 2402, subd. (c).) Factors tending to show suitability include a lack of a juvenile record, a stable social history, signs of remorse, that the crime was committed due to significant life stress, that the criminal behavior was the result of battered woman syndrome, a lack of a history of violent crime, that the inmate's current age reduces the probability of recidivism, that the inmate has realistic plans for release or marketable skills that can be utilized upon release, and that the inmate's institutional behavior indicates an enhanced ability to be law-abiding upon release. (§ 2402, subd. (d).) The weight and importance of these factors are left to the judgment of the Board and Governor. (§ 2402, subds. (c)–(d).)

In reviewing the decision of the Governor, the court is not entitled to reweigh the circumstances indicating suitability or unsuitability for parole. (In re Reed (2009) 171 Cal.App.4th 1071, 1083.) Instead, "'[r]esolution of any conflicts in the evidence and the weight to be given the evidence are within the authority of the [Governor].' [Citation.]" (Lawrence, supra, 44 Cal.4th at p. 1204, quoting Rosenkrantz, supra, 29 Cal.4th at p. 656.) Thus, unless the inmate can demonstrate that there is no evidence to support the Governor's conclusion that the inmate is a current danger to public safety, the petition fails to state a prima facie case for relief and may be summarily denied. (People v. Duvall (1995) 9 Cal.4th 464, 475.)

DISCUSSION

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The court finds that a modicum of evidence exists to support the Governor's decision that Petitioner poses an unreasonable current risk of danger to society and, if released, a threat to public safety. The court rejects Petitioner's argument that "substantial evidence" of current dangerousness, not merely "some evidence," is required to uphold the Governor's decision. The court agrees with Petitioner and Respondent that the Governor did not rely on the nature of her commitment offense as an independent ground for reversal. The court finds that the evidence in the record concerning Petitioner's lack of insight is distinguishable from the evidence in Van Houten, supra, 92 Cal.App.5th 1, such that the same outcome is not required. Furthermore, the court finds that the Governor gave adequate consideration to the evidence of intimate partner battery and the youth and elderly parole factors in Petitioner's case, as required by law.

Substantial Evidence vs. Some Evidence

Petitioner repeatedly cites People v. Martin (1986) 42 Cal.3d 437 (Martin) for the proposition that when the law requires the Board or Governor to give "great weight" to youth factors or an inmate's experience of intimate partner battering (see Pen. Code, § 4801, subds. (b)(1), (c)), the Board or Governor must grant and affirm parole unless there is "substantial evidence" of current dangerousness. However, the question in Martin was whether the trial court applied the correct standard in affirming the defendant's original sentence after the parole board, pursuant to the procedure outlined in former Penal Code section 1170, subdivision (f)(1),[10] notified the court that the sentence was disparate compared to similar cases and recommended a reduced sentence. (Martin, supra, 42 Cal.3d at p. 440.) The court was required to give "great weight" to the parole board's determination. (Id. at p. 446, citing People v. Herrera (1982) 127 Cal.App.3d 590, 600-601.) Martin held that the trial court was required to accept the determination of disparity unless based on substantial evidence it found the determination erroneous. (Id. at p. 447.) If the sentence was indeed disparate, the trial court was required to recall the sentence unless it found substantial evidence of countervailing considerations to justify the disparity. (Id. at p. 448.)

Petitioner fails to identify any authority that requires the court to apply the same standard to fulfill the requirement to give "great weight" to youth factors or an inmate's experience of intimate partner battering. The Court of Appeal, in a non-binding opinion, previously cited Martin in holding that giving "great weight" to youth factors requires the court to accept those factors as indicating parole suitability unless there is substantial evidence of current dangerousness; however, this opinion was ordered not published when the Supreme Court granted review, and the Supreme Court later dismissed review in light of the Board adopting final regulations governing youth offender parole hearings. (In re Palmer (2018) 27 Cal.App.5th 120, 135-136, review granted and opn. ordered nonpub. Jan. 16, 2019, review dism. Apr. 30, 2020.) Hence, the established "some evidence" standard is the correct standard for the court to apply here.

Nature of the Commitment Offense

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The court may only review the Governor's stated factors for reversal and may not infer factors that might have been relied upon. (In re Roderick (2007) 154 Cal.App.4th 242, 265; In re DeLuna (2005) 126 Cal.App.4th 585, 593.) Here, although the Governor stated that he considered "all of the evidence, as a whole," when he reversed Petitioner's grant of parole, it is true that he did not cite the commitment offense as an independent aggravating factor to argue that the record contained some evidence of current dangerousness. (See Reversal at pp. 3-7; Response at p. 6; Reply at p. 6.) However, the commitment offense indeed fulfills every criterion to be considered especially heinous, atrocious, and cruel. Because the Governor relied on the evidence of Petitioner's lack of insight and minimization of responsibility in relation to the commitment offense as evidence of her current dangerousness, as discussed post, the court must discuss the extraordinary depravity of the commitment offense to provide the relevant context.

A commitment offense may be considered especially heinous, atrocious, or cruel when: (A) multiple victims were attacked, injured, or killed in the same or separate incidents; (B) the offense was carried out in a dispassionate and calculated manner, such as an execution-style murder; (C) the victim was abused, defiled, or mutilated during or after the offense; (D) the offense was carried out in a manner which demonstrates an exceptionally callous disregard for human suffering; and (E) the motive for the crime is inexplicable or very trivial in relation to the offense. (§ 2402, subd. (c)(1)(A)-(E).) Nevertheless, "it is not the circumstance that the crime is particularly egregious that makes a prisoner unsuitable for parole—it is the implication concerning future dangerousness that derives from the prisoner's having committed that crime." (Lawrence, supra, 44 Cal.4th at p. 1213-1214.)

Here, Petitioner conspired and participated in the murder of seven victims—Abigail Folger, Wojiciech Frykowski, Jay Sebring, Steven Parent, Sharon Tate Polanski (pregnant at the time), Rosemary La Bianca, and Leno La Bianca. (§ 2402, subd. (c)(1)(A).) These orchestrated and brutal attacks were carried out in a dispassionate and calculated manner. (§ 2402, subd. (c)(1)(B).) The Family specifically planned to commit high-profile murders so shocking that they would incite an apocalyptic race war. They executed seven strangers with methods that were far more violent than were necessary to kill them. All the bodies were found with numerous gruesome injuries. Some were tied up. After stabbing Rosemary La Bianca, Petitioner painted inflammatory phrases throughout the La Bianca home in blood, part of her interpretation of Manson's instruction to do something "witchy." The Family wanted Blacks to be blamed for the murders, disposing of the La Biancas' wallet strategically to increase the probability of this outcome.

Additionally, Petitioner and her accomplices abused, defiled, and mutilated the victims. (§ 2402, subd. (c)(1)(C).) After Watson took over the task of killing Rosemary La Bianca, Petitioner gratuitously stabbed Leno La Bianca's dead body in the stomach with a carving fork. Leno La Bianca's body was found with his face covered with a blood-soaked pillowcase, his hands tied behind his back, an electric cord knotted around his neck, a knife protruding from his neck, the carving fork stuck in his stomach, and the word "War" carved onto his stomach. The Family killed their victims largely with knives, meaning they had to get close to the victims, stab them repeatedly until they died, and witness the exceedingly bloody aftermath.

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Furthermore, the offense was carried out in a manner which demonstrates an exceptionally callous disregard for human suffering. (§ 2402, subd. (c)(1)(D).) On the first night of the murders, Petitioner chased down a desperate Abigail Folger and stabbed her 28 times, entirely unmoved by her pleas for her life. On the second night, Petitioner and Van Houten subdued Rosemary La Bianca and stabbed her even as she called out to her dying husband who was pleading for their lives.

Lastly, the motive for the crime was inexplicable in relation to the offense. (§ 2402, subd. (c)(1)(E).) Petitioner and her accomplices, as followers of Manson, committed the murders with the objective of inciting a race war which they hoped would destabilize society and bring about the end of civilization. Petitioner and her accomplices intended to start a chain of events that they anticipated would result in the deaths of millions of people and aimed to incite violence on a massive scale. Petitioner subscribed to this disturbing plan and actively worked to realize it. The motive for this crime was outlandish, terrifying, and inexplicable. (§ 2402, subd. (c)(1)(E).) By any measure, Petitioner's commitment offense was especially heinous, atrocious, and cruel.

Lack of Insight and Minimization of Responsibility

The record here contains some evidence to support the Governor's conclusion that Petitioner lacks sufficient insight into at least one causative factor of the commitment offense (Reversal at pp. 4-6), but there is no evidence to support the Governor's conclusion that Petitioner minimizes her responsibility (Reversal at p. 5). Lack of insight and minimization of responsibility are not explicitly listed as unsuitability factors in either Penal Code section 3041 or its corresponding regulations. However, section 2402 allows the Governor to consider "[a]ll relevant, reliable information available," including the inmate's "past and present mental state" and his "past and present attitude toward the crime . . . ." (§ 2402, subd. (b).) The California Supreme Court has "expressly recognized that the presence or absence of insight is a significant factor in determining whether there is a 'rational nexus' between the inmate's dangerous past behavior and the threat the inmate currently poses to public safety." (In re Shaputis (2011) 53 Cal.4th 192, 218 (Shaputis II).) Lack of insight "can reflect an inability to recognize the circumstances that led to the commitment crime; and such an inability can imply that the inmate remains vulnerable to those circumstances and, if confronted by them again, would likely react in a similar way." (In re Ryner (2011) 196 Cal.App.4th 533, 547 (Ryner).) "[T]he finding that an inmate lacks insight must be based on a factually identifiable deficiency in perception and understanding, a deficiency that involves an aspect of the criminal conduct or its causes that are significant, and the deficiency by itself or together with the commitment offense has some rational tendency to show that the inmate currently poses an unreasonable risk of danger." (Id. at pp. 548-549.) An inmate's minimization of responsibility for conduct provides some evidence of a lack of insight and current dangerousness. (In re Shaputis (2008) 44 Cal.4th 1241, 1260, fn. 18 (Shaputis I).)

Lack of Insight re: Maladaptive Relationships

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The Governor found that Petitioner has developed inadequate insight into "her triggers for antisocial thinking and conduct in the context of maladaptive relationships." (Reversal at p. 4.) The Governor noted that Petitioner permitted and tolerated Manson's abuse and manipulation and accepted his racist ideology because she was completely dependent on him and wanted to be accepted by him. (Reversal at p. 4; CRA at pp. 4-5, 9.) The Governor emphasized that Petitioner was not only a victim of Manson but also a significant contributor to Manson's legacy. (Reversal at p. 4.) The Governor recognized that Petitioner's acceptance of responsibility and "candor about the corrosive dynamics of her relationship" with Manson was "an encouraging sign of her developing insight." (Reversal at pp. 4-5.) However, the Governor believed that Petiitoner's account also revealed an "extreme degree" of "distorted thinking" and continued "susceptibility to negative influences," which the Governor considered to be evidence of current gaps in insight. (Reversal at p. 5.)

Throughout the record, Petitioner spoke at length about how her upbringing and character defects led her to gravitate towards Manson and to wholeheartedly devote herself to him. She mentioned multiple times that she had adapted early in life to <u>ignoring</u> her own wishes and that she had no sense of direction when she first met Manson. (HT at pp. 22-24; CRA at pp. 2-3.) When the Board asked Petitioner to describe the character defects that made it easy for her to go along with Manson's violence, she stated that she did not have any self-esteem and that Manson had shut her down and abused her every time she had tried to speak up. (HT at p. 41.) Over time, Petitioner became even quieter than she had been when she lived with her real family. (HT at p. 41.) <u>Petitioner</u> believed that she started to feel anger and resentment after more people joined the Manson Family and she was no longer the primary figure in Manson's life. (HT at p. 41.) Eventually, Petitioner had "absolutely no boundaries of any kind," allowed people to "manipulate [her] in any way," and was so desperate for Manson's validation that she "allowed" herself to become "devoid of any form of morality or real ethics" and even tried to use Manson's philosophy to try to manipulate others to stay in the group. (HT at pp. 41-42.)

Petitioner described her efforts over the last 50 years of her incarceration to try "to locate that bottom that absolutely allowed me to feel nothing and be nothing and see myself as nothing." (HT at p. 42.) She said that she had to face "the cruelty, the callousness, the absolute horrible nature" of herself that allowed her to "become part of a group that was so horrific that human life meant nothing." (HT at pp. 43-44.) She stated that she had since learned to recognize an unhealthy relationship by speaking up, setting boundaries, refusing to suffer abuse, communicating her basic needs, seeking positive feedback, and standing up for herself. (HT at pp. 45-46.) When the Board asked her to articulate the biggest differences between her past and present self, she noted that she now enjoys her own company, pursues her own goals, continually educates herself, engages in conversation and debate with others, forces herself to stand up, and lets people know who she is, whether or not they will accept her. (HT at pp. 46-47.) Petitioner shared that she chooses to sit in the front row and to raise her hand when she attends her Alcoholics Anonymous meetings, calling it "the most difficult thing I have ever done in my life." (HT at p. 47.)

The Court of Appeal in Van Houten, supra, 92 Cal.App.5th at p. 36, held that it is unreasonable to compare an inmate's current reflections about their character defects with their attitudes at the time of their commitment offenses. Van Houten stated during her parole hearing that she had a horrible, predatory feeling when she

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stabbed Rosemary La Bianca, but right after the killing, she had described having a surge of adrenaline and had continued to prepare for the revolution. (Ibid.) The Court of Appeal recognized that this inconsistency was likely the result of Van Houten's realizations about her true feelings during the 50-year interim. (Ibid.) In light of numerous mitigating factors, the Court of Appeal found nothing to indicate that Van Houten's past attitudes remained predictive of her current dangerousness. (Id. at p. 37.)

Here, to the extent that the Governor relies on Petitioner's descriptions of her former self as evidence of gaps in insight, the Governor fails to identify anything in the record to show that Petitioner poses a continuing risk of being influenced to return to antisocial thinking and conduct. Like Van Houten, Petitioner had to describe her thinking at the time of the commitment offense to give context to her insight statements. She described how she became immersed in Manson's world, why she was so attracted to Manson, how horrific and depraved the Manson Family felt to her in retrospect, and how she is no longer the person who could not stand up for herself. Thus, as far as Petitioner's insight into her susceptibility to maladaptive relationships, the court finds no evidence in the record that it remains inadequate.

Lack of Insight re: Conscious Decisions

The Governor found that Petitioner's "account of her time in the Family reflects a significant lack of insight into her own internal processes" that led to her decision to help execute the Family's heinous crimes. (Reversal at p. 5.) The Governor noted that Petitioner described herself as an empty, uncaring, and unfeeling monster who allowed herself to uncritically follow Manson. (Reversal at p. 5.) However, the Governor rejected the Board's characterization of Petitioner as a "homicidal robot" (HT at p. 59), finding that Petitioner had "made a series of conscious decisions over several years to continue her relationship with Mr. Manson, help him consolidate his power, and carry out acts of violence, even when he was not present to enforce them." (Reversal at p. 5.)

It appears that the Board, at least initially, struggled to understand the extent to which Petitioner had been willing to blindly follow Manson and why she did not realize that something was wrong. (HT at p. 54.) When the Board asked Petitioner if she was such a follower that she would have jumped off a building had Manson told her to, Petitioner responded with an unequivocal yes. (HT at pp. 54-55.) Petitioner then elaborated that Manson had demanded absolute trust, and those who did not comply were beaten or thrown out. (HT at p. 55.) Petitioner recalled that the group did "weird things that were supposed to be somehow developing as constant trust for [the idea that] whatever you did, you'd be safe." (HT at p. 55.) She said that Manson used hallucinogens and other drugs as a method of control and manipulation. (HT at p. 56.)

When the Board asked Petitioner if it had ever crossed her mind that she could say no, especially after the first night of murders, Petitioner said, "It's hard to say. I believe that, yes, I'm – I didn't, I didn't really want to go, but I , I – at that time I was – I felt really, really empty inside." (HT at p. 57.) She had earlier admitted that she did not have any hesitation on the second night when Manson told her to get into the car and that she knew what was going to happen. (HT at pp. 39-40.) She added that she "really got rid of anything that was questioning anything anymore." (HT at p. 57.) Petitioner declared that she had "worked on finding what is solid in

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[herself]" and that she has "had to really look at what is right, and what is wrong . . ." since the murders. (HT at p. 60.)

In Van Houten, supra, 92 Cal.App.5th at p. 35, the Court of Appeal found that the Governor's reasons for reversal either flowed from a mere refusal to accept Van Houten's insight statements or did not otherwise withstand scrutiny. The Court of Appeal stated that when "'undisputed evidence shows that the inmate has acknowledged the material aspects of his or her conduct and offense, shown an understanding of its causes, and demonstrated remorse, the Governor's mere refusal to accept such evidence is not itself a rational or sufficient basis upon which to conclude that the inmate lacks insight . . . .'" (Ibid., quoting Ryner, supra, 196 Cal.App.4th at p. 549.)

Here, the court emphasizes that Petitioner was far more involved in the murders than Van Houten, and accordingly, the Governor could reasonably demand that Petitioner demonstrate a commensurate level of insight into all the causative factors that led her to such extraordinary desensitization to human suffering. Specifically, the court agrees with the Governor that Petitioner displayed inadequate insight into the internal processes that drove her conscious decisions to carry out acts of violence even when no other Manson Family members were present to compel her.

Petitioner provided an unsatisfactory explanation of her ability to perpetrate actual deadly violence and to ignore actual human suffering, stating only that she was empty inside and did not question anything. She did not explain what character defects allowed her to transition so readily from merely telling Manson that she would kill for him to subduing actual victims who were screaming, struggling, begging, and uttering their last words. On the first night of the murders, Petitioner chased down Abigail Folger, who was trying to flee, and stabbed her 28 times as she pleaded for her life. Petitioner killed Folger on her own while the other Family members were occupied with other victims. Petitioner did not explain why killing Folger hands-on with such excessive violence and witnessing her pleas did not cause any interruption in her narrative of submitting to Manson's will.

On the second night, Petitioner did not hesitate to commit more murders. She stabbed Rosemary La Bianca with such force that the knife blade bent on her collarbone as she called out to her dying husband who was pleading for their lives. Petitioner did not explain why she remained so committed to these gruesome murders when again confronted with the humanity of her victims. She had a spark of depraved creativity when she remembered Manson's instruction to do something "witchy" and decided to stab Leno La Bianca's dead body with a carving fork. Petitioner did not adequately explain the source of her enthusiasm for the cause which drove her to act consistently without hesitation and to go beyond what was necessary to effect Manson's objective. In fact, Petitioner said, "I felt I was doing what he wanted me to do and that was it." (CRA at p. 14.)

Petitioner did not merely follow instructions. At multiple points, she acted of her own volition to further a cause that she had come to believe in, but she did not demonstrate a thorough understanding of why she was so undeterred from start to finish. Thus, the court finds that the record contains evidence to support the Governor's

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conclusion that Petitioner lacks sufficient insight as to the internal processes that drove her conscious decisions to carry out acts of extreme violence independently.

Minimization of Responsibility

The Governor found that Petitioner minimizes her role in the crimes and shifts disproportionate blame to Manson and others. (Reversal at pp. 5-6.) The Governor emphasized that Petitioner stated that she did not premeditate the murders. (Reversal at p. 5; see CRA at p. 13.) The Governor pointed out that while Petitioner may not have been present for the discussions about the murders, she had willingly participated in weapons training to perpetuate a race war. (Reversal at p. 5.) Moreover, she had willingly traveled to the La Bianca home on the second night of the murders. (Reversal at p. 5.) The Governor also focused on Petitioner's statement that she had to take drugs when she was with the Manson Family, contrasting it with her admission that she had used drugs since the age of 15. (Reversal at p. 6.)

However, the Governor took Petitioner's isolated statements out of context. For example, immediately after stating that she did not premeditate the murders, Petitioner stated that she was responsible for propping up Manson, that she knew she was stabbing, that she was a monster, and that "she had nothing but regret and remorse" for who she was. (CRA at p. 14.) Petitioner took responsibility and declined to blame anyone else for her crimes. (CRA at p. 14.) In her closing statement at her parole hearing, Petitioner again expressed deep remorse, acknowledging the pain and suffering that she created by taking the victims' lives. (HT at p. 73.) The Governor also recognized that Petitioner had demonstrated "effusive remorse" throughout her risk assessment and parole hearing. (Reversal at p. 3.) Thus, the court finds no evidence in the record that Petitioner continues to minimize her responsibility for the crimes.

Overall Findings

Although the Governor erred in some aspects of his findings, there is nevertheless a modicum of evidence that Petitioner lacks sufficient insight into at least one causative factor of the commitment offense, such that there remains a rational nexus between her past behavior and her current dangerousness. Hence, the court finds the record contains some evidence to support the Governor's overall conclusion that Petitioner is unsuitable for parole.

Weighing of the Evidence

The Governor was required to give "great weight" to the youth offender parole factors and to Petitioner's experience of intimate partner battering. (Pen. Code, § 4801, subds. (b)(1), (c).) He was required to give "special consideration" to the elderly parole factors. (Pen. Code, § 3055, subd. (c).) The court finds that the Governor fulfilled these requirements.

Youth Offender Parole Factors

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When an inmate committed his or her controlling offense at 25 years of age or younger, the Governor shall give great weight to the diminished culpability of youth as compared to adults, the hallmark features of youth, and any subsequent growth and increased maturity of the inmate. (Pen. Code, § 4801, subd. (c).)

Here, the Governor recognized that Petitioner was 21 years old at the time of the commitment offense. (Reversal at p. 3.) The Governor noted that Petitioner exhibited several hallmark features of youth, including "impulsivity, immaturity, excessive risk taking, recklessness, low self-control, an imperviousness to negative outcomes, a susceptibility to Mr. Manson's influence, coercion, and abuse, indoctrination into a cult, and a lessened ability to extricate herself from her environment at home and in the Manson group." (Reversal at p. 3, quoting CRA at p. 16.) The Governor praised Petitioner's subsequent growth and increased maturity, as demonstrated by her positive institutional conduct, "considered reflection on her crime," "effusive remorse," and extensive efforts to improve herself in prison. (Reversal at p. 3.) The Governor acknowledged Petitioner's complete lack of serious rule violations, her attainment of college degrees and a certificate in dog training, and her participation in extensive self-help programming. (Reversal at pp. 3-4.) Thus, the Governor appropriately considered the youth offender parole factors.

Status as Survivor of Intimate Partner Battery

The Governor "shall give great weight to any information or evidence that, at the time of the commission of the crime, the prisoner had experienced intimate partner battering . . . ." (Pen. Code, § 4801, subd. (b)(1).) Evidence of intimate partner battery includes the "nature and effects of physical, emotional, or mental abuse upon the beliefs, perceptions, or behavior of victims of domestic violence if it appears the criminal behavior was the result of that victimization." (Pen. Code, § 4801, subd. (a).)

Here, the consideration of Petitioner's experience of intimate partner battering was intertwined with the consideration of the youth offender factors and the commitment offense. The Governor recognized that Petitioner's youth and home environment made her more susceptible to Manson's influence and made it more difficult for her to extricate herself from his control. (Reversal at p. 3.) The Governor acknowledged that Petitioner suffered abuse and manipulation by Manson. (Reversal at p. 4.) The Governor praised Petitioner's "candor about the corrosive dynamics of her relationship" with Manson. (Reversal at p. 5.) Thus, the Governor appropriately considered Petitioner's experience of intimate partner battering.

Elderly Parole Factors

The Elderly Parole Program applies to inmates over the age of 60 who have served a minimum of 25 years of continuous incarceration. (Pen. Code, § 3055, subd. (a).) When considering the release of an elderly inmate, the board shall give special consideration to whether age, time served, and diminished physical condition, if any, have reduced the elderly inmate's risk for future violence. (Pen. Code, § 3055, subd. (c).)

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Here, the Governor stated that Petitioner had not experienced a significant decline in cognitive abilities with age. (Reversal at p. 6.) The Governor noted that Petitioner remained mentally and physically capable of committing crimes similar to the commitment offense despite her decline in physical capacity due to comorbidities. (Reversal at p. 6.) However, the Governor concluded that the most relevant indication of Petitioner's current risk level was her continued lack of insight and coping skills. (Reversal at p. 6.) Thus, the Governor appropriately considered the elderly parole factors.

CONCLUSION

It is not within this court's authority to reweigh the evidence; it is left to the Governor's discretion to determine how the specified factors should be considered and balanced. (Shaputis II, supra, 53 Cal.4th at pp. 210, 221.) "It is irrelevant that a court might determine that evidence in the record tending to establish suitability for parole far outweighs evidence demonstrating unsuitability for parole. As long as the . . . decision reflects due consideration of the specified factors as applied to the individual prisoner in accordance with applicable legal standards, the court's review is limited to ascertaining whether there is some evidence in the record that supports the . . . decision." (Lawrence, supra, 44 Cal.4th at p. 1204.) Only a modicum of such evidence is required. (Id. at p. 1226.)

Here, the Governor's conclusion that Petitioner lacks insight into a causative factor of the commitment offense is supported by a modicum of evidence. The Governor acted within his discretion when he found that Petitioner's lack of insight outweighed any mitigating factors of her parole suitability, such that there remains a rational nexus between her past behavior and her current dangerousness. This court is not entitled to reweigh the evidence before the Governor; rather, it is tasked with determining whether the record contains some evidence in support of the Governor's decision. (Rosenkrantz, supra, 29 Cal.4th at pp. 656, 665-677.) The court concludes that it does.

DISPOSITION

For the foregoing reasons, the petition for writ of habeas corpus is DENIED.

The Clerk is ordered to serve a copy of this order upon Keith Wattley, Esq. and Lilliana Paratore, Esq., as counsel for Petitioner, and upon the Office of the Attorney General, as counsel for Respondent, the Governor of the State of California.

Footnotes:

1 As described in Wikipedia, "the Manson Family (known among its members as the Family) was a commune, gang, and cult led by criminal Charles Manson that was active in California in the late 1960s and early 1970s. The group at its peak consisted of approximately 100 followers, who lived an unconventional lifestyle, frequently using psychoactive drugs, including Benzedrine

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(amphetamine) and hallucinogens such as LSD. Most were young women from middle-class backgrounds, many of whom were attracted by hippie culture and communal living and then radicalized by Manson's teachings." (<https://en.wikipedia.org/wiki/Manson_Family>.)

2 Others implicated in the Tate-LaBianca Murders included Charles Manson, Susan Atkins, Linda Kasabian, Charles "Tex" Watson, and Leslie Van Houten. Manson and Atkins have since died in prison. Kasabian was taken into custody in New Hampshire and was offered immunity in exchange for testifying for the prosecution, which she did. She died in 2023 in Tacoma, Washington. Watson initially fled to Texas and fought extradition to California. Watson went on trial separately in August 1971 and was convicted and sentenced to death. His sentence was later reduced to life with the possibility of parole, and he remains in state custody, having repeatedly been denied parole. Van Houten was also ultimately sentenced to life with the possibility of parole. Beginning in 2016, Van Houten was granted parole five times, each grant being reversed by the Governor at the time. In 2023, she successfully challenged the fifth reversal by the Governor in the Court of Appeal. She has since been released on parole.

3 This court is bound by the decisions of the Supreme Court, which has upheld the use of insight as a basis for denying parole and the Governor's reversal power. (In re Shaputis (2011) 53 Cal.4th 192, 211 (Shaputis II) [recognizing insight to be often probative on the issue of current dangerousness and stating that a Governor's reversal may only be overturned for denial of due process when the evidence leads necessarily to the opposite conclusion], citing In re Lawrence (2008) 44 Cal.4th 1181, 1204-1205, 1212 (Lawrence).)

4 "[T]he statutory and regulatory mandate to normally grant parole to life prisoners who have committed murder means that, particularly after these prisoners have served their suggested base terms, the underlying circumstances of the commitment offense alone rarely will provide a valid basis for denying parole when there is strong evidence of rehabilitation and no other evidence of current dangerousness." (Lawrence, supra, 44 Cal.4th at p. 1211.)

5 Sharon Tate Polanski was married to director Roman Polanski.

6 The facts in this paragraph are taken from In re Van Houten (2004) 116 Cal.App.4th 339, 345, a Fourth District Court of Appeal decision reversing a San Bernardino County Superior Court decision to grant Van Houten's petition for writ of habeas corpus contesting a Board denial of parole. This case was decided before the Supreme Court held that parole denials should be challenged in the court that entered the judgment resulting from the commitment offense, rather than in the county of confinement.

7 In re Van Houten, supra, 116 Cal.App.4th at p. 346.

8 This fact is taken from Petitioner's December 29, 2016 parole suitability hearing transcript, attached to the Response as Exhibit 1, at p. 161.

9 All further undesignated statutory references are to title 15 of the California Code of Regulations.

10 Under the former law, the parole board was to review sentences for disparity with similar cases. If it determined that a sentence was disparate, it was to notify the court, which was then required to hold a hearing for possible resentencing. (Former Pen. Code, § 1170, subd. (f)(1).)

Minute Order prepared by D. Williams on January 23, 2024

CLERK'S CERTIFICATE OF MAILING

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SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES

Criminal Division

Clara Shortridge Foltz Criminal Justice Center Dept. - 100

BH014469 **January 17, 2024**

8:30 AM

In re:
KRENWINKEL, PATRICIA

I, David W. Slayton, Executive Officer/Clerk of Court of the above-entitled court, do hereby certify that I am not a party to the cause herein, and that on this date I served a copy of the above minute order of January 17, 2024 upon each party or counsel named below by placing the document for collection and mailing so as to cause it to be deposited in the United States Mail at the courthouse in Los Angeles, California, one copy of the original filed/entered herein in a separate sealed envelope to each address as shown below with the postage thereon fully prepaid, in accordance with standard court practices.

Dated: January 23, 2024

By: /s/ D. Williams
D. Williams, Deputy Clerk

UnCommon Law 318 Harrison Street, Suite 103 Oakland, CA 94607 Attn: Keith Wattley, Esq. Lilliana Paratore, Esq.	Department of Justice, State of California Office of the Attorney General 300 South Spring St., Suite 1702 Los Angeles, CA 90013 Attn: Jennifer O. Cano, Deputy Attorney General

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