



# In the Missouri Court of Appeals Eastern District

## DIVISION THREE

LAURA KEYS, ) ED113771  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 CITY OF ST. LOUIS, )  
 ) Filed: April 14, 2026  
 Respondent. )

### Appeal from the Circuit Court of the City of St. Louis The Honorable Joseph Patrick Whyte, Judge

#### Introduction

Laura Keys challenged the validity of Proposition R, a citizen’s initiative petition to amend the Charter of the City of St. Louis. Approved by the voters of the City of St. Louis, Proposition R amended the City Charter by, among other things, adding new conflict of interest, outside employment, and lobbying activity regulations for the Board of Aldermen of the City of St. Louis. The circuit court entered summary judgment in favor of the City of St. Louis on the grounds that Keys failed to present a justiciable controversy. We affirm but modify the circuit court’s judgment to one of dismissal without prejudice.

## Factual and Procedural Background

In September of 2021, a group of petitioners submitted an initiative petition, entitled “Petition for Proposition R,” to the City’s Board of Election Commissioners. Proposition R (“Prop R”) proposed various amendments to Article IV of the City Charter that would, among other things:

- Prohibit Alderpersons from taking actions on policies where they have a personal or financial conflict of interest;
- Prohibit Alderpersons from accepting outside employment or entering into a contract that interferes with the discharge of their public duties or creates a conflict of interest that would materially impair the alderperson’s ability to serve the City;
- Prohibit Alderpersons from accepting outside employment or entering into a contract with any party or beneficiary relating to a pending or existing City contract if the Alderperson participated in the negotiation, development, awarding, or management of that contract, or any other matter before the Board of Aldermen;
- Prohibit Alderpersons from soliciting or accepting any money or other thing of value in return for advice or assistance on matters concerning the operation or business of City government or any matter before the Board of Aldermen;
- Prohibit Alderpersons from representing any person or organization for a fee or any other thing of value before the Mayor, Board of Aldermen, member of the

- Board of Aldermen, any department of the City, or any City board, agency, commission, or committee of a City board, agency or commission;
- Prohibit Alderpersons from acting, serving, or registering as a lobbyist to directly or indirectly influence a decision of the City or any department or agency thereof until one year after termination of their service;
  - Require that Alderpersons' financial disclosure statements be open to the public;
  - Prohibit Alderpersons, until the expiration of five calendar years after the conclusion of the aldermanic session in which the Alderperson last served, from attempting to directly or indirectly influence any action in front of any department or agency of the City, or any court, on behalf of any other person in connection with a particular matter in which the City is a party or has a direct and substantial interest, in which the Alderperson participated during their term of service on the Board of Alderman or in which the Alderperson knows or reasonably should know was actually pending under his or her official responsibility as an Alderperson within one year before the termination of his or her service, and which involved a specific party at the time of such participation or the time it was so pending;
  - Create an independent citizen's commission to redraw ward boundaries after each decennial census;
  - Prohibit lobbyists, Alderperson, and others with conflicts of interest from serving on the independent citizen's commission; and

- Prohibit the Board of Aldermen from overturning the will of the people on voting methods for municipal offices without a public vote.

Prop R further empowered the legal counsel of the Board of Aldermen to utilize the City municipal courts to seek fines of no less than \$500 dollars and no greater than \$5,000 dollars per incident against any alderperson in violation of those sections prohibiting conflicts of interest, outside employment, and lobbying activities.

The Board of Election Commissioners certified Prop R to the Board of Aldermen, informing the board that, unless the petition was adopted without amendment, the Board of Election Commissioners would submit the proposal to the voters as a ballot measure.

The Board of Aldermen did not act on Prop R. Consequently, the Board of Election Commissioners placed Prop R on the April 5, 2022, election ballot. The voters of the City approved Prop R. Prop R was then codified as City Ordinance No. 71493, resulting in the amendment of the City Charter in accordance with its terms.

In May of 2022, several members of the Board of Aldermen filed the present action against the City seeking declaratory and injunctive relief concerning Prop R. The petition was amended multiple times over the course of the lawsuit, including a Third Amended Petition in July 2023, which added Keys as a new plaintiff. Keys is a resident and taxpayer of the City, and the alderperson representing the City's 11<sup>th</sup> Ward. The Third Amended Petition remains the operative pleading in the case. In August 2023, the original plaintiffs each voluntarily dismissed their claims against the City, and Keys was left as the sole remaining plaintiff.

In two counts, Keys sought a declaration that Prop R is void and of no force and effect for violating the United States Constitution (pursuant to 42 U.S.C. section 1983), the Missouri Constitution, and various state statutes. Specifically, Keys alleged: (1) Prop R is unlawful and void *ab initio* because the Board of Aldermen did not submit the proposition to the City’s qualified voters, and as such Prop R did not comply with the charter amendment process established by Article VI, section 32(a) of the Missouri Constitution; (2) the redistricting provisions of Prop R are void due to a conflict with Section 82.110 RSMo.; and (3) Prop R is “riddled” with provisions that violate various provisions of the United States Constitution, the Missouri Constitution, and the Missouri Statutes. Keys additionally sought an injunction enjoining the City, temporarily, preliminarily and permanently, from administering and enforcing, or taking steps to administer or enforce any aspect of the provisions of Prop R. As to justiciability, Keys pleaded generally that a “justiciable controversy exists with respect to the legality of [Prop R] under the Missouri Constitution and applicable Missouri law.” She asserted that she would “suffer irreparable harm, damages, and injury unless [Prop R] is declared null and void for violating the United States and Missouri Constitutions and applicable Missouri law.” She additionally pleaded she would be “deprived of her legislative and redistricting authority if [Prop R] is not invalidated and declared null and void, and as such will suffer irreparable harm.”

Both parties moved for summary judgment. The City moved for summary judgment on the grounds that: (1) Keys had no justiciable controversy because her claims were not ripe and she lacked standing to assert the claims in the Third Amended Petition;

and (2) notwithstanding the lack of a justiciable controversy, Prop R is in harmony with state law and the Missouri and United States Constitutions.

After hearing arguments on the cross motions for summary judgment, the circuit court entered summary judgment in the City’s favor on the grounds that Keys failed to present a justiciable controversy. Specifically, the circuit court held that Keys – whether as a private citizen or as an alderperson – “failed to provide any evidence that she has suffered or will imminently suffer harm...” resulting from Prop R. The circuit court denied the remainder of the City’s motion for summary judgment as moot. The circuit court also denied Keys’s motion for summary judgment as moot.

Keys now appeals. In one point on appeal, she alleges the circuit court erred in granting the City’s motion for summary judgment because, she contends, the summary judgment record establishes that she presented a justiciable controversy, in that evidence supports that she has a reasonable concern that her normal legislative activities may constitute a violation of Prop R that would subject her to prosecution and penalties. Keys solely challenges the trial court’s ruling finding a lack of justiciable controversy with respect to her status as an alderperson. She does not appeal the trial court’s ruling finding that she failed to present a justiciable controversy with respect to her status as a private citizen.

### **Standard of Review**

This case involves the question of whether a justiciable controversy exists. The case also involves a summary judgment. Review of both aspects of the case is *de novo*. Whether a justiciable controversy exists is a question of law that we review *de novo*.

*Schweich v. Nixon*, 408 S.W.3d 769, 773 & 778 (Mo. banc 2013) (applying *de novo* review to both standing and ripeness issues); *accord Bray v. Lee*, 620 S.W.3d 278, 281 (Mo. App. E.D. 2021) (standing). A challenge to the presence of a justiciable controversy requires the court to consider the petition along with any other undisputed facts to determine whether the petition should be dismissed. *Mathews v. FieldWorks, LLC*, 696 S.W.3d 382, 392 (Mo. App. E.D. 2024). Challenges may therefore be raised in a motion to dismiss (which is limited to a review of the assertions in a petition, all of which are deemed to be true for purposes of the motion) or in a motion that requires the court to consider matters outside the pleadings, including, for example, a motion for summary judgment. *Id.*

“Appellate review of summary judgment is *de novo*.” *Roberts v. BJC Health Sys.*, 391 S.W.3d 433, 437 (Mo. banc 2013). “Summary judgment is appropriate when the moving party has demonstrated, on the basis of facts as to which there is no genuine dispute, a right to judgment as a matter of law.” *Id.*; Rule 74.04(c). The circuit court’s order granting summary judgment may be affirmed under any theory supported by the record. *Roberts*, 391 S.W.3d at 437.

### Discussion

“To grant a declaratory judgment, the court must have before it a justiciable controversy.” *Akin v. Dir. of Revenue*, 934 S.W.2d 295, 298 (Mo. banc 1996); *Missouri All. for Retired Americans v. Dep’t of Lab. & Indus. Rels.*, 277 S.W.3d 670, 676 (Mo. banc 2009). “The petition must present a real, substantial, presently existing controversy

admitting of specific relief as distinguished from an advisory or hypothetical situation.”  
*Akin*, 934 S.W.2d at 298 (internal quotation omitted).

In the context of a declaratory judgment action, a justiciable controversy exists where: (1) the plaintiff has a legally protectable interest at stake; (2) a substantial controversy exists between parties with genuinely adverse interests; and (3) that controversy is ripe for judicial determination. *Mercy Hosps. E. Cmty. v. Mo. Health Facilities Rev. Comm.*, 362 S.W.3d 415, 417 (Mo. banc 2012). The first two elements jointly comprise the concept of standing, while the latter described ripeness. *Schweich*, 408 S.W.3d at 773. Both are necessary components to any justiciable controversy. “[J]usticiability requires that the plaintiff’s claim is ripe and that the plaintiff has standing to bring the underlying claim.” *Mercy Hosps. E. Cmty.*, 362 S.W.3d at 417-18.

Generally, “most courts tend to address standing first and reach the ripeness issue only if standing requirements are satisfied.” *Schweich*, 408 S.W.3d at 774. There are instances, however, where courts will address ripeness before standing. *See, e.g., Mercy Hosps. E. Cmty.*, 362 S.W.3d at 418. In some instances, the courts solely address ripeness, for “even if a party is able to demonstrate standing, the merits of the case will not be reached unless the issues are ripe.” *S.C. v. Juv. Officer*, 474 S.W.3d 160, 163 (Mo. banc 2015). The issue of ripeness is dispositive in this case, and thus we confine our discussion solely to that issue. The parties dispute whether Keys has standing. “Reduced to its essence, standing roughly means that the parties seeking relief must have some personal interest at stake in the dispute, even if that interest is attenuated, slight or remote.” *Ste. Genevieve School District R II v. Board of Aldermen of City of Ste.*

*Genevieve*, 66 S.W.3d 6, 10 (Mo. banc 2002). However, even if we were to determine Keys has standing to bring this declaratory judgment action, the controversy here is not ripe for judicial determination.

“Ripeness is a ‘tool’ of the court, which is used to determine whether a controversy is ‘ripe’ or ready for judicial review, or whether by conducting the review, we would simply be rendering an advisory opinion on some future set of circumstances, which we are not permitted to do.” *Reeves v. Kander*, 462 S.W.3d 853, 857 (Mo. App. W.D. 2015) (internal quotation omitted). “A ripe controversy is a controversy of sufficient immediacy and reality to warrant the issuance of a declaratory judgment.”

*Missouri Health Care Ass’n v. Att’y Gen. of the State of Mo.*, 953 S.W.2d 617, 621 (Mo. banc 1997). “A ripe controversy exists if the parties’ dispute is developed sufficiently to allow the court to make an accurate determination of the facts, to resolve a conflict that is presently existing, and to grant specific relief of a conclusive character.” *Id.* “Ripeness does not exist when the question rests solely on a probability that an event will occur.” *S.C.*, 474 S.W.3d at 163 (internal quotation omitted).

When the challenge involves the constitutional validity of a statute (or in this case a city ordinance), “a ripe controversy generally exists when the state attempts to enforce the statute.” *Missouri Health Care Ass’n*, 953 S.W.2d at 621; *Bldg. Owners & Managers Ass’n of Metro. St. Louis, Inc. v. City of St. Louis, Mo.*, 341 S.W.3d 143, 149 (Mo. App. E.D. 2011) (challenge to city ordinance). Keys admits that she has not been subjected to a municipal prosecution brought pursuant to Prop R. and she advances no allegation that a prosecution is forthcoming. Further, the City admits there have been no enforcement

actions for Prop R in the municipal courts. The City relies on the fact that Keys did not adduce evidence that Prop R has been enforced against her or anyone else, or that legal counsel for the Board of Aldermen has initiated a prosecution or intends to initiate a prosecution under Prop R. The fact that the City has not enforced or may not even be prepared to enforce Prop R against Keys, or anyone else, does not, in and of itself, make this action premature. *Bldg. Owners & Managers Ass'n of Metro. St. Louis*, 341 S.W.3d at 149. Prop R affects the aldermen, and the aldermen must assume the City will enforce its laws. *Id.*; *Tietjens v. City of St. Louis*, 222 S.W.2d 70, 72 (Mo. banc 1949); *Planned Parenthood of Kansas v. Nixon*, 220 S.W.3d 732, 739 (Mo. banc 2007). A ripe controversy may exist before the law is enforced. Even when the state has not enforced or is even prepared to enforce the law, courts have still found pre-enforcement challenges to be ripe in certain situations. *Planned Parenthood of Kansas*, 220 S.W.3d at 740; *Tietjens*, 222 S.W.2d at 72 (action was ripe even where city was not prepared to enforce the ordinance and the plaintiffs had not yet actually violated the ordinance); *accord Bldg. Owners & Managers Ass'n of Metro. St. Louis*, 341 S.W.3d. at 149 (holding a controversy was ripe when the ordinance changed the way business association members had to conduct business, even though statutory enforcement had not occurred). “Parties need not subject themselves to a multiplicity of suits or litigation or await the imposition of penalties under an unconstitutional enactment in order to assert their constitutional claim for an injunction ... [o]nce the gun has been cocked and aimed and the finger is on the trigger, it is not necessary to wait until the bullet strikes to invoke the Declaratory Judgment Act.” *Planned Parenthood of Kansas*, 220 S.W.3d at 739 (internal quotation

omitted). The Supreme Court of Missouri has repeatedly “rejected the notion a person must violate the law to create a ripe controversy.” *Alpert v. State*, 543 S.W.3d 589, 594 (Mo. banc 2018).

Pre-enforcement constitutional challenges to laws are ripe when the facts necessary to adjudicate the underlying claims are fully developed and the laws at issue are affecting the plaintiffs in a manner that gives rise to “an immediate, concrete dispute.” *Missouri Health Care Ass’n*, 953 S.W.2d at 621. “Cases presenting predominantly legal questions are particularly amenable to a conclusive determination in a pre-enforcement context, and generally require less factual development.” *Planned Parenthood of Kansas*, 220 S.W.3d at 739 (internal quotation omitted).

This case presents predominantly legal questions. Keys seeks a declaration that Prop R is void and of no force and effect for violating the United States Constitution, the Missouri Constitution, and various state statutes. Keys, in responding to the City’s challenge to ripeness, claims the facts are sufficiently developed. The City does not expound on what additional facts are necessary to adjudicate the claims in Keys’s Third Amended Petition. We need not determine whether the necessary facts are fully developed, however. Even if they are, Keys’s assertion that this case is ripe nevertheless fails for the lack of an “immediate, concrete dispute.”

Keys, in her petition, generally pleaded that she would “be deprived of [her] legislative and redistricting authority” if Prop R was not invalidated and declared null and void. In the course of summary-judgment proceedings, Keys argued that Prop R subjects her to fines for violations. Indeed, Prop R empowers the legal counsel of the Board of

Aldermen to utilize the City municipal courts to seek fines against any alderperson in violation of those sections prohibiting conflicts of interest, outside employment, and lobbying activities (Sections 31, 32, and 33). The only provisions Keys identified as being potentially violated as a result of her activities as an alderperson, or as constituting any potential harm to her are Sections 32A, 32C, 32D, and Section 33. We first address Section 33.

Section 33, titled “Prohibited Activities,” only applies to conduct after the conclusion of an alderperson’s term of service. In sum, Section 33A prohibits lobbying until one year after serving as an alderperson.<sup>1</sup> Sections 33B and 33C prohibit attempts to influence an agency or department in certain circumstances for a period of five years after serving as an alderperson.<sup>2</sup> Though Section 33 applies to currently-serving alderpersons

<sup>1</sup> In full, Section 33A provides:

After November 12, 2021, no Alderperson or employee of the Board of Alderpersons shall act, serve, or register as a lobbyist to directly or indirectly influence a decision of the City or any department or agency thereof until one year after termination of their service or employment.

<sup>2</sup> In full, Section 33B provides:

After November 12, 2021, no Alderperson or employee of the Board of Alderpersons, until the expiration of five calendar years after the conclusion of the aldermanic session in which the Alderperson or employee last served, shall attempt to directly or indirectly influence any action in front of any department or agency of St. Louis City, or any court, on behalf of any other person in connection with a particular matter:

1. In which the City of St. Louis is a party or has a direct and substantial interest;
2. In which the Alderperson or employee participated during their term of service or employment at the Board of Alderpersons; and
3. Which involved a specific party or specific parties at the time of such participation.

And Section 33C provides in full:

After November 12, 2021, no Alderperson or employee of the Board of Alderpersons, until the expiration of five calendar years after the conclusion of the aldermanic session in which the Alderperson or employee last served, shall attempt to directly or indirectly

such as Keys, it concerns conduct after the conclusion of an alderperson's term of service. There is no evidence or allegation that Keys's term of service as an alderperson has or is coming to an end. There is no evidence or allegation that Keys plans to serve as a lobbyist or attempt to influence an action in the future. There is no immediate, concrete dispute here. Rather, any dispute would be speculative and hypothetical.

Turning, then, to Section 32, titled "Outside Employment." Section 32A provides that:

An Alderperson ... shall not accept employment or enter into a contract

that:

1. Interferes with the discharge of their public duty; or
2. Creates a conflict of interest as described in Section 31, that would materially impair their ability to serve the city

Section 32C provides in relevant part that:

An Alderperson ... shall not solicit or accept any money or other thing of value in return for advice or assistance on matters concerning the operation or business of City government or any matter before the Board of Alderpersons.

Section 32D provides in relevant part that:

An Alderperson ... shall not represent any person or organization for a fee or any other thing of value before the Mayor, Board of Alderpersons, member of the Board of Alderpersons, any department of the City, or any

influence any action in front of any department or agency of St. Louis City, or any court, on behalf of any other person in connection with a particular matter:

1. In which the City of St. Louis is a party or has a direct and substantial interest;
2. In which the Alderperson or employee knows or reasonably should know was actually pending under his or her official responsibility as such officer or employee within a period of one (1) year before the termination of his or her service or employment with the Board of Alderpersons; and
3. Which involved a specific party or specific parties at the time it was so pending.

City board, agency, commission, or committee of a City board, agency or commission.<sup>3</sup>

It is undisputed that Keys serves in her official capacity to represent residents of the 11<sup>th</sup> Ward and persons who reside elsewhere in the city. It is also undisputed that Keys routinely advocates before city agencies on behalf of her constituents and city residents.

Keys argues her normal aldermanic activities, representing her constituents and the citizens generally, are affected by these above-noted provisions. She expresses a concern that her aldermanic activities may violate these provisions. She contends Section 32 impairs her ability to advocate for her constituents before City agencies. She claims she is chilled by Prop R because, she contends, the language prohibits her from representing her constituents and citizens generally, with respect to important legislation for which various city agencies are responsible for performing. By way of example, Keys posits that “goodwill and political support” from her constituents is something of “value.” She thus argues that Section 32D, which prohibits alderpersons from representing anyone for a fee or *any other thing of value* before any City department or agency, prohibits her from advocating for the people she represents before City agencies.

Keys’s concerns regarding Section 32 all involve her normal, routine aldermanic activities representing her constituents and the citizens of St. Louis generally. But the provisions of Section 32 concern outside employment. Keys has not pleaded, argued, or presented evidence that she currently has outside employment, or that she is planning on

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<sup>3</sup> Sections 32A, 32C, and 32D also apply to employees of the Board of Aldermen.

accepting, or even seeking, outside employment. Thus, there is no evidence in the record that Keys has accepted or plans on accepting employment that would violate the terms of Section 32. Keys lists a number of agencies she appears in front of, but the record shows that all of her work in front of these agencies is performed on behalf of the community, as opposed to being performed as employment for any particular person. Read in its entirety, Section 32 has no effect on the routine legislative functions of an alderperson. Section 32 is to prevent outside employment from presenting conflicts of interest whereby alderpersons could be simultaneously representing their constituents and at the same time accepting compensation from particular individuals to advance individual interests. Keys has not established that she is currently engaged in such activities or that she has reasonable plans to engage in such activity in the future. Nor has she alleged that she intended to engage in conduct proscribed by Prop R, but chose not to due to the illegality of the conduct. *See Jones v. Jegley*, 947 F.3d 1100 (8<sup>th</sup> Cir. 2020). Further, Keys acknowledged at oral arguments before this Court that she continues to advocate for her constituents. There is no immediate, concrete dispute here. Rather, any dispute involving Section 32 would be speculative and hypothetical.

Keys relies on *Tupper v. City of St. Louis*, 468 S.W.3d 360 (Mo. banc 2015), a declaratory judgment action challenging a red-light traffic ordinance, found to be ripe. The *Tupper* plaintiffs were not currently facing prosecution under the city's ordinance. Nevertheless, the Court found plaintiffs' pre-enforcement challenge to the validity of ordinance sufficiently ripe because it presented predominately legal questions, the ordinance had already affected plaintiffs in that they were previously subject to

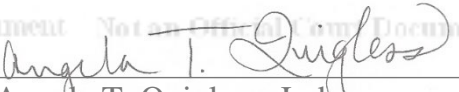
prosecutions under the ordinance, and because the plaintiffs were still subject to the ordinance because the city was currently enforcing the ordinance. *Tupper*, 468 S.W.3d at 370. There are factual differences between *Tupper* and the instant case. Particularly, unlike the *Tupper* plaintiffs, Keys has not been subjected to prosecution. Further, the City in *Tupper* was currently enforcing the ordinance, whereas here the City has yet to bring an enforcement action. Nonetheless, as discussed above, whether the City has enforced or is even prepared to enforce Prop R is not the determinative issue here. Keys's petition fails because she failed to include any pleadings to show the existence of an immediate, concrete dispute, so as to bring her within the umbrella of allowable pre-enforcement challenges.

Keys has not shown that Prop R affects her in a manner giving rise to an immediate, concrete dispute. Rather, this case presents the kind of hypothetical or speculative situation that may never come to pass that the courts of Missouri have declined to adjudicate based on the lack of a ripe controversy. A declaratory judgment is "not available to adjudicate hypothetical or speculative situations that may never come to pass." *Missouri Soybean Ass'n v. Missouri Clean Water Comm'n*, 102 S.W.3d 10, 25 (Mo. banc 2003). The request here is really a request for an advisory opinion. It is well-settled that Missouri courts do not render advisory opinions or determine speculative issues for the benefit of other cases arising in the future. *Reeves*, 462 S.W.3d at 859; *Pinkowski v. Washington Univ.*, 451 S.W.3d 354, 358 (Mo. App. E.D. 2014).

## Conclusion

A ripe controversy does not exist here. The circuit court correctly determined that Keys failed to present a justiciable controversy. The circuit court technically erred, however, in granting summary judgment in favor of the City instead of simply dismissing the petition. Disposing of a case for lack of a justiciable controversy is not a disposition of the merits of the case. *See Klenc v. John Beal, Inc.*, 484 S.W.3d 351, 354 (Mo. App. E.D. 2015) (standing case). Thus, is it not appropriate to enter summary judgment – an inherently merits-based disposition – when there is no justiciable controversy. *Id.* Even if the lack of a justiciable controversy is raised in a motion for summary judgment, the court must still enter dismissal as opposed to summary judgment. *Id.*; *Borges v. Mo. Pub. Entity Risk Mgmt. Fund*, 358 S.W.3d 177, 183 (Mo. App. W.D. 2012); *Sunshine & Gov't Accountability Project v. Missouri House of Representatives*, 688 S.W.3d 704, 719 (Mo. App. W.D. 2024).

Accordingly, we exercise our discretion pursuant to Rule 84.14 to give such judgment as the court ought to give. *See, e.g., Borges*, 358 S.W.3d at 183-84; *Mathews*, 696 S.W.3d at 400-01 (modifying judgment where circuit court properly determined the plaintiff lacked standing but granted summary judgment instead of dismissing petition). The circuit court's judgment is modified to state that Keys's Third Amended Petition is dismissed without prejudice. The circuit court's judgment as modified is affirmed.

  
Angela T. Quigless, Judge

Renee D. Hardin-Tammons, Presiding Judge, and Thomas C. Clark, II, Judge, concur.

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