

STATUTES – STATUTES AS A WHOLE: THE COURT’S ORDINARY MEANING OF MENTAL INJURY

State v. Castleman, 2022 ND 7, 969 N.W.2d 169.

ABSTRACT

In *State v. Castleman*, the North Dakota Supreme Court interpreted a North Dakota statute and defined the meaning of the term “mental injury” in criminal law cases. Brent Castleman was charged with three counts of child abuse, including abuse of a child under the age of six by willfully inflicting mental injury to the child. The State alleged that Castleman inflicted mental injury on the child by assaulting the child’s mother while in view of the child. At trial, the jury asked for a definition of mental injury. After the district court instructed the jury to apply its collective understanding of mental injury, the jury returned a guilty verdict. Castleman appealed the judgment arguing the State did not find sufficient evidence to establish that he inflicted a mental injury. The North Dakota Supreme Court first looked to North Dakota Century Code section 14-09-22, which states that a person may be convicted for causing mental injury or bodily injury to a child. The court must construe statutes as a whole and harmonize the statute to give meaning to related provisions. Although the statute provided three variations of bodily injury, the statute did not define mental injury. Mental injury is not a term commonly used or defined to have a consistent common understanding. As such, the court found that a jury could not apply its own definition. The court compared mental injury with the definition of bodily injury and found the results inconclusive. The court indicated that if legislation intended to include a broad spectrum of child abuse through mental injury, it must do so with specificity. The court *held* that the ordinary meaning of mental injury required mental suffering and trauma with a lasting, non-transitory effect. Additionally, the court *held* that mental injury may be shown by medical diagnosis, counseling, behavioral changes, or other lasting effects of trauma. Under the newly defined ordinary meaning of mental injury, the court reversed the criminal judgment. Justice McEvers concurred with the majority opinion, adding that children raised in the presence of domestic violence tend to experience long-term negative effects that may impact their mental well-being. *State v. Castleman* provides North Dakota practitioners with the scope for a claim of child abuse by mental injury in criminal cases, which may find its way into other statutes involving mental injury.

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I. FACTS

In *State v. Castleman*,¹ the State charged Brent Castleman (“Castleman”) “with four counts of child neglect and six counts of child abuse.”² The district court dismissed all counts of child neglect due to a lack of probable cause, and the court also granted Castleman’s motion to dismiss three of the six child abuse counts.³ Castleman went to trial for the three remaining counts of child abuse, including willful infliction of a mental injury on a child under the age of six, a class B felony.⁴ The State alleged that Castleman inflicted a mental injury on the child by assaulting the child’s mother while in the child’s view.⁵

The mother testified Castleman entered the child’s bedroom, yelled at her, grabbed her neck, and pushed her face into a pillow while the child was on the bed next to her.⁶ The mother also testified the child was scared, shaking, and crying.⁷ The mother provided audio that she recorded of the incident, and the child was heard crying during the recording.⁸ The State did

1. 2022 ND 7, 969 N.W.2d 169.

2. *Castleman*, 2022 ND 7, ¶ 2, 969 N.W.2d 169.

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.* ¶ 3.

7. *Id.*

8. *Id.*

not introduce testimony from counselors or other mental health professionals, nor did the State offer medical records or mental health disorder diagnoses.⁹

During deliberation, the jury asked for the definition of mental injury, and the court directed the jury to apply their collective understanding of the term using the provided instructions.¹⁰ The jury found Castleman guilty on the count of child abuse by mental injury.¹¹ Castleman appealed the criminal judgment to the North Dakota Supreme Court claiming there was insufficient evidence to support that he inflicted a mental injury on the child.¹²

II. LEGAL BACKGROUND

Before determining the ordinary meaning of mental injury, the North Dakota Supreme Court briefly addressed its process for reviewing a claim of insufficient evidence and the preservation of statutory interpretation on appeal.¹³ The court also discussed its standard of review for statutory interpretation, including its tools of interpretation.¹⁴

A. SUFFICIENCY OF THE EVIDENCE

The State argued that a defendant could not bring a sufficiency of the evidence claim when the defendant failed to object to the jury instructions or offer a definition for a term.¹⁵ The State added that “jury instructions become the law of the case” when a defendant fails to object, and the parties are thus bound by the jury’s definition of “mental injury.”¹⁶ The North Dakota Supreme Court addressed whether a defendant could bring a sufficiency of the evidence claim in *State v. O’Toole*.¹⁷ The *O’Toole* court stated a defendant may preserve a sufficiency of the evidence claim by moving for a judgment of acquittal under N.D.R.Crim.P. 29 within fourteen days of a guilty verdict.¹⁸ In addition to a claim of insufficient evidence, its related statutory interpretation is also preserved for appeal.¹⁹

9. Amended Brief of Appellant ¶ 21, *Castleman*, 2022 ND 7, 969 N.W.2d 169 (No. 20210011).

10. *Castleman*, 2022 ND 7, ¶ 4, 969 N.W.2d 169.

11. *Id.*

12. *Id.* ¶ 1.

13. *Id.* ¶ 5.

14. *Id.* ¶¶ 6, 8.

15. *Id.* ¶ 5.

16. Appellee’s Brief ¶ 11, *Castleman*, 2022 ND 7, 969 N.W.2d 169 (No. 20210011) (citing *Baatz v. State*, 2013 ND 172, ¶ 7, 837 N.W.2d 387).

17. *State v. O’Toole*, 2009 ND 174, ¶ 7, 773 N.W.2d 201.

18. *Id.* ¶ 8; N.D.R.Crim.P. 29(c)(1) (“A defendant may move for a judgment of acquittal, or renew such a motion, within 14 days after a guilty verdict or after the court discharges the jury, whichever is later.”).

19. *Castleman*, 2022 ND 7, ¶ 5, 969 N.W.2d 169.

When reviewing the sufficiency of the evidence, the North Dakota Supreme Court reviews evidence in the light most favorable to the verdict and to the prosecution.²⁰ The court will not weigh conflicting evidence or assess the credibility of witnesses.²¹ A conviction is reversed for insufficient evidence when “no rational fact finder could find the defendant guilty beyond a reasonable doubt.”²²

The court had to determine whether there was sufficient evidence of “mental injury” to find Castleman guilty of child abuse under section 14-09-22(1) of the North Dakota Century Code (“N.D.C.C.”).²³ Under the statute, a person is guilty of child abuse when they are “a parent . . . who willfully inflicts or allows to be inflicted upon the child mental injury or bodily injury, substantial bodily injury, or serious bodily injury as defined by section 12.1-01-04.”²⁴

B. TOOLS OF STATUTORY INTERPRETATION

The North Dakota Supreme Court stated its well-established standard of review for issues of statutory interpretation.²⁵ Statutory interpretation is a question of law where a judge decides the issue.²⁶ A court must construe the statute as a whole and harmonize the statute to give meaning to related provisions.²⁷ When a statutory provision conflicts with another provision, a court must construe the two to give effect to both provisions.²⁸ Additionally, a court must consider the context and purpose for which the statutes were enacted.²⁹

The first tool of statutory interpretation that the North Dakota Supreme Court used to define “mental injury” was section 01-02-02 of the N.D.C.C.³⁰ Section 01-02-02 mandates that courts use the ordinary meaning of a word except when a statute plainly states otherwise.³¹ When a statute does not have a corresponding definition for a term, the court may apply statutory

20. *O'Toole*, 2009 ND 174, ¶ 8, 773 N.W.2d 201 (quoting *State v. Noorlun*, 2005 ND 189, ¶ 20, 705 N.W.2d 819).

21. *Id.*

22. *Id.*

23. *Castleman*, 2022 ND 7, ¶ 7, 969 N.W.2d 169.

24. N.D. CENT. CODE § 14-09-22(1) (2022).

25. *Castleman*, 2022 ND 7, ¶ 8, 969 N.W.2d 169 (quoting *State v. Nupdal*, 2021 ND 200, ¶ 5, 966 N.W.2d 547).

26. *Id.*

27. *Id.*

28. *Id.*

29. *Id.*

30. *Id.* ¶ 9.

31. N.D. CENT. CODE § 01-02-02 (2022) (“Words used in any statute are to be understood in their ordinary sense, unless a contrary intention plainly appears . . .”).

definitions from other jurisdictions to help define a term's ordinary meaning.³²

Previously, the North Dakota Supreme Court addressed a similar use of section 01-02-02 in jury trials.³³ When considering the evidence, the jury may apply its common knowledge to facts and circumstances.³⁴ In *O'Toole*, the court found that the term "create" was not ambiguous because its ordinary meaning could be found in a dictionary.³⁵ The court stated a jury may use any reasonable definition of a common word when a definition is not provided to it in the instructions.³⁶

Another tool of statutory interpretation is found in *Motisi v. Hebron Public School District*,³⁷ which states that courts must read statutes as a whole by comparing each section of the statute to the whole.³⁸ By using this tool, the court may convert the statutory definition of a term to define the ordinary meaning of another term in the same statute if they are similar enough.³⁹

The court also acknowledged the legislature's role in forming the statute.⁴⁰ When the ordinary meaning of a term is not clear, the court must look to the context of the statute and the purpose for which the legislature enacted the statute.⁴¹ If the legislature intended the statute to include a broad scope of behaviors to be considered child abuse, then the legislature must do so with specificity.⁴² However, if the legislature did not expressly provide the scope for child abuse, a court must find what behavior a reasonable person would consider child abuse.⁴³

III. COURT'S ANALYSIS

The North Dakota Supreme Court held that the ordinary meaning of "mental injury" requires mental suffering and trauma with some lasting, non-transitory effect.⁴⁴ The mental injury may be evidenced by "a medical

32. *Castleman*, 2022 ND 7, ¶ 9, 969 N.W.2d 169.

33. *See State v. O'Toole*, 2009 ND 174, ¶ 11, 773 N.W.2d 201.

34. *Id.* ¶ 12.

35. *Id.* ¶ 11 (citing Webster's Third New Int'l Dictionary 532 (2002)).

36. *Id.* ¶ 12.

37. 2021 ND 229, 968 N.W.2d 191.

38. *Motisi*, 2021 ND 229, ¶ 13, 968 N.W.2d 191; *State v. Castleman*, 2022 ND 7, ¶ 13, 969 N.W.2d 169.

39. *Castleman*, 2022 ND 7, ¶ 13, 969 N.W.2d 169.

40. *Id.*

41. *Id.* ¶ 8.

42. *Id.* ¶ 13.

43. *Id.* ¶ 15; *see Walton v. N.D. Dept. of Hum. Serv.*, 552 N.W.2d 336, 341 (N.D. 1996) (holding that no reasonable person could find serious physical harm or traumatic emotional abuse when the parents struck their children with their hands and called them stupid).

44. *Castleman*, 2022 ND 7, ¶ 16, 969 N.W.2d 169.

diagnosis, counseling, behavioral changes, or other lasting effects of psychological, emotional, or other mental trauma.”⁴⁵ Under the newly defined ordinary meaning of “mental injury,” the court held that Castleman did not inflict a mental injury on the child because there was no evidence of any lasting effect on the child.⁴⁶

A. THE MAJORITY’S INTERPRETATION OF “MENTAL INJURY”

The court first looked at the parties’ arguments to see what they suggested as a definition for “mental injury.” Castleman argued the court should apply Minnesota’s definition because it provides objective criteria for the court to consider.⁴⁷ The Minnesota statute defined a “mental injury” as “an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in the child’s ability to function within a normal range of performance and behavior.”⁴⁸

In using the tools of statutory interpretation, the court concluded that “mental injury” was not a commonly used word or phrase.⁴⁹ The court reasoned that “mental injury” is not a simple action verb for which a jury would share a widely accepted, reasonable definition.⁵⁰ Unlike “create” or “obtain,” which were terms previously left to the jury’s common knowledge, “mental injury” is not a common term with a consistent dictionary definition.⁵¹ Black’s Law Dictionary and Webster’s Third New International Dictionary did not contain a definition of the term “mental injury.”⁵² As such, the court broke the term into its component parts, “mental” and “injury,” and defined the parts independently.⁵³ It found that the combination of both terms included “any harm relating to the mind, whether brief or lasting, and whether mild or severe.”⁵⁴ Due to the absence of definitions for the term “mental injury,” the jury should not have applied its own definition.⁵⁵

The court then looked to define “mental injury” by paralleling one of the three variations of “bodily injury.”⁵⁶ Section 12.1-01-04(4) of the N.D.C.C. defined “bodily injury” as “any impairment of physical condition, including

45. *Id.*

46. *Id.* at ¶ 17.

47. Amended Brief of Appellant, *supra* note 9, at ¶ 31.

48. *Castleman*, 2022 ND 7, ¶ 9, 969 N.W.2d 169 (quoting MINN. STAT. § 260E.03 subd. 13 (2020)).

49. *Id.* ¶ 12.

50. *Id.*

51. *Id.*

52. *Id.*

53. *Id.*

54. *Id.*

55. *Id.*

56. *Id.* ¶ 13.

physical pain’, and temporary physical distress.”⁵⁷ Converting the definition from “physical” to “mental” would establish “mental injury” to mean any impairment of mental condition, including mental pain and temporary mental distress.⁵⁸ However, this parallel definition would indicate the inclusion of a broad scope of behaviors such as willfully causing a child to cry.⁵⁹ Therefore, the court believed the parallel definition to be inconclusive of the legislature’s intent.⁶⁰ As a result, the court had to assess the scope of behavior that constituted a “mental injury.”⁶¹

The North Dakota Supreme Court considered *State v. Vetter*⁶² to determine the scope of conduct that is considered child abuse.⁶³ The *Vetter* court addressed the word “pain” in the definition of “bodily injury” under section 14-09-22 of the N.D.C.C.⁶⁴ In assessing whether a statute is unconstitutionally vague, the *Vetter* court explained that the statute must put “a reasonable person on adequate notice as to what conduct constitutes child abuse,” which is “measured by common understanding and practice.”⁶⁵ In *Castleman*, the court adopted the reasonable person standard after determining that further analysis of the statute required common understanding and practice.⁶⁶ However, there was “no comparable common understanding and practice by which a jury may measure ‘mental injury.’”⁶⁷ In addition, a jury would not be able to measure whether brief crying constituted a “mental injury.”⁶⁸

The court looked to section 50-25.1 of the N.D.C.C. to see how the legislature addressed the problem of child abuse.⁶⁹ Section 50-25.1-02(3) states an abused child is “an individual under the age of eighteen years who is suffering from abuse as defined in section 14-09-22.”⁷⁰ The statute’s reference to section 14-09-22 and 12.1-01-04 indicates that child abuse is intended to have the same scope across the three provisions.⁷¹

57. *Id.*; N.D. CENT. CODE § 12.1-01-04(4) (2022).

58. *Castleman*, 2022 ND 7, ¶ 13, 969 N.W.2d 169.

59. *Id.*

60. *Id.*

61. *See id.* ¶ 13.

62. 2019 ND 262, 934 N.W.2d 543.

63. *Vetter*, 2019 ND 262, ¶ 9, 934 N.W.2d 543; *Castleman*, 2022 ND 7, ¶ 14, 969 N.W.2d 169.

64. *Vetter*, 2019 ND 262, ¶ 7, 934 N.W.2d 543.

65. *Id.* ¶ 9.

66. *Castleman*, 2022 ND 7, ¶ 14, 969 N.W.2d 169.

67. *Id.*

68. *Id.*

69. *Id.* ¶ 15.

70. N.D. CENT. CODE § 50-25.1-02(3) (2022).

71. *Castleman*, 2022 ND 7, ¶ 15, 969 N.W.2d 169.

Castleman argued that basing “mental injury” on whether a child cried as a result of a parent’s conduct should fail.⁷² The statute requires a parent act with willful intent, not that the mental injury be inflicted by nefarious conduct.⁷³ Castleman argued that upholding the conviction would make the scope of “mental injury” too broad because it would include any conduct that would cause a child to cry, such as punishing a misbehaving child or asking the child to eat food they do not want.⁷⁴ As such, the court looked to define the scope of “mental injury.”

In *Walton v. North Dakota Department of Human Services*,⁷⁵ the court concluded that a reasonable person could not find the parents had abused their children under N.D.C.C. section 50-25.1 when they “struck [the] children with their hands, called the children ‘naughty’ or ‘stupid’ and told them they were too big to cry, had arguments in front of the children, and limited the children’s use of toilet paper.”⁷⁶ The court in *Simons v. State*⁷⁷ readdressed *Walton* and stated the standard for child abuse had been significantly lowered, correlating it with the standard for establishing simple assault.⁷⁸ However, the *Simons* court did not resolve the scope for “mental injury.”⁷⁹ As such, the *Castleman* court concluded that the plain meaning of “mental injury” does not sweep broadly and should not include willfully causing a child to cry or suffer any form of temporary mental discomfort.⁸⁰

B. THE CONCURRING OPINION: JUSTICE MCEVERS

Justice McEvers wrote in concurrence with the majority opinion and offered another perspective of “mental injury” regarding child abuse.⁸¹ Justice McEvers stated Castleman’s conduct of assaulting and verbally threatening the mother is indicative of domestic violence.⁸² Section 14-07.1-01 of the N.D.C.C. defines domestic violence as physical harm or bodily injury on a family or household member.⁸³ Children raised in the presence of domestic violence tend to experience negative long-term emotional or mental

72. Amended Brief of Appellant, *supra* note 9, at ¶ 33.

73. *Id.* at ¶ 34.

74. *Id.*

75. 552 N.W.2d 336 (N.D. 1996).

76. *Walton*, 552 N.W.2d at 341.

77. 2011 ND 190, 803 N.W.2d 587.

78. *Simons*, 2011 ND 190, ¶¶ 13-14, 803 N.W.2d 587.

79. *State v. Castleman*, 2022 ND 7, ¶ 15, 969 N.W.2d 169.

80. *Id.* ¶ 16.

81. *Id.* ¶ 24 (McEvers, J., concurring).

82. *Id.* ¶ 21.

83. N.D. CENT. CODE § 14-07.1-01(2) (2022) (“‘Domestic violence’ includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members.”).

effects.⁸⁴ While the court found the child in this case did not experience these negative effects, Justice McEvers suggested legislation protect other children from domestic violence by including exposure to domestic violence under the statute for child abuse.⁸⁵

IV. IMPACT OF DECISION

As discussed, the majority in *Castleman* expanded on precedent by defining the ordinary meaning of the term “mental injury” and setting the scope of conduct that falls under child abuse by mental injury.⁸⁶ Prior to *Castleman*, “mental injury” was not a term used in criminal trials in North Dakota outside of being mentioned in the statute.⁸⁷ As a result of this case, *Castleman* has set the boundaries for what behavior and effects constitute child abuse by mental injury. The opinion established a standard that North Dakota practitioners can use to assess whether a child has suffered a mental injury from child abuse.

A. CHILD ABUSE IN NORTH DAKOTA AND THE LAW

Child abuse and neglect are pressing public health issues in North Dakota. As of July 1, 2021, North Dakota had a population of approximately 185,987 persons under the age of eighteen years old, with 51,146 of that population being under the age of five years old.⁸⁸ In 2021, of the 4,598 alleged child maltreatment reports, about 1,349 children in North Dakota were found to be victims of child maltreatment.⁸⁹ This data suggests that one in every 137 persons under the age of eighteen has suffered some form of abuse or neglect within the last year.⁹⁰ However, the statistics show only the instances that have been reported and do not acknowledge the number of instances that have gone unreported.

In addition to the abuse and neglect that child victims suffer, there are other long-lasting consequences to abuse, such as anxiety or posttraumatic stress, and these child victims are also at an increased risk of experiencing

84. *Castleman*, 2022 ND 7, ¶ 22, 969 N.W.2d 169 (citing ND Domestic Violence Benchbook § 2.5).

85. *Id.*

86. *Id.* ¶ 16.

87. *See id.*

88. *QuickFacts: North Dakota*, U.S. CENSUS BUREAU, <https://www.census.gov/quickfacts/fact/table/ND/AGE135221#AGE135221> (last visited Oct. 26, 2022).

89. *Child Welfare Outcomes State Data*, CHILDREN’S BUREAU, <https://cwoutcomes.acf.hhs.gov/cwodatasite/> select “Data by State” on the sidebar; then choose “North Dakota” (last visited on Mar. 29, 2023).

90. *See id.*; *see QuickFacts: North Dakota*, *supra* note 88 (185,987 children under 18 divided by 1,349 children subject to child abuse).

substance abuse, delayed brain development, victimization, perpetration, or difficulties learning or holding attention.⁹¹ As such, North Dakota laws and regulations surrounding child abuse and neglect are essential to protect children from exploitation and harm, as well as to distinguish between discipline and abuse.

The court's statutory interpretation in *Castleman* will have significant implications for the victims of child abuse and individuals charged with child abuse by mental injury. Section 14-09-22(1) now clearly defines what type of mental injury is required for a child to have experienced abuse—an injury that causes lasting, non-transitory mental suffering and trauma. The new meaning of mental injury will affect children exposed to traumatic or chronic abuse where the child developed long-term or permanent mental effects; however, the statute will not protect children who suffer temporary mental discomfort, even if the discomfort is frequent, but short-lived. Children who develop coping mechanisms as a result of their abuse may also not be protected by the new meaning of “mental injury.”

The court's statutory interpretation limits the conduct that constitutes willfully causing a mental injury. The new meaning suggests that an individual may willfully cause a child to cry or to feel intense distress, fear, or hopelessness, provided the effects are temporary. The statute attempts to distinguish between a parent disciplining their child and causing the child to have temporary negative feelings, versus a parent abusing their child. However, further cases will build on precedent and continue to distinguish the line between discipline and abuse.

Throughout *Castleman*, the court emphasized the importance of the North Dakota legislature in forming statutes. Justice McEvers suggested in her concurring opinion that the legislature include a child's exposure to domestic violence under the definition of child abuse to protect children from the effects of domestic violence, including long-term mental impacts.⁹² In doing so, a child who is not the direct target of abuse but continuously watches another person be subject to abuse can be removed from the circumstances and, as a result, lower the child's risk of developing damaging mental effects.

B. SPECULATION OF THE NEW MEANING

The court's decision invites speculation that will lead to future discussions about the amount of time a child must endure mental suffering

91. *Fast Facts: Preventing Child Abuse & Neglect*, CTR. FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/violenceprevention/childabuseandneglect/fastfact.html> (Apr. 6, 2022).

92. *Castleman*, 2022 ND 7, ¶ 23, 969 N.W.2d 169 (McEvers, J., concurring).

and trauma for the injury to be considered a “lasting, non-transitory effect.” As the court discussed in its conclusion, brief shaking and a child crying does not meet the requirements for a lasting, non-transitory effect.⁹³ However, if the State produced evidence that the child’s behavior changed, or that she suffered from a behavioral or emotional diagnosis throughout the case, the court would consider the injury to be lasting. The question would then be whether an abused child who suffered a mental effect for several days, but then recovered, would meet the length requirement set under the new meaning of “mental injury.” As such, North Dakota should expect to see more cases regarding child abuse by mental injury as courts continue to build upon the precedent set in *Castleman*.

Castleman will also affect the term “mental injury” in other North Dakota statutes. While there are currently limited North Dakota statutes that mention some variation of mental injury,⁹⁴ the *Castleman* opinion creates a new precedent that will impact how courts address these statutes. North Dakota laws and regulations may also see mental injury added to existing statutes as an additional way for plaintiffs to recover.

V. CONCLUSION

In *Castleman*, the North Dakota Supreme Court held that the ordinary meaning of “mental injury” requires mental suffering and trauma with some lasting, non-transitory effect.⁹⁵ Additionally, the court found that *Castleman* did not inflict a mental injury on the child because there was no evidence of any lasting, non-transitory effect.⁹⁶ This decision expands on precedent by defining the term “mental injury” used in criminal law statutes and delineates the scope of conduct that falls under child abuse by mental injury. Future cases may arise from this decision concerning the length of time a child must endure mental suffering and trauma before the child is considered to have a “mental injury” and may further expand upon mental injury as applied to other statutes.

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93. *Id.* ¶ 17.

94. *See* N.D. CENT. CODE § 65-01-02(11)(a)(6) (2022).

95. *Castleman*, 2022 ND 7, ¶ 16, 969 N.W.2d 169.

96. *Id.* ¶¶ 16-17.

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