





Second Amendment Foundation *Fall 2017*

REPORTER

FEARING LOSS, D.C. DECLINES TO TAKE WRENN CCW CASE TO SUPREMES

Fearing a devastating loss that could crush arbitrary concealed carry laws, the District of Columbia has declined to appeal its loss of a concealed carry case that struck down its “needs based” permit requirement.

The SAF case is *Wrenn v. District of Columbia*. A three-judge panel on the U.S. District Court of Appeals for the District of Columbia struck down the city’s “good cause” requirement as unconstitutional in July. The court declined a request for an *en banc* panel review.

“We believe the city was under intense pressure to take the hit and not appeal the ruling by the U.S. District Court of Appeals,” said SAF founder and Executive Vice President Alan M. Gottlieb. “If the District had lost the case before

the high court, it would have dealt a fatal blow to similar requirements in California, New Jersey, Maryland and New York, for example, and that prospect had anti-gun politicians in those states quaking in their shoes.”

Gottlieb recalled that the District’s loss in 2008 when the Supreme Court in the *Heller* decision struck down its handgun ban as unconstitutional under the Second Amendment opened a floodgate for legal challenges to state laws.

That led to SAF’s 2010 victory in *McDonald v. City of Chicago*, which not only nullified the city’s handgun ban but more importantly incorporated the Second Amendment to the states via the 14th Amendment.

“Let’s face it,” Gottlieb said, “anti-gunners are determined to cling to

their dogma of public disarmament rather than admit that their resistance to common sense concealed carry reform amounts to nothing more than stubborn denial. These people simply do not want to enter the 21st Century. They refuse to accept the Supreme Court rulings that the Second Amendment protects and affirms an individual right to not only keep arms, but to bear them as the Founders understood.

“However,” he added, “this decision opens the gate farther to an inevitable high court confrontation because there are now conflicting opinions on concealed carry from the different circuit courts. Common sense says that the 14th Amendment’s equal protection clause will not allow that conflict to continue.”

SAF FILES AMICUS BRIEF IN CASE OF FLORIDA MAN’S DEATH BY POLICE

Attorneys for the Second Amendment Foundation today filed an amicus brief supporting a request for the U.S. Supreme Court to review a civil case against a Florida sheriff’s office related to the slaying of an innocent man by a sheriff’s deputy who raided the man’s home, unannounced and without warrant or cause.

The case is *Young v. Borders*. It involves the death of Andrew Lee Scott. The 11th Circuit Court of Appeals ruled against the plaintiffs in this case, citing “qualified immunity” for the officers, which raises serious questions about the ability of police to shoot someone in his own home merely for answering a late-night pounding on his door, with

a firearm at his side. According to a summary of the case, sheriff’s deputies did not have a warrant, or announce themselves, and did not suspect the home’s occupants of wrongdoing.

In the brief, attorney Alan Gura, writing for SAF, notes, “By suggesting that Americans should reasonably expect to

(Continues on page 2)





SAF FLORIDA AMICUS

(Continued from page 1)

be shot dead by police for possessing guns in their homes, the opinion arguably sets a new record for hostility to the Second Amendment among the lower federal courts—no mean feat.”

Later, Gura’s brief observes, “If the Second Amendment means anything, it means that the police must respect people’s ability to keep guns for self-defense—not shoot them dead over

it. Yet the decision greenlights the notion that any American who keeps arms might for that reason alone be subjected to summary, consequence-free extra-judicial killing in his home by agents of the state... This decision not only contradicts the people’s right to be secure in their homes against unreasonable seizures, but is incompatible with a legal system

that holds the right to keep and bear arms to be fundamental.”

“This case screams for Supreme Court review,” said SAF founder and Executive Vice President Alan M. Gottlieb. “Who among us would not take precautions when answering a pounding on our door in the middle of the night? After all, this is the United States, not a police state.”

SAF, CALGUNS FILE PETITION FOR SCOTUS REVIEW OF SILVESTER CASE

The Second Amendment Foundation and Calguns Foundation and two individual plaintiffs filed a petition with the U.S. Supreme Court for certiorari in the case of *Silvester, et. al. v. California Attorney General Zavier Becarra*.

The case challenges California’s 10-day waiting period law and seeks to overturn a Ninth Circuit Court of Appeals ruling that essentially forces a gun owner to endure another waiting period to purchase another firearm even though he is licensed to carry and has already passed a background check.

Individual plaintiffs in the case are Jeffrey Silvester, an insurance broker in Hanford, and Brandon Combs, executive director of the Calguns Foundation.

“While this case is about waiting periods, it is also about something

more,” said Second Amendment Foundation founder and Executive Vice President Alan M. Gottlieb. “It’s about challenging a gun regulation that is designed more to discourage exercise of the Second Amendment than it is about preventing crime.”

“Remember what Senior Judge Anthony Ishii of the U.S. District Court said in his original order, that the state has tacit knowledge that a protected Second Amendment right is burdened by the waiting period law,” Gottlieb recalled. “His comparison of the waiting period to prior restraint is a point that should grab the attention of every journalist who has ever defended the First Amendment while disdaining the Second. A civil right is a right, and all rights are equal and deserve equal protection.”

Silvester, who has passed California’s

rigorous background check, wondered “What possible reason does the State have in denying me my Second Amendment right to take possession of a firearm after I pass yet another background check? If the government can constitutionally prevent a law-abiding person from taking possession of a firearm after they pass a background check, then what isn’t constitutional?”

“In its decision to ignore the trial court’s Findings of Fact and Conclusions of Law as well as long-standing principles of appellate review, the Ninth Circuit has made it crystal clear that it has no intention of following the Supreme Court’s precedents no matter unconstitutional, burdensome, or irrational the law,” said Combs. “This case is beyond ripe for review.”

The petition was authored by Washington, D.C. attorney Erik S. Jaffe, who stated that it “is no secret that various lower courts, and the Ninth Circuit especially, are engaged in systematic resistance to” both the *Heller* and *McDonald* rulings on the Second Amendment. Jaffe clerked for Supreme Court Justice Clarence Thomas and is now in private practice.



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JUDGE DENIES CHICAGO MOTION IN SAF-BACKED GUN SHOP CASE

A federal court judge in Illinois has denied a City of Chicago motion for summary judgment and refused to dismiss a case challenging a ban of firearms sales within city limits that is backed by the Second Amendment Foundation.

It is the latest in a string of court battles between Chicago and SAF, causing SAF founder and Executive Vice President Alan M. Gottlieb to observe, “We’ve already beat Chicago three times, in the McDonald case before the Supreme Court, and both Ezell 1 and Ezell 2 before the federal court of appeals. I’m reminded of the folk song by Peter, Paul and Mary that asked, ‘When will they ever learn?’”

The case involves a proposed gun shop called Second Amendment

Arms (SAA), owned by R. Joseph Franzese, who submitted an application for a business license in July 2010. The city contends that the application was for an address in an area not zoned for commercial use, but Franzese argues that he was not advised about the zoning and that it had been advertised as commercial property. Besides, he contended that the city’s prohibition on gun sales “would have blocked (their) efforts no matter where (they) chose.”

“The City of Chicago under Rahm Emanuel is trying to be too clever by half,” Gottlieb said. “We would have thought by now that they would have ceased this pattern of spending tens of thousands of taxpayer dollars on stubborn litigation, but the city seems

determined to be dragged kicking and screaming into compliance with the Second Amendment.

U.S. District Court Judge Robert M. Dow, Jr., set Sept. 28 as the next date to discuss damages for the plaintiff in this case, which is known as Second Amendment Arms v. City of Chicago.

“Since losing its gun ban fight in the Supreme Court’s 2010 McDonald ruling,” Gottlieb noted, “Chicago has been digging its heels in deeper and deeper, throwing every kind of legal roadblock it could in an effort to delay what seems inevitable. The city has got to follow the law and the constitution, and as long as they keep fighting, we’ll keep suing.

“That’s what winning firearms freedom one lawsuit at a time is all about,” he concluded.

COURT FORCES SEATTLE TO REVEAL MAJOR ‘GUN TAX’ SHORTFALL

Acting in accordance with the order of a King County Superior Court judge, the City of Seattle revealed what had been suspected for more than a year, that its revenue from a so-called “gun violence tax” was far below projections when the tax was hastily adopted in 2015, the Second Amendment Foundation has learned.

According to court-ordered data provided to the senior editor of TheGunMag.com, a SAF-owned publication, the city collected \$103,766.22. That is woefully short of the predicted \$300,000 to \$500,000 predicted by then-City Council President Tim Burgess when he championed the tax.

“We suspected all along that the city’s predictions were fabricated,” said SAF founder and Executive Vice

President Alan M. Gottlieb. “That’s why we were happy to support the First Amendment-based lawsuit initiated by editor Dave Workman. Earlier this year when the city would only acknowledge that it had collected ‘less than \$200,000’ we were certain that Seattle’s stubborn reluctance to reveal their actual revenue was a matter of embarrassment.”

Gottlieb noted that a Sunday editorial in the Seattle Times admitted that it was “reasonable” for opponents “to assume regulatory intent by a City Council that talked about limiting gun sales,” and acknowledged that the city “didn’t help its credibility by concealing how much the gun tax raised...(The city’s) recalcitrance will result in city taxpayers paying gun advocates \$35,000 in legal fees.” That doesn’t

include the penalty against the city for withholding the information, he added.

“When you consider the money Seattle spent dodging Workman’s Public Records Act request,” Gottlieb observed, “combined with the fact that this gun tax caused one major retailer to move out of the city and another to refer his customers to a store in Fife, plus the losses in B&O taxes along with not coming remotely close to projections, this outrageous tax has resulted in a net loss of hundreds of thousands of dollars.

“Our opposition to the gun tax, which was unfortunately upheld by the state Supreme Court in a rather tortured opinion last week, has been vindicated,” he concluded. “For a newspaper to defend such a foolish scheme is simply astonishing.”





The list that follows describes just some of the lawsuits that YOUR Second Amendment Foundation is currently and has been involved in. We've spent a lot of money in court fighting to protect and expand YOUR rights. EACH lawsuit has a price-tag as high as hundreds of thousands of dollars!

· **SAF Sues Over Censorship of 3D Firearm Printing Information . . .**

SAF and Defense Distributed filed a lawsuit against Secretary of State John Kerry, the Department of State and other U.S. officials to stop the unconstitutional censorship of information related to 3D printing of firearms asserting the regulations violate free speech, the right to keep and bear arms and due process as guaranteed by the First, Second and Fifth Amendments. Case is on appeal.

· **SAF Sues and Wins Against District of Columbia's Concealed Carry Permit Process . . .**

SAF filed a lawsuit on behalf of two D.C. and one Florida resident seeking to overturn the city's "good reason" clause for citizens wishing to exercise their right. The court rules there is a constitutional right to carry. D.C. had until the end of August to decide if they would appeal to SCOTUS. They did not.

· **SAF Files Federal Lawsuit against Oklahoma DHS Over Firearms Prohibition . . .**

SAF filed a federal lawsuit against the Oklahoma Department of Human Services (OKDHS) on behalf of two state residents whose civil rights have been deprived under color of law because agency rules prohibit them

from acting as foster parents while legally possessing functional firearms for personal protection.

· **SAF and CGF File a Lawsuit Seeking Return of Legally Owned Firearms . . .**

Second Amendment Foundation and Calgun Foundation file suit in U.S. District Court for the Northern District of California on behalf of a Santa Clara County resident, challenging the city, its police department and one of its officers over the seizure of firearms under the state's Welfare and Institutions code.

· **SAF Spearheads Federal Lawsuit Against I-594 . . .**

SAF files a lawsuit in federal district court seeking a permanent injunction against enforcement of portions of Initiative 594, alleging that "portions of I-594... are so vague that a person of ordinary intelligence cannot understand their scope," and that other parts violate the Second Amendment outright. SAF appeals standing ruling.

· **SAF Sues and Wins Against District of Columbia's Ban on the Carrying of Handguns . . .**

SAF filed a lawsuit on behalf of three D.C. and one New Hampshire residents to compel the city to issue carry permits to law-abiding citizens. The U.S. District Court orders D.C. to allow the carry of firearms for self-defense.

· **SAF Sues on Behalf of California Gun Dealers . . .**

Second Amendment Foundation has joined the Calguns Foundation and CA Association of Federal Firearms Licensees in support





LEGAL CASES

of a lawsuit filed by four California gun dealers alleging a violation of their First Amendment rights to advertise firearms. On appeal.

· **SAF Sues Illinois Over Restrictive CCW Residency Requirements...** SAF filed a lawsuit in federal district court in Illinois, challenging that state's concealed carry statute that restricts otherwise qualified nonresidents the rights and privileges of carrying concealed firearms based solely on their state of residence.

· **SAF Funds and Wins Lawsuit Challenging Federal Law on Handgun Purchases...** SAF's sister organization, the Citizens Committee for the Right to Keep and Bear Arms filed a lawsuit in federal court challenging the federal law prohibiting cross-state handgun purchases. The government is appealing.

· **SAF Sues California and Wins Overturning Waiting Period Statute...** SAF, Calguns Foundation, et al. filed a federal lawsuit against the CA DOJ challenging the state's requirement that gun owners wait at least ten days before taking possession of an additional firearm. State of California is appealing the ruling.

· **SAF Sues and Wins Gun Rights Restoration ...** A federal judge rules in a small but significant victory that a man convicted of a misdemeanor crime several years ago may not lose his Second Amendment rights under a federal gun control statute known as 922(g)(1). Government is appealing.

· **SAF Sues and Wins Ruling That Allows Gun Rights Restoration for Certain Misdemeanors ...** the judge has ruled that a man convicted of a serious misdemeanor crime, but who has demonstrated that now he "would present no more threat to the community" than an average law-abiding citizen, may not lose his Second Amendment rights under a federal gun control statute known as 922(g)(1).

· **SAF Backs Lawsuit over Handgun Ban in Northern Marianas . . .** The Second Amendment Foundation joined in supporting a lawsuit that challenges the ban on the importation of handguns and ammunition and the possession and use of handguns in the Commonwealth of Northern Marianas Islands.

· **SAF Sues for Restoration of Rights ...** SAF sues on behalf of plaintiff with non-violent felony who has had all rights restored, including right to possess and receive firearms and works for the State of Virginia as a security officer. Plaintiff is a resident of Maryland, and can neither possess nor carry a firearm there.

· **The Second Amendment Foundation Supports NJ Carry Appeal ...** SAF is helping to fund a legal challenge to New Jersey carry laws requirement that the applicant show "substantial threat." The case is in the State Superior Court's Appellate Division.

· **SAF Challenges California**

(Continues on page 6)





LEGAL BRIEFS

(Continued from pages 4-5)

Handgun Ban Scheme . . . SAF and Calguns Foundation filed a lawsuit challenging a regulation that bans handguns based on a roster of "acceptable" handguns approved by the State of California. Case has been amended to include new microstamping requirement. Glock files amicus brief in support. Smith & Wesson, Ruger and NSSF file declarations in support of SAF's lawsuit. Case is on appeal.

· **SAF Challenges Arbitrary Handgun Sales Regulations in Massachusetts . . .** SAF and Comm2A filed a lawsuit seeking an injunction against the State Attorney General's

illegal enforcement of consumer protection regulations that prevent the commercial sale of common semiautomatic handguns. This case is on appeal.

· **SAF Sues Chicago and Wins over Gun Range Prohibition on 1A, 2A Grounds . . .** SAF and ISRA filed a lawsuit against the City of Chicago's gun ordinance, asserting that "the city is depriving citizens of their right to keep and bear arms in violation of the First and Second Amendments. The Appellate Court ordered Chicago to end this ban. City of Chicago pays SAF 7 years of legal fees.

SAF SUPPORTS LAWSUIT TO NULLIFY COOK COUNTY 'ASSAULT WEAPON' BAN

The Second Amendment Foundation and Illinois State Rifle Association are supporting a lawsuit by two Illinois residents seeking a permanent injunction against a ban on so-called "assault weapons" adopted in Cook County more than ten years ago, in a case filed in Cook County Circuit Court.

Plaintiffs in the action are Matthew D. Wilson and Troy Edlund. They are represented by attorney David G. Sigale of Glen Ellyn.

The case is a re-filing of an action in 2007 that challenged the ordinance on constitutional grounds. Plaintiffs allege that, "The Cook County Assault

Weapons Ordinance, as amended and adopted on November 14, 2006, violates the due process clause of the U.S. Constitution, as applied to the States by the 14th Amendment, because of vagueness in its definition language of 'assault weapons.'"

SAF founder and Executive Vice President Alan M. Gottlieb said the lawsuit is necessary because the ordinance defines "assault weapons" in a way that is both vague and arbitrary, without providing any explanation why certain firearms are prohibited.

"Recent violent history in the City of Chicago clearly demonstrates that this prohibition has not prevented a

single slaying or injurious shooting," Gottlieb observed. "The only thing such gun control laws accomplish is to penalize law-abiding citizens for crimes they didn't commit. Meanwhile, the real criminals have engaged in wholesale mayhem."

The lawsuit also notes that under the ordinance, commonly-owned semiautomatic sporting shotguns and rifles could be banned due to the language of the law.

"Laws like this should never be written in the first place," Gottlieb said, "and especially they shouldn't be written by people who do not appear to know anything about firearms."





JUDGE FINDS AGAINST SEATTLE IN PRA CASE FILED BY SAF, EDITOR

A King County Superior Court judge ruled in favor of a firearms magazine editor and the Second Amendment Foundation in a case challenging the City of Seattle's refusal to disclose "gun violence tax" revenues under the Public Records Act (PRA).

SAF filed the lawsuit in September with Dave Workman, senior editor of TheGunMag.com. At issue was the city's refusal to comply with Workman's PRA request for revenue collected by the city under its "gun violence tax," passed by the city council in the summer of 2015.

"We are delighted with the outcome of this case," said SAF Executive Vice President Alan M. Gottlieb, who is also publisher of TheGunMag.com. "It

was silly for Seattle to withhold this information, but we're pretty certain why the city did it. The council was told that this tax could generate between \$300,000 and a half-million dollars, but now it appears the city has collected just over \$100,000, which is an embarrassing shortfall.

"As a result," he added, "the city has essentially lost money on this scheme because now they have to pay our attorney fees, plus a small penalty. On top of that, the city has lost tax revenue because one major gun dealer has moved out of the city and another has reported considerable sales losses. That is tax money the city will never realize."

Workman said he is pleased with the outcome.

"For me, this was always a First Amendment issue," he said. "The city adopted a controversial tax for questionable reasons, and the public has a right to know how much the city collected."

In her ruling, King County Superior Court Judge Lori Smith ruled that the city had not acted out of bad faith, so she awarded plaintiffs a nominal penalty of \$377, amounting to one dollar a day since the lawsuit was filed.

SAF was represented by attorneys Steven Fogg and David Edwards with Corr Cronin Michelson Baumgardner Fogg & Moore LLP of Seattle.

STATE HIGH COURT RULING ON GUN TAX SHOWS 'ELECTIONS MATTER'

The Washington State Supreme Court's ruling that upholds Seattle's so-called "gun violence tax" shows that elections – especially those for state Supreme Court justices – matters now more than ever, the Second Amendment Foundation said.

"The high court's decision to uphold what clearly appears to us as a violation of Washington's 34-year-old State Preemption Act is proof positive that the court places political correctness above the rule of law," said SAF founder and Executive Vice President Alan M. Gottlieb. "Gun owners must get more involved in Supreme Court races."

SAF, along with the National Rifle Association and National Shooting Sports Foundation, was a plaintiff in the case, known as *Watson v. City of Seattle*. These organizations, along with two

local firearms retailers, challenged the legality of the "gun violence tax" under the preemption law.

"This isn't just a loss for the rule of law, firearms dealers and gun owners living in Seattle," Gottlieb said. "It's a slap in the face to the Washington Legislature. In 1983, state lawmakers adopted the state's preemption act, which squarely put all firearms regulation under authority of the Legislature. It is clear from this ruling that the Legislature will have to strengthen the preemption act to not only nullify what amounts to an unconstitutional poll tax on gun owners, but to also make sure this is not allowed to happen again."

Under the 1983 law, "The state of Washington hereby fully occupies and preempts the entire field of firearms regulation within the boundaries of

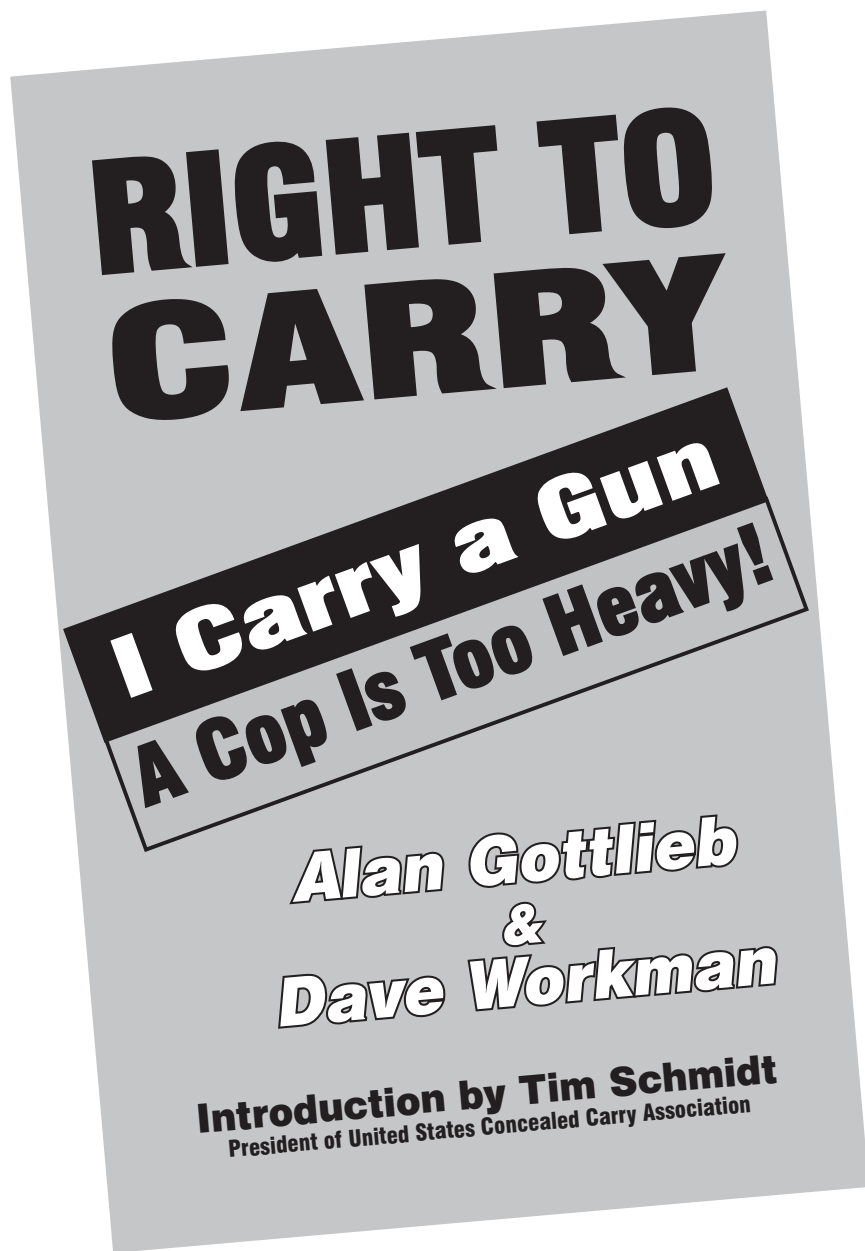
the state, including the registration, licensing, possession, purchase, sale, acquisition, transfer, discharge, and transportation of firearms, or any other element relating to firearms or parts thereof, including ammunition and reloader components. Cities, towns, and counties or other municipalities may enact only those laws and ordinances relating to firearms that are specifically authorized by state law... and are consistent with this chapter. Such local ordinances shall have the same penalty as provided for by state law. Local laws and ordinances that are inconsistent with, more restrictive than, or exceed the requirements of state law shall not be enacted and are preempted and repealed, regardless of the nature of the code, charter, or home rule status of such city, town, county, or municipality."





Don't miss the new book: "Right To Carry"

by Alan Gottlieb
&
Dave Workman



"This book is absolutely indispensable for any gun owner who does not want to leave his cave without his club."

--Mark Walters, Talk show Host,
Armed American Radio

"Gottlieb and Workman have done it again. They have hit another bulls eye with this important new book."

--Tom Gresham, Talk Show Host,
Gun Talk

"With this book Gottlieb and Workman do an impressive job intercepting, confronting and repelling everything the gun prohibitionists do to block the right to carry a firearm for self-defense."

--AWR Hawkins PhD, Contributor.
Breitbart.com

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