



State v. Roberts

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State v. Roberts

Oregon Supreme Court Opinion Issued February 5, 2026

Holding:

“[W]e conclude that, when an eligible criminal defendant lacks appointed counsel after arraignment for a period of more than 60 consecutive days in a misdemeanor case, or 90 consecutive days in a felony case, dismissal of the criminal charges without prejudice is ordinarily required.”

Dismissal without prejudice is necessary to remedy the violation of the defendant's constitutional right to counsel.



OJD Response

After the court issued its opinion, OJD immediately took the following steps:

- Provided courts and OPDC with list of cases potentially subject to dismissal.
- Met with system partners and increased the frequency of regular meetings between OJD, OPDC, and ODAA.
- Created business processes, forms, and internal dashboards to track:
 - cases potentially eligible for dismissal under *Roberts*,
 - cases dismissed under *Roberts*, and
 - cases re-filed after a dismissal under *Roberts*.
- Created FAQ document for persons who have had their case dismissed under *Roberts*.



Court Staff Continue to Do Critical Work on Unrepresented Cases



Data & Tracking

- Enter and maintain case data
- Review and ensure unrepresented dashboard accuracy
- Implement business processes and data protocols to track unrepresented, custody status, and dismissals



Case Management

- Schedule status checks and process paperwork
- Prioritize cases for appointment of counsel
- Monitor in-custody individuals subject to Betschart release
- Monitor cases subject to dismissal



Communication & Coordination

- Communicate with unrepresented individuals about case status and possible dismissals
- Contact attorneys and local defense providers
- Coordinate with OPDC, District Attorneys, jails, and justice system partners

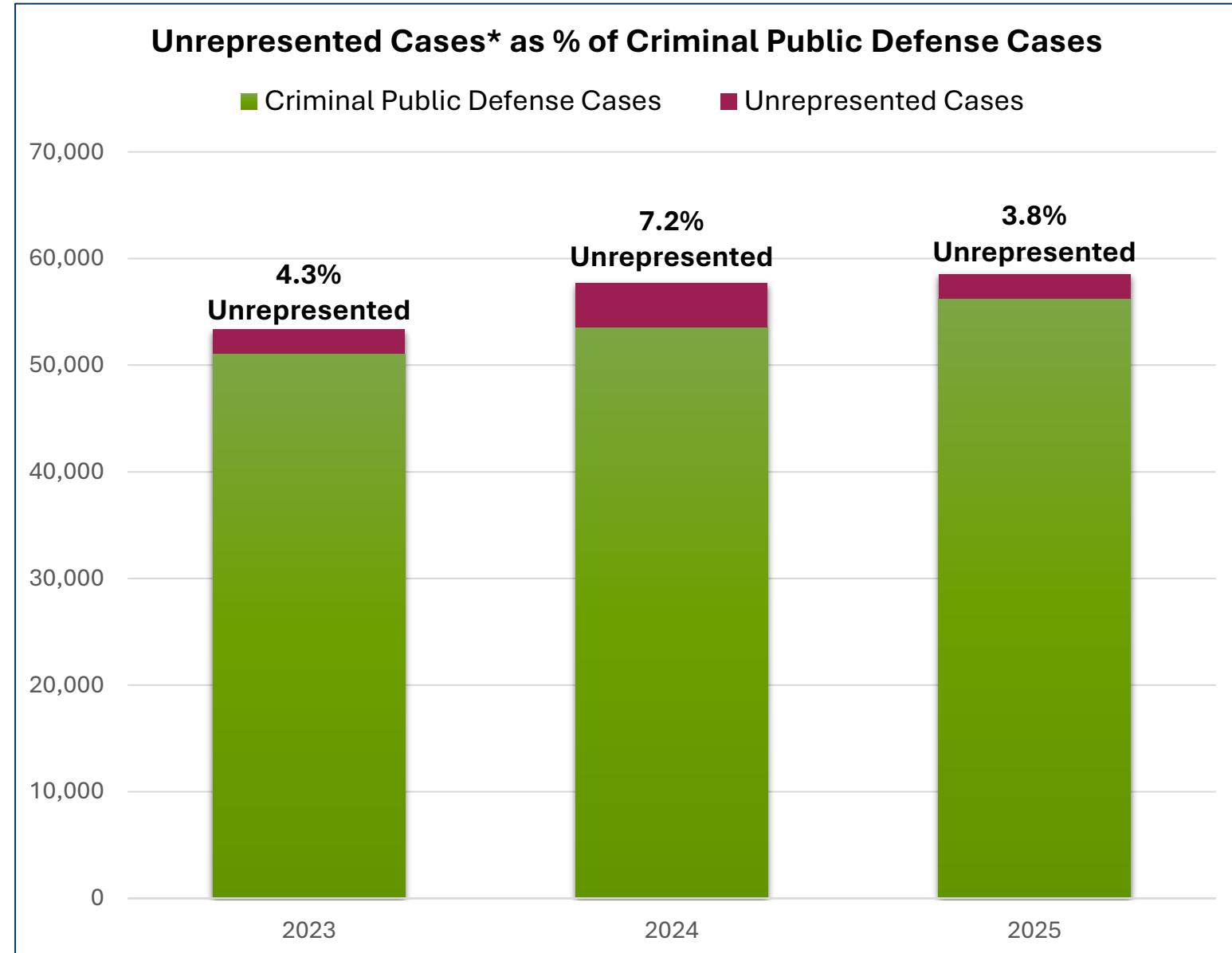


Strengthened Partnerships: Collaborative Approach to Roberts

- **Immediate Cross-Engagement** when Roberts decision was issued
- **Prepared for Action** ongoing collaboration provided the space to quickly pivot:
 - Case Identification
 - Budgetary & Policy Alignment
- **Strong Communication & Triage** across OPDC and partners
- **Rapid, Coordinated Action** replacing early crisis silos

Unrepresented Cases Are Declining

- Almost **60,000** criminal public defense cases in 2025
- **3.8%** or **2,250** unrepresented

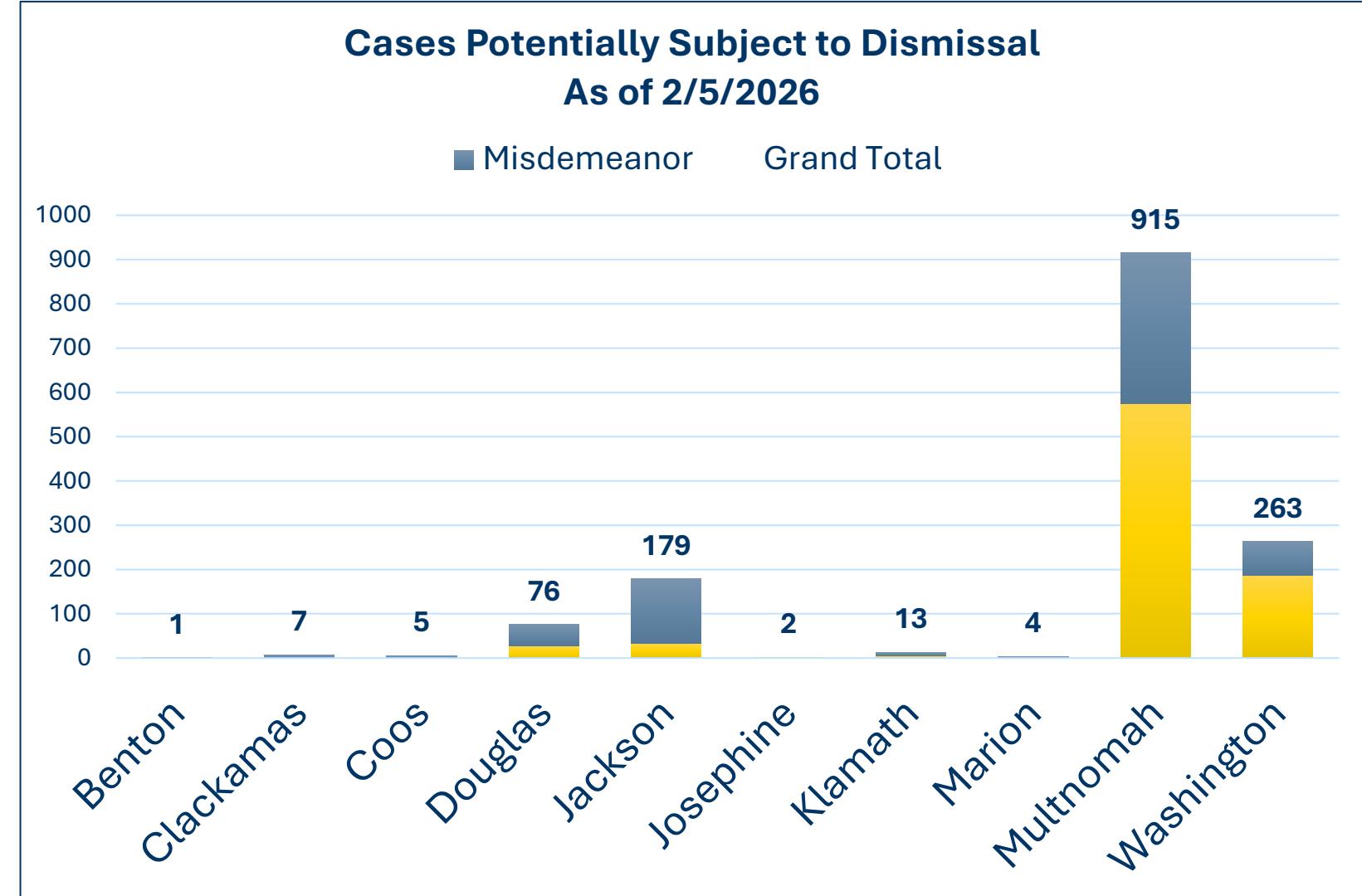


**Criminal unrepresented cases as of 2/5/2026*



Cases Potentially Subject to Dismissal Under *State v. Roberts*

- 1,465 or 65% of unrepresented cases potentially subject to dismissal
- More than 80% in Multnomah and Washington Counties

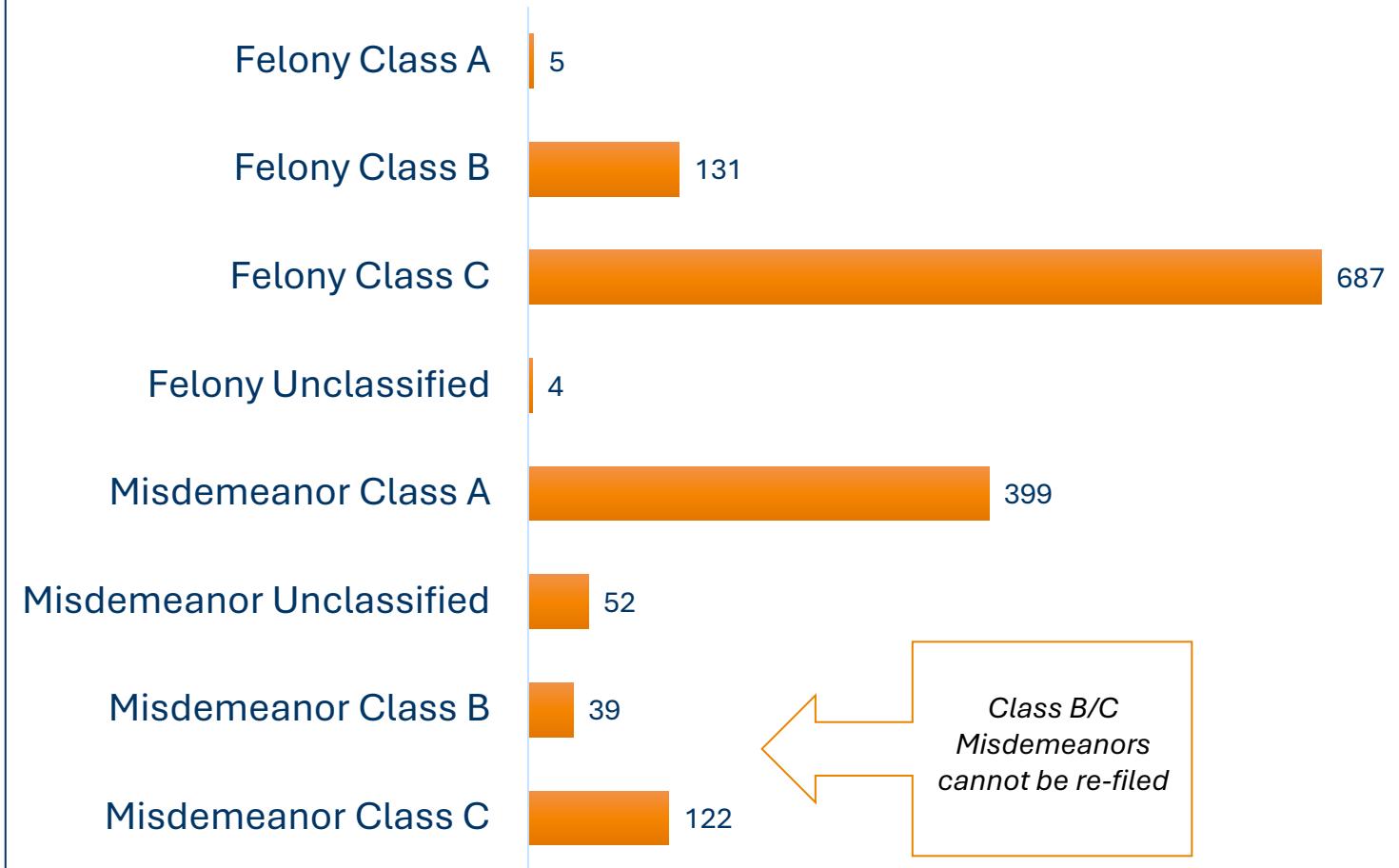


Cases Potentially Subject to Dismissal Under *State v. Roberts*

- No Measure 11, Jessica's Law or Murder cases
- 46% Class C Felonies
- 27% Class A Misdemeanors
- 11% Class B and C Misdemeanors (Cannot be Re-Filed)



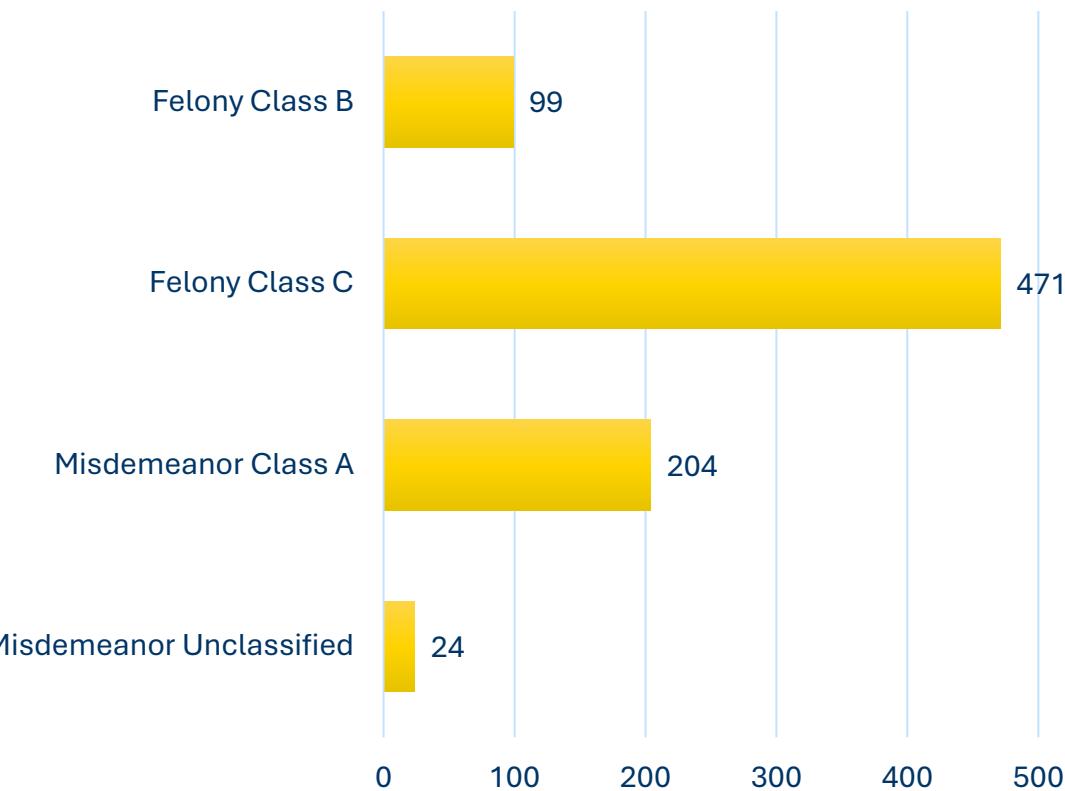
Cases Potentially Subject to Dismissal
As of 2/5/2026



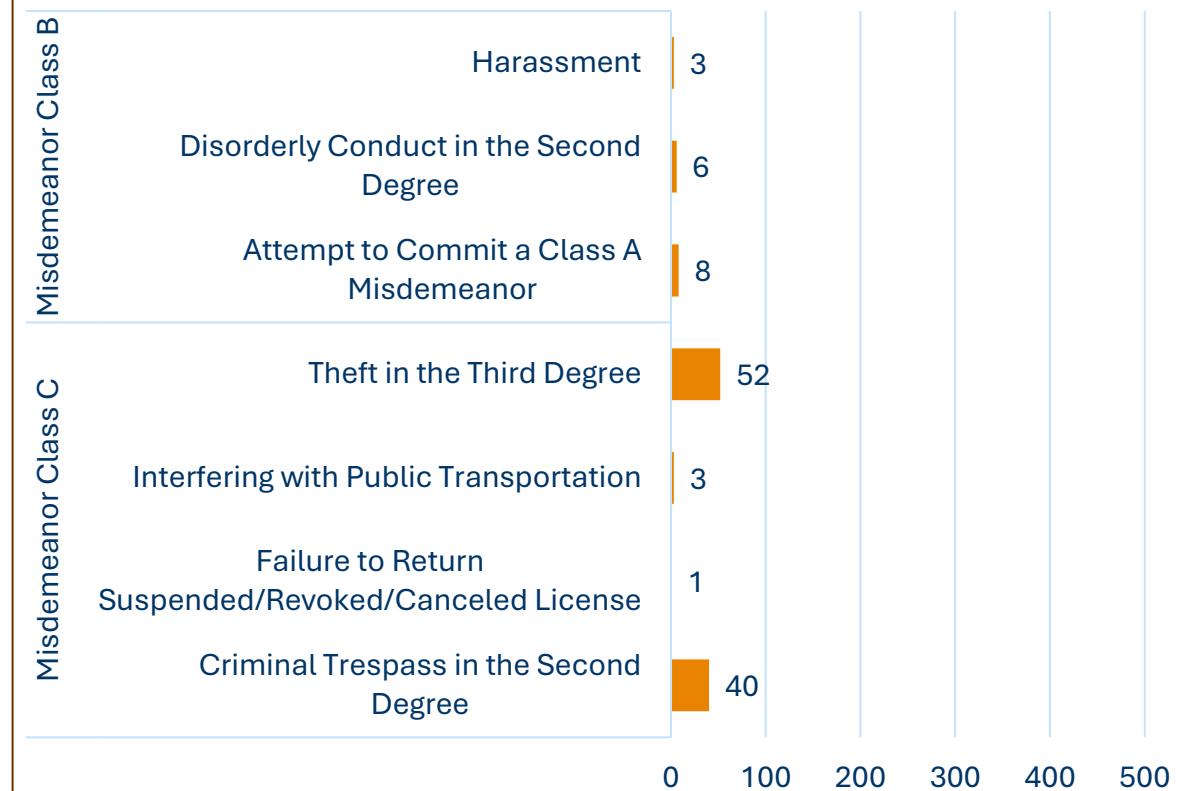


Multnomah County: 915 Cases Potentially Subject to Dismissal Under Roberts

Unrepresented Cases Potentially Subject to Dismissal Without Prejudice (Can be Re-Filed)



Unrepresented Cases Potentially Subject to Dismissal With Prejudice (Cannot be Re-Filed)





Washington County: 263 Cases Potentially Subject to Dismissal Under Roberts

Unrepresented Cases Potentially Subject to Dismissal Without Prejudice (Can be Re-Filed)



Unrepresented Cases Potentially Subject to Dismissal With Prejudice (Cannot be Re-Filed)



Thank You

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