Federal Court  Cour fédérale

Date: 20250205

Docket: IMM-6484-23

Citation: 2025 FC 233

Ottawa, Ontario, February 05, 2025

PRESENT: Mr. Justice Pentney

BETWEEN:

WIESLAW FEDORIO

Applicant

and

THE MINISTER OF PUBLIC SAFETY AND EMERGENCY PREPAREDNESS

Respondent

JUDGMENT AND REASONS

[1] The Applicant, Wieslaw Fedorio, seeks judicial review of the Canada Border Services Agency ("CBSA") Officer's refusal of his request to defer his removal.

[2] The Applicant argues that the decision was procedurally unfair because the Officer made veiled credibility findings against him without giving him an opportunity to respond, and that the decision is unreasonable because the Officer failed to grapple with the evidence about the

hardship he would face if he is returned to Poland. While the Applicant acknowledges his history of criminality, he submits that the fact that he is now eligible for a record suspension (formerly known as a pardon) and has previously obtained two stays of removal from judges of this Court are factors that should have weighed more heavily in his favour.

[3] The Applicant also invokes his rights under the *Canadian Charter of Rights and Freedoms* (*"the Charter"*), arguing that the consequences of his removal to Poland go well beyond the normal challenges associated with being forced to leave Canada. The Applicant submits that his lack of familiarity with the language, the fact that he has lived most of his life in Canada, and the current situation in Poland because of the influx of displaced persons fleeing the war in Ukraine are considerations that the Officer needed to weigh in light of the *Charter* values expressed in section 7, namely: "life, liberty and security of the person".

[4] This case draws into sharp relief the differences between the legal and factual considerations involved in assessing a motion for a stay of removal where a deferral request has been denied, and the legal and factual framework for judicial review of the original decision to deny a request for an administrative deferral of removal.

[5] For the reasons that follow, this application for judicial review will be dismissed.

I. Background

[6] The Applicant is a 56-year-old citizen of Poland. He arrived in Canada in 1980 with his family at the age of 12. Although he had permanent residence status, he never applied for citizenship.

[7] Over the course of his life in Canada, the Applicant accumulated a lengthy criminal record, commencing in 1984 when he was 16 years old. The list of convictions includes theft, breaking and entering, drug possession, possession of property obtained by crime, assault, impaired driving and fraud. In some instances, there are multiple convictions: for example, the Applicant was convicted of theft in April and September of 1984, and again in July 2004. He was also convicted for failure to appear and failure to abide by the terms of his probation. In 2004 and 2006 the Applicant was charged with unauthorized use of a credit card and two counts of drug trafficking. For the latter offence, he was sentenced to two years in prison for each charge.

[8] The Applicant was referred to the Immigration Division ("ID") for an admissibility hearing in December 2006. The Minister withdrew this application in June 2007, apparently due to procedural irregularities in the handling of the file, and a warning was issued to the Applicant in February 2008.

[9] The Applicant was convicted of further offences in 2010 (driving while impaired) and 2013 (assault). Following a gap in his criminal record, the Applicant was convicted of driving while impaired in January 2021. This revived the inadmissibility question, and the Minister made a referral to the ID under subsection 44(2) of the *Immigration and Refugee Protection Act*, S.C. 2001, c 27 [*IRPA*]. Two points should be noted at this stage: first, the Applicant retained counsel and appealed his conviction for impaired driving. The charge was withdrawn on consent on December 19, 2022. Second, the Applicant was found inadmissible for serious criminality on September 13, 2021, and a Deportation Order was issued the same day.

[10] The Applicant was notified that he could submit a Pre-Removal Risk Assessment ("PRRA") in September 2021, and his removal was delayed to permit him to file it. By November 2021, no PRRA had been filed and so the removal process was re-activated. The Applicant was scheduled for removal on May 12, 2022, but he obtained a stay of removal Order from this Court on May 11, 2022: *Fedorio v Canada (Public Safety and Emergency Preparedness)*, 2022 CanLII 38765.

[11] Several other applications were then filed by the Applicant, including a request for a Temporary Resident Permit (which was refused) as well as a request for permanent residence from within Canada on humanitarian and compassionate ("H&C") grounds (which was still being processed at the time of the deferral decision that gave rise to the present case).

[12] The removal process was engaged once again, and the Applicant was scheduled for removal on May 29, 2023. He filed a request for an administrative deferral of his removal, which was refused. The Applicant's deferral request focused on two key matters. First, he submitted that his removal should be delayed while he applied for a record suspension, which he was eligible to do since the 2021 impaired driving condition was vacated on appeal. Second, he pointed to the hardship he would face on a return to Poland, due to his inability to speak the language, lack of family support there, unfamiliarity with the country, all of which would be exacerbated because Poland was hosting approximately 1.5 million Ukrainians displaced by the Russian invasion. He submitted that his section 7 *Charter* rights were engaged by this process and asked the Officer to consider his case in light of the values underlying the guarantee of "life, liberty and security of the person."

[13] The Officer's reasons will be discussed in more detail below. At this point, it is sufficient to note a few key points in the decision. The Officer found the timeline for the processing of the Applicant's record suspension application to be speculative, noting that the Applicant had not yet gathered all of the necessary documentation for the application. In a similar vein, the Officer acknowledged the challenges that the Applicant would face in adjusting to life in Poland after such a long absence and without immediate family to assist him, but ultimately concluded that the evidence about the hardships he would face in finding employment or housing were speculative in nature. Noting the limited discretion available to defer removal, and the imperative of prompt removal of individuals who are inadmissible for serious criminality, the Officer denied the Applicant's deferral request on May 23, 2023.

[14] The application for judicial review of that decision is the matter before the Court.

[15] To complete the chronology, the Applicant obtained a stay of his removal that was scheduled for May 29, 2023: *Fedorio v Canada (Public Safety and Emergency Preparedness)*, 2023 CanLII 45999. The decision underlying that stay motion was the May 2023 denial of the deferral request, which gives rise to the present judicial review.

II. Issues and Standard of Review

[16] There are two issues: (a) was there a denial of procedural fairness because the Officer made veiled credibility findings without giving the Applicant an opportunity to respond to the concerns? (b) is the decision unreasonable because the Officer failed to engage with the

Applicant's submissions and evidence on hardship associated with his return to Poland, and failed to examine this question in light of the *Charter* values that apply?

[17] Procedural fairness is to be reviewed on a standard that is akin to "correctness," although technically no standard of review is applied at all: *Canadian Pacific Railway Company v. Canada (Attorney General)*, 2018 FCA 69, [2019] 1 FCR 121 [*Canadian Pacific*] at paragraph 54 (see also *Heiltsuk Horizon Maritime Services Ltd. v Atlantic Towing Limited*, 2021 FCA 26 at paragraph 107). Under this approach, a reviewing court is required to assess whether the decision-making process was fair in all of the circumstances, "with a sharp focus on the nature of the substantive rights involved and the consequences for an individual…" (*Canadian Pacific* at paragraph 54). The ultimate question is "whether the applicant knew the case to meet and had a full and fair chance to respond" (*Canadian Pacific* at paragraph 56).

[18] The second question is assessed under the framework for reasonableness review set out in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65 [*Vavilov*] and confirmed in *Mason v Canada (Citizenship and Immigration)*, 2023 SCC 21.

[19] In summary, under the *Vavilov* framework, a reviewing court is to review the reasons given by the administrative decision maker and determine whether the decision is based on an internally coherent chain of reasoning and is justified in light of the relevant legal and factual constraints (*Vavilov* at para 85). The onus is on the Applicants to demonstrate that "any shortcomings or flaws … are sufficiently central or significant to render the decision unreasonable" (*Vavilov* at para 100). Absent exceptional circumstances, reviewing courts must

not interfere with the decision-maker's factual findings and cannot reweigh and reassess evidence considered by the decision-maker (*Vavilov* at para 125).

[20] There is also a preliminary matter to be dealt with, relating to the Respondent's claim that portions of the Applicant's affidavit filed on the judicial review contain new evidence and should therefore be ignored.

III. Preliminary Issue – New Evidence

[21] The Respondent submits that the Applicant's affidavit filed in connection with this application for judicial review contains new evidence that was not included in the deferral request. The Respondent submits that this evidence is inadmissible and should be removed from the record, based on the well-established rule that extrinsic evidence is presumptively inadmissible on judicial review, except in narrow circumstances: *Association of Universities and Colleges of Canada v Canadian Copyright Licensing Agency (Access Copyright)*, 2012 FCA 22 at paragraphs 16-20. The Respondent argues that none of the recognized exceptions apply, and therefore these portions of the Applicant's evidence should not be accepted.

[22] The Applicant submits that the information the Respondent objects to is not new because it was included in the deferral request; he also says that his affidavit provides background information that is pertinent to his procedural fairness claims and therefore falls within a recognized exception.

[23] I am not persuaded that the new evidence is relevant to the procedural fairness claim such that it falls within the recognized exception to the new evidence rule. Instead, I find that the Applicant's new evidence goes to the merits of the decision in that it provides the kind of information he could have provided to the Officer. The issues the evidence addresses could and should have been anticipated by the Applicant. Therefore, paragraphs 7-10, 29, 31 and 52 of the Applicant's affidavit are excluded from consideration. Paragraph 30 and Exhibit A refers to a Work Permit he received, which would have been available to the Officer as part of the Applicant's file; it is thus not new evidence.

IV. Analysis

A. *Legal Framework*

[24] Before discussing the issues raised by the Applicant, it will be useful to discuss the legal framework that governs deferral decisions. The starting point in this case is that the Applicant is subject to a valid removal order. Subsection 48(2) of the *Immigration and Refugee Protection Act*, SC 2001, c 27 [*IRPA*] provides: "If a removal order is enforceable, the foreign national against whom it was made must leave Canada immediately and the order must be enforced as soon as possible."

[25] The case-law has established a number of principles to guide an Officer's decision about whether to grant a deferral of removal, including *Wang v Canada (Minister of Citizenship and Immigration)*, [2001] 3 FC 682; *Baron v Canada (Minister of Public Safety and Emergency Preparedness)*, 2009 FCA 81, [2010] 2 FCR 311 at para 67, and *Toney v Canada (Public Safety*

and Emergency Preparedness), 2019 FC 1018. This guidance is cogently summarized in *Qin v Canada (Public Safety and Emergency Preparedness)*, 2023 CanLII 104915 [*Qin*]:

> [9] The scope of an enforcement officer's discretion to defer removal under subsection 48(2) …is very limited, as an enforcement officer is required to enforce the removal order as soon as possible (*Lewis* at para 54; *Baron* at para 49; *Forde v Canada (Public Safety and Emergency Preparedness)*, 2018 FC 1029 at para 35). The enforcement officer's discretion is restricted to determining when, and not if, the removal will be executed. This discretion should only be exercised for those cases where there is clear evidence of a "risk of death, extreme sanction or inhumane treatment," or where there are temporary, short-term exigent circumstances such as the need for a child to finish a school year or obtain specialized ongoing medical care in Canada (*Atawnah v Canada (Public Safety and Emergency Preparedness)*, 2016 FCA 144 at paras 13-15; *Lewis* at paras 55, 82-83; *Baron* at paras 49-51; *Wang* at para 48). It is well established that a request for deferral does not oblige an enforcement officer to conduct a preliminary or mini humanitarian and compassionate assessment or to make a pre-removal risk assessment decision (*Newman v Canada (Public Safety and Emergency Preparedness)*, 2016 FC 888 at para 19; *Canada (Public Safety and Emergency Preparedness) v Shpati*, 2011 FCA 286 at para 45; *Baron* at para 51).

B. *There was no denial of procedural fairness*

[26] The Applicant submits that several phrases in the following passage from the Officer's decision indicate that the Officer made veiled credibility findings:

> Furthermore, Newman v. Canada states that, "First, in all cases (including where a H&C application is at stake), an enforcement officer may consider logistical or practical factors influencing the timing of removal (such as travel arrangements…)". Mr. Fedorio's current passport expires July 22, 2023 and removal arrangements to Poland require a valid travel document. I note that early on in the removal process Mr. Fedorio frustrated the process when he was required to deliver his valid Polish Passport to CBSA for the purposes of removal. He stated he believed it had been destroyed in a fire. Mr. Fedorio was advised to complete a police report to have the passport declared lost/destroyed in order for him to complete an application for a new passport. He delayed making the

> police report, even after multiple requests were made to have him complete the report so we could proceed with a Travel Document application. He then was able to find the supposed burnt passport and delivered it to CBSA. A deferral of removal for the purposes of waiting for a decision on the record suspension, for which there is no guarantee of approval, would result in creating new impediments to removal. Therefore, the ability to make effective travel arrangements is a factor I took into consideration when balancing my obligation to enforce Mr. Fedorio's removal order.

[27] In particular, the Applicant underlines the wording used by the Officer: that the Applicant "frustrated" earlier removal efforts, "delayed" making a police report, and then was able to find the "supposed burnt passport." According to the Applicant, the negative tenor of these comments confirms that the Officer was making a veiled credibility finding, which denied him procedural fairness because he was never given an opportunity to address the issue.

[28] The Applicant submits that it is not possible to know how the negative assessment of his credibility affected the rest of the Officer's analysis. He also submits that the Officer knew that the deferral refusal was likely to be challenged and that a stay of removal would be requested; he contends that the Officer inserted these words into the decision in order to make it more difficult for him to obtain the equitable relief of a stay of removal.

[29] The Respondent argues that this passage is simply a description of events that were recounted to CBSA Officers by the Applicant during the course of removal interviews. In the Respondent's view, the Officer did not make credibility findings, and this passage is simply a summary of the history of the Applicant's passport, noting that he said it had been lost in a fire, but then he subsequently found it. In addition, the Respondent submits that this was not the basis

for the refusal of the deferral request and therefore even if the comments amount to veiled credibility findings, there was no breach of procedural fairness.

[30] I reject the Applicant's arguments, for several reasons. First, as discussed at the hearing, it is not evident that the Officer made any credibility findings at all in the decision; none of the Applicant's evidence is discounted or given less weight because the Officer did not believe him. Rather, the Officer's reasons rest on findings that the Applicant's evidence was insufficient to demonstrate that a deferral should be granted. That is not a credibility finding. Not every unfavourable comment in a decision constitutes a credibility finding.

[31] Furthermore, while I accept that the Officer's description of the sequence of events surrounding the loss and subsequent discovery of the passport may cast the Applicant in a somewhat negative light, I note that he does not challenge the key events in the chronology set out by the Officer. Instead, the Applicant objects to the way certain incidents are described and the motives that are attributed to him by the Officer. This is verging into the kind of "line-by-line treasure hunt for error" that *Vavilov* counsels against (para 102).

[32] More importantly, I agree with the Respondent that the passage cited by the Applicant was not the basis for the main findings that resulted in the denial of the deferral request. At best, the Officer's discussion of the question of travel documents was one element of several that weighed against delaying the Applicant's removal. A more significant consideration for the Officer was the fact that the Applicant had been found inadmissible for serious criminality. The Officer found that weighed heavily against delaying removal.

[33] The Applicant challenges the Officer's finding that he poses a danger to the community, arguing that it was based on extrinsic evidence regarding preparations that were made for his removal. I am not persuaded that the Officer's statement was based solely or even largely on the removal preparations; instead, the Officer reasonably based that finding on the Applicant's history of criminality, which is not in dispute.

[34] For all of these reasons, I am not persuaded that there was a breach of procedural fairness. The Applicant was well aware of the sequence of events that surrounded the delay in producing his passport, because he recounted them to CBSA Officers. No credibility finding was made – expressly or in a veiled manner - either in this passage or elsewhere in the decision. Instead, the Officer examined the evidence and found it to be insufficient. The procedure that was followed was fair to the Applicant.

C. *The decision is reasonable, and the Officer did not err in failing to assess Charter values*

[35] The Applicant submits that the decision is unreasonable because the Officer failed to consider *Charter* values and did not conduct a "proportionate balancing" exercise despite the Applicant's clear submissions on this point in his deferral request. In addition, he argues that the Officer failed to give due consideration to the evidence he submitted about the hardship he would face on his return to Poland and that the decision is therefore unreasonable. These arguments are intertwined, since the *Charter* claim rests on the same evidence and reasoning that underlies the Officer's refusal to defer the Applicant's removal.

[36] The Applicant contends that his right to security of the person, guaranteed by section 7 of the *Charter*, applies because his removal to Poland subjects him to serious, state-imposed psychological stress: *Blencoe v British Columbia (Human Rights Commission)*, 2000 SCC 44 at para 56. Instead of engaging in the kind of proportionate balancing called for by the jurisprudence (e.g. *Law Society of British Columbia v Trinity Western University*, 2018 SCC 32, at para 58), the Officer simply found the evidence of hardship to be insufficient. He says the Officer dismissed his claim as a "mini" humanitarian and compassionate (H&C) application, and thus refused to grapple with the evidence showing that he would face hardships that are far greater than the normal consequences of removal.

[37] The Applicant argues that in *Charkaoui v Canada (Citizenship and Immigration)*, 2007 SCC 9 [*Charkaoui*] at paras 16–17, the Supreme Court of Canada held that the deportation of a non-citizen could engage section 7 of the *Charter* where it affected significant interests outside of the normal consequences of deportation.

[38] The Applicant's hardship argument rested on his personal situation as well as the more general country conditions in Poland. He stated to the Officer that he would face significant challenges in Poland because he had not lived there since he was a child, did not speak the language and was not familiar with the culture, and he had no immediate family there to assist with his transition. He pointed out that he was 55 years old, with no savings to help him transition to living in Poland. In addition, the Applicant pointed out that Poland was facing significant challenges due to the influx of Ukrainians fleeing the Russian invasion of their country, and he would be competing with them for access to housing, education and health care.

[39] The Applicant submits that his situation is similar to that discussed in *Revell v Canada (Public Safety and Emergency Preparedness)*, 2020 FC 716 [*Revell FC*], where the Court found that the COVID-19 pandemic aggravated the consequences of deportation for Mr. Revell to such an extent that it tipped the balance in his favour despite his serious criminality. In particular, the Applicant relies on the following passage from *Revell FC* at para 21, which cites the previous decision of the Federal Court of Appeal in *Revell v Canada (Citizenship and Immigration)*, 2019 FCA 262 [*Revell FCA*]:

> [77] The point at which the psychological impact of state action meets the threshold to trigger section 7 rights is obviously not easily determined. As Chief Justice Lamer put it in G.(J.), "[d]elineating the boundaries protecting the individual's psychological integrity from state interference is an inexact science" (at para. 59). That being said, I would be inclined to think that uprooting an individual from the country where he has spent the better part of his life (and all of his adult life) and deporting him to a country that he barely knows and where he has no significant relationships, where his prospects of employment are at best grim, and where it is highly unlikely that he will ever be able to reunite with his immediate family, goes beyond the normal consequences of removal. The harms alleged here are arguably far greater than the ones the Supreme Court referred to in G.(J.) as the "ordinary stresses and anxieties that a person of reasonable sensibility would suffer as a result of government action" (ibid.). Contrary to the situation that was considered in *Stables v Canada (Citizenship and Immigration)*, 2011 FC 1319, 400 F.T.R. 135 [Stables], there is evidence tending to show that the stresses Mr. Revell would experience if removed to his country of origin would be far greater than the normal consequences of deportation. [Our emphasis.]

[40] The Applicant contends that instead of engaging in a proportionate balancing of his *Charter* rights, in light of his personal circumstances and the situation in Poland, the Officer simply dismissed his arguments. He points out that Justice Fuhrer granted him a stay of removal

based, in part, on the decision in *Revell (FC)*. The Applicant submits that the Officer's failure to consider his *Charter* argument makes the decision unreasonable.

[41] In addition, the Applicant submits that the Officer's speculation about his opportunities to obtain employment in Poland, or to leave that country and move elsewhere in the European Union, is unreasonable.

[42] Finally, the Applicant says the Officer failed to give sufficient consideration to the fact that his lawyer was in the process of gathering the necessary documentation so that he could submit an application for a record suspension. He claims the Officer engaged in unwarranted speculation about the time such an application would take, rather than accepting the statement of his lawyer.

[43] For its part, the Respondent submits that the Officer was not obliged, as a matter of law, to consider the merits of the Applicant's H&C claim, because that was being dealt with through a separate process. The Respondent says that the Applicant's hardship argument amounted to a request to cancel his removal, but the Officer's discretion under subsection 48(2) of *IRPA* is limited to considering the timing of the removal.

[44] The Respondent submits that the Applicant's evidence about the hardship he might face if he returned to Poland was speculative and fell short of the type of harm that would trigger the application of section 7 of the *Charter*. In this case, the Applicant did not face inordinate hardship or risk of the sort that might warrant a deferral of removal.

[45] I am not persuaded that the Officer was required to engage in a proportionate balancing of *Charter* rights, because the Officer reasonably concluded that the Applicant's evidence about the difficulties he would face in finding employment, housing or other social services was speculative. The Officer noted that despite the fact that the Applicant had known that he was subject to a removal order for a long time, he did not demonstrate efforts to try to obtain more concrete information on these topics to support his claim.

[46] In *Charkaoui*, the Supreme Court of Canada accepted that *Charter* rights might be relevant where a person subject to removal was placed in detention. It must be remembered, however, that the main thrust of the Court's finding (at paras 16–17) was that the deportation of a non-citizen, in itself, did not implicate the liberty and security interests protected by section 7 of the *Charter* (citing *Medovarski v Canada (Minister of Citizenship and Immigration)*, 2005 SCC 51 at para 46).

[47] I am not persuaded that the decision in *Revell FC* is particularly relevant to the Applicant's claim, for two principal reasons. First, Mr. Revell's deferral request was based on the risks and uncertainty associated with the outbreak of the COVID-19 pandemic, which the Court found to constitute a significant temporary impediment to his safe removal from Canada. That finding is limited to the specific facts of that case, in particular the obvious and time-limited challenges associated with the outbreak of a global pandemic. That has no application here.

[48] In contrast, the Applicant's evidence of the hardship he would face in Poland was largely speculative, and did not demonstrate imminent and potentially life-threatening risks. In this

respect, I note that in *Singh v Canada (Citizenship and Immigration)*, 2021 FC 846 at para 41, Justice Norris distinguished *Revell FC* because the claimant failed to bring forward persuasive evidence that he faced a real risk of harm. I find the same has occurred here. Despite having opportunities to obtain concrete evidence of actual risks of hardship, the Applicant's evidence did not rise above speculation.

[49] Furthermore, just before the passage from *Revell FC* cited above – which the Applicant says is directly applicable to his situation – the Court specifically noted that the Federal Court of Appeal had upheld the finding that Mr. Revell's *Charter* interests were not engaged. Finally, *Revell FC* was a decision on a motion for a stay of removal, not a decision on the merits of an application for judicial review. Such rulings are inevitably made under tight time constraints, and often without a full record or fulsome submissions by the parties.

[50] For all of these reasons, I am not persuaded that the decision in *Revell FC* is particularly persuasive in the present case. In making this finding, I acknowledge that Justice Fuhrer came to a different conclusion when she considered the Applicant's stay request. As with *Revell FC*, I would simply note that decisions on stay motions are often of limited assistance when considering the merits of an application for judicial review, considering the circumstances in which they are made, and the nature of the remedy being requested. On this point, it must be recalled that the stay motion was granted by Justice Fuhrer to preserve the *status quo*, pending the determination of this application for judicial review. That has happened, and I have had the benefit of full argument by both parties as well as the opportunity to review the record in full.

The fact that such a process has led me to a different finding on the persuasiveness of *Revell FC* should be understood in that light.

[51] For these reasons, I am not persuaded that the Officer's findings regarding the hardships the Applicant would face are unreasonable. The Officer properly refused to engage in a full-blown analysis of the Applicant's H&C claim, and the finding that the evidence on hardship was speculative is reasonable based on the record. The Officer explained the analysis and conclusions in a clear fashion, and it is not the role of a Court on judicial review to re-weigh the evidence.

[52] On the issue of the record suspension, I reject the Applicant's argument for several reasons. First, the Officer reasonably considered the evidence in the record. The Applicant's lawyer indicated they were in the process of seeking to obtain the documentation needed to support an application for a record suspension, but there was no definitive timeline for that process. On this point, I note that as early as May 11, 2022, the Applicant had stated that he had applied for a record suspension, but that was not true: see 2022 CanLII 38765 at para 8. As of the date of the deferral request at issue here, the Applicant had still not submitted his application for a record suspension. I can find no basis to question the Officer's analysis on this point.

IV Conclusion

[53] Based on the analysis set out above, the application for judicial review is dismissed.

[54] There is no question of general importance for certification.

JUDGMENT in IMM-6484-23

THIS COURT'S JUDGMENT is that:

1. The application for judicial review is dismissed.

2. There is no question of general importance for certification.

"William F. Pentney"
Judge

FEDERAL COURT

SOLICITORS OF RECORD

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