



Preparing for a Q & A with

Supreme Court Justice Sonia Sotomayor

at the University of Denver Sturm College of Law

August 26, 2010, 1 to 2 p.m.

A NOTE TO TEACHERS

July 2010

The University of Denver Sturm College of Law is delighted to host a forum in which your students will have an opportunity to ask questions of Supreme Court Justice Sonia Sotomayor and listen to her discourse with others.

As the first person of Hispanic descent to serve on our nation's highest court, the Justice certainly is a trailblazer. She's also someone who possesses three decades of legal experience – as a prosecutor, a corporate litigator and a judge. Indeed, when she was seated on the Supreme Court, Justice Sotomayor brought more federal judicial experience than any other appointee in 100 years. She is, in short, a remarkable woman, and we all have much to learn during her visit to the College of Law.

The College of Law also is pleased to offer the enclosed materials, a set of inquiry-based activities designed to foster students' connections with Justice Sotomayor's professional experiences and life story. It contains four elements:

1. A handout, on page 3, to facilitate self-guided exploration by students, on their own time;
2. A sponge activity, on page 5, which can be completed in as little as 20 minutes;
3. A more substantial lesson plan, on page 9, which prompts students to explore Justice Sotomayor's journey and then apply it to their own lives; and
4. A page (the last page) identifying the Colorado Academic Standards these materials support, along with additional resource recommendations.

We welcome your feedback on these materials and also would love to share your lesson ideas with other participating schools.

On behalf of the Sturm College of Law, I want to thank you for ensuring that Denver's students have access to this tremendously meaningful opportunity.

Sincerely,

Catherine Smith
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HANDOUT

What Do You Want to Know?

During her visit to the University of Denver Sturm College of Law, Justice Sotomayor will not be giving a speech. She'll be answering questions from students like you. Here are some ideas and resources to help you get started.

Curious about Justice Sotomayor?

Read the biographical sketch at http://www.whitehouse.gov/the_press_office/Background-on-Judge-Sonia-Sotomayor/

Curious about the Legal Profession?

Learn more with this free PDF brochure from the Colorado Bar Association: http://www.cobar.org/Docs/BeALawyer_BR1-FINAL.pdf

Curious about the Supreme Court?

Refresh your knowledge at <http://www.supremecourt.gov/about/about.aspx>

Curious about the Decisions of the Court?

Investigate cases from the Court's 2009-2010 term at <http://www.nytimes.com/info/us-supreme-court-2009-2010-term/?8qa&scp=1-spot&sq=&st=nyt> (The Justice is more likely to discuss cases the Court has decided already, and very unlikely to discuss hypothetical issues that may come before the Court in the future.)

Preparing A Question for the Justice

Keep these guidelines in mind:

- a. Introduce yourself, i.e. "I am John Doe, a junior at ABC High School."
- b. Be respectful and gracious, i.e. "Thank you for taking my question."
- c. Ask an open-ended question, which cannot be answered with "yes" or a "no." For example, instead of asking, "Was being on the debate team in high school important to you?," ask "How did high school debate affect your life?"

Practice asking your question with a friend or mentor – or just practice in the mirror. Try to simplify as much as possible, making the question as clear and concise as you can. Write it down and bring it with you.



Four solid horizontal lines stacked vertically, providing space for writing a question.

ACTIVITY

In Our Words

Subject Areas: Language Arts, Social Studies

Framework

This sponge activity, in which students draft a blended poem, is designed to create a connection between Justice Sotomayor and individual students, deepening their comfort and reflection about the forthcoming Q & A with her.

Objectives

Students will:

- Use the skills and strategies of the reading and writing processes; and
- Find parallels between their own lives or viewpoints, and those of Justice Sotomayor.

Time and Materials

- 20 minutes
- Copies of the transcript of Sotomayor’s remarks on her nomination to the Supreme Court
- Copies of the sample poem, “I Stand” (optional)

Essential Question

- Is the human experience a shared experience?

Suggested Procedures

Read the transcript of Sotomayor’s remarks on her nomination to the Supreme Court all the way through at least once. Read it again, underlining phrases or words that jump out at you, i.e. “I stand on the shoulders of countless people, yet there is one extraordinary person who is my life aspiration.” Reflect on how those words and phrases apply to your own life. Craft a free-form poem using Sotomayor’s words *and* your own. Refer to the sample, as needed.

TRANSCRIPT

Sonia Sotomayor's Remarks Upon Nomination to the Supreme Court May 26, 2009

I was just counseled not to be nervous.

That's almost impossible.

Thank you, Mr. President, for the most humbling honor of my life. You have nominated me to serve on the country's highest court, and I am deeply moved.

I could not, in the few minutes I have today, mention the names of the many friends and family who have guided and supported me throughout my life, and who have been instrumental in helping me realize my dreams.

I see many of those faces in this room. Each of you, whom I love deeply, will know that my heart today is bursting with gratitude for all you have done for me.

The president has said to you that I bring my family. In the audience is my brother, Juan Sotomayor – he's a physician in Syracuse, New York; my sister-in-law, Tracey; my niece, Kylie – she looks like me. My twin nephews, Conner and Corey.

I stand on the shoulders of countless people, yet there is one extraordinary person who is my life aspiration. That person is my mother, Celina Sotomayor.

My mother has devoted her life to my brother and me. And as the president mentioned, she worked often two jobs to help support us after dad died. I have often said that I am all I am because of her, and I am only half the woman she is.

Sitting next to her is Omar Lopez, my mom's husband and a man whom I have grown to adore. I thank you for all that you have given me and continue to give me. I love you.

I chose to be a lawyer and ultimately a judge because I find endless challenge in the complexities of the law. I firmly believe in the rule of law as the foundation for all of our basic rights.

For as long as I can remember, I have been inspired by the achievement of our founding fathers. They set forth principles that have endured for than more two centuries. Those principles are as meaningful and relevant in each generation as the generation before.

It would be a profound privilege for me to play a role in applying those principles to the questions and controversies we face today.

Although I grew up in very modest and challenging circumstances, I consider my life to be immeasurably rich. I was raised in a Bronx public housing project, but studied at two of the nation's finest universities.

I did work as an assistant district attorney, prosecuting violent crimes that devastate our communities. But then I joined a private law firm and worked with international corporations doing business in the United States.

I have had the privilege of serving as a federal district court trial judge, and am now serving as a federal appellate circuit court judge.

This wealth of experiences, personal and professional, have helped me appreciate the variety of perspectives that present themselves in every case that I hear. It has helped me to understand, respect and respond to the concerns and arguments of all litigants who appear before me, as well as to the views of my colleagues on the bench.

I strive never to forget the real world consequences of my decisions on individuals, businesses and government.

It is a daunting feeling to be here. Eleven years ago, during my confirmation process for appointment to the Second Circuit, I was given a private tour of the White House. It was an overwhelming experience for a kid from the South Bronx.

Yet, never in my wildest childhood imaginings did I ever envision that moment, let alone did I ever dream that I would live this moment.

Mr. President, I greatly appreciate the honor you are giving me, and I look forward to working with the Senate in the confirmation process. I hope that as the Senate and American people learn more about me, they will see that I am an ordinary person who has been blessed with extraordinary opportunities and experiences. Today is one of those experiences.

Thank you again, sir.

SAMPLE

I Stand

by J.H., drawing from the words of Justice Sonia Sotomayor

I stand
An ordinary person

I stand on the shoulders
of civil rights crusaders
suffragists and
unionists

I stand
for all of our basic rights

I stand
To understand
Respect and
Respond

I stand
to live this moment

I stand
An ordinary person
Blessed with extraordinary opportunities.

LESSON PLAN

The Ups and Downs of the Journey

Subject Areas: Language Arts, Social Studies, Mathematics

Framework

For classrooms with more time available for student exploration before the Q & A, this timeline lesson will help students understand that a life's journey – even the life of a Supreme Court Justice – isn't a straight line from point A to point B. There are successes and missteps, barriers and opportunities, good times and not-so-good times.

Objectives

Students will:

- Use the skills and strategies of the reading and writing processes;
- Organize information and think critically;
- Share what they learn with others; and
- Apply what they learn to their own lives.

Time and Materials

- Two class periods, with an initial homework assignment
- Copies of the handout, Justice Sonia Sotomayor's Journey
- 3" x 5" index cards cut in half, or scraps of paper
- Poster board or sheets of butcher paper
- Tape

Essential Questions

- Is the human experience a shared experience?
- What does it mean to have “a government of the people, by the people, for the people?”¹

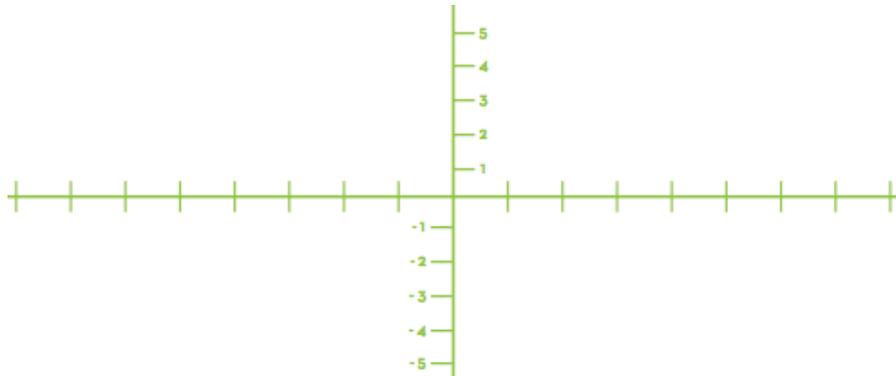
Suggested Procedures

Homework

Read through the handout and then re-read the document, identifying at least five entries that really resonate with you. Write each one down on an index card.

First Class Period

1. Find a partner. Create an XY graph on your poster sheet, with the X values stemming from “Early Years” to “The Supreme Court” and the Y values running from +5 to -5, i.e.



2. Working together, look at each of the entries you selected from the reading and discuss the Y value you should assign to it, i.e. 1 or -3. Write that number on the index card and place it appropriately on the XY graph.
3. Once all of your entries are attached, step back and look for patterns. What does the chart reveal about the nature of Sotomayor’s journey to the Supreme Court?
4. Hang your poster on the wall or board. Walk the room and look at graphs produced by other pairs of students. How are they similar to yours? Different from yours? What patterns are consistent, or inconsistent, across the graphs? What core messages are revealed?

¹ Abraham Lincoln, *Gettysburg Address*, 1863

5. Share your insights with the class.
6. Write for three minutes on the following prompt: When introducing Sotomayor as his nominee for the Supreme Court, President Obama said, “Experience being tested by obstacles and barriers, by hardship and misfortune; experience insisting, persisting, and ultimately overcoming those barriers. It is experience that can give a person a common touch and a sense of compassion.” How does that message relate to Sotomayor’s journey?

Second Class Period

1. Think of five things that have already happened in your life, things that have brought you great joy and things that have challenged you. Write each one down on an index card. Assign a value to each entry, on a scale of -5 to +5.
2. Think of at least one thing you want to accomplish in four future periods of your life: Remaining High School Years, College Years, Early Professional Life and Later Professional Life. Write each goal down on an index card and assign a value of importance from 1 to 5.
3. Place your index cards on the graph you created with your partner. How is your journey similar to, and different from, Sotomayor’s? Is your life likely to unfold in a straight line from high school forward? Why?
4. Re-read the quick-write you completed at the end of the last class period. Craft a new one, based on a slightly changed prompt. Write for three minutes on the following prompt: When introducing Sotomayor as his nominee for the Supreme Court, President Obama said, “Experience being tested by obstacles and barriers, by hardship and misfortune; experience insisting, persisting, and ultimately overcoming those barriers. It is experience that can give a person a common touch and a sense of compassion.” How does that message relate to your life journey?

Culminating Writing Prompt (Optional)

How does this lesson relate to the essential question, “What does it mean to have ‘a government of the people, by the people, for the people?’” How does this question relate to Justice Sotomayor – and to you?

HANDOUT

JUSTICE SONIA SOTOMAYOR'S JOURNEY

Early Years

Sonia Maria Sotomayor was born in 1954, the child of Juan and Celina, Puerto Ricans who immigrated to the mainland during World War II. Her father was a tool and die maker; her mother ultimately worked as a nurse. As a child, she lived in a public housing tenement in the Bronx, New York.

At age 8, Sotomayor was diagnosed with Type 1 diabetes and began taking insulin injections.

At age 9, her father passed away.

By age 10, inspired by *Nancy Drew* books and the *Perry Mason* television show, she knew she wanted to be a lawyer.

“[My mother] had almost a fanatical emphasis on education,” Sotomayor recalled of these years. “We got encyclopedias, and she struggled to make those payments. She kept saying, ‘I don’t care what you do, but be the best at it.’”

Sotomayor excelled in parochial schools, graduating as valedictorian at Blessed Sacrament and Cardinal Spellman High School in New York, where she was a fixture in student government and the debate team. In fact, she first heard about “Ivy League” colleges from her debate coach who himself had attended Princeton University.

College Years

Sotomayor attended Princeton on a full scholarship. She found the school incredibly different from the Bronx and felt like “a visitor landing in an alien country.”

Sotomayor was so intimidated during her first year that she was scared to ask questions in class. She spent many extra hours in the library and spent her summers reading the “classics.” Those efforts, along with the support of a mentoring professor, built her knowledge and confidence.

In her sophomore year, Sotomayor joined Acción Puertorriqueña, a student organizing group, and met with the president of Princeton, expressing concern about the lack of Latino/a students and faculty. (The incoming class had more than 1,100 students, but only 37 were Latino/a, for example.) Dissatisfied with his response, she and others filed a federal complaint describing an “institutional pattern of discrimination.”

As her graduation approached, the school had begun looking more deeply at its diversity issues and, in particular, at the opportunity to recruit Hispanic faculty. Sotomayor personally helped create a course titled “History and Politics of Puerto Rico,” among the first of its kind on campus.

Sotomayor graduated from Princeton *summa cum laude* and also received the Pyne Prize, the highest honor bestowed by the university for undergraduates in recognition of “exceptional scholarship, leadership and personal character.”

Just after graduation, Sotomayor married Kevin Noonan, her high school sweetheart.

Law School

Sotomayor attended Yale Law School, again on a full scholarship. She served as an editor of the *Yale Law Journal* and as managing editor of *Yale Studies in World Public Order*, now known as the *Yale Journal of International Law*.

During her third year of law school, Sotomayor filed a complaint against a Washington, D.C. law firm for making discriminatory remarks during a recruitment dinner (that she was at Yale only because of affirmative action.) A student-faculty tribunal ruled in her favor, and the firm apologized.

After graduation, she was admitted to the New York Bar.

Early Professional Years

Sotomayor’s first job after law school was as an assistant district attorney for New York County under legendary District Attorney Robert Morgenthau. She handled heavy case loads and gained a reputation for being prepared and fair. Her highest-profile case was the trial and conviction of the “Tarzan Murderer.”

Sotomayor and Noonan divorced amicably.

After nearly five years in the district attorney’s office and a short stint as a solo practitioner, Sotomayor joined a commercial litigation firm as an associate and eventually became a partner. Her practice focused on intellectual property law.

Sotomayor appeared on a segment of *Good Morning America* about women and careers. “I am very happy at where I am at this point in my life,” she said. “But I think my expectations were greater [when I graduated from college]. I mean, I really expected to turn the world on fire.”

Sotomayor was registered to vote as an Independent.

Sotomayor was actively involved in her community, serving on the board of directors for both the Puerto Rican Legal Defense and Education Fund, working on issues like police brutality and voting rights, and the State of New York Mortgage Agency, which bolstered the ability of people with low incomes to secure mortgages. She also served with the New York City Campaign Finance Board.

Joining the Bench

On the recommendation of both senators from New York, one a Republican and the other a Democrat, President George H. W. Bush nominated Sotomayor for a seat on the U.S. District Court for the Southern District of New York.

Sotomayor received broad support during her hearings with the Senate Judiciary Committee, but unrelated political rankling held up their vote.

When the Senate ultimately confirmed her, she became the youngest judge in the Southern District, still in her 30s, and the first judge of Puerto Rican descent in the entire federal judiciary.

As a U.S. District Court judge, she presided over roughly 450 cases, some of which elevated her public profile. In *Silverman v. Major League Baseball Player Relations Committee, Inc.*, for example, Sotomayor issued an injunction against team owners, setting the stage for the end of the eight-month strike that led to the cancellation of the 1994 World Series. She was called “the judge who saved baseball.”

The U.S. Court of Appeals

President Bill Clinton nominated Judge Sotomayor for a seat on the U.S. Court of Appeals for the Second Circuit.

Republicans sought to block her nomination; many feared Clinton would later appoint her to the Supreme Court.

The *Wall Street Journal* published a scathing review, criticizing two decisions she’d made while on the District Court – one in which she required a midtown business district to pay the minimum wage to workers who were homeless, and another ordering the New York Bar Association to provide services to a law student with reading problems who wanted help taking the bar exam.

In conservative circles, she was widely derided as an “activist judge.” Commentator Rush Limbaugh called her “ultraliberal.”

After a delay of more than a year, the Senate elevated Judge Sotomayor from the U.S. District Court to the U.S. Appeals Court by a 67-29 vote.

Judge Sotomayor later expressed frustration about the confirmation process. According to the *New York Daily News*, she was bothered by the idea that, if you’re a woman and a Latina, people will assume you are a bleeding-heart liberal. “It is stereotyping, and stereotyping is perhaps the most insidious of all problems in our society today,” she said.

Over the decade-plus she served on the Second Circuit, Judge Sotomayor heard appeals in more than 3,000 cases, authoring roughly 400 opinions. The Supreme Court reviewed five of those cases and reversed three – not an atypical record.

Among the reversed cases was *Ricci v. Destefano*, in which Sotomayor, in a panel decision, upheld the right of the city of New Haven, Conn., to discard results from a firefighters’ test for promotions and start over with a new one, because the original test produced a negative “disparate impact” on firefighters of color. In a 5-4 ruling, the Supreme Court found that white firefighters had been subject to racial discrimination, because their promotions, based on the original test results, were denied.

During her time on the Circuit Court, Judge Sotomayor delivered a speech, “A Latina Judge’s Voice,” at the UC Berkley School of Law, in which she spoke about “my Latina identity, where it came from, and the influence I perceive it has on

my presence on the bench.” The fundamental messages of the speech were the need for greater diversity in the legal profession and the notion that the largely white, largely male bench, in particular, would benefit from more diverse points of view.

Judge Sotomayor’s influence grew steadily over her tenure on the Second Circuit, and, between 2004 and 2006, her opinions were cited more than 700 times by other courts and nearly 400 times in academic legal journals.

Although some commentators viewed her service on the U.S. Appeals Court as “liberal,” most viewed her as “centrist.” A report from the Congressional Research Service would later conclude that “the most consistent characteristic of Judge Sotomayor’s approach as an appellate judge could be described as an adherence to the doctrine of *stare decisis*, i.e., the upholding of past judicial precedents.”

During her tenure on the Second Circuit, Judge Sotomayor also served as an adjunct professor at the New York University School of Law and as a lecturer at the Columbia Law School. She also co-taught a course called the “Federal Appellate Externship,” which provided an opportunity for students to work in chambers. In addition, she served on the board for Princeton University. Her favorite public service, however, likely was with the Development School for Youth, which teaches work skills to young people who live in the inner city.

The Supreme Court

President Barack Obama nominated Judge Sotomayor for service on the Supreme Court. In his remarks, the President spoke about the importance of life experience in the judicial role: “Experience being tested by obstacles and barriers, by hardship and misfortune; experience insisting, persisting, and ultimately overcoming those barriers. It is experience that can give a person a common touch and a sense of compassion; an understanding of how the world works and how ordinary people live. And that is why it is a necessary ingredient in the kind of justice we need on the Supreme Court.”

Some were leery of the President’s emphasis on compassion as a qualification for service. Senator Orrin Hatch (R-UT), for example, said, “[The President believes] a judge has to be a person of empathy. What does that mean? Usually that’s a code word for an activist judge.”

A single line from the speech, “A Latina Judge’s Voice,” Judge Sotomayor had delivered years earlier at the UC Berkley School of Law also sparked wide criticism. She’d said, “I would hope that a wise Latina woman with the richness of her experiences would more often than not reach a better conclusion than a white male who hasn’t lived that life.” Conservative commentator Rush Limbaugh and former Speaker of the House Newt Gingrich (R-GA) called her “racist.”

Immediately before her confirmation hearing, the Supreme Court issued its reversal in *Ricci*, the firefighter case. Senator Jeff Sessions (R-AL)

warned, “This case sharpens our focus on Judge Sotomayor’s troubling speeches and writings, which indicate...that personal experiences and political views should influence a judge’s decision.” Commentator Pat Buchanan called Judge Sotomayor “an anti-white, liberal judicial activist” and also claimed she “believe[s] in reverse discrimination against white males.”

During her hearings before the Senate Judiciary Committee, Judge Sotomayor referred to her “wise Latina” remark as “a rhetorical flourish that fell flat” and clarified, “I do not believe that any ethnic, racial or gender group has an advantage in sound judgment.”

She also defended the original position in *Ricci*, pointing out that the panel’s decision was based on precedent and that the Supreme Court, in reviewing the case, “applied a new standard. In fact, it announced that it was applying a standard from a different area of law and explaining to employers and the courts below how to look at this question in the future.” She agreed that the Court’s ruling would now be binding.

The Senate Judiciary Committee approved Judge Sotomayor’s nomination with a 13-6 vote, almost entirely along party lines. A similarly divided Senate confirmed her with a vote of 68 to 31.

Justice Sotomayor was sworn in on August 8, 2009, becoming the first Supreme Court Justice of Hispanic descent in the nation’s history and only the third woman to serve. She also brought more federal judicial experience than any other

appointee in 100 years and became the only current justice with experience as a trial judge.

With her appointment, a record six Roman Catholics served on the Court.

Her first year as a Justice was marked by two highly controversial cases – *Citizens United v. Federal Elections Commission*, in which the majority found that corporate funding of independent political broadcasts in candidate elections cannot be limited, and *Berghuis v. Thompkins*, a case dealing with protection against self-incrimination, i.e. “the right to remain silent.” The majority concluded that merely remaining silent was insufficient to assume a suspect in a crime had invoked his or her rights.

Justice Sotomayor disagreed with the majority in both cases, and, in the latter, wrote the dissenting opinion, warning “[S]uspects must now unambiguously invoke their right to remain silent – which, counterintuitively, requires them to speak. At the same time, suspects will be legally presumed to have waived their rights even if they have given no clear expression of their intent to do so.”

ACADEMIC STANDARDS & ADDITIONAL RESOURCES

STANDARDS

The activities and lessons in this guide support Colorado Academic Standards:

Reading, Writing and Communicating

- *Oral Expression and Listening:* Deliver organized and effective oral presentations for diverse audiences and varied purposes
- *Reading for All Purposes:* Engage in a wide range of nonfiction and real-life reading experiences to solve problems, judge the quality of ideas, or complete daily tasks
- *Writing and Composition:* Effectively use content-specific language, style, tone, and text structure to compose or adapt writing for different audiences and purposes; Apply standard English conventions to effectively communicate with written language.

Social Studies

- *History:* Develop an understanding of how people view, construct and interpret history
- *Civics:* Analyze and practice rights, roles and responsibilities of citizens; Analyze origins, structures and functions of governments and their impacts on societies and citizens.

Mathematics

- *Patterns, Functions and Algebraic Structures:* Makes sound predictions and generalizations based on patterns and relationships that arise from numbers, shapes, symbols and data

ADDITIONAL RESOURCES

Formation and Function of the Supreme

Court: This lesson for grades 9-12 from PBS explores the basics of the Supreme Court, its history and key decisions. http://www.pbs.org/newshour/extra/teachers/lessonplans/history/scotus_function.html

Ethnicity, Gender and the Courts: This lesson for grades 9-12 from Teaching Tolerance, a project of the Southern Poverty Law Center, positions Sotomayor's status as the first Latina Justice in a historical context. <http://www.tolerance.org/activity/ethnicity-gender-and-courts>

A Wise Latina Woman: Reflections on Sonia Sotomayor, an essay by renowned education scholar Sonia Nieto, asks “teachers [to] frame this conversation as part of the larger American story of struggle and achievement on the part of the dispossessed. It is a noble story, one that is not yet over.” <http://www.tolerance.org/blog/wise-latina-woman-reflections-sonia-sotomayor>

Sotomayor for Justice is a website established to support her confirmation. Its “On the Record” section provides useful summaries of the then-Judge’s track record on issues ranging from business law to religious freedoms. A collection of advocacy groups, including the Hispanic National Bar Association and Hispanics for a Fair Judiciary, sponsored the site. <http://sotomayorforjustice.com/>

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