

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

IN THE OFFICE OF  
ADMINISTRATIVE HEARINGS  
22 DOJ 00908

<p>Phillip David Holliday Petitioner,</p> <p>v.</p> <p>NC Private Protective Services Board Respondent.</p>	<p><b>PROPOSAL FOR DECISION</b></p>
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THIS CONTESTED CASE came on for hearing before the Honorable Melissa Owens Lassiter, Administrative Law Judge, on May 24, 2022, at the NC Office of Administrative Hearings in Raleigh, Wake County, North Carolina after Respondent requested, pursuant to N.C.G.S §150B-40(e), designation of an Administrative Law Judge to preside at a contested case hearing under Article 3A, Chapter 150B of the North Carolina General Statutes.

**APPEARANCES**

For Petitioner: George V. Laughrun, II  
Goodman, Carr, Laughrun, Levine & Greene, PLLC  
Attorney for Petitioner

For Respondent: Jeffrey P. Gray  
Bailey & Dixon, LLP  
Attorney for Respondent

**ISSUE**

Whether Respondent's Order of Summary Suspension of Petitioner's Armed Proprietary Security Guard Registration should be upheld on the grounds that (1) Petitioner had been charged with misdemeanor Assault Inflicting Serious Injury under N.C.G.S. §14-33(c)(1), (2) Petitioner lacked good moral character, and (3) Petitioner is or will be a threat to the public's health, safety, and welfare?

**OFFICE NOTICE OF APPLICABLE STATUTES AND RULES**

N.C. Gen Stat. § 150B-3(c)  
N.C. Gen. Stat. §§ 74C-6 and 74C-12(a)(9) & (25)  
14B NCAC 16 .0100 et seq.

## WITNESSES

For Petitioner: Franklin Jones  
Petitioner Phillip Holliday

For Respondent: Paul Sherwin, Director of Respondent Board (“PPSB”).

## EXHIBITS ADMITTED INTO EVIDENCE

For Petitioner:

1. Novant Health Use of Force Policy (NH-EC-SE-120)
2. Novant Health Use of Force Policy (NH-EC-SE-500)
3. Timeline of Events
4. Calls for Service at 200 Hawthorne Lane (2/7/2022 – 2/9/2022)
5. Original Incident Report
6. Photo from 2/8/2022 at 23:00:20
7. Photo from 2/8/2022 at 23:10:55
8. Photo from 2/8/2022
9. Photo from 2/8/2022 at 23:11:26
10. Photo from 2/8/2022 at 23:11:33
11. Novant Health Incident Report
12. Video of Incident
13. Paul Register Statement (Novant Employee)
14. Sgt. William Hartung Statement (CMPD)
15. Barbara Colon Statement (Novant Employee)
16. Photo of blonde patient trashing steel rod from floor
17. Photo of unidentified (due to masks) CMPD Officers on scene
18. Sam Colston Statement with photos (Public Safety Officer)
19. Jonathan Peguese Statement with photos (Public Safety Officer)
20. Shayla Bennett Statement (Novant Phlebotomist)
21. Medina Sylvester Statement (Novant CAN)
22. Revyn Raymind Criminal Record
23. DVPO against Revyn Raymind
24. Franklin Jones, Jr. letters and awards
25. Phillip Holliday Statement and letters

Petitioner’s Exhibits 13-15 are admitted not for the truth of the matter asserted but to corroborate witness testimony at hearing and to support witness credibility.

For Respondent:

1. Warrant for Arrest, Incident/Investigators Report and Arrest Report. (Admitted without objection)

2. Respondent's March 10, 2022 letter to Petitioner regarding Administrative Hearing, Notice of Hearing and Order for Summary Suspension of Armed Security Guard Registration. (Admitted without objection)

### **FINDINGS OF FACT**

BASED UPON careful consideration of the sworn testimony of the witnesses presented at the hearing, the documents and exhibits received and admitted into evidence, the video evidence received and admitted into evidence, and the entire record in this proceeding, the Undersigned finds as follows:

#### **Background Facts**

1. Respondent Board (Respondent or the Board), an agency of the State of North Carolina, was created by N.C. Gen. Stat. § 74C-1, *et. seq.*, and is charged with the duty of licensing and registering individuals engaged in the armed and unarmed security guard and patrol business or as a proprietary security organization employing armed security guards.

2. Pursuant to N.C. Gen. Stat § 74C-12, "The Board may, after compliance with Chapter 150B of the General Statutes, deny, suspend, or revoke a license or registration issued under the Chapter if it is determined that the...registrant...has...:

Demonstrated intemperate habits or a lack of good moral character. The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this subdivision.

N.C. Gen. Stat. § 74C-12(a)(25).

3. Respondent Board may also "[c]onduct investigations regarding alleged violations" of Chapter 74C or the Board's rules by its licensees, registrants, and certificate holders and punish misconduct by suspending or revoking the violator's license. N.C. Gen. Stat. §§ 74C-5(3) and (6).

4. In addition, N.C. Gen. Stat. § 74C-6 establishes the position of the Board's Director and provides that the Director shall administer the directives contained in the Private Protective Services Act and the rules promulgated by the Board to actively police the industry.

5. Petitioner holds an armed proprietary security guard registration with Respondent with an expiration date of March 31, 2022. Petitioner is employed by Novant Health located at 200 Hawthorne Lane in Charlotte, NC, a proprietary organization pursuant to N.C. Gen. Stat. § 74C-3(b)(13), N.C. Gen. Stat. § 74C-13(a1)(3) and 14B NCAC 16 .0103(13). Officer Jones has no prior disciplinary history imposed by Respondent Board or by any of his former employers. He had never been charged with

a crime before March 2, 2022.

6. On March 2, 2022, Petitioner was arrested and charged by the Charlotte Mecklenburg Police Department with committing an Assault Inflict Serious Injury on February 8, 2022, in violation of N.C.G.S. § 14-33(c)(1), which provides “Inflicts serious injury upon another person or uses a deadly weapon.” Resp. Ex. 1, Warrant for Arrest, p.1.

7. Petitioner’s Warrant for Arrest and Conditions of Release and Release Order found there was probable cause to believe that Petitioner unlawfully and willfully assaulted and struck Revyn Tremaine Raymind about the face and body with a closed fist, inflicting serious injury of extensive swelling and bruising to Raymind’s face, neck, and head, lacerations to the mouth, bleeding from the nose and mouth, and loss of consciousness on February 8, 2022. Resp. Ex. 1.

8. Respondent’s Director Paul Sherwin received information that Petitioner had been criminally charged with the misdemeanor Assault Inflict Serious Injury. Director Sherwin also received a copy of the Warrant for Arrest.

9. By Order issued March 10, 2022, Director Sherwin, on the Board’s behalf, summarily suspended Petitioner’s Armed Proprietary Security Guard Registration, pursuant to N.C.G.S. 150B-3(c) based “upon the Findings of Fact showing that the public health, safety, and welfare will be jeopardized if Mr. Jones is allowed to continue in his role as an Armed Security Guard for Novant Health.” Resp Ex. 2, p. 2, Order of Summary Suspension. In the Order of Summary Suspension, Director Sherwin found that:

6. . . . Mr. Holliday was charged with misdemeanor Assault Inflicting Serious Injury in Mecklenburg County, North Carolina.

7. This charge arises out of an on-duty use-of-force incident at Novant Health Presbyterian Medical Center on February 9, 2022 [sic].

8. The facts underlying the charge indicates a lack of good moral character.

9. Mr. Holliday’s charge has not been adjudicated in criminal courts in Mecklenburg County.

Resp. Ex. 2, p. 2. In issuing the Order of Summary Suspension, Director Sherwin relied solely on the Warrant for Arrest documents. He opined at hearing that the Warrant for Arrest alone was sufficient to issue the Order of Summary Suspension. Director Sherwin did not recall if he received a copy of the Charlotte-Mecklenburg Police Incident Report, and he didn’t talk to any staff from Novant Health about whether there was a question of public safety during the February 8, 2022 incident.

10. Respondent served on the Petitioner, via certified mail, the March 10, 2022 Order of Summary Suspension, and a Notice of Hearing that this contested case was to be heard on May 24, 2022 in the Office of Administrative Hearings, Raleigh, Wake County, North Carolina.

11. With consent of all parties, the evidence in response to Respondent's showing was presented jointly for this matter and a companion case, N.C. Private Protective Services Board v. Phillip David Holliday, 22 DOJ 00908. See N.C. Gen. Stat. § 150B-38(g).

#### Adjudicated Facts at Contested Case Hearing

12. Novant Health is one of the largest hospitals in Charlotte, Mecklenburg County, North Carolina.

13. During February 2022, COVID cases in the emergency room and the involuntary commitment section of Novant Health were at an all-time high. Numerous patients did not have bed spaces or rooms and were forced to be housed in the hallway until medical treatment could be provided.

14. Petitioner worked as an armed proprietary security guard at Novant Health at 200 Hawthorne Lane, Charlotte, North Carolina during the third shift from 6:00 pm on February 8, 2022, until 6:00 am on February 9, 2022. Several other Public Safety Officers employed by Novant Health also worked third shift.

15. Around 7:35 pm on February 8, 2022, patient Revyn Tremaine Raymind (the Patient) was brought into the involuntary commitment section of Novant Health for a psychiatric evaluation. During the hospital staff's attempted triage of the Patient, the Patient refused to answer questions, have his vital signs taken, or give up his personal belongings. Thereafter, the Patient was placed in a waiting area of a hallway for several hours awaiting designation to a treatment room.

16. While the subject Patient sat in the hallway area, hospital staff members complained on numerous occasions not only to the Petitioner, but to other Public Safety Officers about the Patient's vulgar language, threats, and allegations of violence toward staff and other patients.

17. The Tribunal viewed the security camera video footage from Novant Health of the February 8, 2022 incident in question (Petitioners' Exhibit 12), and still photographs taken from the video. The photos included handwritten labels identifying the Novant Health Public Safety Department officers who were present during the February 8, 2022 incident. Pet Exs 6 through 10. The undersigned also considered a timeline for the video, including incidental notes for the following day (Petitioners' Exhibit 3), Charlotte Mecklenburg Police Department's (CMPD) call-for-service log (Petitioners' Exhibit 4), the CMPD Incident Report (Petitioner's Exhibit 5) and the Novant Health Incident Report and Supplements (Petitioners' Exhibits 11 through 15), all admitted into evidence. The

Tribunal also reviewed Petitioners' Exhibits 1 and 2, showing Novant Health's Use of Force Policy.

18. Around 22:31:58 (10:31 pm), the video showed the Patient sitting in the hallway waiting area of the Emergency Room, awaiting his psychiatric evaluation for the involuntary commitment. He is interacting with a blonde-hair lady located right who is also waiting to be involuntarily committed. The Patient becomes visibly more agitated over time, standing up, fidgeting, and making comments to passersby.

19. Petitioner and five other armed proprietary security guards were present and dressed in Class B uniforms with identification badges showing they were Novant Health Public Safety Officers.

20. At 10:58 pm, the Novant Health Public Safety Officers were alerted to a disturbance in the Emergency Room's hallway and began assembling near the Patient in the hallway. One or two Public Safety Officers begin interacting with the Patient. The blonde-hair lady seated to the Patient's right is encouraging the Patient's disruptive behavior.

21. Around 10:59 pm, the Patient becomes more disruptive, aggressive, and threatening. At 11:08 pm, the Patient takes off a knee brace and removes a long, slender black metal object from the knee brace. One officer observes the metal object and unholsters his O.C. pepper spray, extends his arm and hand, but does not deploy or use his O.C. spray. At 11:10 pm, the Patient conceals the metal object behind his leg and becomes more combative. The Novant security officers move in and around to the Patient to secure the Patient's wrist and arms to physically assist and escort the Patient to a seclusion room. Petitioner gestures toward his waist, springs from his chair, and strikes Officer Jones with a closed fist on Jones' left side of his face. Other officers secured the Patient and escorted him to a seclusion room.

22. On February 9, 2022, Novant Health Public Safety Officer Barbara Colon located a black knee brace and a black metal piece in the belongings of the blond-hair lady who sat next to the Patient during the subject incident on February 8, 2022. Resp Ex 11; Pet Exs 20-21.

23. While there was some medical evidence produced at hearing that the Patient suffered lacerations to the face and upper lip with active bleeding, there was no evidence the Patient suffered severe injuries and/or lost consciousness as a result of the February 8, 2022 incident. Petitioner's Exhibit 3.

24. Petitioner Phillip Holliday testified at the contested case hearing. Petitioner Holliday has worked for Novant Health for four years and previously worked for two years for various security guard and patrol companies, including (then called) Allied Barton. He assisted the other Public Safety Officers during the February 8, 2022 incident involving the Patient. His first interaction with Mr. Raymind was before the "call for service." He passed the Patient while patrolling the hall, and the Patient commented that Officer

Holliday was “fat.”

25. Petitioner explained that once Charlotte-Mecklenburg Police Department drops off an involuntary commitment patient the officers take a hands-off attitude. Novant Health becomes responsible. There is a tension between the two agencies since the police do not search the patients and will not assist when a problem arises inside the hospital.

26. As soon as the Patient arrived at Novant Health on February 8, 2022, he took an aggressive stance. After monitoring his behavior, the medical staff made a decision to move him to an isolation waiting area, “Room 18.” Petitioner Holliday was tasked with clearing Room 18 after it was cleaned to accommodate the Patient.

27. In describing the scene in the security camera video, Petitioner explained how other Public Safety Officers attempted to deescalate the situation and described the situation as “up and down.”

28. Petitioner Holliday admitted to striking the Patient’s arm during the altercation but did so only in an attempt to make the Patient drop the metal object and remove him from the hallway waiting area. Petitioner described the Patient as a very strong individual but also indicated that the Patient didn’t lose consciousness during or after the altercation.

29. The initial Charlotte-Mecklenburg Police Detective who investigated the assault charges against Petitioners Jones and Holliday closed the criminal case after reviewing the hospital video and the metal object. However, a second Detective reopened the criminal cases, and the officers were then criminally charged.

30. Respondent issued an Order of Summary Suspension of Petitioner Holliday’s armed proprietary security guard registration for the same reasons Respondent summarily suspended Officer Jones’ armed proprietary security guard registration.

31. Officer Holliday’s testimony during this contested case hearing was credible, honest, and trustworthy. Such testimony corroborated Officer Jones’ testimony of the events involving the Patient at Novant Health on February 8, 2022.

32. Officer Holliday did not know why he, Officer Jones, and a third officer, Officer Santiago, were the only three Public Safety Officers charged based on the February 8, 2022 incident. After Petitioners Holliday and Jones learned they were charged criminally, they called their supervisor and turned themselves in to local law enforcement.

33. Character letters on behalf of Petitioner Holliday from the Chief of Novant Health Public Safety, its Director of Operations, the Assistant Nurse Manager and three other healthcare workers commended him personally, and his job performance and work ethic as an armed security guard. Petitioners Exhibit 25.

34. Officer Franklin Jones testified at the contested case hearing. Officer Jones was also criminally charged with the misdemeanor Assault Inflict Serious Injury of the Patient from the February 8, 2022 incident. Respondent also issued an Order of Summary Suspension of Jones' armed proprietary security guard registration for the same reasons Respondent summarily suspended Officer Jones. Officer Jones filed a contested case petition, 22 DOJ 0909, appealing such Order of Summary Suspension.

35. Typically, there are 11 Public Safety Officers on duty at Novant Health's hospital on each 12-hour shift. Officer Jones' testimony established that on the night in question, February 8, 2002, Novant Health was very busy. A call went out on the radio that "officer needs assistance; patient disruptive." Officer Jones arrived on the scene where the Patient, other patients awaiting involuntary commitment admissions, and other officers were already present. Jones observed the Patient then left the scene for a short period to deal with another disruptive patient.

36. The officers explained to the Patient that they wanted him to walk with them to a seclusion room, but the Patient refused. Officer Jones had returned to the scene when the Patient removed his knee brace, took a black metal object from the brace, and held it in a manner to potentially assault or harm the officers. The Patient became violent and attempted to use a weapon on several security officers and threatened the officers with physical harm. As Officer Jones attempted to gain control of the Patient's right arm, the Patient hit Officer Jones in the face with a closed fist. The Public Safety Officers gained control of the Patient and took the Patient to a seclusion room for further evaluation by medical staff. On the way to the seclusion room, the Patient dropped the black metal object on the floor. Officer Jones' hand was also cut during the altercation, began bleeding, and required medical attention.

37. Further evidence at hearing showed that there was a Charlotte-Mecklenburg Police Officer in the vicinity of the February 8, 2022 incident but that Officer did not feel the need to get involved or file any type of incident report.

38. The Patient has an extensive criminal history with numerous acts of violence against not only long law enforcement, but civilians as well. See Pet Ex 22.

39. When the Patient was being released from Novant Health hospital, he left through the same emergency room exit. The Patient recognized one of the hospital staff who was present in the hallway during the incident and threatened to come back and kill the staff member. A few hours later, the Patient filed a police report against Officer Jones with the Charlotte-Mecklenburg Police Department.

40. At the time of the Order of Summary Suspension, and at the time of this hearing, the criminal charges against Officer Jones and Officer Holliday had not been adjudicated in criminal court.

41. Officer Jones' testimony during this contested case hearing was credible,



honest, and trustworthy. Such testimony corroborated Officer Holliday's testimony of the events involving the Patient at Novant Health on February 8, 2022.

42. While there was some evidence that Petitioner Holliday made physical contact with the Patient during the altercation, the evidence showed that he did so in an attempt to make the Patient drop the metal object. There was no credible evidence presented at hearing that Petitioner Holliday willfully assaulted and struck the Patient about the face and body with a closed fist. There was no evidence that the Patient suffered serious injury of extensive swelling and bruising to his neck, and head, or suffered a loss of consciousness.

### **CONCLUSIONS OF LAW**

1. The parties are properly before the Office of Administrative Hearings, and the Office of Administrative Hearings has subject matter and personal jurisdiction over this case and the parties.

2. Under N.C. Gen. Stat. § 74C-6, the Board's Director shall carry out all duties necessary to actively police the private protective services industry and has been authorized by the Board to summarily suspend any license, registration, permit or certificate if warranted pursuant to N.C. Gen. Stat. § 150B-3(c).

3. Pursuant to N.C. Gen. Stat. § 150B-3, Respondent Board has the authority to summarily suspend an armed guard registration if it finds that the public health, safety, or welfare requires emergency action. The Board must find that the public health, safety, or welfare requires emergency action and incorporate such finding in its Order of Summary Suspension.

4. Under N.C. Gen. Stat. § 74C-12(a)(9), Respondent Board may suspend or revoke a registration if it determined that the licensee, registrant or permit holder has committed an assault.

5. Under N.C. Gen. Stat. §74C-12(a)(25), Respondent Board may suspend or revoke a registration if it determined that the licensee, registrant, or permit holder has demonstrated intemperate habits or lacks good moral character. "The acts that are prima facie evidence of intemperate habits or lack of good moral character under G.S. 74C-8(d)(2) are prima facie evidence of the same under this subdivision."

6. N.C. Gen. Stat. § 74C-9(d)(2) states in pertinent part that convictions involving firearms, controlled substances, felonious assault or act of violence, unlawful breaking or entering, burglary, larceny, or any offense involving moral turpitude, or a history of addiction to alcohol or a narcotic drug is prima facie evidence that an applicant, or licensee, registrant, or permit holder does not have good moral character; provided that, for purposes of this subsection, "conviction" means and includes the entry of a plea of guilty or no contest or a verdict rendered in open court by a judge or jury. N.C. Gen. Stat. § 74C-9(d)(2) and 74C-12(a)(25).

7. Respondent has the burden of proving that Petitioner being charged with misdemeanor Assault Inflicting Serious Injury justified the Board taking emergency action and summarily suspending Petitioner's armed proprietary security guard registration to protect the public health, safety, or welfare.

8. The evidence presented at hearing established that on February 8, 2002, Petitioner held an armed proprietary security guard registration with Respondent, and was employed by Novant Health in Charlotte, NC, a proprietary organization pursuant to N.C. Gen. Stat. § 74C-3(b)(13), N.C. Gen. Stat. § 74C-13(a1)(3) and 14B NCAC 16 .0103(13).

9. On March 2, 2022, Petitioner was arrested by the Charlotte Mecklenburg Police Department and charged with Assault Inflict Serious Injury on the subject Patient for "unlawfully and willfully assaulted and struck Revyn Tremaine Raymind about the face and body with a closed fist, inflicting serious injury of extensive swelling and bruising to Raymind's face, neck, and head, lacerations to the mouth, bleeding from the nose and mouth, and loss of consciousness" on February 8, 2022 in violation of N.C.G.S. § 14-33(c)(1). Resp. Ex. 1, Warrant for Arrest, p.1.

10. The Board's Director, Paul Sherwin, found that by Petitioner being charged with an Assault Inflict Serious Injury, Petitioner lacked good moral character and based on those grounds, the Board was entitled to summarily suspend Petitioner's armed proprietary security guard registration pursuant to N.C.G.S. §§ 74C-12(a)(5).

11. The video footage in Petitioner's Exhibit 12 shows that around 22:31:21 (10:31 pm) on February 8, 2022, Petitioner, along with five other Public Safety Officers, attempted to de-escalate the Patient who was extremely agitated and violent, was pacing the hospital halls in an aggressive manner, and threatening not only Novant Health staff but other patients, who like the Patient, were waiting to be involuntary committed to Novant Health on February 8, 2022. After the Patient became more agitated, he removed his knee brace and pulled out a black metal object from the knee brace. One officer saw the Patient with a metal object, and aims, but does not use his pepper spray toward the Patient. Petitioner and the other safety officers attempted to control the Patient's extremities. The Patient struck violently at several officers until the Patient is placed in a physical hold by the officers who then escort the Patient to a seclusion room.

12. While Petitioner Holliday may have made physical contact with the Patient, Petitioner did so in an attempt to force the Patient to drop the metal object and to control the Patient. Under North Carolina Law, an officer or any individual is entitled to use self-defense if they have a reasonable belief of harm about to be inflicted upon them by an individual. The Tribunal also concludes that officers have a duty to not only defend themselves, but other patients who are in the care, custody and control of the hospital seeking medical attention in the emergency room setting.

13. The substantial evidence at hearing proved that Petitioner was acting in self-defense under North Carolina Law during the February 8, 2022 incident involving the

Patient and did not commit an Assault Inflicting Serious Injury on the Patient as described in the Warrant for Arrest cited above.

14. Furthermore, the substantial evidence at hearing demonstrated that Petitioner is not a threat to the public health, safety, or welfare and this isolated incident that does not reflect poorly on Petitioner's character. The character letters in support of Petitioner demonstrate that Petitioner possesses the good moral character required to retain his armed proprietary security guard registration.

15. Respondent Board failed to present sufficient, much less substantial evidence, to supports its Order of Summary Suspension of Petitioner's Armed Proprietary Security Guard Registration.

### **PROPOSAL FOR DECISION**

BASED UPON the foregoing Findings of Fact and Conclusions of Law, the Undersigned hereby recommends that the Board **RESCIND** its Summary Suspension of Petitioner's Armed Security Guard Registration and grant Petitioner's reinstatement thereof.

### **NOTICE AND ORDER**

The North Carolina Private Protective Service Board will make the Final Decision in this contested case. As the Final Decision marker, that agency is required to give each party an opportunity to file exceptions to this proposal for decision, to submit proposed findings of fact, and to present oral and written arguments to the agency pursuant to N.C.G.S. § 150b-40(e).

IT IS ORDERED that the agency shall serve a copy of its Final Decision in this case on the Office of Administrative Hearings, 6714 Mail Service Center, Raleigh, North Carolina 27699-6700. Moreover, the agency shall also serve a copy of its Final Decision upon each party by one of the methods for service of process under N.C.G.S. § 1A-1, Rule 5(b). A copy shall also be furnished to each party's attorney of record. N.C.G.S. § 150B-42(a).

This the 14th day of June, 2022.



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Melissa Owens Lassiter  
Administrative Law Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that, on the date shown below, the Office of Administrative Hearings sent the foregoing document to the persons named below at the addresses shown below, by electronic service as defined in 26 NCAC 03 .0501(4), or by placing a copy thereof, enclosed in a wrapper addressed to the person to be served, into the custody of the North Carolina Mail Service Center who subsequently will place the foregoing document into an official depository of the United States Postal Service.

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This the 14th day of June, 2022.



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