

When Time and Self Unhinge:
Tracing the Rhetorical Markers of Solitary Confinement

by

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Certificate of Approval

This is to certify that the accompanying thesis by Anna P. Middleton has been accepted in partial fulfillment of the requirements for graduation with Honors in Rhetoric Studies.

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Abstract

Kalief Browder, an African American incarcerated at Rikers Island for three years, spent most of his imprisonment in solitary confinement. Less than a year after his release, Browder took his own life. In this thesis, I argue that Browder's case illuminates the ways that first person narratives of solitary confinement provide insights into the duality of self that occurs in solitary confinement, and how that duality of self remains a part of the formerly incarcerated self even after release. Looking at Browder's post-release discourse, I identify changes in tense and the use of the third person. By identifying these rhetorical tactics, we can in turn identify ontological disruptions of time that occur for individuals who have served time in solitary confinement. Browder's case points to the ways that these ontological disruptions in time infect the post-release lives of formerly incarcerated individuals, often with devastating consequences. These ontological disruptions of time reveal new ways we can understand the violence of solitary confinement. As such, I argue that the U.S. carceral state should abandon the use of solitary all together.

Introduction: Violence and Rhetoric

Discussions of violence and its connection to language are not new to the field of rhetoric. While many canonical rhetorical authors see rhetoric as opposed to violence, recent scholars have attempted to connect rhetoric and violence in new ways, dismantling older theories and pushing the field to recognize a different connection between the two ideas: that we can not only study the rhetoric of violence, but also the violence of rhetoric, a materialist approach that understands “rhetoric as a species of violence” in itself.¹

Nathan Stormer argues that violence and rhetoric exist together, not in a binary. Stormer adopts and expands Nietzsche’s claim that “the mother of language is negation.” Using this idea, Stormer concludes that the origin of language is not a human transcendence of violence as argued by Aristotle, but instead that “language is a violent *habitus*.”² Megan Foley also looks to Aristotle’s work on violence, and makes the argument that while the force of persuasion resembles violence, the two are different, writing that “persuasion cannot be reduced to violence.”³

Recent theories linking rhetoric and violence have been taken up by scholars and applied to case studies. Roger Stahl discusses how language can be dangerously violent and examines the metaphor of “the information bomb.”⁴ Heather Ashley Hayes

¹ Megan Foley, "Of Violence and Rhetoric: An Ethical Aporia," *Quarterly Journal of Speech* 99, no. 2 (May 2013): 191-99, doi:10.1080/00335630.2013.775706.

² Nathan Stormer.

³ Megan Foley.

⁴ Roger Stahl, "The Information Bomb," *Quarterly Journal of Speech* 102, no. 4 (2016): 376-95, doi:10.1080/00335630.2016.1208365.

builds on theories connecting violence and rhetoric, suggesting that scholars should be less concerned with the ways that rhetoric encourages or discourages violence, but instead pushes an understanding of violence as “wholly rhetorical.”⁵ Hayes creates a category through which to examine violence as rhetoric— “rhetoricoviolence”⁶— which she then employs to make larger conclusions about violence in the war on terror.

Like Stahl and Hayes, I will focus my work on a case study. I will also take up Hayes’s orientation to violence and rhetoric, understanding each as fundamentally connected to each other, and violence as rhetorical. Because of the intimate connection between rhetoric and violence, I also suggest that disrupted discourse can be a symptom of violence. I rely on this concept in my analysis of the discourse of Kalief Browder, an African American incarcerated at Rikers Island for three years, who spent most of his imprisonment in solitary confinement, and then committed suicide less than a year after his release.

I will additionally work to bring Emmanuel Levinas’ theories of ontology into conversations about rhetoric and violence in order to explore the ways in which solitary confinement damages the self. I use the case of Kalief Browder to illuminate the ways first person narratives of solitary confinement can provide insights into the rhetorical dimensions of carceral violence. To do this, I identify rhetorical markers of ontological disruptions of time that occur for individuals in solitary confinement. I suggest that Browder’s case shows the ways that ontological disruptions in time infect the post-release lives of formerly incarcerated individuals, often with devastating consequences. I

⁵ Heather Ashley Hayes, *Violent Subjects and Rhetorical Cartography in the Age of the Terror Wars* (Basingstoke: Palgrave Macmillan, 2016), 5.

⁶ *Ibid*, 34-36.

conclude that as both academics and as citizens we must understand and study solitary confinement as an act of violence, and that the United States should abandon its use.

Chapter 1: Levinas and the Unhinging of Time and Self

The violence of solitary confinement a violence to the self. Bradford Vivian describes the self as rhetorical and lacking individual agency, stating that the self is formed when individuals persuade themselves to adopt a certain way of being from a set of options provided by the context. He notes, “the subject, then, is a form of expression, but a form of expression that relies upon the conditions engendered by a particular discursive regime.” He states that self is found in difference from others, acting as a “coordinate of the social.” Vivian emphasizes that this coordinate is not stable and fixed, “rather, a relative center that expands and contracts as a give discursive regime makes access to this relative center either more or less accessible.”⁷ Vivian’s ideas are complementary to those of Lisa Guenther, who relies on to Levinas to understand the self. Both Vivian and Guenther frame the self rhetorically without a strong sense of individuality. Guenther writes:

For Levinas, the subject does not posit itself through a heroic act of the will or an authentic existential choice; acts and choices already presuppose an existent, and even thrownness presupposes a world into which one is thrown. Levinas' inquiry leads him beneath the level of the world, beneath the drama of choosing or not choosing, to the conditions for the emergence of an existent as such.⁸

Levinas understands the self as fundamentally collective, but trapped by individualism. The self cannot be the other, and so instead is formed around a constant need to respond to the other. The challenge that Levinas believes humans face is how to “escape the otherwise unbearable weight of solitude.” In solitary confinement, this escape takes

⁷ Bradford Vivian. "The Threshold of Self." *Philosophy and Rhetoric* 33, no. 4 (2000): 303-17.

⁸ Lisa Guenther, "Dead Time," in *Solitary Confinement: Social Death and Its Afterlives* (University of Minnesota Press, 2013), 208

the form of duality of self, where the need for the other grows in isolation with such intensity that self creates an other in solitude— an ontological split. In solitary confinement, the self unravels into this duality, as a person’s very ontology cannot be constructed or maintained separate from the other. However this “unhinging”⁹ does not bring with it solace or comfort. Instead, it becomes a new kind of torment:

The double who arises in the ontological event of hypostasis, and perhaps also in the political situation of solitary confinement, is not a redemptive other or even a redeemable self but, rather, a ‘viscous, heavy, stupid double but one the ego is with precisely because it is me.’¹⁰

The prisoner is forced to grapple with their own existence, trapped with “the inert and inexpressive burden of having to be myself, with no escape.” Unable to be free of one’s own consciousness, the self suffers. The violence of solitary confinement, then, is not the aloneness, but the violence of being locked up “*with themselves*” where one is forced to deal with the “weight of [their] own existence.” This duality of self arising in solitary confinement is a profound disruption of the ontological makeup of the prisoner. As the self becomes unhinged, so does time. Guenther writes:

The face of the other opens up this path by commanding me to responsibility and so pulling me into a future that is not strictly my own but, rather, the infinite time of responsibility for the other. There is not time without other for

⁹ Lisa Guenther uses the term “unhinged.” She writes: “‘becoming unhinged’ is not just a colloquial expression; rather, it is a precise phenomenological description of what happens when the articulated joints of our embodied, interrelational subjectivity are broken apart. Solitary confinement deprives prisoners of the bodily presence of others, forcing them to rely on the isolated resources of their own subjectivity, with the (perhaps surprising) effect of eroding or undermining that subjectivity. The very possibility of being broken in this way suggests that we are not simply atomistic individuals but rather hinged subjects who can become unhinged when the concrete experience of other embodied subjects is denied for too long. Even if the people in one’s life are not particularly sympathetic or supportive, it becomes difficult to bear the weight of existence in isolation from others.”

¹⁰ Ibid, 206.

Levinas; the solitary existence remains stuck in the present instant to the extent that it fails to encounter something beyond itself, something that is not a 'thing' or an intentional object but an other who resists the subject's powers and puts them in question.¹¹

Time in solitary confinement "is no longer *the prisoner's* time but, rather, a 'pure terrain' that dredges up events that are real but have no intrinsic relation to the inmate's temporal subjectivity."¹² Without the other, the self breaks down and time falls apart.

This is the phenomenon Guenther refers to as an "ontological disruption in time." I will argue that the disruptions of time and self Levinas identifies can be seen in first person narratives of solitary confinement through textual analysis. To accomplish this, I will first identify tense as an effective rhetorical marker for ontological disruptions in time.

1.1 Tense as a Rhetorical Marker of Ontological Disruptions in Time

While a person can tell another person how they feel, which may hint at their ontological makeup, perhaps more telling is not how someone describes their own existence but how they talk about themselves existing in first person story narrative. For Vivian, the self is in part constituted by the stories we tell ourselves about who we are in relation to others, and by acts of self persuasion.¹³ This discursive component of ontological makeup presented by Vivian complements Levinas' work on time and ontol-

¹¹ Ibid, 205.

¹² Ibid, 198.

¹³ Bradford Vivian. "The Threshold of Self."

ogy, in that it draws out the ways that relation and response to others takes on specifically discursive, narrative forms. Using the work of Vivian and Levinas together, we can build a connection between language and ontology. I focus specifically on the connection between language, ontology and time—and suggest that tense can be a rhetorical marker for ontological disruptions in time. Through analyzing the first person narrative of an experience, we can look to the use of specific rhetorical markers in order to decipher the rhetor's understanding of their own being in the most unedited form.

With incarcerated people, logistical limitations often inhibit direct communication between a prisoner and a free person, making analysis of first person narratives more difficult. Incarcerated people have limited ability to communicate with those outside the prison or jail. In most cases, including the case of Kalief Browder, analysis of the rhetoric of incarcerated people in solitary confinement must happen after their release, in their first person narratives about their past incarceration. In a few cases, incarcerated people have been able to communicate with the outside world through letters or rare interviews, but all of this communication is mediated and approved by the prison, which arguably limits its veracity or at the very least, impacts the prisoner's ability to be candid. The same is true for phone conversations, which are limited in access, time, and usually recorded or monitored.¹⁴ The podcast Ear Hustle is unique as it is produced in prison with interviews on site, giving the listener an unusually intimate ability to hear from those currently incarcerated. The podcast is still mediated by the

¹⁴ Ken Armstrong, "A Phone Call From Jail? Better Watch What You Say," The Marshall Project, April 25, 2017, section goes here, accessed October 11, 2017, <https://www.themarshallproject.org/2015/09/04/a-phone-call-from-jail-better-watch-what-you-say>.

producers and the public information officers for the prison, who must approve each episode's broadcast.¹⁵

To begin, we must first identify particular rhetorical strategies that inform the rhetor's ontology. I suggest that both the use of the third person to talk about oneself and the rhetor's use of tense may offer good mechanisms for analyzing the ontological makeup of an inmate. I do not mean to suggest that these are the *only* rhetorical tactics that can act as a marker of an unhinged self, but they are the ones I will use in my analysis of Browder.

I argue that both tense and use of the third person can work as evidence of the existence of Levinas' split self. The use of third person distances the rhetor from their personal narrative. By using third person, the rhetor references an "other," while simultaneously narrating an experience that is personal to themselves. This suggests that the self the rhetor is speaking of is both self and other: a split self.

My analysis will mainly focus on tense, as this is the tactic used most frequently by Browder. I argue that Browder's recounting of his incarceration and solitary confinement in mixed tenses, often speaking about the past in the present tense, is a notable rhetorical tactic that can illuminate something about Browder's ontological makeup during and after his incarceration, providing insight into the experience unavailable otherwise. I use tense as a rhetorical marker of ontological makeup for two reasons.

¹⁵ "FAQ," Ear Hustle, section goes here, accessed October 11, 2017, <https://www.earhustlesq.com/faq/>.

First, Vivian connects time, violence and memory. He argues that violence can distort our memory of time, causing a temporal fold in which the past is overlaid on the present. He describes this as a “critically significant fold within current orders of time—a wrinkle in time.”¹⁶ For an individual existing within this temporal fold, time is confused, opening up the possibility that in recounting it, tense can become confused as well.

Vivian links the temporal fold directly to violence. He writes that, “the ways that authoritative institutions invoke and order time as a means of consolidating and expressing power often engender violence.” Vivian provides helpful terminology to talk about time, and his work reflects Levinas' understanding of time as complicated and not necessarily linear.¹⁷

Michael Leff also suggests that human understanding of time is somewhat flexible and “potentially ambiguous,”¹⁸ perhaps not as easily categorized as Aristotle’s three temporalities— deliberative, forensic and epideictic.¹⁹ He also argues that analysis of tense use is valuable, though he focuses on the ways that tense is used strategically, which my analysis does not.

¹⁶ Vivian, Bradford. "Times of Violence." *Quarterly Journal of Speech* 99, no. 2 (May 2013): 209-17. doi:10.1080/00335630.2013.775704.

¹⁷ *Ibid.*

¹⁸ Michael Leff, "Dimensions of Temporality in Lincoln's Second Inaugural," *Communication Reports* 1, no. 1 (1988): accessed May 2, 2017, <http://chantrill.net/LeffonLincoln2Inaugural.pdf>.

¹⁹ Aristotle, *Aristotle in 23 Volumes*, trans. J. H. Freese, vol. 22 (Cambridge and London: Harvard University Press, 1926), 1385B.

Second, malleable ideas of time elaborate the disruption of the self described by Levinas. Guenther writes that the “hallucinations that often emerge in solitary confinement are not just signs of mental illness but also ontological derangements of time and reality.”²⁰ Guenther explains that inmates’ relation to time becomes unhinged alongside the self in solitary confinement. Tense then seems to be a helpful rhetorical marker in identifying a disruption of the prisoner’s self, as time and self are intimately connected.²¹

Disruptions in time are described in many accounts of solitary confinement. In a letter to the ACLU about his eight years in solitary confinement, Joe Giarratano writes, “the days really would run together and one’s perception of time could really get screwy. I found myself constantly asking guards what time it was [...] It was not unusual to lose track of days, weeks, or months.”²² Giarratano does not mix his use of tense in the way that Browder does. Not all first person narratives do. In many first person narratives of solitary confinement, “incorrect” tense is used to describe the most heightened experiences of the speakers during their incarceration—hallucinations, paranoia and fears—seeming to indicate that for these speakers, the experience is not a memory but in some ways a current experience. Glenn Turner, who spent 24 years in solitary confinement, recounts his suffering in the present tense:

My obsessive thoughts are primarily about cleanliness and poison. I know that the staff are watching me and listening to me. I know they have prisoner informants and listening devices directed toward me. I can take measures towards

²⁰ Lisa Guenther. 198.

²¹ Lisa Guenther, “Dead Time.”

²² "Untitled," Joe Giarratano to The American Civil Liberties Union, section goes here, accessed October 11, 2017, <https://www.aclu.org/issues/prisoners-rights/cruel-inhuman-and-degrading-conditions/joe-giarratano-stories-solitary>.

these things. But they will try to poison me by some means or another. I doubt that it will be by food. It'll most likely be from something being put in or onto my sheets, pillowcase, toilet seat, door, etc. So I try to take reasonable cleaning measures to minimize these liabilities or weak spots.²³

Brian Nelson, who spent 23 years in solitary confinement, talks about his experience in the present tense: “The hallucinations—it's not something a lot of us talk about, but all of us had them real bad. You see somebody else in your cell. You hear voices on the stair or coming through the vent.”²⁴

In the episode “The SHU” from the podcast, “Ear Hustle,” men who are still incarcerated in the general population and have spent time in the Secure Housing Unit²⁵ recount their past experiences in solitary as if they are experiencing them in the current moment, using the present tense for similarly emotionally heightened experiences.

Isaac Flores retells a moment when he stuck his fingers through his cell door to touch another person:

The only way you had contact with people is, the doors are like a honeycomb, bunch of little holes and your pinky finger barely fits through the hole and just a little tip. So, when one of your friends come by and says, ‘What's up,’ he'll stick his fingers through there and just like touch his finger. So, that's the only contact you have.

When Richard Johnson addresses the toll that solitary confinement takes on a person, he, too, uses the present tense even though he is no longer in solitary confinement:

²³ Nathaniel PennDan Winters, "Buried Alive: Stories From Inside Solitary Confinement," GQ, March 02, 2017, section goes here, accessed October 11, 2017, <https://www.gq.com/story/buried-alive-solitary-confinement>.

²⁴ Ibid.

²⁵ “Secure Housing Unit,” “Special Housing Unit,” “isolation,” “close custody” and “The Hole” are synonymous with “solitary confinement” and are used as such in this work.

“there’s times I think that I was losing my grip on reality. Because every day is a different day. You have different moods, mood swings. I have seen people tap out. I mean tap out, just give up.”²⁶ With these cases of mixed tense and third person rhetoric in a personal narrative of solitary confinement, I now turn to the first person narratives of Kalief Browder.²⁷

²⁶ Earlonne Woods, Nigel Poor, and Antwan Williams, "The SHU," Ear Hustle (audio blog), July 26, 2017, section goes here, accessed October 11, 2017, <https://www.earhustlesq.com/episodes/2017/7/26/the-shu>.

²⁷ While Browder did not spend all of his time at Rikers in solitary confinement, in my analysis of Browder I use the words “solitary confinement” and “incarceration” interchangeably. There are two reasons that I take this liberty. First, most of Browder’s time at Rikers *was* spent in solitary confinement—somewhere between 700 and 900 of his 1,129 days. As such, his experience of incarceration was largely an experience of solitary confinement. Second, in his interview with Jennifer Gonnerman, from which I draw the most text for analyzing Browder’s rhetoric, Browder speaks significantly about time when he is in his cell, alone, talking through vents as a way of trying to get the attention of guards to give him his homework, or to ask for more food. I assume that when he does this he is talking about solitary confinement, as having a cell to one’s self outside of solitary confinement is rare.

Chapter 2: Kalief Browder

On May 15, 2010, Kalief Browder, a 16-year old African American teen from the Bronx, was stopped by police as he walked home from a party with a friend. Accused of a robbery, he immediately asserted his innocence, then complied with police as he was searched and handcuffed. He was then taken to the 48th precinct where he spent his first of thousands of hours behind bars. In the coming days he would be charged with robbery, grand larceny, and assault, then taken to the Rikers Island jail, where he would spend the next three years awaiting trial.²⁸

Browder grew up the youngest in a family of seven children, five of whom, including Kalief, were adopted after being born dependent on crack-cocaine.²⁹ His adoptive mother, Venida Browder, fostered close to 30 children and struggled financially due to a severe and chronic heart condition that prevented her from working. Kalief's adoptive father was estranged from Venida and the children.

Eight months before the arrest that led to his incarceration on Rikers Island, Browder plead guilty to stealing and crashing a delivery truck. In interviews with reporter Jennifer Gonnerman, he says that it was his friends who had stolen the truck and that he only watched, but he confessed anyway, thinking he wouldn't be believed if he

²⁸ Jennifer Gonnerman, "Kalief Browder, 1993–2015," *The New Yorker*, October 17, 2016, section goes here, accessed April 24, 2017, <http://www.newyorker.com/news/news-desk/kalief-browder-1993-2015>.

²⁹ *Time: The Kalief Browder Story*, dir. Jenner Furst, by Rose Schlossberg and Mark Konkol, prod. Julia Willoughby-Nason, Shawn "Jay-Z" Carter, Harvey Weinstein, and David Glasser, accessed October 18, 2017, <https://www.netflix.com/browse?jbv=80187052&jbp=1&jbr=1>.

denied his involvement. As a result, he was labeled a “youthful offender,” and was placed on five years of probation.

It was his second run-in with police in 2010, when he was accused of robbery and arrested, that led to his lengthy incarceration. After arriving at the 48th precinct, Browder was taken to Central Booking at the Bronx County Criminal Court. Here he was questioned about his involvement in the robbery, and again maintained his innocence. He was told that a man named Roberto Bautista had accused him of stealing his backpack. The alleged theft had occurred two weeks before the arrest.

The next day, Browder was charged with robbery, grand larceny, and assault. His friend was released, but since Browder was on probation from the delivery truck incident, he was ordered to remain in jail. His family didn’t have the funds to pay his \$3,000 bail. As a result, Browder was sent to Rikers Island to wait for his court date.

Rikers Island is made up of ten jails and can house up to 15,000 inmates. It includes male, female, and juvenile detention centers, specialized housing for inmates with physical and mental ailments, and those infected with contagious diseases.³⁰ Rikers Island is known for its brutality and frequent use of solitary confinement. A secret internal study completed in 2017 by the city’s Department of Health and Mental Hygiene and obtained by the *New York Times* reported that, over an 11 month period, 129 inmates were injured by officers so severely that the medical facilities on the Island were not equipped to treat them. Seventy-seven percent of these inmates had a documented mental illness and five of them were beaten by officers after attempting

³⁰ "Facilities Overview," City of New York Department of Corrections, accessed April 24, 2017, <http://www.nyc.gov/html/doc/html/about/facilities-overview.shtml>.

suicide.³¹ The Independent Commission on New York City Criminal Justice and Incarceration Reform recommended in April of 2017 that Rikers Island be permanently closed, citing a “deep-seated culture of violence,” and noting the isolation created by the physical location of the jail.³²

Section 2.1: The Interviews Analyzed

I examine Browder’s rhetoric using four sources: an interview between Browder and Jennifer Gonnerman published in *The New Yorker Podcast*, an interview with *ABC Nightline*, an interview from the Spike TV documentary “Time: The Kalief Browder Story,” and sections of Browder’s deposition hearing, also published in “Time.” I have chosen these sources because they are the only available narratives from Browder in which he gives sizable commentaries on his life before, during, and after incarceration.

Gonnerman’s interviews with Browder about his incarceration are the most extensive. With Gonnerman, Browder talks about his life before, during, and after his arrest and incarceration. Browder’s video interview with *ABC Nightline* is similar to

³¹ Michael Winerip and Michael Schwartz, "Rikers: Where Mental Illness Meets Brutality in Jail," *The New York Times*, July 14, 2014, accessed April 24, 2017, <https://www.nytimes.com/2014/07/14/nyregion/rikers-study-finds-prisoners-injured-by-employees.html>.

³² Independent Commission on New York City Criminal Justice and Incarceration Reform Commissioners, *A More Just New York City: Independent Commission on New York City Criminal Justice and Incarceration Reform*, report, 2017, accessed April 24, 2017, <https://static1.squarespace.com/static/577d72ee2e69cfa9dd2b7a5e/t/58e0d7c08419c29a7b1f2da8/1491130312339/Independent+Commission+Final+Report.pdf>.

Gonnerman's in subject matter. The video was published online, but some segments not found in the online video are in the documentary "Time."

"Time" also contains quotes from Browder's deposition hearing, which was inaccessible to me in full. Most of the quotations in "Time" are heavily edited for brevity and so are not included in this analysis as such short quotations do not provide an adequate representation of the text and thus may be misleading.³³ I do include a few of the longer deposition quotes in my analysis. The fifth episode of "Time" contains a series of interviews Browder gave with the coordinator of the "Rewilding" trip, a program in which formerly incarcerated people spend time camping and climbing in Colorado. In this interview he talks about his current life, and who he wants to become, but does not talk about his incarceration.

Section 2.2: Life Before Rikers

When Browder talks about his life before his incarceration, he consistently uses the past tense. It is important to note that he uses the grammatically expected tenses (i.e. past tense to talk about past events) when he talks about his life before incarceration, as it shows that his use of tenses we may not expect when he talks about his incarceration is unique and not just a style of speech he generally employs. In his interviews with Gonnerman he says, "I'm not going to talk to you and tell you I was a good kid,

³³ This was a particular concern because analysis of Browder's language elsewhere shows that he often begins and ends in one tense, but changes in the middle, and many of the deposition quotes include only the first few words of his answer to each question, making complete analysis of these quotes impossible.

and did all my work. I did do my work. But, I did fool around.”³⁴ His tense use remains consistent when he talks about his arrest in the past tense as well: “I thought it was a routine stop and search.”³⁵

In the *ABC Nightline* video Browder again uses the past tense to tell the story of his arrest.³⁶ He explains how his mother didn’t have the money pay his bail. Again, he uses the past tense.³⁷ In a section of the same interview published in “Time,” he recalls looking into the police car to try to see the man the police said had accused him of stealing his backpack. “I couldn’t really get a good look at him, but he didn’t really look familiar at all.”³⁸

The interview sections in which Browder details his life before his incarceration and describes his arrest stand out as the only time when he consistently uses the past tense to talk about a past event. This suggests Browder’s memory of his life before his incarceration, including the arrest that led to his incarceration, is firmly grounded in the past. Browder’s consistency in using the grammatically expected tenses when talking about his life before his incarceration stands out in comparison to when he talks about his incarceration and temporal distinctions in his language dissipate.

³⁴ Kalief Browder, "Jennifer Gonnerman's Interviews with Kalief Browder," interview by Jennifer Gonnerman, *The New Yorker: Politics and More Podcast* (audio blog), June 6, 2016, 2:57, accessed October 18, 2017, <https://www.newyorker.com/podcast/political-scene/jennifer-gonnermans-interviews-with-kalief-browder>.

³⁵ *Ibid.* 3:30

³⁶ "Kalief Browder: The Life and Death of the Man Who Spent 3 Years Without Trial on Rikers Island," in *Nightline*, ABC, June 9, 2015, <http://abcnews.go.com/US/kalief-browder-life-death-man-spent-years-trial/story?id=31643296>.

³⁷ *Ibid.* 00:30

³⁸ Jenner Furst et al., *Time: The Kalief Browder Story*, Episode 4.

After Browder's Arrest, attorney Brendan O'Meara was appointed by the court to represent him. On July 28th, 2010, Browder was bussed with other inmates to the Bronx County Hall of Justice to appear before a judge. The grand jury indicted him for robbery in the second degree for allegedly chasing down Bautista, pushing him, stealing his backpack (which contained a credit card, a debit card, a digital camera, an iPod Touch, and \$700 dollars), and punching him in the face. Browder pled not guilty, and was returned to jail on Rikers Island. Between January 28th, 2001 and December 14th, 2012, Browder returned to court eight times. Each time, the prosecutor was unprepared to proceed and asked for an extension, and so extending Browder's incarceration.

Chapter 3: Incarceration and Signs of a Split Self

In Rikers, Browder experienced regular abuse by correctional officers and other prisoners. He alleged that officers would not give him enough food and punished him by not bringing him meals or letting him shower. Videos have since been released that corroborate these allegations, showing correctional officers physically assaulting Browder for no apparent reason, as well as groups of inmates attacking and beating him brutally, with officers doing little to stop them. Though only a teen, Browder spent between 700-900 days in solitary confinement, where he was confined to his cell for 23 hours a day.³⁹ While in solitary, he tried to fill the time by working towards getting his GED, but he was unable to get his work because prison staff were unpredictable and uncooperative. In February of 2012, still incarcerated, Browder made his first suicide attempt. Later that month, he made another.⁴⁰ Browder continued to engage in self-harm and periodically attempted suicide for the rest of his incarceration.

When Browder talks about his incarceration, a notable shift in his use of tense occurs. Instead of using the past tense to talk about the past event, as he does when he talks about his life before Rikers, he begins to move fluidly between the past and present tenses. He says “that whole Rikers Island thing is one big misunderstanding, like the right and wrong are weird in there, like what’s right to them, isn’t right, and what’s

³⁹ Jenner Furst et al., *Time: The Kalief Browder Story*.

⁴⁰ Jennifer Gonnerman, "Three Years on Rikers Without Trial," *The New Yorker*, June 08, 2015, section goes here, accessed April 24, 2017, <http://www.newyorker.com/magazine/2014/10/06/before-the-law>.

wrong, isn't wrong."⁴¹ He then switches back into the reflective past tense: "It took a whole lot of getting used to in there."

This tendency to use the present tense when talking about his incarceration is consistent throughout all his interviews. While not every conjugation when he speaks about his incarceration is in present tense, the vast majority of them are, especially when the content is focused on emotionally fraught circumstances during his confinement. Often, he will begin by speaking in the past tense, before switching into the present tense. For example, he says, "they had a vent and it blows heat for some reason, I don't know why. You would think it would blow cold air, but it's heat. If you put your hands next to it. It's heat."⁴²

Other times he uses the present tense consistently for the whole quote: "I'm not really trying to become your friend, but I'm talking to you [...] I don't really want to talk about that stuff."⁴³ Occasionally, Browder makes a brief switch in the middle of consistent present tense use, as if to correct his tense use: "I don't wanna hear that. I didn't. There's time when they talk to themselves and yell at themselves and bang their heads on the wall all day."⁴⁴

Browder often uses the conditional tense as a temporal middle ground before switching to and remaining in the present tense. "It'd be four AM in the morning and the dude would be kicking, yelling to the tops of his lungs, ahhhh. And they, you try to talk to them but they don't understand what you are trying to say, because they are

⁴¹ Kalief Browder, "Jennifer Gonnerman's Interviews with Kalief Browder," 4:02.

⁴² Ibid, 4:36.

⁴³ Ibid, 4:58.

⁴⁴ Ibid, 5:10.

mentally disturbed.” He continues with a brief switch to the past tense: “I mean I had one dude,” before returning to the present tense, “he’s talking to himself all day, every-day.”⁴⁵

We see this same sort of rapid alternation between past to present tenses when Browder talks about being starved and begging guards for food. He alternates between present, past and conditional. He begins strongly in the present tense: “all day I’m thinking about that. I’m hungry, I’m hungry, I’m hungry.” He then transitions to the past tense, “I used to actually beg the correction officers,” and then to the conditional tense, “they would fix servings of food.” And then, once again, he returns to the present tense, “there’s always extras,” before switching back to the conditional tense, “it would be you know, two, three slices of bread.” Finally he changes to the present tense again, “but I’m hungry,” and then back to the conditional tense for the rest of the narration, using only present tense for dialogue.⁴⁶

Browder frequently uses the general form past tense –then- present tense –then- past tense. For example, when he refers to talking to his mom on the phone while incarcerated, he begins with the past tense: “I used to tell my mom [...],” then transitions to the present: “My mom would be there and get me out of trouble, but now I’m in jail[...].” and in the last line back to the past: “now my mom’s just crying on the phone. It was out of her hands.”⁴⁷ Later, Browder uses only the present tense to describe a similar situation: “So it’s stressin’, ‘specially during the times like Christmas and

⁴⁵ Ibid, 5:39.

⁴⁶ Ibid, 7:43.

⁴⁷ Ibid, 10:29.

Thanksgiving when I'm in solitary confinement and I call my mom and they are telling me 'we're doing this and we're doing that' and I'm just sitting in solitary confinement for something I didn't do."⁴⁸

In the *ABC* interview, Browder starts in the past tense, "it was like hell on earth. We were beaten. We were beaten. Stomped. By the, by the correction officers." As he gets into the details of the assault, he tells the past as if it were the present, describing being "hit with weapons. They tackle me in my cell where there wasn't, aren't any cameras. They grab me up, they put me on the bed, and they would just punching, they kicking me. And then they, they mace me in my eyes. They mace me in my nose and my mouth." In the last three words of the quote, Browder, suddenly reflective, returns to the past conditional tense: "I couldn't breathe."⁴⁹

When Browder talks with Gonnerman more generally about the experience of being incarcerated, he alternates between expressing himself in the present moment ("out here") and his past incarceration. He doesn't distinguish between the two temporal moments through tense, instead using the present tense throughout. "You can't understand it, if you've never been to Rikers Island. It's not like out here. Out here you just live life and go about the business. In there, there's no happiness to it at all."⁵⁰

During some parts of the narration of his incarceration, Browder also varies his use of pronouns between "you," the informal version of the impersonal pronoun, "one," or the third person singular. "You just stuck in your cell and you getting starved

⁴⁸ Ibid, 10:58.

⁴⁹ "Kalief Browder: The Life and Death of the Man Who Spent 3 Years Without Trial on Rikers Island." 1:03

⁵⁰ Kalief Browder, "Jennifer Gonnerman's Interviews with Kalief Browder," 14:20.

and you hungry and at night time you can't even sleep because your ribs are touching. [...] you can't do nothing [...] you helpless. That's very stressful like...you just powerless."⁵¹ He uses the third person again when talking about trying to get the attention of the officers, as well as a mix of conditional and present tenses, "if you don't hold your slot, you are like an unheard voice. Correction officers would not put you in the shower. [...] Nobody wants to hear you, you have no voice."⁵² He goes on: "It depends, because you got some captains that they talk to you, they work it out with you⁵³ [...] but some of them—'oh, you're holding your slot, I don't care, write him up.' So when you take matters into your hands, it's like a double-edged sword. It might work and it might not."⁵⁴ Use of the third person and the present tense together points to an ontological disruption of time like Levinas describes. Browder is not only struggling to communicate clearly which temporality he exists in—the present or the past—but also he struggles to delineate who he is speaking about, the self or another, using "you" to refer to himself. This suggests the existence of a temporal derangement, and it's related ontological multiplicity.

Section 3.1: The Unbearable Weight of Existence—Suicide Attempts

When Browder talks about his suicide attempts in the deposition hearing, he begins in the past tense, stating that he "was falling apart mentally." He then transitions

⁵¹ Ibid, 8:32.

⁵² Ibid, 9:50.

⁵³ Ibid, 10:09.

⁵⁴ Ibid, 10:15.

to the present tense saying, “I can feel it, I can tell” before returning to the past tense, “I was starting to feel suicidal. And nobody wanted to help me out.” He continues in the past tense for the rest of the quote. “[...]They grabbed me, they cut me down, they threw me on the bed, gave me a lot of punches, they stomped me on the bed. They came at me, and they were just swinging at me. I was scared.”⁵⁵

Later in the deposition he is asked repetitive questions, specifically about how he hung himself while in solitary confinement. Browder’s lawyer for the deposition, Paul Prestia, describes this approach as deeply distressing for Browder: “The attorney was really hammering him about the suicide attempt you know almost as if she didn’t believe him. That’s a really sensitive thing to question.” Some of the questions are published in “Time:” “Did you tie it around your neck or around the ceiling first? How many times did you knot it?” “About once or twice?” Browder’s answers are mostly edited out, but the attorney found them insufficient: “Kalief I am walking you through this step by step and you have said five or more times that as soon as we looped it through you tied it and then you tied it to your neck. It’s not making sense to me.”⁵⁶ This insistence that he repetitively recount his past in solitary confinement irritated Browder. Prestia states:

I hadn’t seen him that angry in a while. They were implying that he was lying. When all he had done was be truthful [...] This was a city that fucked him. And now they were doing it again. Dragging this case out. Doubting him. Saying to me, maybe he wasn’t a good kid. Maybe he did do something wrong. Maybe he did rob that guy. What? Dude they fucking dismissed the case. It’s not even an issue. He was frustrated.⁵⁷

⁵⁵ Jenner Furst et al., *Time: The Kalief Browder Story*. Episode 3.

⁵⁶ Jenner Furst et al., *Time: The Kalief Browder Story*. Episode 5.

⁵⁷ *Ibid.*

Suicide attempts and rates of self-harm are significantly higher among those in solitary confinement. An individual incarcerated in solitary confinement is 6.6 times more likely to engage in self-harm or attempt/complete suicide, and remains 2.1 times more likely even once released back into the general prison population.⁵⁸

Solitary confinement was created in Pennsylvania in 1862 by Quakers seeking to make prisons less physically violent. The practice was introduced in The Great Law of Pennsylvania (legislation which ended the use of the death penalty for crimes other than murder) which pushed to change prisons from places of retributive justice to places of reform.⁵⁹ During this time, solitary confinement had two goals: first, to isolate misbehaving inmates from others in order to prevent “spread” of their behavior and second, to force the isolated inmate to reflect on their wrong doings and realign their morals to prepare them to reenter society.⁶⁰

Beginning in the 1980s when rates of incarceration in the United States, particularly among people of color, began to skyrocket, the stated goals of solitary changed dramatically.⁶¹ With growing prison populations came a notable shift in containment policies, marking the start of the “control prison” era.⁶² It was during this time that the

⁵⁸ Fatos Kaba et al., "Solitary Confinement and Risk of Self-Harm Among Jail Inmates," *American Journal of Public Health* 104, no. 3 (2014), doi:10.2105/ajph.2013.301742.

⁵⁹ Lisa Guenther, 1-5.

⁶⁰ Sharon Shalev, *Supermax: Controlling Risk through Solitary Confinement* (London: Routledge, 2011).

⁶¹ Peter Wagner and Bernadette Rabuy, "Mass Incarceration: The Whole Pie 2017," Prison Policy Initiative, March 14, 2017, accessed September 08, 2017, <https://www.prisonpolicy.org/reports/pie2017.html>.

⁶² Lisa Guenther, 1-5

use of solitary confinement shifted from moral and behavioral rehabilitation and towards safety and efficiency. It is now seen as a tool: a way to isolate gang members and others deemed dangerous to the community, prison staff, or to themselves. In the control prison system, Lisa Guenther, writes, “prisoners have become risks to be managed, resistances to be eliminated, and organisms to be fed, maintained and even prevented from taking their own life.”⁶³ Of the 2.3 million people incarcerated in the United States today,⁶⁴ between around 25,000 and 80,000 individuals are held in solitary confinement.⁶⁵ It wasn’t until January of 2016 that President Obama banned the use of solitary confinement for juveniles in federal prisons,⁶⁶ citing Browder’s case when he did so.⁶⁷

Section 3.2: Injustice in Court

Browder went to court tens of times, only to return to Rikers when the prosecutor was unprepared to try Browder’s case. Often, Browder would be forced to wait six weeks or more between court dates. During this period, Browder had little ability to

⁶³ Ibid, 15-16.

⁶⁴ Peter Wagner and Bernadette Rabuy.

⁶⁵ Jean Casella and James Ridgeway, "How Many Prisoners Are in Solitary Confinement in the United States?" Solitary Watch, October 16, 2015, accessed April 24, 2017, <http://solitarywatch.com/2012/02/01/how-many-prisoners-are-in-solitary-confinement-in-the-united-states/>.

⁶⁶ Michael D. Shear, "Obama Bans Solitary Confinement of Juveniles in Federal Prisons," The New York Times, January 25, 2016, accessed September 10, 2017, https://www.nytimes.com/2016/01/26/us/politics/obama-bans-solitary-confinement-of-juveniles-in-federal-prisons.html?mcubz=0&_r=0.

⁶⁷ Barack Obama, "Barack Obama: Why We Must Rethink Solitary Confinement," The Washington Post, January 25, 2016, accessed September 10, 2017, https://www.washingtonpost.com/opinions/barack-obama-why-we-must-rethink-solitary-confinement/2016/01/25/29a361f2-c384-11e5-8965-0607e0e265ce_story.html?utm_term=.03b97be3ebad.

communicate with his lawyer, O'Meara, except in messages sent through his mother. O'Meara filed bail applications on several occasions but they were denied because of Browder's probation.

When Browder talks about his court dates he uses both past and present tense, moving between the two irregularly.

In the *ABC* interview, as in the Gonnerman interview, Browder uses past tense and present tense as he recalls the words of others and his own thoughts:

It was just "we're not ready for trial, we're not ready for trial and every single—every single court date I always had it on my mind "I'm going home this court date, I'm going home this court date. The judge told me if I plead guilty, I'll be released from jail that same day, but I didn't do it, you're not gonna, you're not gonna make me say I did something just so I could go home. If I gotta stay here five more months just to prove that I'm innocent, then so be it. It's just heartbreaking and it's like, I felt like they was just playing with my life."⁶⁸

Browder's inconsistent use of tense when talking about his court dates reflects the space that court dates occupy for someone who has not been convicted of a crime. At court, Browder is outside of the jail walls, but is still treated like an inmate. Each time he went to court, he didn't know if he would return home to the Bronx or return to Rikers Island and his solitary confinement—potentially for years.

In 2012, Browder was offered a plea deal: three and a half years in prison if he pled guilty. Browder said no, adamant that wanted a trial. On March 13th, 2012, Judge Patricia M. DiMango offered him a new plea deal: plead guilty to two misdemeanor charges and go home immediately, with the time spent in jail counting as

⁶⁸ "Kalief Browder: The Life and Death of the Man Who Spent 3 Years Without Trial on Rikers Island." 1:32

time served. Browder said no; he still wanted to go to trial. Judge DiMango warned him that his decision risked a sentence of 15 years. Browder did not change his answer—he would wait for trial to clear his name.⁶⁹ On May 29th, 2012, after over 30 court dates,⁷⁰ Judge DiMango said that the prosecutors were likely going to dismiss the case and as a result, she was going to release Browder. The next day, Browder left Rikers Island and moved back in with his mother. A week later, the prosecutors stated that they were unable to meet the burden of proof for trial.⁷¹

⁶⁹ Jennifer Gonnerman, "Kalief Browder, 1993–2015."

⁷⁰ Jenner Furst et al., *Time: The Kalief Browder Story*.

⁷¹ Gonnerman, Jennifer. "Kalief Browder, 1993–2015,"

Conclusions: Released?

After his release from Rikers Island, Browder was changed. In his own descriptions of his life after his release, he consistently maintains grammatically expected tense usage in passages that describe a broken down man. He says:

I lost my childhood. I lost my happiness. I don't really tell too many people about this but it's like, sometimes I talk to myself, and it's like—it's, it's actually embarrassing sometimes [...] being in solitary confinement that long, without talking to anybody, I feel like that maybe had something to do with it because that's where those habits started to pick up.⁷²

He tells Gonnerman: "I think about jail and the stuff that happened in there and the stuff that I seen in there everyday. I just...feel like there's no way that somebody could like possibly tell me to just get over it and stop thinking about that stuff—there's no way!"⁷³ Unlike when he talks about his incarceration, his tense use is grammatically expected—he uses the present tense to talk about his present life and thoughts—highlighting that his alternate tense use is unique to talking about his incarceration and not a stylistic choice across all of his language.

The end of Browder's incarceration did not mean the end of his struggles. He spent much of his time in his room alone. He struggled socially. Six months after his release, he attempted to slit his wrists with a steak knife, but a friend stopped him. When his friend left, he tried to hang himself. His mother found him, called an ambulance, and he was sent to a psychiatric ward. He eventually recovered enough to complete his GED and enroll in Bronx Community College.

⁷² Kalief Browder, "Jennifer Gonnerman's Interviews with Kalief Browder," 2:13

⁷³ Ibid, 14:49.

Still, he continued to suffer: true freedom from Rikers was elusive, the outside world which he had longed to rejoin while incarcerated was overwhelming and the pain of solitary confinement lingered. Browder was aware that his mental state was deteriorating: “When I first came home from jail, I felt relieved. But, I feel like I lost my childhood. [...] You know... I feel like...I don’t know. I know what I feel like. But it’s hard to explain. The transition is crazy.”⁷⁴ He goes on to explain that “deep down” he is “a mess. [...] I’m 21, and on the inside I feel like I’m forty.” Despite this, he stands by his decision to maintain his innocence: “I always believed in standing up for what I thought was right. And if I would have just pled guilty then my story would have never been heard. Nobody would have took the time to listen to me. I’d have been just another criminal.”⁷⁵

In the months that followed his release, Browder gave the interviews examined in this essay, in which he fails to distinguish his incarceration as a concretely past event. It was clear to his family members that while Browder was no longer incarcerated physically, he had not fully escaped Rikers Island. He tended to pace in his room or the driveway in a rectangular shape, telling his mother, Venida, that he did so because that was all he had been allowed to do in jail. Images of his room show a door ripped of its hinges with fist sized holes in the walls.⁷⁶ His family members describe his behavior as erratic. He started urinating on the floor and refusing to speak to people. He developed a deep distrust for people around him, convinced that his counselors

⁷⁴ Jenner Furst et al., *Time: The Kalief Browder Story*. Episode 5.

⁷⁵ "Kalief Browder: The Life and Death of the Man Who Spent 3 Years Without Trial on Rikers Island." 2:47

⁷⁶ Jenner Furst et al., *Time: The Kalief Browder Story*.

and teachers were members of the FBI or police trying to put him back in jail again. He was prescribed an anti-schizophrenic medication—the same type that he had also been put on in solitary confinement. He disliked the medication because of its side effects of dizziness and depression. Even while medicated, Browder behaved abnormally. In an interview with Venida, she describes the night of June 5th, 2015 as particularly bad. Kalief could not sleep and paced back and forth, terrified that someone was coming for him. The next morning, he turned down breakfast. Later that day, he tied a noose around his neck and threw himself out of the second floor window. This suicide attempt was successful.⁷⁷

Browder's case urges us to continue thinking about solitary confinement with the understanding that its use represents a structural and institutionalized violence against tens of thousands of citizens. Textual analysis of first person narratives of solitary confinement can provide us with a better understanding of the ways that isolation functions as a violence on the self. Through a Levinasian perspective, we can identify one of the ways that solitary confinement is damaging: the emergence of a split self. When duality of the self occurs, a relation emerges that results in self-inflicted violence as a fact of daily existence. Because we are fundamentally structured in relation to the other, deprivation of the other is a violent act. Analysis of Browder's language provides evidence of this split and highlights the ways that the damage caused by solitary confinement continues to affect the life of formerly incarcerated people after release in ways that may be irreparable. As a result, the U.S. carceral state should abandon the use of solitary.

⁷⁷ Jenner Furst et al., *Time: The Kalief Browder Story*. Episode 5.

While the use of solitary confinement continues to operate under the rhetoric of “safety,” this analysis, along with other accounts of solitary, provide sufficient evidence to suggest that the discourse of “safety” is misleading. Joe Giarratano, who spent eight years in solitary confinement, writes:

Human beings are social creatures. We need psychological, intellectual, spiritual, environmental stimulation to function properly, to grow and develop. Without that stimulation we deteriorate. I do not care how strong one is mentally solitary confinement will adversely affect you. I have literally watched grown men deteriorate before my eyes, and go mad. There were times during my 8 year stint that I lost it and began to hallucinate and lose my grip on reality. What the public needs to realize is that eventually all of those who experience that will be released back into society, far more broken than when they went in.⁷⁸

Scholars and advocates must also begin to complicate the language of “mental illness” when describing the behavioral disruptions of those who have experienced solitary confinement. The damaged mental states seen in those who have spent time in solitary should be referred to as injury, rather than illness. I do not mean to suggest that there are not physical and chemical changes that are produced within the body and brain during solitary confinement, but that we should attend to the passivity of the terminology of “mental illness” in thinking about people who have been exposed to the violence of solitary confinement. The terminology of illness avoids naming any agent or acknowledging the systemic violence people in solitary confinement are subject to at the hands of prisons around the country. By altering the language we use to talk about its victims, we can better confront the violence of solitary confinement.

⁷⁸ "Untitled," Joe Giarratano to The American Civil Liberties Union, accessed October 11, 2017, <https://www.aclu.org/issues/prisoners-rights/cruel-inhuman-and-degrading-conditions/joe-giarratano-stories-solitary>.

I suggest that continued research on the symbolic use of solitary confinement as a method of social control and racial oppression might provide insights into why the practice has not yet been eliminated. Michelle Alexander writes that solitary confinement is a violence utilized specifically against America's black population, suggesting that it is just one manifestation of the ways that the violence of slavery has been transformed into new, institutionalized forms of violence:

The racial violence once associated with brutal slave masters or the Ku Klux Klan has been replaced to some extent, by violence perpetrated by the state. Racial violence has been rationalized, legitimated, and channeled through our criminal justice system; it is expressed as police brutality, solitary confinement, and the discriminatory and arbitrary imposition of the death penalty.⁷⁹

Because rates of incarceration for people of color occur in such disproportionate numbers and do not reflect disparate rates of crime across racial categories, scholars must account for the racialized aspects of incarceration when studying solitary confinement;⁸⁰ we would be remiss to understand the case of Browder, and the practice of solitary confinement as separate from the history of race relations in America. I suggest future research that explores the way that race may alter the way that solitary confinement is experienced is necessary. While Alexander provides an excellent account of the ways that incarceration and solitary confinement effect people of color systematically, we need to understand the way race in solitary confinement through a phenomenological approach as well.

⁷⁹ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Color-blindness* (New York, NY: New Press, 2012.), 202.

⁸⁰ Ashley Nullis, *Disparity in State Prisons*, report, June 14, 2016, accessed November 4, 2017, <http://www.sentencingproject.org/publications/color-of-justice-racial-and-ethnic-disparity-in-state-prisons/>.

By mapping tense onto Levinas' ontological disruptions of time in solitary confinement I begin to link the study of ontology to textual analysis of rhetoric. I suggest that through analysis of language we can gain an understanding about the ontological makeup of the rhetor, and the way that violence can alter and disrupt the very basis of the self. I ultimately hope to add to the substantial work—rhetorical, philosophical, psychological, economic, sociological, political and more—that provide evidence for supporting the abolition of solitary confinement.

It seems unlikely that Kalief Browder's death would have occurred in such an untimely and tragic manner had he never been incarcerated at Rikers island and experienced the violence of solitary confinement. Browder's refusal to take a plea deal brought him into the public eye, but the injustices he faced, and the abuses that he endured are not unique. If we have any hope to create a more just society for all of all our members, critical evaluations of the discourses that authorize violence like what Browder faced must expand, proliferate, and be put to work in our political dialogues.

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