

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE NO. 1:20-cv-24294-KMM

RAQUEL CAMPS, in her capacity as the
personal representative of the ESTATE OF
ALBERTO CAMPS, EDUARDO CAPPELLO,
in his individual capacity, and in his capacity
as the personal representative of the ESTATE
OF EDUARDO CAPPELLO,
ALICIA KRUEGER, in her individual
capacity, and in her capacity as the personal
representative of the ESTATE OF RUBÉN
BONET, and, MARCELA SANTUCHO, in her
individual capacity, and in her capacity as the
personal representative of the ESTATE OF
ANA MARÍA VILLARREAL DE SANTUCHO,

Plaintiffs,

v.

ROBERTO GUILLERMO BRAVO,

Defendant.

_____ /

DEFENDANT’S POST-REMAND SUPPLEMENTAL BRIEF

Defendant, ROBERTO GUILLERMO BRAVO (“Defendant” and/or “Bravo”), pursuant to this Court’s Order entered on September 30, 2025, ECF No. [205], the Stipulation filed by the parties on December 15, 2025, ECF No. [214], and Plaintiffs’ Amended Supplemental Brief on Remand filed on December 22, 2025, ECF No. [216] (hereinafter “Brief” and/or “Br.”), hereby files his Post-Remand Supplemental Brief (“Responsive Brief”), and in support thereof states as follows:

GLOSSARY OF TERMS

Argentinean Judgment	Argentinean Judgment of Conviction against the other officers involved in Trelew dated October 15, 2012, ECF No. [60-6]
Appeal	<i>Camps v. Bravo</i> , Case No. 23-12511 (11th Cir. 2024)
Brief or “Br.”	ECF No. [216] by Plaintiffs’ Amended Supplemental Brief
<i>Daimler</i>	<i>S. African Apartheid Litig. v. Daimler</i> , 617 F. Supp. 2d 228 (S.D.N.Y. 2009)
Extr. (2010)	In re Extradition of Roberto Guillermo Bravo, Case No. 1:10-mc-20559-RLD (S.D. Fla. March 1, 2010).
Extr. (2019)	In re Extradition of Roberto Guillermo Bravo, Case No. 1:19-mc-23851-EGT (S.D. Fla. September 16, 2019).
ICTJ	International Center of Transitional Justice
<i>Jane I</i>	<i>Jane v. Thomas</i> , 354 F. Supp. 3d 630, 635 (E.D. Penn. 2018)
<i>Jane II</i>	<i>Jane W. v. Thomas</i> , 560 F. Supp. 3d 855 (E.D. Pa. Sept. 15, 2021)
Judgment or Judgmt.	ECF No. [180]
Langer	Plaintiffs’ Expert Maximo Langer
Langer Rep.	Plaintiffs’ Expert Maximo Langer’s Report
Mandate	<i>Camps v. Bravo</i> , 142 F.4th 742 (11th Cir. 2025)
TRC	Truth and Reconciliation Commission
TVPA	Torture Victim Protection Act of 1991, 28 U.S.C. §1350 (1994)

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I. INTRODUCTION¹

The Eleventh Circuit in its Opinion made the scope of the post-remand briefing clear. First, it determined that two of the equitable tolling *factors* (*i.e.*, Plaintiffs’ fear of reprisal and inability to identify or locate Bravo), do not warrant tolling past March 2008. *Camps v. Bravo*, 142 F.4th 743, 750-51 (11th Cir. 2025).² As to the third tolling *factor* relied upon by this Court, the “inability to discover evidence in support of their claims,” Plaintiffs have chosen to withdraw it from this Court’s consideration.³

As a result, at this point, and pursuant to the Mandate, this Court is only tasked to: “**address the plaintiffs’ argument that the criminal prosecution in this case is an analog for a domestic truth and accountability proceeding.**” 142 F.4th at 753. Per the conditional Mandate, only “*after* the district court makes additional findings on the period of equitable tolling,” that is, after findings as to whether a Truth and Reconciliation Commission (“TRC”) and a criminal case in Argentina are analogous, this Court “**can decide whether it needs to revisit the matter of the plaintiffs’ diligence and make further findings on that issue.**” *Id.* at 756. The reason being that the resolution of the tolling question dictates whether further consideration of the remaining issue (*i.e.*, parties’ diligence) is permissible or necessary.⁴ Simply, where a mandate requires resolution of one issue

¹ All emphasis in cites throughout this Brief has been added by the undersigned.

² According to the mandate, these first two factors are “the law of the case” and cannot be revisited by this Court or by the Plaintiffs. *Piambino v. Bailey*, 757 F.2d 1112, 1120 (11th Cir. 1985)(“As with the mandate rule, the law of the case doctrine applies to all issues decided expressly or by necessary implication”).

³ Brief at pp. 6-7 fn. 2. All citations to page numbers correspond to the page numbers assigned by the electronic filing system (“ECF”).

⁴ *Piambino*, 757 F.2d at 1120. The Mandate directs this Court to proceed sequentially. The panel instructed this Court to first determine whether “plaintiffs’ ‘inability to discover evidence’ warrants tolling; *after* that determination, then to address the comparison between the criminal case in Argentina and a TRC. 142 F.4th at 753. The Mandate makes the remaining issues *expressly contingent* on this Court’s threshold finding of equitable tolling. Thus, Bravo addresses in this brief only whether there is an analogy between a criminal proceeding in Argentina and a TRC and will submit a briefing on the “diligence” issue if, and when, this Court makes a finding that the tolling argument has merit. Given the conditional language in the Mandate, **it is premature and outside the scope of the current task directed by the Eleventh Circuit to address the remaining diligence issue.** 757 F.2d at 1120 (“A trial court, upon receiving the mandate of an appellate court, may not alter, amend, or examine the mandate, or give any further relief or review, but must enter an order in strict compliance with the mandate.”).

as a threshold matter before reaching another, the parties must await the Court's decision on the first issue before submitting supplemental briefings on the other. *See id.*

As to the *argument*⁵ that a criminal proceeding in Argentina equates to a TRC, and reliance on same tolled the limitations period, it fails for several reasons. First, to be clear **there is no precedent**, no case law in this country, TVPA or not, that supports the premise that a statute of limitations may be tolled while a party was “*relying on a criminal proceeding*” or “*relying on a domestic accountability proceeding*.” Plaintiffs’ “catchphrases” do not appear **anywhere** in any jurisprudence. **Not one single case.** Not in *Jane*, not in *Daimler*.⁶ These cases do not stand for the proposition that Plaintiffs suggest. In *Jane*, the court simply relates to the efforts plaintiff had to go through to find information for her claims during the TRC; while *Daimler* does not even have a holding on tolling since it was mentioned in dicta. There is simply no legal basis for this theory.

A TRC and a criminal prosecution in Argentina are vastly dissimilar processes. “**Truth commissions are not courts** - they cannot legally prosecute or punish people.”⁷ In contrast, the main and only purpose of the Argentinean criminal proceeding was to inflict criminal punishment to those responsible for the death of prisoners at Trelew.⁸ One of the main goals of a TRC is to provide financial reparations to the victims,⁹ while there was no evidence or allegation at trial that

⁵ Notably, the Eleventh Circuit went to considerable lengths to differentiate the tolling **factors** (fear of reprisal, inability to locate Bravo, and inability to discover evidence), from the **argument** advanced by Plaintiffs’ counsel during trial (reliance on accountability proceedings). 142 F.4th at 749, 753. This distinction matters: factors form part of the objective legal test for equitable tolling, whereas arguments offered by counsel must be evaluated—if at all—within the confines of the established legal framework. Plaintiffs improperly reframed their advocacy as a distinct factor during trial. Reliance on accountability proceedings, however, is **not a standalone factor** for tolling, but rather an argument bearing on the enumerated factors of fear, inability to locate, or inability to discover evidence; recasting an *argument* as a *standalone factor* is improper and should guide this Court in its analysis. *See* § A, *infra*; *see generally* *People v. Ramirez*, 479 P.3d 797, 832 (2021) (“there is a difference between ‘consider[ing] the arguments of counsel’ and treating those arguments as substantive evidence or viewing them as [factors].”).

⁶ *Jane W. v. Thomas*, 560 F. Supp. 3d 855 (E.D. Pa. Sept. 15, 2021) (hereinafter, “*Jane IP*”); *S. African Apartheid Litig. v. Daimler AG*, 617 F. Supp. 2d 228 (S.D.N.Y. 2009) (hereinafter “*Daimler*”).

⁷ Heather, *Truth and Reconciliation Commissions: A Needed Force in Alaska?*, 34 Alaska L. Rev. 27, 29 (June 2017).

⁸ ECF No. [145] at 104.

⁹ *See* fn. 51, *infra*.

a criminal proceeding in Argentina ever provided damages to a plaintiff.¹⁰ These two systems serve fundamentally different functions, employ different procedures, rules of evidence, and produce different forms of redress. Thus, even if compared, a criminal prosecution is not an analog for a TRC and, as such, this Court must reject Plaintiffs' theory because reliance on the prosecution of the Argentinean criminal case cannot provide a basis for tolling under either *Jane* or *Daimler*.

Additionally, this Court must reject Plaintiffs' theory because the Argentinean criminal case was not the “**first and only**” accountability process available to the Trelew victims. In fact, the evidence at trial established that the Trelew victims were eligible and applied to the reparations program established in Argentina as one of the several **transitional justice mechanisms of accountability** used by Argentina to officially investigate, recognize and repair the human rights violations that took place at Trelew. As this Court has already found, Plaintiffs applied and received monetary reparations for the wrongs done to their relatives. Judgt. at 11 ¶ 27. Thus, Plaintiffs' claim that the criminal prosecution in Argentina was the “first and only public accountability proceeding” for the victims to support their reliance argument is incorrect.

Moreover, Plaintiffs failed to meet *their* burden of proof¹¹ in equating a criminal case in Argentina to a TRC to warrant tolling. Indeed, at trial there was scant evidence regarding either process to allow this Court to make an informed comparison between these two proceedings. The trial record, as it stands today, provides no light to this Court as to what transpires in a criminal case in Argentina or in a TRC or the time and effort that each process entails. As admitted by Plaintiffs, their only evidentiary basis for this unsupported analogy is the testimony of their expert

¹⁰ ECF No. [145] at 17:15-21 (“The Court: There's no record evidence that these plaintiffs have any prospect of getting money in a criminal proceeding in Argentina? [Plaintiffs' Counsel]: I – The Court: Are you saying there will be? [Plaintiffs' Counsel]: I don't -- we'd have to get back to you on the that.”). Plaintiffs never did.

¹¹ See, e.g., *Justice v. United States*, 6 F.3d 1474, 1479 (11th Cir. 1993) (“the burden is on the plaintiff to show that equitable tolling is warranted.”).

Langer,¹² which stated that “criminal proceedings were *kind of the equivalent* to a truth commission, [] and they function equivalent to a truth commission.”¹³ This one sentence is certainly not enough to make a factual finding that a criminal case in Argentina and TRC are analogous. This is particularly true because, (i) Langer was proffered as an expert in TRCs; (ii) his Report makes no mention of TRCs; (iii) he did not explain what a TRC is; and (iv) he did not explain how a TRC is analogous to a criminal case in Argentina. Thus, Plaintiffs failed at trial to proffer sufficient evidence **to meet their burden** that **a criminal proceeding in Argentina equates to a TRC** to justify equitable tolling.

Finally, as this Court acknowledged, Plaintiffs failed to identify it as an equitable tolling factor **before** trial.¹⁴ Plaintiffs pivoted to this theory during trial after realizing that the enumerated tolling factors failed to get them to 2010.¹⁵ In doing so, Plaintiffs impermissibly raised a new issue that had been legally forfeited and that prejudiced Bravo and their counsel as they were not provided with the required notice to defend at trial. As a result, this Court is obliged to deny tolling because Plaintiffs failed to properly plead this theory.¹⁶

As demonstrated below, the answer to the Eleventh Circuit’s inquiry is simple: a criminal prosecution in Argentina is NOT an *analog* for a TRC. The fact remains that Plaintiffs knew or should have known about Bravo and what occurred at Trelew by 2008 but made the strategic decision to wait before filing this action. This case should be dismissed as Plaintiffs’ claims are time barred.

¹² ECF No. [148] at 39:5-6 (by Plaintiffs’ counsel: “the only evidence in the record is Mr. Langer’s testimony.”).

¹³ ECF No. [145] at 139:17-19.

¹⁴ Judgmt at 12 fn. 3 (“Plaintiffs **argued at trial and in post-trial briefing** that their reliance on domestic accountability processes to afford or them means of obtaining justice [] tolled the statute of limitations.”).

¹⁵ ECF No. [140] at 35 (“Yes, you’re right. It only gets us to [fear] 2005, [whereabouts] 2008, and we filed in 2020. So **unless we get reasonable reliance on the criminal proceeding, then we have a problem.**”).

¹⁶ See *Cioffe v. Morris*, 676 F.2d 539, 541 (11th Cir. 1982)(“[A] judgment may not be based on issues not presented in the pleadings and not tried with the express or implied consent of the parties.”); *Kipu Sys. v. Zencharts*, No. 17-cv-24733-WILLIAMS, 2020 U.S. Dist. LEXIS 257913, at *23 (S.D. Fla. Nov. 24, 2020).

II. ARGUMENT

A. There Is No Precedent, TVPA or Otherwise, to Warrant Tolling under New Theory.

Plaintiffs' Brief consistently argues that reasonable reliance on accountability proceedings is an equitable tolling factor, "**under TVPA precedent.**" Br. at 5, 10. **It is not.** Plaintiffs' legal support for their theory is *Jane, Daimler*, and the jury instruction provided by this Court. Br. at 5.

As to the jury instruction given by this Court during trial, Plaintiffs repeat time after time that it is a **legal basis** for their theory that reliance on accountability proceedings is a tolling factor. Br. at 10 fn. 26.¹⁷ What is more, Plaintiffs urge this Court not to "reconsider" its jury instruction because "nothing in the Eleventh Circuit's or any other court's decision" obliges this Court to do so. *Id.* at 14. Plaintiffs are wrong.¹⁸

Once this Court determined that it *erred* when it submitted the equitable tolling question to the jury, ECF No. [177], the Court's decision superseded the jury instruction on the issue and it became legally irrelevant, of no effect and/or moot.¹⁹ Moreover, Bravo vehemently objected to the jury instruction as an "erroneous instruction to the Jury which described an alleged 'accountability process' as a legally recognized basis for the Jury to equitably toll a statute of limitations." ECF No. [162] at 8. This Court did not rule on the issue, took the issue under advisement, and stated it would revisit it at a later point, if needed. ECF No. [177]. Finally, the Eleventh Circuit vacated and remanded this Court's Judgment. Therefore, asking this Court to let an erroneous and legally

¹⁷ See also Br. at 11 ("this Court previously acknowledged when it determined jury instructions that reasonable reliance on domestic accountability proceedings can serve as an extraordinary circumstance to warrant equitable tolling under the TVPA."); 14 ("during trial, the Court determined that Plaintiffs' proposed jury instruction "is an accurate statement of the law" and confirmed that this tolling factor "is substantiated in the case law."); 16 (same).

¹⁸ *United States ex rel. Cody v. Mantech Int'l Corp.*, 746 F. App'x 166, 179 (4th Cir. 2018) ("when a party challenges a district court's ruling on a motion for judgment as a matter of law, **the jury instructions given do not control our analysis.**"); see *Kloster Cruise Ltd. v. Segui*, 679 So. 2d 10, 12 n.2 (Fla. 3d DCA 1996) (noting that jury instruction argument was **moot** in light of court's reversal); *Dumigan v. Holmes Reg'l Med. Ctr., Inc.*, 332 So. 3d 579, 587 (Fla. 5th DCA 2022) ("While Dumigan has also raised the specter of spoliation in the context of an adverse inference jury instruction, **that issue is moot given our reversal** for a new trial.").

¹⁹ *Murphy v. Hunt*, 455 U.S. 478, 481 (1982) ("In general a case becomes moot 'when the issues presented are no longer "live" or the parties lack a legally cognizable interest in the outcome.'").

immaterial jury instruction to stand as the law of the case is not only improper but also shows Plaintiffs' inability to find legal support for their meritless theory.

As to the cases cited, and as fully demonstrated below, neither *Jane* nor *Daimler* held that tolling is warranted while a plaintiff was “relying on a criminal proceeding” or “relying on domestic accountability proceeding.” In those cases, the TRCs were an **additional** consideration to the tolling factors of fear of reprisal by the regime, concealment by defendant, and lack of information regarding their claims. All of which are not at issue here. Reliance on the TRC was not an independent tolling factor, but an **argument** bearing on existing equitable tolling factors.²⁰ However, Plaintiffs forced their facts into these two cases and crafted a distorted theory that a criminal proceeding in Argentina which prompted an extradition and its subsequent denial is akin to a TRC to use these cases as last resort to seek tolling until November 2010.

Plaintiffs' efforts are in vain. Nothing in the law supports using an analogy between a TRC and a criminal case in Argentina as a tolling factor. Plaintiffs' claims are simply barred.

(i) **Jane Is Inapposite to this Case**

The district court in *Jane* considered the following **as factors** when deciding whether to grant equitable tolling:

- (1) “Liberia's **two civil wars and its unstable government**—which has consistently equivocated over the handling of allegations of war crimes;
- (2) Plaintiffs' justifiable **fear of violent reprisal** were they to speak out in Liberia about the Lutheran Church Massacre;
- (3) Defendant's **absence from the United States**, which has hampered the Plaintiffs' ability to investigate their claims; and
- (4) Defendant's **alleged concealment of his identity** and his involvement in the perpetration of war crimes and human rights abuses.”²¹

²⁰ See fn. 5.

²¹ See *Jane v. Thomas*, 354 F. Supp. 3d 630, 635 (E.D. Penn. 2018) (hereinafter, “**Jane I**”); *Jane II*, 560 F. Supp. 3d at 874 (the judge identified tolling factors as tolling “**elements**”). *Jane I* and *Jane II* are collectively referred as “*Jane*.”

Nowhere in the factors enumerated by District Judge Tucker in his opinions was plaintiff's "reliance in a TRC" or in "a domestic accountability proceeding." In fact, the words "reasonable reliance" or just "reliance" (or any of Plaintiffs' catchphrases) do not even appear in these decisions. More importantly, Judge Tucker ruled "[b]ecause *each of these four elements* has been substantiated, the TVPA's statute of limitations is tolled and Plaintiffs' claims are not time barred."²² Notably, Judge Tucker did not list as a "fifth" element or factor plaintiff's "reliance on the TRC" to grant tolling.²³

Indeed, the TRC and the Liberian Supreme Court's decision disregarding the TRC's recommendations were considered *only* as an argument to bolster plaintiff's enumerated tolling factors, particularly, Liberia's civil wars and instability that caused fear of violence and reprisal from the regime.²⁴ In fact, such was the fear for her life that Judge Tucker **granted plaintiff's request to proceed anonymously "[d]ue to justified fear of reprisals in Liberia after the case"** was filed.²⁵ According to the district court, the defendant had fled the United States to Liberia where he used his local contacts *to intimidate* individuals suspected of being a plaintiff or witnesses in the action.²⁶ Compounding the problem "[a]s of the date of the filing of [Jane's] Complaint, several of the **most renowned alleged perpetrators of war crimes and serious abuses still h[e]ld political office.**"²⁷ Not surprisingly, even at the time of Judge Tucker's decision, "**[n]o prosecutions of wartime offenses ha[d] occurred** since the end of the second

²² *Jane II* at 875.

²³ Although the district court in *Jane II* held that the "*establishment*" of the TRC "also delays the statute under the TVPA," it did so in the context of the country conditions at the time of the ruling. *Jane II* at 874 fn. 14 (the expert of the report was also appearing anonymously due to the country conditions).

²⁴ *Jane II* at 874.

²⁵ *Jane II* at 865 n. 1, 891 (finding that "Thomas has leveraged his contacts in the country's security forces . . . to harass individuals suspected of being associated with this action").

²⁶ *Id.*

²⁷ *Jane I* at 636.

Liberian civil war.”²⁸ The court found that the **plaintiff’s “concerns remained, to some degree, into the 2000s and 2010s,”** only a few years before plaintiff’s filing in 2018.

In sum, in *Jane*, equitable tolling was granted in part because (i) “[e]ach avenue of potential accountability for the Massacre, from the military to civilian justice systems and a [TRC],” had failed; and, (ii) because the plaintiffs participating in the TRC were “lull[ed] into believing they ‘would have had no need to conduct *an independent investigation* into defendants’ conduct.”²⁹ The TRC was ***the only path for justice*** for these plaintiffs because of the “concerns of lack of due process, political independence, opacity, and corruption of the courts in Liberia.” *Jane II* at 874, 872. In fact, the TRC’s recommendations to the government **included reparations** to the victims.³⁰ Those reparations were also disregarded when the Liberian Supreme Court issued its decision. In other words, the plaintiff in *Jane* did not get anything, no government acknowledgement of the wrongs, much less any financial reparations.³¹

None of the factors in *Jane* are present in this case. The Mandate has made clear that those factors are not at issue here: after 2008 there is no fear of reprisal, no instability of government in Argentina, no inability to locate Bravo, nor concealment.³² By 2005, Argentina had no concerns of due process, political independence, opacity, or corruption. Further, here, Plaintiffs did have a path for justice. In fact, Argentina not only established the reparations program acknowledging the

²⁸ *Id.*

²⁹ *Jane II* at 871, 874.

³⁰ “Recommendations to the Government also include the full range of mandated recommendations of the TRC Act; **to include reparations**, justice and reconciliation mechanisms, institutional reforms, governance, issues of the Diaspora, national integrity and corruption, the National Human Rights Commission, etc.” Republic of Liberia, Truth and Reconciliation Commission, Volume II, Consolidated Final Report, §1.5.2 at 22, available at https://www.trcofliberia.org/resources/reports/final/volume-two_layout-1.pdf (last accessed on Jan. 14, 2026).

³¹ “Victims have had no access to any reparations in Liberia for civil wars-era crimes since the end of the conflicts in 2003.” See Advocates for Human Rights Violations, *Liberia - Human Rights Committee (Follow-up) - Accountability, Transitional Justice*, UN Human Rights Committee, May 2024, available at https://www.theadvocatesforhumanrights.org/International_Submissions/A/Index?id=489 (accessed Jan 15, 2026).

³² Here, by the law of the doctrine case and Plaintiffs’ withdrawal of their argument of inability to locate evidence, **Plaintiffs knew all elements of their claim by 2008; thus, there was no need for an independent investigation.**

wrongs in Trelew, but Plaintiffs availed themselves of the reparations program as one of the accountability mechanisms of transitional justice and received financial compensation. This system was established to provide meaningful justice to victims of the Argentinean Dirty War.³³

The facts in *Jane* are inapposite to this case. Finding that tolling is warranted until the denial of extradition has no rhyme or reason under these circumstances. It is clear that “reliance in a domestic accountability proceeding” was not a stand-alone **factor** or **element** of equitable tolling considered in *Jane* when Judge Tucker decided the case, and it should not be one here either.

(ii) **Daimler Is Inapposite to this Case**³⁴

Plaintiffs argue that the district court in *Daimler* “**held**” and “**found** that “reasonable reliance on domestic accountability proceedings tolled the statute of limitations.” Br. at 13. **Nothing in the opinion holds that proposition.** Indeed, District Judge Scheindlin who wrote the opinion specifically stated that “it would be inappropriate to resolve these factual disputes on a motion to dismiss. There is **no need to decide** whether tolling stops the statute of limitations clock because -- even if it does not -- the question of whether it was unreasonable for plaintiffs to wait until 2002 to file their claims **requires factual development.**”³⁵ Therefore, any statement in *Daimler* regarding tolling the limitations period is *dicta*.³⁶ **Bravo firmly rejects Plaintiffs’**

³³ See § B, *infra*.

³⁴ Before turning to the merits, Bravo brings this Court’s attention to the fact that **the TVPA claims brought by the plaintiffs in *Daimler* were dismissed by the district court and the dismissal affirmed by the Second Circuit Court of Appeals.** See *Daimler* at 244 (“In a short per curiam opinion, the Circuit upheld dismissal of plaintiffs’ claims under the TVPA”); see also *Khulumani v. Barclay Nat’l Bank Ltd.*, 504 F.3d 254 (2d Cir. 2007) (per curiam). Thus, the only remaining claims addressed in this case were under a different statute, the Alien Tort Statute or ATS. See *Daimler* at 244. Most critically, even the ATS claims in *Daimler* were ultimately dismissed by the district court, and the Second Circuit affirmed the dismissal. *In re South African Apartheid v. Daimler*, Case No. 02-md-01499-SAS, S.D.N.Y. (Aug. 28, 2014), ECF No. [282] and (Sept. 22, 2015), ECF No. [286]. And the United States Supreme Court denied certiorari. *Ntsebeza v. Ford Motor Co.*, 579 U.S. 923 (2016).

³⁵ *Daimler* at 291.

³⁶ *Edwards v. Prime, Inc.*, 602 F.3d 1276, 1298 (11th Cir. 2010) (“We have pointed out many times that regardless of what a court says in its opinion, the decision can hold nothing beyond the facts of that case. **All statements that go beyond the facts of the case . . . are dicta. And dicta is not binding on anyone for any purpose.**”); *Pretka v. Kolter City Plaza II, Inc.*, 608 F.3d 744, 762 (11th Cir. 2010) (“We are not required to follow dicta in our own prior decisions. **Nor for that matter is anyone else.**”).

attempt to elevate this dicta from another jurisdiction to a holding that “reliance on domestic accountability proceedings tolled the statute of limitations.” Br. at 13. It simply is not.

In any case, just as in *Jane*, the judge in *Daimler* recited the following ***as factors*** for the equitable tolling analysis:

- (1) the **political climate in South Africa prevented them from gathering evidence**, interviewing witnesses, or otherwise taking the initial steps required to commence litigation;
- (2) **Political killings were common through 1993**; and
- (3) The **oppressive apartheid regime was still in place**³⁷ at the time of filing.

Nowhere in these factors was plaintiffs’ “reliance in a TRC” or in “a domestic accountability proceeding.” Again, Plaintiffs’ catchphrases do not even appear in this decision.

Judge Scheindlin, as Judge Tucker did in *Jane*, considered the TRC in South Africa ***only*** as an ***argument*** to bolster plaintiff’s enumerated tolling factors, particularly plaintiffs’ inability to gather evidence due to the oppressive apartheid regime still in power and the defendants’ failure to participate in the TRC.³⁸ Indeed, the district court observed that the until **at least 1993** “political killings were common.” *Id.* Not surprisingly, the court decided not to dismiss the complaint on equitable tolling grounds since plaintiffs had filed in **2002**, within the ten years limitations period.³⁹

None of the facts present in *Daimler* are present in our case between 2008 and 2010, **the only tolling period at issue here**. There is no claim of inability to gather evidence during that period per Plaintiffs’ withdrawal, nor is there an argument that an abusive regime was in power in Argentina post-2008. Indeed, unlike *Daimler*, after 2008, the Plaintiffs in this case did not need to amass evidence to prosecute the claims in the United States **and simultaneously** participate in the

³⁷ *Damlier*, 617 F. Supp. 2d at 291.

³⁸ Even though the *Daimler* court did not decide the equitable tolling question, it did state that “[i]t is not clear that a diligent and reasonable plaintiff would have had time to participate in that lengthy and difficult [TRC] process and simultaneously to prepare a lawsuit. Further, defendants’ refusal to participate in the TRC process made it much more difficult for plaintiffs to amass the evidence to prosecute their claims.” *Daimler* at 291.

³⁹ *Id.*

criminal case in Argentina. All the potential “tremendous time and energy required”⁴⁰ of Plaintiffs to participate in the criminal prosecution to gather evidence was already passed by 2008. By then, they knew all they needed to know to bring this action and yet they waited.

Using *Daimler* as basis to toll the statute of limitations during these years is inappropriate, not only because the court never reached the merits of the tolling issue, but also because “reliance in a domestic accountability proceeding” was not a stand-alone **factor** when deciding the case. It should not be one here either.

(iii) Exhaustion of Remedies Is Not a Tolling Factor but an Affirmative Defense

Plaintiffs raise in their Brief as a desperate measure that tolling the statute of limitations while they were “exhausting” domestic accountability proceedings accords with the TVPA. Br. at 16. Plaintiffs’ exhaustion argument fails for several reasons. At the outset, Plaintiffs never listed it (or even mention it) as a tolling factor. Indeed, among the tolling factors pled, “exhausting adequate and available remedies in Argentina” was not one of them. ECF No. [91] at 7. As argued in section E, *infra*, Plaintiffs should not be able to do so at this late juncture.

Significantly, per the TVPA and this Circuit’s precedent, “the exhaustion requirement pursuant to the TVPA is an **affirmative defense**, [not a tolling factor], requiring the defendant to bear the burden of proof.”⁴¹ It was never the intention of Congress that the statute of limitations be tolled while a plaintiff was pursuing local remedies. If they had intended so, the legislators (and the courts) would not have treated it as defense but as a tolling factor. Notably, Plaintiffs cite no case law to support their premise that exhaustion is considered a tolling factor.⁴²

⁴⁰ *Id.*

⁴¹ *Jean v. Dorelien*, 431 F.3d 776, 781 (11th Cir. 2005) (concluding that the TVPA’s “exhaustion requirement is an affirmative defense.”).

⁴² Plaintiffs cite to *Mamani v. Berzain*, 825 F.3d 1304, 1309 (11th Cir. 2016), which addressed the exhaustion of remedies in the context of an affirmative defense, not a tolling factor.

Even the Senate Hearing which Plaintiffs cite in their Brief in support of the premise that “US Courts [are] a forum of last resort,”⁴³ states the exhaustion of remedies is

[A]n affirmative defense and must show that domestic remedies exist that the claimant did not use. Once the defendant makes a showing of remedies abroad which have not been exhausted, the burden shifts to the plaintiff to rebut by showing that the local remedies were ineffective, unobtainable, unduly prolonged, inadequate, or obviously futile. **The ultimate burden of proof and persuasion on the issue of exhaustion of remedies, however, lies with the defendant.**⁴⁴

Crucially, however, this Court does not need to elaborate on the issue because Bravo withdrew the exhaustion defense and, therefore, it is not at issue.⁴⁵ Because the defense was waived, it is not properly before this Court,⁴⁶ and Plaintiffs cannot revive it and litigate the merits of a defense Bravo chose to withdraw.⁴⁷ Doing so would cause unfair prejudice to Bravo.

Therefore, although true that the TVPA requires exhaustion of remedies, it does so **only** as an affirmative defense, never as a tolling factor. Plaintiffs’ exhaustion argument completely misses the point and should be given no credit.

B. Criminal Case in Argentina Was NOT the “First and Only” Accountability Process

Plaintiffs post-remand brief repeats endlessly that the criminal case in Argentina was “**the first and only public accountability proceeding**” for the Trelew victims. ECF No. [216] at 7, 5, 19. Plaintiffs urge this Court to conclude that tolling is warranted because Plaintiffs were relying on this “first and only” accountability process. *Id.* However, according to their expert, international law, and scholarly articles in the subject, the criminal case in Argentina was neither the “only” nor the “first” accountability process addressing the events in Trelew which was available to Plaintiffs.

⁴³ Br. at 17.

⁴⁴ S. Rep. 102-249 at 9 (1991).

⁴⁵ ECF No. [145] at 106:10-11 (R. Slade: “Just note for the Court that we have withdrawn the exhaustion defense.”).

⁴⁶ *Access Now, Inc. v. Sw. Airlines Co.*, 385 F.3d 1324, 1330–31 (11th Cir. 2004) (Courts do not decide issues not raised by the Parties).

⁴⁷ *FDIC v. Loudermilk*, 930 F.3d 1280, 1294 (11th Cir. 2019)(affirming the trial court’s ruling prohibiting a plaintiff from presenting evidence as to [a defense] because defendant had withdrawn it and could no longer pursue it).

A recognized component of accountability under international human rights law is **compensation** to the victims as it entails acknowledgment of a state's responsibility and provides a remedy for violations.⁴⁸ According to the International Center of Transitional Justice ("ICTJ"),⁴⁹ **"[r]eparations are meant to acknowledge and repair the causes and consequences of human rights violations and inequality in countries emerging from dictatorship, armed conflict, and political violence, as well as in societies dealing with racial injustice and legacies of colonization."**⁵⁰ In fact, reparations are also a key component and goal of a Truth and Reconciliation Commissions as the "commissions' very names emphasize their social goals, such as "truth," "reconciliation," and **"reparation."**⁵¹ As recognized by the ICTJ,

Some countries may establish a formal mechanism for victims to receive reparations, usually through an administrative court or agency. **Providing reparation is a way for a government to officially recognize that a victim has suffered a human rights violation and is entitled to a financial remedy as compensation.** Victims may need to prove that they are a member of a group entitled to reparations or produce some kind of evidence indicating that they suffered harm. A country may also allow for victims to bring civil suits for monetary damages against individual or institutional perpetrators.⁵²

That is why the ICTJ refers to the reparations programs as a form of obtaining **"meaningful justice"** for the victims of human rights violations.⁵³ Federal courts in the United States agree a "damages remedy [i]s a form of individual relief **and official accountability.**" *Arar v. Ashcroft*,

⁴⁸ **"Recognizing that, in honouring the victims' right to benefit from remedies and reparation,** the international community keeps faith with the plight of victims, survivors and future human generations and reaffirms the **international legal principles of accountability, justice and the rule of law ..."** Preamble of The United Nations' Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law (Gen. Assembly Res. 60/147), available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/basic-principles-and-guidelines-right-remedy-and-reparation>, (last accessed Jan. 8, 2026).

⁴⁹ The ICTJ assists countries pursuing accountability for past mass atrocity or human rights abuse. The Center works in societies emerging from repressive rule or armed conflict, as well as in established democracies where historical injustices or systemic abuse remain unresolved. See ICTJ at <http://ictj.org/aboutus.asp> (last visited Jan. 8, 2026).

⁵⁰ See *id.* available at <https://www.ictj.org/reparations> (last accessed Jan. 8, 2026).

⁵¹ See *Transitional Justice as Communication: Why Truth Commissions and International Criminal Tribunals Need to Persuade and Inform Citizens and Leaders, and How They Can*, 73 S.C. L. Rev. 101, 152 (Autumn 2021).

⁵² Truth Seeking, at 70.

⁵³ See ICTJ, *Forms of Justice, A guide to Designing Reparations Application Forms and Registration Processes for Victims of Human Rights Violations*, at pp. 1, 10, Dec. 2017, available at https://www.ictj.org/sites/default/files/ICTJ_Guide_ReparationsForms_2017_Full.pdf (last accessed Jan. 14, 2026).

585 F.3d 559, 621 (2d Cir. 2009); *see also Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971) (recognizing compensation as a form of accountability for harm).⁵⁴

Countries use the reparations process as one of the several accountability mechanisms of “**transitional justice**” that address gross human rights violations and provide **meaningful justice** to victims.⁵⁵ In her study, Ms. Balardini, an Argentinean scholar, enumerated reparations as one of the transitional justice mechanisms of accountability that took place in Argentina after the Dirty War.⁵⁶ Indeed, in Argentina, as part of the reparation process, Law No. 24,043 and Law No. 24,411 (which established frameworks for providing reparations and compensation to victims of human rights violations) were expanded to encompass violations “between June 16, 1955, and December 9, 1983,” which includes the victims at Trelew.⁵⁷ These laws were expanded “to advance the broad **reparatory goal for human rights victims** that animated the Argentine legislature in passing this law.”⁵⁸ As concluded by Plaintiffs’ expert, the reparations process was available to Plaintiffs.⁵⁹ Yet, this same expert, when prompted by Plaintiffs’ counsel at trial, changed his tune and falsely testified that the criminal case in Argentina was “**the only public accountability process**” for Trelew.⁶⁰ Plaintiffs cannot have it both ways.

⁵⁴ *See also Frumkin v. JA Jones, Inc. (In re Nazi Era Cases Against German Defendants Litig.)*, 129 F. Supp. 2d 370, 389 (D.N.J. 2001) (**Equating monetary reparations to a measure of accountability** against Germans after WW II).

⁵⁵ *See* ICTJ, “**Accountability in Argentina**,” listing the reparations program in Argentina as one of the transitional justice mechanisms available to victims of human rights violations, available at <https://www.ictj.org/sites/default/files/ICTJ-Argentina-Accountability-Case-2005-English.pdf> (last accessed Jan. 8, 2026); *see also* Balardini, Lorena, *The Long Struggle for Accountability in Argentina. The role of civil society’s activism and State actors*, Centro de Estudios Legales y Sociales (CELS) Universidad de Buenos Aires (UBA)(prepared for delivery at the 2014 Congress of the Latin American Studies Association, Chicago, IL), May 21 - 24, 2014, p. 2, available at <https://www.cels.org.ar/common/documentos/PonenciaLASABalardini-CELS.pdf> (last accessed on Jan. 8, 2026)(hereinafter, “*The Long Struggle for Accountability in Argentina*”).

⁵⁶ *See* *The Long Struggle for Accountability in Argentina* at 2; *see also* International Center for Transitional Justice List of Transitional Justice mechanisms: (i) criminal prosecutions; (ii) truth commissions; (iii) **reparations programs**; (iv) gender justice; (v) security system reform; and memorialization efforts, available at <https://www.ictj.org/sites/default/files/ICTJ-Global-Transitional-Justice-2009-English.pdf> (last accessed Jan. 8, 2026).

⁵⁷ ECF No. [68-6] at 44-45.

⁵⁸ *Id.* at 44.

⁵⁹ *Id.*

⁶⁰ ECF No. [145] at 138:23.

Plaintiffs admitted on the record that they took part in the process and applied for government reparations.⁶¹ Plaintiffs corroborated that to obtain reparations from the Argentinean government, they not only had to apply, but they also needed to submit documents and an **“investigation [was] conducted by the government for someone to qualify for reparations.”**⁶² Plaintiff Camps, for instance, “first received the results of the government’s search for information about her parents, which included her father’s death certificate, and records related to her mother’s disappearance and where she was last seen.”⁶³ In the reparations-investigation process, once the evidence submitted corroborated that the victims suffered alleged harm, the government--acknowledging such harm--issued the monetary reparations. It follows that the reparations process established in Argentina **officially recognized** that Plaintiffs’ relatives were the victims of human rights violations and were entitled to compensation. Thus, it is undoubtedly an accountability mechanism that was available to the Plaintiffs and provided them with meaningful justice.

This Court agreed.⁶⁴ What is more, this Court was puzzled at trial by Plaintiffs’ claim that there was no other “accountability proceeding” in Argentina other than the criminal proceeding as it stated **“I know my victims got money from a proceeding.”**⁶⁵ This Court observed applied for, and received, monetary reparations from the Argentinean government in accordance with a process that was totally unrelated to the criminal case. Plaintiffs’ efforts to mischaracterize the reparations process in Argentina are unavailing.

⁶¹ Judgmt. at 11, ¶ 27.

⁶² ECF No. [145] at 159:18-19.

⁶³ ECF No. [179-1] at 29.

⁶⁴ Judgmt. at 11 (“Plaintiffs Camps, Krueger, and Santucho applied for and received compensation from the government of Argentina in the 1990s and 2000s); at 24 (“Plaintiffs Camps, Krueger, and Santucho all pursued at least some civil remedies in Argentina, having sought and received compensation or reparations from the Argentine government.”). This Court also found that Plaintiff Cappello’s “grandmother sought and received compensation from the Argentine government.” *Id.* at 25.

⁶⁵ ECF No. [145] at 126:20-21

Plaintiffs’ *argument* that the criminal case was the “first and only public accountability process” available to the Plaintiffs has no basis in fact or law and should be rejected. Therefore, tolling is not warranted in this case because the criminal case in Argentina was neither the “first” nor the “only” accountability proceeding for the Trelew victims. This argument is meritless, since all Plaintiffs availed themselves of the reparations program, one several accountability mechanisms of transitional justice in Argentina after the Dirty War.

C. The Question Posed by the Appellate Court

The Eleventh Circuit provided this Court with clear marching orders:

[I]t should address the plaintiffs’ *argument* that the criminal prosecution in this case is an analog for a domestic truth and accountability proceeding. If meritorious, that argument might toll the statute of limitations so as to render the plaintiffs’ claims timely. We express no view on that matter.

142 F.4th at 753. Therefore, the main question for this Court to answer is whether the criminal case in Argentina and a TRC are analogous.⁶⁶ Plaintiffs’ Brief overlooked the Mandate as they argued that an “analogy to [TRCs] is by no means required to invoke this tolling factor,” and that “focus[ing] on the distinction between the two accountability proceedings, TRCs and domestic prosecutions- misses the point.” Br. at 11, 15. **Yet, this is precisely what the Eleventh Circuit required the parties (and this Court), to do on remand.**

Indeed, the Mandate requested the parties to assist this Court in addressing *how* the two processes are analogous; Plaintiffs’ Brief, however, failed to take the opportunity and, instead, invited this Court to decide the issue on *why* Plaintiffs relied on the criminal case in Argentina.⁶⁷ That is not what the Eleventh Circuit’s Mandate required. The panel wanted this Court to address

⁶⁶ See also Judgmt. at p. 12, fn. 3 (“Plaintiffs analogized the criminal prosecution in Argentina to a Truth and Reconciliation Commission. And asserted that the criminal prosecution was the only domestic accountability process that occurred specific to the Trelew Massacre.”).

⁶⁷ *U.S. v. Mincey*, 800 F. App’x 714, 731 (11th Cir. 2020) (finding a party waived the argument). Thus, Plaintiffs missed their opportunity and cannot raise it in their Reply.

whether these two processes are akin to each other: whether they seek the same remedies, have the same standard of proof, work under same procedural framework, have the same goals, etc. After combing the Brief, Bravo could only find the following statements as Plaintiffs' claims of similarity between the two processes: they (i) "*offer the possibility* of meaningful remedies to Plaintiffs and the families of other victims," and (ii) "are *genuine effort*[s] to achieve justice through local institutions."⁶⁸ Br. at 18-19. These vague, unsupported, and conclusory allegations of comparison are insufficient evidence to find these processes analogous.

(i) **Evidence before this Court Is Insufficient to Support an Analogy between a Criminal Case in Argentina and a TRC**

During the fourth day of trial, Plaintiffs clarified their position and *argued* that "**the time and effort** required to participate in criminal proceedings in Argentina is analogous and similar to that required to participate in TRC proceedings."⁶⁹ The Court agreed that such was the evidence Plaintiffs needed to provide at trial⁷⁰ to fulfill their "considerable" or "high" burden.⁷¹ Yet, Plaintiffs failed to do so and admitted on the record that the **only** evidence proffered at trial to support an analogy between a TRC and the criminal case in Argentina was Langer's testimony.⁷² Langer only mentioned a TRC once during his testimony when he stated: "[the] criminal proceedings **were *kind of the equivalent to a truth commission, [] and they function equivalent to a truth commission.***"⁷³ **Nothing more.**

⁶⁸ By Plaintiffs' theory, a TRC is also analogous to hospital peer-review proceeding, or an internal disciplinary investigation given that these processes "offer the possibility of meaningful remedies" to affected families and reflect a "genuine effort to achieve justice" through established local institutions. Should we toll a TVPA limitations period while a defendant is relying on these processes as well? Surely not.

⁶⁹ ECF No. [145] at 20:11-12.

⁷⁰ *Id.* at 17:6-7 ("both the time and commitment that a plaintiff would be expected to provide.").

⁷¹ *Warfaa v. Ali*, 1 F.4th 289, 294 (4th Cir. 2021); *see also* fn. 11, *supra*.

⁷² ECF No. [148] at 39:5-6 (by Plaintiffs' counsel: "the only evidence in the record is Mr. Langer's testimony.").

⁷³ ECF No. [145] at 139:17-19.

Langer was offered as an expert on legal remedies in Argentina not on the subject of TRCs⁷⁴ or how TRCs are analogous to the Argentine legal remedies offered by the government in response to the Trelew incident. Langer is not an expert on TRCs, and he did not testify on that subject except for the one throwaway statement referenced above. Neither his testimony nor his Report describe how a TRC works in the countries which have utilized this procedure. He did not testify as to the “time and effort” required in a criminal proceeding in Argentina either as it was not within the scope of his Report.⁷⁵ A lone statement that these proceedings are “kind of the equivalent” is not enough to find that these processes are *actually* the same.

Even if this Court was inclined to consider Ms. Camps’ testimony that she “helped the attorneys,” “met with attorneys,” “requested documents,” “traveled to hearings,” and that the criminal proceeding was “exhausting” for her,⁷⁶ these vague conclusory allegations are consistently deemed *insufficient* to satisfy the burden of proof for other claims,⁷⁷ more so for the “high” and “weighty”⁷⁸ one of equitable tolling. Simply, even if taken as true, these statements do not provide this Court with admissible evidence as to the “time and effort” required to participate in a criminal proceeding in Argentina or “the time and effort” required to participate in a TRC.

Thus, even if this Court were to consider this late-raised theory, this Court must find that Plaintiffs failed to meet their burden of proof at trial that this theory was an extraordinary circumstance that warrants tolling the statute of limitations.

⁷⁴ *Id.* at 106 (“Your Honor, at this point, plaintiffs would move to proffer Professor Langer as an expert as to the availability of legal remedies in Argentina.”). Truth and Reconciliation Commission is not a legal remedy. *See also id.* at 104, 109-110.

⁷⁵ *Id.* at 120 (“The Court: You’re not going to ask him to testify about how much time these plaintiffs did or would take in a criminal proceeding? Mr. Muzzio: No, no. The individual plaintiffs, no. That’s not in the report . . . The Court: . . . You’re not going to elicit from him what happens in a criminal proceeding and how time consuming it is for the plaintiffs, because that’s not disclosed? Mr. Muzzio: No.”).

⁷⁶ *Id.* at 170-172.

⁷⁷ *San Martin v. McNeil*, 633 F.3d 1257, 1268 (11th Cir. 2011)(“**Mere conclusory allegations are insufficient to raise the issue of equitable tolling.**”).

⁷⁸ ECF No. [145] at 133:7-8; 18:23.

(ii) **A Criminal Case in Argentina Is Not an Analog to a TRC**

The literature and case law are consistent when they explain *in no uncertain terms* that “[t]ruth commissions **are not judicial inquiries.**”⁷⁹ See also fn. 7, *supra* (“**Truth commissions are not courts.** They cannot legally prosecute or punish people”). Some of the reasons as to why truth commissions are not analogous to a criminal prosecution are as follows:

[truth commissions] **do not establish individual criminal responsibility for specific crimes, determine punishment, or use the standards of due process applicable in a court of law. . . . While courts of law usually focus on the facts of an individual case, which are proven by exacting standards of evidence, truth commissions complement that approach by establishing the social and historical context of violations and large-scale patterns behind massive numbers of cases.**

Truth Seeking, at 10-11. Experts in the subject agree that “truth commissions do not have the power to punish, nor should they. **In contrast to the courts, truth commissions do not have the same standards of proof or evidence.**”⁸⁰

Even our United States Congress has entertained the differences between a truth commission and a criminal prosecution:

[Truth] commission should be **a *separate and distinct* process from any investigation or prosecution of unlawful conduct.** The establishment of a commission would not, in my view, in any way preclude the possibility of criminal investigation or prosecution, **but the purposes of the commission would not be prosecution. That is the job of our national criminal justice system.**⁸¹

⁷⁹ Truth Seeking: Elements of Creating an Effective Truth Commission, Int’l Ctr. For Transitional Justice, Ch. 2, pp. 10-11 (Eduardo Gonzalez & Howard Varney eds., 2013), available at <http://ictj.org/sites/default/files/ICTJ-Book-Truth-Seeking-2013-English.pdf> (hereinafter “Truth Seeking”) (last accessed Jan. 11, 2026).

⁸⁰ See Eric Brahm, *Truth Commissions, Beyond Intractability* (June 2004), available at <http://www.beyondintractability.org/essay/truth-commissions> (last accessed Jan. 11, 2026).

⁸¹ *Getting to the Truth Through a Nonpartisan Commission of Inquiry*, S. Hrg. No. 111-200, 111th Cong. at 9 (2009) available at www.congress.gov/event/111th-congress/senate-event/LC5831/text (last accessed Jan. 11, 2026). “If you say ‘truth commission,’ people immediately think about these famous—**the Truth and Reconciliation Commission in South Africa, the Commission on Truth and Reconciliation in Chile. We are not in remotely that situation.** In those countries, **they had to have these commissions because they could not have prosecutions** and they could not have prosecutions because the countries were so deeply divided and they had made promises in order to secure a peaceful transition. Peace was really in doubt in those countries, so they had to back off of prosecution and say, ‘Well, we will have a truth commission instead.’ We are not in that situation. If people think that there should be prosecutions, well, then, there can be prosecutions. [Truth commissions] **that is something they had to do in totally traumatized countries which could not have criminal process, and we are not in that situation.**” *Id.* at 21.

Plaintiffs admitted how different these processes are when they acknowledged that remedies available in a TRC are different from an Argentinean criminal prosecution.⁸²

As stated, Plaintiffs did not introduce any evidence of any provisions of Argentine law related to the process of a criminal case in Argentina, the level of involvement, or the time and effort required to prosecute such action.⁸³ Thus, this Court has insufficient information to conclude whether the criminal case in Argentina is analogous to a TRC as required by the Mandate. *In re Adan*, 437 F.3d 381, 393 (3d Cir. 2006) (holding that court erred in finding plaintiff “satisfied his burden of proof” when there was insufficient information on record regarding Argentinean law).

Plaintiffs’ claim that reliance in the criminal case is warranted because it is “the same or a similar action arising from the same facts may be maintained by the plaintiff, provided that the remedy in that jurisdiction is adequate and available,”⁸⁴ is improper. The case in Argentina is a criminal one, not civil, so it is not “the same or [a] similar action.” Further, the criminal case was (i) pursued by the Argentinian government, not Plaintiffs (although they assisted the prosecution); (ii) was never against Bravo because he could not have been tried in absentia,⁸⁵ and (iii) the remedies are not the same since monetary damages were never going to be awarded in a criminal case per Plaintiffs’ own admission. The criminal case was singularly focused on one thing and one thing only: a criminal prosecution of individual defendants who were the subject of that proceeding, not Bravo.

Plaintiffs’ statement that “the evidence before this Court established that Plaintiffs **were reasonably relying on the Argentine criminal prosecution to obtain meaningful justice**

⁸² Br. at 16 (“a criminal trial imposes jail time, a far more serious remedy than those available through a TRC.”); *see also* ECF No. [145] at 104:15-20.

⁸³ In fact, this Court specifically precluded Langer from testifying as to what transpires in a criminal prosecution in Argentina because it was outside of expert’s disclosures and outside of his expertise. *See supra* fn. 75.

⁸⁴ Br. at 14 (citing S. Rep. 102-249 at 11).

⁸⁵ ECF No. [68-6] at 43 (“Mr. Bravo cannot be prosecuted criminally in Argentina unless he is present there.”).

against Bravo,” Br. at 19, should be disregarded since they knew that the criminal case in Argentina was never going to provide an adequate and available remedy against Bravo.

In sum, undoubtedly, a criminal prosecution in Argentina and a TRC operate under different procedural frameworks, provide different remedies to the victims, and are not sufficiently similar in relevant, legally material respects.⁸⁶ Thus, according to the ordinary connotation of the word “analogous,”⁸⁷ Florida state and federal law, experts on the subject, and Plaintiffs’ own admissions, the criminal case in Argentina is not an analog for a TRC. Plaintiffs’ attempts to characterize them as similar have no merit.

D. Pendency on Criminal Case or Extradition Does Not Warrant Tolling until 2010.

Federal courts agree that the *pendency of a criminal case* is not a factor to toll the statute of limitations.⁸⁸ Likewise, courts agree that the pendency of an *extradition* does not warrant tolling

⁸⁶ Case law further supports this interpretation as courts have found that no comparison exists between two proceedings when they do not have substantial similarities. *See Smith v. Mitchell*, 856 F. App’x 248, 250 (11th Cir. 2021)(holding that “a probation-revocation hearing is not a ‘criminal prosecution’” and emphasizing the **functional differences between the two. Such hearings do not meet the criteria for criminal prosecutions, as they serve distinct purposes and operate under different procedural frameworks**)(citing *Morgan v. State*, 706 S.E.2d 588, 589-90 (Ga. Ct. App. 2011)(stating “a criminal prosecution and a probation revocation proceeding based on the same occurrence actually have nothing to do with each other”)). Indeed, courts in this state have found that when two proceedings have distinct functions and remedies, they are not analogous. *In Interest of D.*, 245 So. 2d 273, 277 (Fla. 4th DCA 1971)(“**Because of the important differences between a proceeding under the state criminal laws and a proceeding under the Juvenile Court statute[], we conclude the latter is not a criminal prosecution** for purposes of the Sixth Amendment jury trial provision.”); *The Fla. Bar v. Price*, 478 So. 2d 812, 813 (Fla. 1985)(finding that a **criminal proceeding and a disciplinary proceeding against the same individual under the same facts were dissimilar because of “the differences in the standards of proof and the goals pursued.”**).

⁸⁷ Courts in this Circuit, when construing plain language, they commonly adopt the meaning of the words in legal and non-legal dictionaries. *Continental Cas. Co. v. Wendt*, 205 F.3d 1258, 1263 (11th Cir. 2000).

⁸⁸ *Wallace v. Kato*, 549 U.S. 384, 393 (2007) (holding that a statute of limitations on a civil case should not be tolled during the pendency of the criminal proceeding because “**the impracticality of such a rule should be obvious. ... it would require the plaintiff ... to speculate about whether a prosecution will be brought, whether it will result in conviction, and whether the pending civil action will impugn that verdict.**”). The U.S. Supreme Court offered the perfect solution to plaintiffs: “it is within the power of the district court, and in accord with common practice, to stay the civil action until the criminal case or the likelihood of a criminal case is ended.” *Id.* at 393-94; *see also Sneed v. Pan Am Hosp.*, No. 08-21415-CIV-GOLD/MCALILEY, 2009 U.S. Dist. LEXIS 139380, at *4-5 (S.D. Fla. Sep. 10, 2009) (where this Court held that plaintiff’s claims were barred because plaintiff brought suit more than six years after the limitations period had expired and **his claim that tolling was warranted during the pendency of a criminal case had no basis under the statute**); *Jones v. Hous. Police Dep’t*, 2024 U.S. Dist. LEXIS 214818, at *7 (S.D. Tex. Nov. 24, 2024)(“In his complaint, Jones alleges that ‘a lawyer’ told him that he could not file a civil rights action against [defendant] until the criminal proceedings against him had been resolved. It appears that this advice was incorrect **because the statute of limitations is not generally tolled by the pendency of criminal charges.**”).

the limitations period.⁸⁹ In fact, in *Forti*,⁹⁰ a case in which facts revolve around the Dirty War in Argentina, the defendant was facing a criminal case in Argentina and an extradition case.⁹¹ The district court, when addressing the factors for tolling the statute of limitations, considered neither the criminal case nor the extradition in deciding the issue.⁹² Rather, the court focused on the same main factors detailed in the Senate Report.⁹³

Simply, according to all the precedent before this Court, the pending criminal case or extradition did not “stand in the Plaintiffs’ way” nor “prevented” Plaintiffs from filing suit in the United States. *Warfaa*, 1 F. 4th at 289. The pendency of these proceedings did not “make it impossible” for Plaintiffs “to timely assert their claim.” *Cabello v. Fernandez Larios*, 402 F. 3d 1148, 1155 (11th Cir. 2005). A federal tolling rule like Plaintiffs propose would create significant legal uncertainty. Courts would not know whether tolling is appropriate by reason of having to wait until it is established that a decision in a foreign criminal case not-yet entered would cause an extradition not-yet-filed to toll the statute of limitations until such extradition is potentially denied. Put plainly, the limitations period would be utterly indeterminate for a TVPA claim. The adoption of such principle goes well beyond the TVPA and the impracticality of such a rule is obvious.

E. Plaintiffs’ Failure to Identify the Basis of their Tolling Theory until Trial Prejudiced Bravo⁹⁴

As Bravo has previously raised, and as this Court has found, “Plaintiffs **argued at trial and in post-trial briefing** that their reliance on domestic accountability processes to afford or them

⁸⁹ *In re Assarsson*, 687 F.2d 1157, 1161 n.8 (8th Cir. 1982)(where court held that the issuance of a foreign “arrest does not toll the running of the statute of limitations.”); *Brown v. State*, 674 So. 2d 738, 741 (Fla. 2d DCA 1995)(where limitations period continued to run while prosecutors from a different state knew where the defendant was located but failed to promptly extradite him).

⁹⁰ *Forti v. Suarez-Mason*, 672 F. Supp. 1531, 1550 (N.D. Cal. 1987).

⁹¹ *Id.* at 1550.

⁹² *Id.*; see also *Doe v. Saravia*, 348 F. Supp. 2d 1112 (E.D. Cal. 2004)(pending criminal case in Salvador and prior extradition were not considered as independent tolling factors). See Bravo’s analysis of *Forti* ECF No. [146], p. 5-6.

⁹³ S. Rep. 102-249 at 11 (1991).

⁹⁴ Bravo herein realleges all the arguments raised in his Initial Brief and his Reply Brief before the Eleventh Circuit. *Camps v. Bravo*, Case No. 23-12511, Bravo’s Initial Brief, Doc. 27 (11th Cir. Oct. 26, 2023); and Bravo’s Reply Brief, Doc. 42 (11th Cir. March 8, 2024).

means of obtaining justice [] tolled the statute of limitations.” Judgmt. at 12 fn. 3. Plaintiffs did not raise such tolling theory before trial.

“Common sense suggests that when a party makes a last-minute change that adds a new theory [], the opposing side is likely to suffer undue prejudice.”⁹⁵ Indeed, a party is prejudiced when *shortly before* or *during trial*, plaintiff proposes a “new legal theory that would require **the gathering and analysis of facts not already considered by the opposing party**.”⁹⁶ In determining whether a late-advanced theory causes prejudice, courts examine the timing of disclosure, the extent of unfair surprise, the opposing party’s ability to respond at trial, whether additional discovery *would have been* required, whether the new theory alters the governing elements or burden of proof.⁹⁷ The prejudice inquiry **does not** focus on whether the party pursued discovery or filed dispositive motions. A party’s absence of dispositive motions or discovery does not waive or defeat a prejudice argument.⁹⁸

As this Court put it, Plaintiffs “had to have a theory of the case before [they] advanced it.”⁹⁹ Yet, Bravo was given no notice whatsoever of the new theory of the case. To Bravo’s significant prejudice, he was prepared to defend against the pled tolling factors. He had no idea that on **day 4** of trial, for “**the first time**,”¹⁰⁰ Plaintiffs were going to claim that a criminal case in Argentina would advance an extradition request that when denied would equate to a denial of a

⁹⁵ *Boucher v. Ne. Log Homes, Inc.*, No. 04-84-P-C, 2005 U.S. Dist. LEXIS 6149, at *16 (D. Me. Mar. 8, 2005).

⁹⁶ *Taylor v. Fla. State Fair Auth.*, 875 F. Supp. 812, 815 (M.D. Fla. 1995); *see also Scott v. Fam. Dollar Stores, Inc.*, 733 F.3d 105, 108 (4th Cir. 2013); *Maum v. Commonwealth, Ky.*, 490 S.W.2d 748 (1973)(reversing trial court’s judgment based on party’s late disclosure of new theory).

⁹⁷ *See Popkovich v. Slastikhin*, No. 21-cv-20013, 2022 U.S. Dist. LEXIS 200768, at *7 (S.D. Fla. Nov. 3, 2022) (there is prejudice “if the [party] had no notice of the new issue, if the [party] could have offered additional evidence in defense, or if the [plaintiff] in some other way was denied a fair opportunity to defend.”).

⁹⁸ *Cfr.* ECF No. [180] at fn. 5 (“The prejudice is difficult to assess.”); *but see United States v. Cole*, No. 2023-cr-0016, 2025 U.S. Dist. LEXIS 173926, at *41-42 (D.V.I. Sep. 7, 2025)(“merely claiming that there is no prejudice does not establish the absence of prejudice.”).

⁹⁹ ECF No. [145] at 19:14-15.

¹⁰⁰ *Id.* at 22:25; 23:1-4 (“**The Court: Can I stop you there? That’s the first time I’ve hear[d] you say something like that. You would also advance the position that if there was an event that started the statute of limitations, it was the denial by Judge Dube of the extradition?**”).

TRC in Liberia or South Africa. Plaintiffs had plenty of time to identify *and to plead* with particularity the equitable tolling factors applicable to their claims. For two years following the complaint, Plaintiffs maintained that fear, Bravo's location and an ongoing extradition were the only tolling factors. Only after it was too late for Bravo to prepare and defend against a broadened theory, did Plaintiffs pivot. Not surprisingly, the transcript of day 4 of trial reveals how confused the Court and Bravo were as to what Plaintiffs were arguing and when tolling was supposed to start running in this case.¹⁰¹ Moreover, at the time that Plaintiffs finally asserted with clarity the tolling theory, most of the witnesses had already testified. Bravo's ability to refute this theory of tolling was severely impaired by the late exposé.¹⁰²

As such, this Court would *err* in finding that the new theory of tolling did not prejudice Bravo and warrant tolling. *See Forsythe v. Starboard Yacht Grp., LLC*, 730 F. Supp. 3d 1302, 1308 (S.D. Fla. 2024) (“attempting to completely change their legal theory of the case extremely late in the game and after the respective deadlines in which to do so. Such a drastic shift at this point in the case **obviously prejudices Forsythe; it requires him to fundamentally alter his legal strategy in response, and with little time in which to do so.**”).¹⁰³

III. CONCLUSION

Plaintiffs' vague assertions and generalizations are not enough to toll the statute of limitations on their claims. Plaintiffs' Brief is nothing more than an attempt to bypass the statute of limitation by chronicling the events that took place in a criminal prosecution against other

¹⁰¹ *Id.* at 19-24.

¹⁰² For instance, Bravo had no opportunity to properly prepare for trial his understanding of how a criminal case in Argentina works, and how it compares to a TRC.

¹⁰³ *Moss v. Am. Private Equity, LLC*, No. 19-14777, 2021 U.S. App. LEXIS 31165, at *2 (11th Cir. Oct. 18, 2021) (“On this record, we conclude that **Mr. Moss would have been prejudiced because he had no notice of the releases being a separate and potentially case-dispositive issue and because he could have offered additional evidence or arguments on the releases.**”); *see Eagle v. Am. Tel. & Tel. Co.*, 769 F.2d 541, 548 (9th Cir. 1985) (“**It would be unfair to the [D]efendant[s] to permit the [P]laintiff[s] to change strategies at th[is] late stage of litigation.**”).

individuals. But the statutes of limitations “is not to be disregarded by courts out of a vague sympathy for particular litigants.”¹⁰⁴ Therefore, this Court must conclude that the doctrine of equitable tolling does not apply in this instance.

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¹⁰⁴*In re African-American Slave Descendants Litig.*, 304 F. Supp. 2d 1027, 1074 (N.D. Ill. 2004) (citing *National R.R. Passenger Corp. v. Morgan*, 536 U.S. 101, 114 (2002)).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 26, 2026, a true and correct copy of the foregoing document was electronically filed through CM/ECF. Notice of this filing will be sent by e-mail to all parties listed below by operation of the Court's electronic filing system.

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