UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 1:20-CV-24294-LFL

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.

PLAINTIFFS' REPLY IN SUPPORT OF AMENDED OPENING POST-REMAND SUPPLEMENTAL BRIEF

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I. INTRODUCTION

Congress enacted the Torture Victim Protection Act of 1991 ("TVPA") to ensure perpetrators of torture and extrajudicial killing who are located in the United States can be held accountable when justice is unavailable in the country where the crimes occurred. The statute provides a remedy of last resort, encouraging victims to pursue accountability at home before turning to U.S. courts. This case presents precisely that circumstance.

After Interpol located Bravo in 2008, Plaintiffs pursued justice in Argentina by supporting the Argentine government's criminal prosecution of Bravo and the other perpetrators of the Trelew Massacre, and the related attempt to extradite Bravo to face accountability in Argentina, the country where he murdered their family members. Plaintiffs reasonably expected those proceedings would deliver meaningful justice. But after the extradition request was denied in November 2010, Plaintiffs filed their TVPA claims within the statute's ten-year limitations period to pursue accountability against Bravo in the United States, the forum of last resort.

Bravo urges this Court to disregard the statute's legislative history and TVPA tolling decisions to hold that victims' reasonable pursuit of justice in the country where the crimes occurred cannot equitably toll the limitations period. Nothing in the TVPA or equitable tolling doctrine supports such an inequitable and rigid rule. Requiring victims to file lawsuits in the United States while actively pursuing remedies abroad would undermine the statute's exhaustion requirement, unnecessarily burden U.S. courts with placeholder lawsuits, and intrude into matters more appropriately addressed where the atrocities occurred. To be clear, this case presents an even stronger basis for tolling than decisions that have recognized that reliance on a Truth and Reconciliation Commission ("TRC") can toll the limitations period. Plaintiffs here relied on a criminal proceeding, which not only provided general truth-telling about the Trelew Massacre but also sought criminal accountability against Bravo. Denying tolling would penalize victims for doing exactly what the TVPA contemplates victims must do first: reasonably seek accountability against the perpetrator in the forum where the crimes occurred.

Nor is there any basis to defer consideration of diligence. Consistent with the parties' agreed-upon briefing structure, Plaintiffs addressed diligence in their opening brief, demonstrating that Plaintiff Eduardo Cappello and his predecessor in interest diligently pursued claims on behalf of his uncle's estate. Bravo chose not to respond or make any other argument with respect to diligence. The Court can and should resolve the diligence issue now.

Because Plaintiffs reasonably relied on Argentina's domestic accountability proceedings to obtain meaningful justice and acted diligently in pursuing their claims, the Court should reaffirm that their claims are timely and reinstate the jury's verdict in full.

II. ARGUMENT

A. TVPA claims are tolled when plaintiffs reasonably rely on domestic accountability proceedings.

In remanding this case, the Eleventh Circuit reaffirmed that the TVPA "explicitly calls for consideration of all equitable tolling principles . . . with a view toward giving justice to plaintiff's rights."[1] The panel further explained that, although a Senate Report on the TVPA lists tolling principles that may apply, the list is "not exhaustive."[2] In enacting the TVPA, Congress directed courts to apply equitable tolling flexibly, not mechanically,[3] and made clear that the TVPA's equitable-tolling framework operates only after plaintiffs have "exhausted adequate and available remedies in the place in which the conduct giving rise to the claim occurred."[4] The statute provides a remedy of "last resort," one that contemplates victims pursuing accountability where the abuse occurred before turning to U.S. courts.[5] That framework was designed to "ensure[] that U.S. courts will not intrude into cases more appropriately handled by courts where the alleged torture or killing occurred," "avoid exposing U.S. Courts to unnecessary burdens," and "encourage the development of meaningful remedies in other countries."[6]

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[1] *Camps v. Bravo*, 142 F.4th 743, 750 (11th Cir. 2025) (quoting S. Rep. No. 102-249, at 10–11 (1991)).
[2] *Id.*
[3] *See, e.g.*, *Arce v. Garcia*, 434 F.3d 1254, 1262 (11th Cir. 2006).
[4] 28 U.S.C. § 1350, note, § 2(b).
[5] S. Rep. No. 102-249, at 9.
[6] H.R. Rep. No. 102-367(l), at 5 (1991); *see also Bidegain v. Vega*, No. 22-CV-60338-RAR, 2024 WL 3537482, at *1 (S.D. Fla. June 18, 2024) (acknowledging TVPA requires exhaustion of domestic remedies "before a United States district court may consider the claims").

Bravo does not meaningfully consider the TVPA equitable-tolling framework. Instead, he attempts to narrow the remand to a single question: whether Argentina's criminal prosecution of the Trelew Massacre perpetrators was virtually identical to a TRC.[7] According to Bravo, this Court is "**only** tasked" with that overly formalistic comparison.[8] Plaintiffs have satisfied even that flawed framing—but the remand imposes no such requirement as Bravo's argument rests on a misreading of the Eleventh Circuit's decision.

The Eleventh Circuit recognized Plaintiffs contended that their claims were tolled from 2008 to 2010 because their "reliance on a domestic truth and accountability proceeding (i.e., the criminal prosecution) tolled the statute of limitations until the denial of the Argentine government's first request to extradite Mr. Bravo on November 1, 2010."[9] Read as a whole and in light of the Eleventh Circuit's reaffirmation that the TVPA "explicitly calls for consideration of all equitable tolling principles . . . with a view toward giving justice to plaintiff's rights,"[10] the decision does not confine this Court to the rigid TRC-equivalence test Bravo now advances.

Throughout this litigation, Plaintiffs have maintained that their reasonable reliance on the criminal proceeding in Argentina as a mechanism to obtain accountability against Bravo provides a basis for tolling. As a result, this Court has previously rejected Bravo's prejudice arguments and should do so again here.

1. The approach set forth in *Jane* and *In re South African Apartheid* justifies tolling in this case.

Consistent with the TVPA's justice-oriented, equitable framework, *Jane* and *In re South African Apartheid* illustrate that courts recognize that a reasonable reliance on domestic accountability proceedings tolls the TVPA's statute of limitations.[11]

Jane and *In re South African Apartheid* tolled claims against perpetrators of atrocities in foreign countries while the plaintiffs reasonably relied on TRCs in those countries. Tolling

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[7] *See* ECF No. 223, Defendant's Post-Remand Supplemental Brief ("Def. Br."), at 1–2, 16–17.
[8] *Id.* at 1.
[9] *Camps*, 142 F.4th at 748–49.
[10] *Id.* at 750 (quoting S. Rep. No. 102-249, at 10–11).
[11] *See* ECF No. 216, Plaintiffs' Amended Opening Post-Remand Supplemental Brief ("Pls. Br."), at 8–12 (citing *Jane W. v. Thomas*, 560 F. Supp. 3d 855 (E.D. Pa. 2021), and *In re S. African Apartheid Litig.*, 617 F. Supp. 2d 228 (S.D.N.Y. 2009)).

inquiries are "fact-specific,"[12] and these cases analyzed TRCs because they were the accountability mechanism available to the plaintiffs in those cases. However, nothing in those decisions suggests TRCs are the only accountability proceedings that result in equitable tolling under the TVPA. Indeed, in *Jane*, the plaintiffs' expectation and reliance on the Liberian TRC to afford them "meaningful justice" tolled the statute of limitations, not their participation in the TRC. That is why the *Jane* court concluded tolling extended until 2011, when a Liberian Supreme Court ruling "eviscerated the TRC's authority to provide meaningful justice to war crimes victims."[13] Likewise, *In re South African Apartheid* explained that tolling was appropriate while the plaintiffs participated in a TRC because a "reasonable plaintiff may have assumed that defendants would participate in the TRC process," making an independent investigation and parallel lawsuit unnecessary.[14] The reasoning for tolling in these decisions, particularly when viewed in light of the purpose and design of the TVPA, applies with equal or greater force here. Plaintiffs participated in and supported Argentina's criminal proceeding with the reasonable expectation that it would culminate in meaningful justice and accountability against Bravo.[15]

Bravo's other efforts to distinguish these cases fail. First, Bravo contends that *Jane* and *In re South African Apartheid* treated reliance on a domestic accountability proceeding merely as an "***argument*** bearing on existing equitable tolling factors" rather than an independent tolling factor.[16] That reading is contradicted by the decisions themselves. *Jane* stated that "[t]he establishment of the [TRC] soon after the war in February 2006 also delay[ed] the statute of limitations under the TVPA."[17] Bravo baselessly suggests that this express recognition that the plaintiffs' claims were tolled while they relied on the TRC should be disregarded because the court made the statement in the context of the country conditions at the time of the ruling.[18] The

[12] *Camps*, 142 F.4th at 750 (quoting *Cabello v. Fernandez-Larios*, 402 F.3d 1148, 1154 (11th Cir. 2005)).
[13] 560 F. Supp. 3d at 874.
[14] 617 F. Supp. 2d at 291.
[15] *See infra* Section II.B (summarizing evidence of plaintiffs' participation in the criminal proceeding).
[16] Def. Br. at 6, 10.
[17] 560 F. Supp. 3d at 874.
[18] Def. Br. at 7 n.23.

decision plainly does not support Bravo's reading. The *Jane* court could not have been more explicit that the existence of the TRC was "***also***" a reason to toll the limitations period "***[i]n addition to***" the country conditions. [19] The *Jane* court further directly tied the end of the tolling period to this factor, concluding tolling ceased when the plaintiffs' prospects for justice in Liberia were "eviscerated" after the TRC's recommendations were no longer binding.[20]

In re South African Apartheid reinforces the same principle. There, the court declined to dismiss TVPA claims on statute-of-limitations grounds while noting that it "would have been an affront to the integrity of the TRC process for plaintiffs to have conducted an independent investigation or commenced these lawsuits while the TRC process continued."[21] Bravo argues that this reasoning should be discarded as "dicta" given that the district court elsewhere held that the tolling issues required factual development.[22] But even if Bravo were correct and the reasoning "were dicta, the reasoning [remains] persuasive" authority for this Court, "especially in the absence of other on-point decisions."[23]

If anything, this case presents an even stronger basis for tolling than either *Jane* or *In re South African Apartheid*. These cases established a floor, not a ceiling, for what constitutes an accountability mechanism. In *In re South African Apartheid*, the TRC functioned primarily as a truth-telling mechanism.[24] In *Jane*, the TRC served as a transitional-justice mechanism that sought truth and accountability, including by recommending criminal prosecutions for perpetrators of atrocities—but to be clear, the *Jane* plaintiffs did not actively participate in that TRC.[25] Here, Plaintiffs directly supported and served as claimants in an active criminal prosecution that pursued truth, justice, and healing, ***and*** sought criminal accountability against

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[19] 560 F. Supp. 3d at 874 (emphasis added).
[20] *Id.*
[21] *In re S. African Apartheid Litig.*, 617 F. Supp. 2d at 291.
[22] Def. Br. at 2, 9.
[23] *In re Checking Acct. Overdraft Litig.*, No. 1:09-MD-02036-JLK, 2016 WL 5848729, at *3 (S.D. Fla. Feb. 8, 2016); *see also Diffin v. Nat'l Union Fire Ins. Co.*, 753 F.2d 978, 982 (11th Cir. 1985) (finding on point dicta "very persuasive" in the absence of contrary authority).
[24] *Promotion of National Unity and Reconciliation Act 34 of 1995* art. 20(1) (S. Afr.) (granting amnesty to perpetrators of acts "with a political objective" during past conflict who "make a full disclosure of all the relevant facts relating to such acts").
[25] *See* Pls. Br. at 8 n.32; *Jane*, 560 F. Supp. 3d at 875 (plaintiffs "abstained from the TRC process because of fears relating to the lack of protection").

the perpetrators, including Bravo through his extradition and prosecution.[26] While TRCs sometimes recommend criminal charges, they do not usually implement prosecutions themselves.[27] The criminal proceeding in Argentina fulfilled the truth-seeking functions of a TRC alongside prosecution. Plaintiffs therefore were relying on a more comprehensive mechanism for meaningful justice in the country where the atrocity occurred.

Finally, Bravo asserts that *Jane* and *In re South African Apartheid* are distinguishable because Plaintiffs here obtained reparations.[28] Yet he does not explain why that distinction matters. The existence of reparations does not undermine the principle that those cases recognize: reasonable reliance on domestic accountability proceedings can toll the statute of limitations under the TVPA.[29] The reparations that Plaintiffs received came from the Argentine government,[30] ***not Bravo***, and they provided no accountability for any perpetrator of the Trelew Massacre. Bravo cites no authority for the proposition that prior reparations foreclose equitable tolling based on the pursuit of accountability in domestic proceedings where the extrajudicial killings took place. Nor could he: such a rule would squarely undermine the TVPA's purpose of affording "justice to plaintiff's rights."[31]

2. The TVPA's exhaustion requirement supports tolling while plaintiffs pursue accountability in the country where the atrocity occurred.

The TVPA requires that plaintiffs "exhaust[] adequate and available remedies in the place in which the conduct giving rise to the claim occurred" before filing suit in the United States.[32]

[26] ECF No. 145 at 138:23–139:1 (Langer testifying that the Argentine proceedings led to convictions of individuals responsible for the Trelew Massacre); *Id.* at 143:21–144:5 (Langer testifying that the Argentine trial court found the Trelew Massacre was a crime against humanity).
[27] *See* Office of the United Nations High Commissioner for Human Rights, *Rule-of-Law Tools for Post-Conflict States: Truth Commissions*, at 11, U.N. Doc. HR/PUB/06/1 (2006).
[28] Def. Br. at 8–11.
[29] Bravo argues that this Court may not rely on its prior jury instructions to conclude that reasonable reliance on domestic accountability proceedings tolls the statute of limitations. *See* Def. Br. at 5–6; *see also* Pls. Br. at 10 (quoting ECF No. 148 at 28:18–19, 107:20–108:20). While those instructions are not binding on remand, nothing precludes this Court from reaffirming its prior, well-supported conclusion that reasonable reliance on domestic accountability proceedings may toll the statute of limitations.
[30] *See* ECF No. 140 at 78:8–80:6.
[31] S. Rep. No. 102-249, at 11.
[32] 28 U.S.C. § 1350, note, §2(b).

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Tolling TVPA claims while accountability proceedings are ongoing in the country where the crimes occurred ensures that the exhaustion requirement does not bar the very claims it was designed to allow if local efforts to obtain "meaningful remedies" are unsuccessful.[33]

Rather than engaging with that framework, Bravo mischaracterizes Plaintiffs' position as asserting exhaustion as a standalone tolling doctrine.[34] But Plaintiffs invoked exhaustion principles to explain ***why*** it would be inequitable—and inconsistent with the TVPA's purpose and structure—not to toll the limitations period while claimholders are pursuing domestic remedies.[35] If tolling is not afforded while claimholders reasonably pursue available remedies in the country where the violation occurred, U.S. courts would be flooded with placeholder TVPA suits, only for courts to dismiss or stay them until the domestic remedies were fully pursued. That result would do nothing to serve the purpose of statutes of limitations, which are "designed to prevent the litigation of stale claims," protect against "lost evidence," and guard against "faded memories."[36] It would instead impose unnecessary burdens on U.S. courts to review and address placeholder lawsuits, which would be entirely inconsistent with Congress's intent that U.S. courts operate as a forum of "last resort" for TVPA claims.[37]

3. The cases Bravo relies on are materially distinguishable.

Bravo broadly contends that the pendency of a criminal proceeding or extradition effort cannot warrant tolling.[38] In support, he relies primarily on cases stating that the pendency of a criminal prosecution against a plaintiff does not ordinarily toll their civil rights claims under 42 U.S.C. § 1983. [39] Those cases are readily distinguishable. In each, the plaintiffs allegedly suffered constitutional violations during arrest or prosecution but waited years—until after the criminal proceedings ***against them*** had concluded—to file § 1983 claims arising from those

[33] H.R. Rep. No. 102-367(l), at 5; *see also* S. Rep. No. 102-249, at 9.
[34] *See* Def. Br. at 11–12.
[35] *See* Pls. Br. at 12–14.
[36] *Justice v. United States*, 6 F.3d 1474, 1482 (11th Cir. 1993).
[37] S. Rep. No. 102-249, at 9.
[38] *See* Def. Br. at 21–22.
[39] *See id.* (*citing Wallace v. Kato*, 549 U.S. 384, 393 (2007); *Sneed v. Pan Am. Hosp.*, No. 08-21415-CIV, 2009 WL 10674776, at *2 (S.D. Fla. Sept. 10, 2009); *Jones v. Hous. Police Dep't*, 2024 U.S. Dist. LEXIS 214818, at *7 (S.D. Tex. Nov. 24, 2024)).

same events.[40] By contrast, Plaintiffs here did not delay suit while pursuing unrelated relief. They focused first on securing accountability against Bravo in Argentina via domestic accountability proceedings aimed at extraditing and criminally prosecuting him in the country where the Trelew Massacre occurred. That course of action is entirely consistent with the design and purpose of the TVPA. Only after those domestic accountability efforts failed to bring Bravo back to Argentina did Plaintiffs pursue their TVPA claims in the United States as a last resort.

Bravo, attempting to sever his extradition proceedings from his criminal prosecution in Argentina, asserts that precedent does not support tolling based on the pendency of an extradition request. But the cases he cites do not support his argument. For example, in *In re Assarsson*, a Swedish national who fled to the United States challenged his extradition by arguing that the statute of limitations on the underlying offenses in Sweden had expired.[41] The Eighth Circuit rejected his argument, holding that the petitioner's "fugitive status" tolled the limitations period, and expressly declined to reach the government's alternative argument that Sweden issuing an "arrest order" was "the functional equivalent of an indictment" and therefore independently tolled the limitations period.[42] *Assarsson*, therefore, does not support Bravo's contention that reliance on a pending criminal proceeding in the country where the atrocity occurred and a concomitant extradition request cannot support equitable tolling here.[43] Nor does *Assarsson* support Bravo's strained proposition that extradition efforts to bring an indicted defendant to trial are unconnected to the criminal proceedings that triggered the extradition request.

Bravo also cites to *Forti v. Suarez-Mason*, a decision issued five years before Congress enacted the TVPA, to note that the court did not consider equitably tolling an Alien Tort Statute

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[40] *See Wallace*, 549 U.S. at 387 (plaintiff waited until after his criminal proceeding ended to file civil rights claim for false arrest); *Sneed*, 2009 WL 10674776, at *2 (plaintiff waited until after his criminal prosecution ended to file claim accusing government of HIPAA violations during the prosecution); *Jones*, 2024 U.S. Dist. LEXIS 214818, at *7 (stating that civil rights claims generally are not tolled when the plaintiff is facing criminal charges).

[41] 687 F.2d 1157, 1160–62 (8th Cir. 1982)

[42] *Id.*

[43] *Brown v. State*, 674 So. 2d 738 (Fla. Dist. Ct. App. 1995), likewise does not help Bravo. *Brown* is inapposite because it addressed the State's failure to seek extradition in compliance with procedural obligations. 674 So. 2d at 739–42. In any event, even if *Brown* somehow supported Bravo's position (it does not), the Florida legislature abrogated the decision by statute after it was published. *See State v. Paulk*, 946 So. 2d 1230, 1231 (Fla. Dist. Ct. App. 2007).

claim based on a pending criminal prosecution or extradition request.[44] But in *Forti,* the court held that the plaintiffs had adequately alleged tolling based on their inability to access the courts and the defendant's concealment, not reasonable reliance on domestic accountability proceedings.[45] That the *Forti* court therefore did not address the relevant tolling argument present here is unsurprising. Courts "rely on the parties to frame the issues for decision."[46]

Bravo's reliance on cases declining tolling in materially different contexts ignores the central point: Plaintiffs' decision to pursue accountability first in Argentina and only later in the United States, after the effort to extradite Bravo was unsuccessful, is fully aligned with the TVPA's purpose "to encourage the development of meaningful remedies in" the home country.[47] Had the extradition request been granted in 2010, Plaintiffs would not have been able to pursue a TVPA claim against Bravo while he was in Argentina. Requiring Plaintiffs to file a placeholder lawsuit while the extradition request was pending would have imposed "unnecessary burdens" on this Court and risked improper intrusion into matters "more appropriately handled" by Argentine courts—precisely the outcomes Congress sought to avoid in enacting the TVPA.[48]

In sum, Bravo's authorities do not address or undermine Plaintiffs' showing that their reasonable reliance on domestic accountability proceedings equitably tolled their TVPA claims.

B. Plaintiffs reasonably relied on a domestic accountability proceeding in Argentina, tolling the statute of limitations until Bravo's extradition was denied.

As explained in Plaintiffs' opening brief, the evidence at trial showed that Argentina's criminal prosecution offered a reasonable prospect of meaningful accountability and functioned as a genuine domestic effort to hold Bravo accountable for his role in the Trelew Massacre.[49] Bravo does not dispute this. Instead, he states without any support that this evidence "should be

[44] 672 F. Supp. 1531 (N.D. Cal. 1987).
[45] *See id.* at 1550–51.
[46] *United States v. Sineneng-Smith*, 590 U.S. 371, 371–72 (2020).
[47] H.R. Rep. No. 102-367(I), at 5.
[48] *Id.*
[49] *See* Pls. Br. at 14–15.

disregarded" because Plaintiffs purportedly "knew that the criminal case in Argentina was never going to provide an adequate and available remedy against Bravo."[50]

The trial record shows the opposite. Plaintiffs actively participated in the Argentine criminal proceedings and reasonably relied on them with the expectation that they would hold Bravo accountable.[51] Plaintiffs Raquel Camps, Marcela Santucho, and Alicia Krueger were complainants in the prosecution.[52] Plaintiff Cappello's grandmother, Soledad Cappello, likewise participated, and Plaintiff Cappello later continued that role as her successor in interest.[53]

When Interpol located Bravo in 2008, Plaintiffs petitioned the Argentine court to seek his extradition.[54] While extradition was pending, Plaintiffs remained engaged in the criminal proceedings and reasonably believed that Bravo would be returned to Argentina to face trial alongside his co-perpetrators.[55] Each Plaintiff testified that they did not file suit earlier because they expected the Argentine prosecution and extradition to deliver accountability.[56]

Bravo, for his part, offered no evidence to counter Plaintiffs' testimony that they reasonably relied on the criminal proceedings in Argentina to hold him accountable until the extradition request was denied in November 2010.

C. Even if a TRC analogy were required, the trial evidence establishes that the domestic accountability proceedings at issue here are analogous to a TRC.

Although not required for the reasons discussed above, Plaintiffs presented evidence at trial that Argentina's criminal prosecution of the perpetrators of the Trelew Massacre was analogous to a TRC for tolling purposes. "Analogous" does not mean identical.[57] Argentina's criminal proceeding advanced many of the core objectives commonly associated with TRCs.

As Bravo himself acknowledged, "[t]he objectives of truth commissions often include

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[50] Def. Br. at 21.
[51] *See* Pls. Br. at 15.
[52] *See id.*
[53] *See id.*
[54] *See id.* at 15–16.
[55] *See id.* at 16.
[56] *See id.*
[57] *Black's Law Dictionary* (12th ed. 2024); *see also Blank v. United States,* 400 F.2d 302, 305 & n.11 (5th Cir. 1968) (defining analogy as "hav[ing] attributes or effects that resemble one another" and, in "the broader sense of analogy" as "similar or corresponding").

promoting truth-telling and reconciliation, psychological healing for victims, establishing an accurate historical record, recommending reparations for victims, ensuring minimal accountability, restoring dignity to victims, making recommendations for institutional reform, as well as preventing violence and repetition of abuses."[58] Plaintiffs presented unrebutted evidence that the Argentine criminal proceeding achieved virtually all of these objectives. The criminal proceeding established the truth regarding the Trelew Massacre and created an authoritative historical record;[59] provided psychological healing to the victims' families;[60] restored dignity to the victims' families;[61] and promoted accountability in a manner designed to prevent future abuses.[62] As this Court previously recognized, an accountability process need not "check every" objective to qualify as analogous to a TRC.[63]

Given the inherently malleable nature of TRCs, Bravo's insistence that the Trelew Massacre criminal proceedings needed to be identical to a particular model of a TRC is unsound. No two TRCs are identical; each is tailored to the specific historical and political context in which it arises.[64] The Liberian TRC at issue in *Jane*, for example, recommended criminal

[58] ECF No. 138 at 18.
[59] *See, e.g.*, ECF No. 140 at 59:3–18 (Plaintiff Cappello did not know the identities of the perpetrators—only "some last names"—or of any potential witnesses before the criminal proceeding); ECF No. 145 at 50:7–8 (Pregliasco was able to access the site of the massacre for forensic reconstruction during the criminal proceedings only by court order); *id.* at 139:18–19 (Langer testifying that the criminal trial is the "function[al] equivalent to a truth commission"); *id.* at 143:22–144:5 (Langer testifying that the Argentine court found the massacre was a crime against humanity constituting part of a widespread and systemic attack on the civilian population); *see also* ECF No. 148 at 33:21–34:18 (observing that Plaintiffs presented evidence that the criminal proceeding had developed evidence, identified perpetrators and witnesses, and ordered forensic reconstruction of the site of the massacre); ECF No. 180 at 22 (finding "the evidence available to Plaintiffs prior to the criminal prosecution was relatively limited").
[60] ECF No. 140 at 56:5 (Plaintiff Cappello describing the discovery or Bravo's location as a "very important moment for the family"); ECF No. 145 at 180:13–180:17 (Plaintiff Camps testifying that she and her family waited a long time for Bravo to be punished for his crimes).
[61] ECF No. 140 at 62:9–62:13 (Plaintiff Cappello explaining that he and his family never gave up their pursuit for justice in Argentina and that after these proceedings, "the world will be just a little bit more just than what it used to be").
[62] ECF No. 91 at 4 (co-perpetrators Luis Sosa and Emilio Del Real received life imprisonment following their convictions for "homicide committed with malice" of sixteen victims and "attempted homicide committed with malice" of the three survivors).
[63] ECF No. 148 at 33:21–34:4.
[64] *See supra* n. 27 at 5 (every truth commission should "be unique, responding to the national context and special opportunities present . . . no one set truth commission model should be imported from elsewhere").

prosecutions.[65] The South African TRC examined in *In re South African Apartheid*, by contrast, barred criminal prosecutions against those who participated in the TRC process.[66] These structural differences did not prevent courts from recognizing each of them as a qualifying accountability proceeding offering the plaintiffs reasonable prospects of meaningful justice, which weighed in favor of tolling. Bravo disregards these natural distinctions and instead demands Argentina's criminal proceedings conform to his strict and unsupported definition of a TRC. Nothing in the TVPA's broad directive to consider "all equitable tolling principles . . . with a view toward giving justice to plaintiff's rights" supports such a rigid standard.[67]

Finally, Bravo attempts to undermine Professor Maximo Langer's testimony that the Argentine criminal proceeding was "[t]he only public accountability process for the Trelew Massacre" in Argentina by pointing to the reparations Plaintiffs received.[68] That argument conflates two fundamentally distinct concepts: state reparations and individual accountability. The reparations program constituted governmental acknowledgment of dictatorship-era harms and provided financial compensation to victims' families.[69] It did not adjudicate individual responsibility, determine Bravo's culpability, or impose consequences on him personally.

As the Eleventh Circuit emphasized, "the focus of the TVPA is . . . the extrajudicial killer, and the statute's intent is to deter their tortious conduct."[70] That purpose is not satisfied where compensation is paid by the State rather than imposed on the perpetrator.[71] Nor is it satisfied absent any adjudication of the defendant's guilt or public assignment of responsibility. Indeed, courts consistently characterize reparations as a compensatory administrative remedy—not an adjudicative accountability mechanism designed to enforce individual responsibility for wrongful conduct.[72] Plaintiffs' reparations therefore have no bearing on whether the Argentine

[65] *See* Pls. Br. at 8 n.32.
[66] *See supra* n. 24.
[67] S. Rep. No. 102-249, at 10–11.
[68] ECF No. 145 at 138:21–139:2; *see also* Def. Br. at 17–18.
[69] *See supra* n.30.
[70] *Baloco ex rel. Tapia v. Drummond Co.*, 640 F.3d 1338, 1347 (11th Cir. 2011).
[71] *See* ECF No. 140 at 53:14–16; ECF No. 145 at 155:24–156:3.
[72] *See Myron v. Hauser*, 673 F.2d 994, 1001 (8th Cir. 1982) (upholding CFTC's reparations procedure as an administrative mechanism for awarding damages to aggrieved customers, and

criminal proceeding functioned as an analogue to a TRC. On that question, the evidence was unrebutted: the public criminal prosecution in Argentina was the only public accountability process directed at the perpetrators of the Trelew Massacre in Argentina and operated as the "function[al] equivalent to a truth commission" for the purposes of equitable tolling.[73]

D. This Court has already rejected Bravo's prejudice argument.

Bravo renews his baseless claim that he was prejudiced because Plaintiffs purportedly failed to raise their theory that reasonable reliance on domestic accountability proceedings tolled the limitations period.[74] This Court has already rejected this argument, noting that Bravo "took minimal discovery and litigated no pretrial dispositive motions or evidentiary motions."[75]

Moreover, the record demonstrates that Plaintiffs repeatedly disclosed this theory of tolling in advance of trial. In their complaint, under the heading "Extraordinary circumstances prevented Plaintiffs from bringing this case until now," Plaintiffs alleged that "since 2005, Plaintiffs have supported and participated in the criminal prosecution of the other perpetrators of the Trelew Massacre. They expected Bravo to be held accountable in Argentina once extradited as part of these proceedings. However, his extradition was denied in November 2010."[76] Despite Bravo's lack of discovery and motion practice, Plaintiffs continued to disclose the theory as the case progressed. In their initial draft proposed jury instructions, which Plaintiffs served on Bravo two months before trial, they stated that the statute of limitations may be equitably tolled "where plaintiffs did not pursue their claims in the United States due to reasonable reliance on domestic accountability processes," and cited *Jane* and *In re South African Apartheid* for support.[77]

characterizing reparations as a statutory remedy for monetary compensation rather than an adjudicative accountability proceeding); *see also Jarvis v. United States*, 154 Fed. Cl. 712, 720 n.5 (2021) (holding that absent a money-mandating statute authorizing payment, the Court of Federal Claims lacks jurisdiction over reparations claims, and emphasizing that reparations are not an inherent judicial mechanism for enforcing individual responsibility).

[73] ECF No. 145 at 138:21–139:19; *see also id.* at 138: 17–19 ("There was a Truth and Reconciliation Commission in Argentina that [was] between 1983 and 1984[,] but [it] did not cover the events of Trelew.").

[74] Def. Br. at 22–24.

[75] ECF No. 180 at 25 n.5.

[76] ECF No. 1, ¶ 82.

[77] ECF No. 208 at 84–85. In the proposed jury instructions Plaintiffs submitted to the Court before trial, Plaintiffs continued to assert this tolling theory. *See* ECF No. 106 at 124.

Plaintiffs Krueger and Santucho, who were deposed months before trial, testified consistently that they participated in the criminal proceedings because they believed those proceedings would result in Bravo's extradition and prosecution in Argentina.[78] In a pretrial evidentiary brief, Plaintiffs again disclosed the theory by stating that their "pursuit of domestic remedies" in Argentina tolled the statute of limitations.[79] Plaintiffs also disclosed in multiple pretrial filings that they intended to rely on "Argentina's efforts to extradite Bravo" as an extraordinary circumstance warranting tolling.[80]

In short, Bravo cannot manufacture prejudice from his own inattention to a theory that Plaintiffs consistently and repeatedly disclosed throughout the litigation.

E. The Eleventh Circuit's decision does not require separate briefing on diligence.

In his opposition, Bravo contends that the Eleventh Circuit's decision makes it premature for this Court to consider whether Plaintiff Cappello acted diligently in pursuing his claims.[81] This is incorrect. The Eleventh Circuit stated in its decision that, if this Court concludes on remand "that the plaintiffs are entitled to equitable tolling," it should then consider "whether [Plaintiff Cappello] acted diligently in pursuing his claims in a representative capacity on behalf of his uncle's estate."[82] Nothing in that conditional instruction requires two separate rounds of briefing. The decision contains no such directive, and principles of judicial economy weigh strongly against it.[83] This Court can readily address the issues sequentially in a single proceeding, just as it has previously done when analyzing equitable tolling in prior decisions.[84]

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[78] ECF No. 164-2 at 57:22–58:1, 59:19–25, 106:12–22; ECF No. 164-1 at 34:16–35:2.
[79] ECF No. 104 at 17.
[80] ECF No. 60 at 7; ECF No. 91 at 7.
[81] Def. Br. at 1 n.4.
[82] *Camps*, 142 F.4th at 754, 755.
[83] *See Chevaldina v. Katz*, No. 21-CIV-21363-RAR, 2021 WL 2414109, at *5 (S.D. Fla. June 13, 2021) (district courts have "broad authority to manage their dockets and promote judicial efficiency" so as "to ensure that their cases move to a reasonably timely and orderly conclusion"). Bravo's cited authority, *Piambino v. Bailey*, 757 F.2d 1112, 1119–20 (11th Cir. 1985), only directs the Court to fully implement the appellate mandate. Addressing both issues on remand would satisfy this.
[84] *See* ECF No. 148 at 95:22–24; 116:5–7 (resolving issues related to tolling and diligence in the same order); ECF No. 180 at 17–25 (same).

Bravo's suggestion that an additional round of briefing is necessary appears to be yet another attempt to delay resolution of Plaintiffs' claims—and it directly contradicts the parties' agreed-upon schedule. After the Court instructed the parties to "confer and file a Joint Status Report . . . proposing what additional proceedings should take place" following remand, including anticipated motions and a proposed briefing schedule, the parties jointly proposed ***a single round*** of "post-remand supplemental briefing to address the issues identified by the Eleventh Circuit's decision."[85] The Court adopted this structure.[86] Bravo cannot (once again) retreat from the schedule he proposed to the Court.

Consistent with the agreed-upon briefing structure, Plaintiffs argued in their opening brief that Plaintiff Cappello's claims on behalf of his uncle's estate are timely because (1) Soledad Cappello was his predecessor in interest; and (2) she diligently pursued the estate's claims until 2016.[87] Bravo elected not to respond and has therefore waived any argument on the issue.[88]

Nor is there any basis for Bravo to suggest that the Eleventh Circuit's decision requires reconsideration of this Court's prior diligence findings as to Plaintiffs Camps, Krueger, or Santucho.[89] The remand order does not disturb those determinations or call them into question.[90] And Bravo does not identify any basis for revisiting them.

Accordingly, after the Court determines that extraordinary circumstances tolled Plaintiffs' claims until November 2010, it should also hold that all claims are timely because Plaintiffs acted diligently in pursuing them.

III. CONCLUSION

For the foregoing reasons, this Court should find that Plaintiffs' claims were tolled until November 1, 2010, and reinstate the jury's verdict in its entirety.

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[85] ECF No. 202; ECF No. 204 at 2.
[86] ECF No. 205; *see also* ECF No. 213 n.3 (pushing back the deadlines but maintaining the briefing format the parties initially agreed to).
[87] Pls. Br. at 17–21.
[88] *Michaels v. Sasser's Glass Works Inc.*, 662 F. Supp. 3d 1223, 1243–44 (S.D. Fla. 2023) ("The law is well-settled that 'perfunctory, undeveloped arguments without discussion or citation to pertinent legal authority are waived.'" (quoting *Mahaffey v. Ramos*, 588 F.3d 1142, 1146 (7th Cir. 2009)).
[89] *See Camps*, 142 F.4th at 754–55.
[90] *See* ECF No. 180 at 23–24 (describing Plaintiffs' Camps, Krueger, and Santucho diligence).

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By: */s/ Vishesh Narayen*

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