

UNITED STATES DISTRICT COURT

for the

District of Maryland



Eduardo Tusamba Moises

Plaintiff(s)

v.

Maria Candida Texeira

Defendant(s)

Civil Action No. WMN - 15 - 3609

SUMMONS IN A CIVIL ACTION

To: (Defendant's name and address) MARIA CANDIDA TEXEIRA (Former Minister Do Ensino Superior)
Rua 17 de Setembro, Cidade Alta.
Luanda-Angola
Tel. +244 222 370 150 /370230
Casa Civil. Tel. +244 222 293274. Fax. +244 222 370366

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Eduardo T. Moises
ORPE HUMAN RIGHTS ADVOCATES
300 E. Lombard St. Suite 840
Baltimore, MD 21202.
Tel. +410.814.7566. Fax. 410. 814. 7539

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

CLERK OF COURT

Date: 06/01/2017

Signature of Clerk



IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

CIVIL DIVISION

EDUARDO TUSAMBA MOISES

Human Rights Advocates-ORPE
300 E Lombard Street, Ste 840
Baltimore, MD 21202
Tel. 410-814-7566

PLAINTIFF,

v.

JOSE EDUARDO DOS SANTOS

(President of Angola)
In his individual capacity
Rua 17 de Setembro Cidade Alta,
Luanda - Angola
Tel. +244 222 370 150 /370230 /370373 /6933114
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DEFENDANTS

MARIA CANDIDA TEXEIRA

(Former Minister of High Learning)
In her individual capacity
Cidade Alta
Luanda - Angola

DEFENDANTS

Civil Action N° WMN - 15-3609

JURY TRIAL DEMANDED

3rd AMENDED COMPLAINT

COMPLAINT

Plaintiff Eduardo T. Moises on behalf of himself; as for the interest of ISRDA's students, all similarly situated including unprivileged Angolan peoples; as for its complaint against Defendants Jose Eduardo dos Santos (President of MPLA); and Maria Candida Texeira (former Minister of Higher Learning Sciences and Technology), complains and alleges upon personal knowledge as to themselves and their own acts, and upon information and belief as to all other matters, as follows:

Part I

JURISDICTION, VENUE, CHOICE OF LAW, STATUTE OF LIMITATIONS, ABSENCE OF REMEDIES, AND PARTIES

Part I of this civil action deals with the following issues:

- Section 1: Jurisdiction
- Section 2: Venue
- Section 3: Choice of law
- Section 4: Statute of limitations
- Section 5: Absence of Remedies at Municipality level
- Section 6: Parties

Section I: JURISDICTION

1. This Court has original jurisdiction over the subject matter of this action pursuant to Alien Tort Claim Act, 28 U.S.C. § 1350 ("ATCA") and pursuant to Torture Victim Protection Act (TVPA). In this case jurisdiction can also be sought under 28. U.S.C. § 1332. Jurisdiction in a suit brought under ATCA can be founded on violation of the jus cogens norm prohibiting torture, deprivation of liberty, discrimination, inhuman and degrading treatments. General principles of international law provide the basis for federal court jurisdiction under § 1350. International law, the prohibitions against infliction of torture or against atrocities, against discrimination, against deprivation of liberty, and against inhuman and degrading treatments are jus cogens norms, and therefore, §1350 jurisdiction may be based on a violation of these norms. A premeditates actions that bear aforethought malice for the purpose of

inflicting torture, engaging prosecutions, abridging fundamental rights or; actions which wage widespread and systematic uses of power for the purpose of intentionally inflicting physical and mental pains and sufferings; and intentionally creating economic hardship to its own fellow human beings is a matter of international concern and the United Nations who promotes Human Rights and fundamental freedoms for all. Here, at all relevant times and for political motives, defendant Jose Eduardo dos Santos and similarly related high-ranking of MPLA conspired and delegated authority to defendant Maria Candida Texeira for the purpose of conspiring malicious scenarios designed to inflict great harms against plaintiff and plaintiff's programs carried out under ISRDA. Under the color of inspection, defendant Candida Texeira commended responsibility to government agents and security forces who had organized a crackdown that had resulted in inflicting torture and atrocities on plaintiff and had destroyed plaintiff's Ministry (ISRDA).

2. Defendant Texeira has maliciously breached the duty of care she was supposed to owe to plaintiff. At all relevant times, defendant Texeira has commended responsibility to its agents and security forces to inflict atrocities on plaintiff, plaintiff's "rule of law programs" and destroyed plaintiff's Institute Superior Rene Descartes. Plaintiff and his staff were confided. Brutal search and seizure were inflicted. Plaintiff Eduardo T Moises was confided and interrogated without Miranda right, intimidated for imprisonment, insulted, humiliated. Plaintiffs' due process was violated. At all relevant times, security forces terrorized plaintiffs and invaded the ISRDA's premise without being invited. As a result of Defendants' wrongdoings, plaintiffs have suffered severe physical and emotional pains and economic loss. Moreover, on November 1, 1992 defendant Jose Eduardo dos Santos has commanded responsibility to security forces, militias who had committed extrajudicial killings of civilians population in which plaintiff's 2 brothers and sister were killed during the church ceremony around Kikolo. They were killed along with other church members and their Pastor Reverend Abrao because

of their profile as being belonged to the ethnic group bakongo. Defendant Jose Eduardo dos Santos' reputation regarding human rights is bathed with records of widespread and systematic rampant human rights abuses that he uses to inflict on civilian populations. As of today, activists, priests, journalist and academia who have aligned themselves with the causes of morality, liberty and justice as they are advocated by plaintiff and ISRDA were or are being arrested, tortured, and imprisoned. As of today, 17 activists who had aligned themselves with the causes defended by plaintiff and ISRDA are under arrest, being tortured and jailed since June, 2015 by the defendants. A seventeen boy in the name of Nito Alves who has aligned himself with the causes defended by plaintiff and ISRDA was arrested on the ground of defamation and insult to the defendant president Jose Eduardo dos Santos. Jose Kalupeteka, a priest of the Church a "Luz do Mundo" was arrested during a ceremonial preaching of 3700 attendees. Defendant Jose Eduardo Dos Santos has commended responsibility to the security forces who has massacred civilian populations in the course of religious activity. 1083 civilian populations among the 3700 attendees were massacred and killed. The United Nations is holding accountable defendant Jose Eduardo dos Santos and his kingdom which includes defendant Maria Candida Texeira. The International Amnesty and similarly related international organizations have proclaimed Nito Alves and Jose Kalupeka as prisoner of conscience. These institutions have also proclaimed Nito Alves as the youngest political prisoner of the world. The case of Journalist Rafael de Moraes Marques presents similar offenses. The case of political opponent and professor Nfulupinga Victor who was assassinated and killed in front gate of his own house was done so under the commend responsibility of defendant Jose Eduardo dos Santos and his kingdom.

3. The right to be free from torture, free from being killed, free from being arbitrary arrested and imprisoned, free from being deprived liberty, free from discriminations, free from being deprived the right to freely exercise professional activities, free from being deprived the right to freely and peaceful

assembly, free from being treated inhumanly and degradingly, free from being harmed as a result from malice of high-rankings, and free from being abused by government authorities as a result of their powerful positions are human rights and fundamental rights guaranteed by international law via United Nations Charter.

4. The 1975 General Assembly Declaration on the Protection of All Persons from being subjected to inhuman and degrading treatment prohibits any State from permitting torture, discrimination based on political opinions, violating fundamental rights, or from causing harms to its own people by the way of torture, malicious mischief of property another, malicious prosecution, discriminations, persecutions, abuse of power, restricting the fundamental freedoms, inflicting inhuman and degrading treatments.
5. Moreover, the international consensus surrounding torture, malice or malicious prosecutions, persecutions, discriminations, restriction on freedoms, inhuman and degrading treatments and abuse of power have found expression in numerous international treaties and accords. In addition, torture, malicious prosecutions, malicious mischief of property of another, discriminations and abuse of power, repressions, inhuman and degrading treatments or infliction of physical and psychological pains and sufferings are prohibited by Angola's own Constitution. Title II of Chapter I, Articles 22 and 23 of the Angolan Constitution of 2010 condemns State's actions deemed to infringe fundamental rights of Angolan citizens. The deprivation of these freedoms are also prohibited under the Articles 18, 45, and 47 of the Angolan Constitution of 1992. International law thus, confers fundamental rights upon all people vis-à-vis their own governments. Furthermore, Congress provided in the judiciary Act for federal jurisdiction over suits by aliens where principles of international law are at issue.

6. Therefore, allowing this case proceed would not invite controversy with the Angolan government, and, permitting jurisdiction is in keeping with the purpose of §1350. Also, the district court will not find that treaties or the law of the nations would supply the cause of action in this case. The cause of action arose from intentional infliction of physical and emotional sufferings statutes, and evidence proves these torts. The fact that the torts are committed in violation of international law is what supplies the basis for jurisdiction. Thus, the cause of action here comes from municipal tort law, not from treaties or the laws of the nations [*Trajano v. Marcos* 978 F.2d 493 (9th Cir. 1992)]

Section 2: VENUE

7. Venue is proper in this District Court under Alien Torts Claim Act, 28, U.S.C. § 1350 and under TVPA. Plaintiff Eduardo T Moises is a US permanent resident and resident of Maryland. This case can also proceed under 28. U.S.C. § 1332. There is no jurisdiction available for plaintiff at municipality level since defendants are high-rankings who hold absolute power and are above the law. Defendants' impunity and its absolute power over judicial are what make it impossible for plaintiffs to seek remedies under municipality jurisdiction. Retaliation and exponential rate of probability about plaintiff being killed, arrested and jailed without fair trial is what make domestic jurisdiction unavailable. Moreover, the Angolan government has recently passed the unconstitutional defamation law that makes defamation a serious criminal charge makes jurisdiction to be unavailable at municipality level. For example: Journalist Rafael Marques, Nito Alves, and the Priest Kalupeteka are now facing tortures and imprisonments. They were charged with defamation under Angolan statute that makes defamation criminal. Therefore, if plaintiffs were denied the jurisdiction in this Federal District Court for any reason, the right of plaintiffs to a fair justice would be impaired as there would not be other forum that would have jurisdiction over the subject matter at the bar. In that case, plaintiffs' harms would never get relieved.

Section 3: CHOICE OF LAW

8. Under Alien Torts Statute, Courts are instructed to apply international law to matters concerning the existence of an international norm and whether that norm has been violated, and apply domestic law to the questions of standing. n23. And as to the remedies, the courts has to refer to the federal common law in fashioning monetary awards to claims involving international human rights violation. 30 Suffolk Tranat'l L. Rev. 101; LexisNexis. Here, claims involve torture, atrocities, discrimination, inhuman and degrading treatment and economic loss. Defendants did cause on plaintiffs physical and emotional pains and sufferings. Defendants' wrongdoings have caused plaintiffs suffer severe economic loss.

Section 4: STATUTE OF LIMITATIONS

9. Claims brought under the TVPA are subject to a ten-year statute of limitations. 28 U.S.C. § 1350 note. Given the closely similar goals and remedial mechanisms of two statutes, the TVPA's limitations period also applies to the ATS. In Papa v. United States 281 F.3d 1004, 1011-12 (9th Cir. 2002) (holding that the realities of litigating claims brought under the ATS, and the federal interest in providing remedy, also points towards adopting a uniform - and generous - statute of limitations."). The ATS and TVPA limitations periods are subject to equitable tolling "where circumstances outside plaintiff's control make it impossible for plaintiff to timely assert his claim." " Forti v. Suarez-Mason, 672 F. Supp. 1531, 1549 (N.D. Cal. 1987); see also Hilao v. estate of Marcos, 103 F.3d 767, 773 (9th Cir. 1996). " Equitable tolling is appropriate when a movant untimely files because of extraordinary circumstances that are both beyond his control and unavoidable even with diligence." Arce v. Garcia, 434 F.3d 1254, 1261 (11th Cir. 2006) [quoting Sandvik v. United States, 177 F.3d 1269, 1271 (11th cir. 1999)]. This case law finds support in the legislative history of the TVPA, which expressly

encourages courts to apply equitable tolling to the ten-year limitations period. S. Rep. No 102-249, at 19-11 (1991).

Section 5: ABSENCE OF REMEDIES IN ANGOLA

10. Fears of Retaliation are imminent. Defendants' impunity make jurisdiction be unavailable at a municipality level. Moreover, the Angolan government and its high-rankings have shield themselves from being sued and criticized by adopting the current "criminal Defamation" law. This is an unconstitutional law that charges any individual attempting to place a lawsuit against any government authority or attempting to criticize defendant president and its oligarchy for wrongdoing face serious criminal charges that requires imprisonment or death punishment. For example, a prominent and activist Angolan journalist Rafael Marquez de Morais, was condemned by Angolan tribunal for defamation and is facing heavy imprisonment. The international human right organizations had tried in vain signing petitions to the president Dos Santos for the release but defendants refuse to do so. Similar charges are hanging up on the shoulders of a seventeen years old boy in the name of Nito Alves. Similar situation would have occurred if plaintiffs would filed a lawsuit against defendants at municipality level. Therefore, defamation law foreclosed both civil and criminal liability for all authority who had participated or participate in any way in the commission of political crimes, common crimes related to political crimes, or common crimes committed in the exercise of official function to be investigated. The law precludes liability under Angolan law for those responsible for the abuses perpetrated against plaintiffs.

Section 6: PARTIES

A). PLAINTIFF EDUARDO TUSAMBA MOISES