

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

JOHN GREGORY LAMBROS,

Plaintiff,

Civil Action No. 19-cv-1929 (TSC)

Vs.

Federative Republic of Brazil, et al.,

Defendants.

AFFIDAVIT FORM

**PLAINTIFF LAMBROS' OBJECTIONS TO DEFENDANT'S FEDERATIVE
REPUBLIC OF BRAZIL, et al. "MOTION TO DISMISS THE COMPLAINT"
- FILED ON NOVEMBER 24, 2020.**

1. COMES NOW, Plaintiff - Movant JOHN GREGORY LAMBROS, (Hereinafter "MOVANT"), Pro Se, and request this Court to construe this filing liberally. See, HAINES vs. KERNER, 404 U.S. 519 , 520-21 (1972).

2. In support of this request Plaintiff relies upon the record in this case and the following facts that are submitted in affidavit form herein. Therefore, Plaintiff restates and incorporates all pleadings, motions, exhibits, testimony and documents filed within this action. See, F.R.C.P. 10(c).

3. JOHN GREGORY LAMBROS, Movant/Plaintiff in the above-entitled action, stating in affidavit form, **OPPOSITION** to Defendant's "MOTION TO DISMISS THE COMPLAINT" - FILED ON NOVEMBER 24, 2020 , by Defendant's Attorneys at the law firm FOLEY HOAG LLP.

4. John Gregory Lambros declares under penalty of perjury:

5. I am the Plaintiff in the above entitled case.

6. Plaintiff - Movant Lambros **DENIES EACH AND EVERY MATERIAL ALLEGATION CONTAINED IN DEFENDANT'S "MOTION TO DISMISS THE COMPLAINT"** - FILED ON NOVEMBER 24, 2020, Docket Entry 26 and 26-1, except as hereinafter may be expressed and specifically admitted.

FACTS:

7. Defendant's filed a "Motion to Dismiss the Complaint" on November 24, 2020.

8. Defendant's "Motion to Dismiss the Complaint" was filed **AFTER** November 16, 2020, when Judge Chutkan issued a "Memorandum Opinion and Order" denying Plaintiff's motion to remand, granting Defendants' motion to vacate the Superior Court's entry of default and all other unresolved motions are denied. The Court further ORDERED that pursuant to Local Civil Rule 16.3, the parties shall confer and file a joint status report and proposed schedule on or before December 8, 2020.

9. November 30, 2020: Movant Lambros emailed Defendants' Attorney Andrew B. Loewenstein stating:

"Below for your review is my MOTION FOR APPOINTMENT OF COUNSEL. You will also be receiving copy via snail mail. Also, as an uneducated legal person, **don't you think we should be entering into the ORDER issued by Judge Chutkan on November 16, 2020, as to Local Rule 16.3 "the parties shall confer before filing status report and proposed schedule on or before December 8, 2020.?? I don't want to be sanctioned by the Court.** A review of Local Rule 16.3(c) "Matters to be Discussed by the Parties" is a little overwhelming, but we can start talking via email, while we wait for responses from the Motions we both filed to cover our ass, **who knows we may come up with a realistic possibility of settling the case. See, LCvR16.3(4).**" (emphasis added)

10. To date, Attorney Loewenstein has not responded to Plaintiff Lambros' November 30, 2020 email offered in paragraph 9 above.

11. Plaintiff Lambros has secured three (3) expert witnesses to testify at trial, with the possibility of several more, to support factual and legal issues of his case.

12. Plaintiff Lambros believes that a **hearing should be held** as to all actions taken by **CROWE FOREIGN SERVICES**, the company that effectuated service on defendants in Brazil. As stated within another motion, on "**February 8, 2019**: Judge Pan, Superior Court of the District of Columbia, Case No. 2017-CA-000929 B, held a **Status Hearing**. Plaintiff Lambros testified and Celeste Ingalls testified, Director of Operations, Crowe Foreign Services. Celeste Ingalls testified as to the process followed, procedures performed and current status of the **service of process** upon Defendants Federative Republic of Brazil, et al., within this action."

13. **April 8, 2019**: Judge Pan clearly stated within her ORDER "Plaintiff [Lambros] availed himself of the services of Crowe Foreign Services to effectuate service on defendants. Based on the documentation received by the Court from Crowe Foreign Services on November 14, 2018, January 18, 2019, and February 8, 2019, along with the representation made in court on February 8, 2019, by Crowe Foreign Services' director of operations, Celeste Ingalls, **the Court finds that defendants were properly served.** (Emphasis added)

MOTION TO DISMISS - LEGAL STANDARDS:

14. **Settles v. US Parole Com'n, 429 F. 3d 1098, 1106 - Court of Appeals, Dist. of Columbia Circuit 2005**: The court stated, "It is certainly true that complaints are to be liberally construed at the stage of a motion to dismiss. However, in stating the general rule, the court in *Warren* was focusing on the factual allegations stated in a complaint. This is

clear because the court acknowledged that courts sometimes reach further than the complaint in pro se cases to discern the facts necessary to state a cause of action. *Id.* at 38 (citing [Anyanwutaku, 151 F.3d at 1058](#)). In other words, the rule of liberal construction of complaints applies to factual allegations. *Cf.* 5B CHARLES ALAN WRIGHT & ARTHUR R. MILLER, FEDERAL PRACTICE AND PROCEDURE: CIVIL § 1357, at 704 (3d ed.2004). At the motion to dismiss stage, counseled complaints, as well as *pro se* complaints, are to be construed with sufficient liberality to afford all possible inferences favorable to the pleader on allegations of fact. *Fletcher I* indicates that the court will construe a *pro se* prisoner's complaint liberally both to afford all reasonable inferences of fact and, in certain circumstances, to rewrite the complaint to name new defendants. It is quite a different matter to suggest that this particular exercise of liberality should extend to a complaint that is not *pro se*, so as to allow a counseled plaintiff to name a new set of defendants. (Emphasis added)

15. **Richardson v. US, 193 F. 3d 545, 548 - Court of Appeals, Dist. of Columbia Circuit 1999:** The District Court dismissed Mr. Richardson's pro se complaint for lack of subject matter jurisdiction. The court stated, "First, Mr. Richardson proceeded *pro se* before the District Court. Courts must construe *pro se* filings liberally. See, e.g., [Haines v. Kerner, 404 U.S. 519, 520-21, 92 S.Ct. 594, 30 L.Ed.2d 652 \(1972\) \(per curiam\)](#) (holding allegations contained in a prisoner's *pro se* complaint to less stringent standards than pleadings written by counsel in reversing a dismissal for failure to state a claim)." (Emphasis added)

16. **CAMPBELL—EL v. District of Columbia, 874 F. Supp. 403, 405 - 406 - Dist. Court, Dist. of Columbia 1994:** The Court stated: "**MOTION TO DISMISS, OR IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT - MOTION TO DISMISS STANDARDS:** In ruling on a motion to dismiss for failure to state a claim upon which relief may be granted, the Court must accept as true each of the allegations in the complaint. The motion should not be granted unless it appears that the plaintiff can prove no set of facts entitling him to the relief sought in the complaint. See, e.g., [Conley v. Gibson, 355 U.S. 41, 45-46, 78 S.Ct. 99, 101-02, 2 L.Ed.2d 80 \(1977\)](#)." (Emphasis added)

SUMMARY JUDGMENT STANDARDS: Pursuant to Federal Rule of Civil Procedure 56(c), summary judgment "shall be rendered forthwith if the pleadings, depositions, answers

to interrogatories, and admissions on file, together with affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." Mere allegations or denials of the adverse party's pleadings are not enough to prevent issuance of summary judgment. The adverse party's response to the summary judgment motion must "set forth specific facts showing that there is a genuine issue for trial."

The Supreme Court set forth the governing standards for issuance of summary judgment in [*Celotex Corp. v. Catrett*, 477 U.S. 317, 106 S.Ct. 2548, 91 L.Ed.2d 265 \(1986\)](#). In *Celotex*, the Supreme Court recognized the vital role that summary judgment motions play in the fair and efficient functioning of the judicial system:

Summary judgment procedure is properly regarded not as a disfavored procedural shortcut, but rather as an integral part of the Federal Rules as a whole, which are designed "to secure the just, speedy and inexpensive determination of every action." Fed.Rule Civ.Proc. 1.....

Rule 56 must be construed with due regard not only for the rights of persons asserting claims and defenses that are adequately based in fact to have those claims and defenses tried to a jury, but also for the rights of persons opposing such claims and defenses to demonstrate in the manner provided by the Rule, prior to trial, that the claims and defenses have no factual basis.

Id. at 327, 106 S.Ct. at 2555. (citation omitted)."

PLAINTIFF'S RESPONSE TO DEFENDANT'S REQUEST TO DISMISS THE COMPLAINT

MOTION OF DEFENDANTS - DOCUMENT 26 - TWO (2) PAGES IN LENGTH:

17. Defendants request this Court to “dismiss Plaintiff John Gregory Lambros’ Complaint with prejudice. Plaintiff requests this Court to deny the same.

DOCUMENT 26-1: MEMORANDUM OF POINTS AND AUTHORITIES OF DEFENDANTS IN SUPPORT OF THEIR MOTION TO DISMISS THE COMPLAINT - FORTY SIX (46) PAGES IN LENGTH

18. Page 1: Defendants support their Motion to Dismiss the complaint, pursuant to Fed. R. Civ. P. 12(b)(1), (2), (5) and (6). Movant believes the Motion to Dismiss should be denied.

19. Page 3: Defendants stated: “On February 8, 2019, the Superior Court received a filing from Crowe regarding an attempt to serve the Sovereign Defendants pursuant to the Inter-American Convention on Letters Rogatory. D.E. 1-44. As set forth in that filing, the attempt to serve the Sovereign Defendants in this manner was unsuccessful because it contravened Brazilian law. *Id.* at 11, 23. There is no indication on the Superior Court record that, having failed to effect service under the Inter American Convention on Letters Rogatory, Plaintiff attempted to complete service by requesting that the Clerk of the Superior Court transmit the Summons, Complaint and notice of suit to the Brazilian Minister of Foreign Affairs, as required by § 1608(a)(3) of the FSIA.” **This is not true!** Plaintiff can not locate the February 8, 2019 filing by Crowe to the Superior Court, but Crowe Foreign Services November 5, 2018 letter to Judge Pan clearly stated “... outline of process followed, procedures performed to date, and current status of the services requested upon the Federative Republic of Brazil and the State of Rio de Janeiro in Brazil in accordance with the Inter-American Convention:” Celeste Ingalls offers four (4) subsections of information within the letter that state **all documents served on the defendant are in accordance with the Inter-American Convention and received by the Ministry of Justice in Brasilia, Brazil on October 6, 2017.**

It is Plaintiff's understanding that services were done in accordance with §1608(a)(2) and **both were served upon the "Ministry of Foreign Affairs" in accordance with the Inter-American Convention, which is an international agreement as stated in §1608(a)(2).**

PLEASE NOTE: Celeste Ingalls included the November 8, 2018, Brazilian court docket sheets report that shows each defendant received copy of Plaintiff Lambros complaint, summons, etc. in this action. Therefore defendants have been served in this action, in compliance with "FSIA" guidelines for service of process. Also note, **two letters rogatory were issued, one SERVING PROCESS ON THE STATE, AND THE OTHER SERVING PROCESS ON THE FEDERAL GOVERNMENT. The letter SERVING PROCESS ON THE FEDERAL GOVERNMENT IS NUMBER 12540; AND THAT OF THE STATE IS NUMBER 12537.** Both docket sheets are attached - 12540 and 12537 - both are two (2) pages in length. See, **EXHIBIT A.** (November 5, 2018, letter from Celeste Ingalls, Crowe Foreign Services to Judge Florence Y. Pan.)

20. **EXHIBIT B: The attached document proves the defendants where served** - as the document uses the word "**SERVING PROCESS**" and the above docket sheet numbers as to the two (2) letters of rogatory being issued in Brazil for each defendant. The document was constructed by MARCELO MELLO MARTINS, State Prosecutor for the Defendant State of Rio de Janeiro, stated within his one (1) page document dated April 18, 2018, "The State of Rio de Janeiro, in the case of Letter Rogatory 12537, comes respectfully to request that the attached document be added to it and to **reiterate for the exequatur to be denied.** Also, "Given the defendant duplicity, **two letters rogatory were issued, one SERVING PROCESS ON THE STATE, AND THE OTHER SERVING PROCESS ON THE FEDERAL GOVERNMENT.**" "**The letter SERVING PROCESS ON THE FEDERAL GOVERNMENT IS NUMBER 12540; AND THAT OF THE STATE IS NUMBER 12537.**"

21. **JANUARY 14, 2019:** Crowe Foreign Services received “**Proof of Service**” from both defendants in this action, from the Central Authority for Brazil and the Brazilian courts with the Brazilian Court issued documentation detailing the action taken with respect to the above requests to serve Defendants **Federative Republic of Brazil** and the **State of Rio de Janeiro of the Federative Republic of Brazil**.

22. **Defendant Federative Republic of Brazil:** Defendant Brazil responded within the Letter Rogatory No. 12,540, with a decision by Judge Rapporteur and signed by Appellate Judge Laurita Vaz, Chair of the Appeal Court of Brazil, that “The Office of the General Counsel for the Federal Government by way of the Office of its Attorney General, opposes granting rogatory remedy ...” The Court stated the reasons offered by the General Counsel and Office of Attorney General are correct as to Plaintiff’s “request [for] compensation from the Federal Republic of Brazil for the initial amount of **US\$ 100,000,000,000.00 (one hundred billion US dollars)**, for the alleged illegality practiced in the process of his extradition to the United States of America, which was authorized by the Federal Supreme Court, as well as for an act of torture that he supposedly suffered during the period of his imprisonment in Brazil, which includes a fanciful narrative about ‘brain controlling implants.’”

23. Judge Rapporteur and Vaz also stated, “The foreign request is in conflict with the **immunity** of the Brazilian State. The nature of the act practiced by the Brazilian State is a determining factor as regards the adoption of the aforesaid **immunity**.”

24. **Judge Rapporteur and Vaz state Plaintiff has JURISDICTION IN BRAZIL TO FILE THIS ACTION??????** “It should be pointed out that, in order to resolve the controversy in question and in order to repair the alleged damage to the victim, **the action that is in dispute should be filed before the Brazilian Judiciary**. In fact, the request in this letter rogatory cannot be taken as a mere communication of a procedural act, but rather as a summons by one foreign country of another, to respond to the legal demand, **in which it is protected by its immunity to foreign jurisdiction for any act**

of empire.” **This is not true.** Plaintiff will respond to the issue of **IMMUNITY** later in this motion.

25. **Defendant State of Rio de Janeiro of the Federative Republic of Brazil:**

Defendant **State of Rio de Janeiro** responded within the Letter Rogatory No. 12,537, with a decision by Judge Rapporteur and signed by Appellate Judge Laurita Vaz, Chair of the Appeal Court of Brazil, that “The State of Rio de Janeiro **opposes granting rogatory remedy**, within the terms of the objection of, with the argument that the Appealability of the commission is contrary to the sovereignty and public order of the Brazilian state.”

26. **Judge Rapporteur and Vaz state: “The State of Rio de Janeiro and the Federal Public Prosecutor’s Office are right.”**

27. **Judge Rapporteur and Vaz also stated:** That Plaintiff Lambros “request [for] compensation from the Federal Republic of Brazil for the initial amount of **US\$ 100,000,000,000.00 (one hundred billion US dollars)**, for the alleged illegality practiced in the process of his extradition to the United States of America, which was authorized by the Federal Supreme Court, as well as for an act or torture that he supposedly suffered during the period of his imprisonment in Brazil, which includes a fanciful narrative about ‘brain controlling implants.’”, within Defendant **State of Rio de Janeiro** response to Letter Rogatory No. 12,537.

28. **Again, Judge Rapporteur and Vaz state Plaintiff has JURISDICTION IN BRAZIL TO FILE THIS ACTION??????**

“It should be pointed out that, in order to resolve the controversy in question and in order to repair the alleged damage to the victim, **the action that is in dispute should be filed before the Brazilian Judiciary.** In fact, the request in this letter rogatory cannot be taken as a mere communication of a procedural act, but rather as a summons by one foreign country of another, to respond to the legal demand, **in which it is protected by its immunity to foreign jurisdiction**

for any act of empire.” **This is not true.** Plaintiff will respond to the issue of **IMMUNITY** later in this motion.

29. **SUBSTANTIAL COMPLIANCE TEST:** The D.C. Circuit has adopted a “substantial compliance” test to determine whether a plaintiff has complied with the FSIA’s service requirements. Even if this Plaintiff failed to properly serve defendants, which Plaintiff does not believe to be correct, in this FSIA litigation it will not result in this suit’s dismissal if Plaintiff **SUBSTANTIALLY COMPLIED** with the statute’s notice requirements and the defendants received actual notice of the suit. The defendants received actual notice of this action, as outlined in paragraphs 19 and 20 above. See, **TRANSAERO, INC. vs. La Fuerza Aerea Boliviana, 30 F.3d 148,153-54 (D.C. Cir. 1994)**, cert. Denied, 513 U.S. 1150 (1995), the Circuit ruled that “substantial compliance with the provisions of service upon an agency or instrumentality of a foreign state - that is, service that gives actual notice ... to the proper individuals within the agency or instrumentality -- is sufficient to effectuate service under section 28 U.S.C. 1608(b).”

30. Page 5: Defendants state, “On August 12, 2019, Plaintiff filed yet another motion, this time asking the Court to order Brazil to post a bond of over \$362 billion “during the pendency of the removal of [his] claims from the Superior Court of the District of Columbia to this federal court.” D.E. 16 at 8-9 ¶ 18. Plaintiff asserted that this astronomical bond was warranted because he was being prejudiced by having to “forego execution of” a damage award that was never rendered by the Superior Court in this case. *Id.* at 6 ¶ 10. The Sovereign Defendants filed their opposition thereto on August 26, 2019, in which they demonstrated that **Plaintiff’s motion was ludicrous on its face, devoid of any legal support, and procedurally improper. D.E. 17.”** **This is not totally true.** Plaintiff’s motion was **NOT LUDICROUS AND DEVOID OF LEGAL SUPPORT!** Plaintiff filed an August 12, 2019 motion requesting Brazil to post a bond for \$362,040,000,000.00, as to **“PLAINTIFF LAMBROS IS BEING**

PREJUDICED AS THE NONMOVING PARTY IN THIS REMOVAL PROCESS, AS TO HIS LOSSES SUSTAINED AS A RESULT OF BEING FORCED TO FORGO EXECUTION OF DAMAGE AWARDS ON JUDGMENT ON JULY 5, 2019, WITHIN THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA”, citing HERBERT vs. EXXON CORP., 953 f.2d 936, 938 (5th Cir. 1992)(“The posting of a bond protects the [judgment creditor] from the risk of a later uncollectible judgment and compensates him for delay in the entry of final judgment [upon which he may execute].” (internal quotations and citations omitted). Plaintiff **NEVER** stated such a figure in any of his motions to this Court.

31. Defendants clearly admitted on June 27, 2019, through the Attorney Clara B. Brillembourg, FOLEY HOAG LLP who filed the **Civil Cover Sheet** in this action - Document 1-1, two pages in length, which offered the following information:

- A. Case No. 1:19-cv-01929.
- B. Plaintiff: John Gregory Lambros
- C. Defendants: Federative Republic of Brazil; and State of Rio de Janeiro.
- D. REQUESTED IN COMPLAINT: DEMAND \$301,700,000,000.00 (Three Hundred One Billion, Seven-Hundred Million Dollars.)

32. Generally, federal courts require the **PENAL SUM** of the surety bond to total the entire amount of the monetary judgment, including any pre-judgment interest, attorneys’ fees, costs and one to two years of post-judgment interest. **Most federal courts require 120 percent of the judgment.** For example, Maryland Federal District Court Local Rule 110(a)(1) requires 120 percent of the judgment.

33. Plaintiff simply added twenty (20) percent to the amount of the demand requested within the Civil Cover sheet filed by defendants on June 27, 2019:

\$301,700,000,000.00
+ 60,340,000,000.00 (Additional 20 percent)

\$362,040,000,000.00 (Three Hundred Sixty-Two Billion, Forty Million Dollars)

34. Due to the wealth of the Defendants, a functional alternative to posting a bond, is to post the full amount of the bond into the registry of the court. This saves the ten (10) to twenty (20) percent insurers charge for the bond.

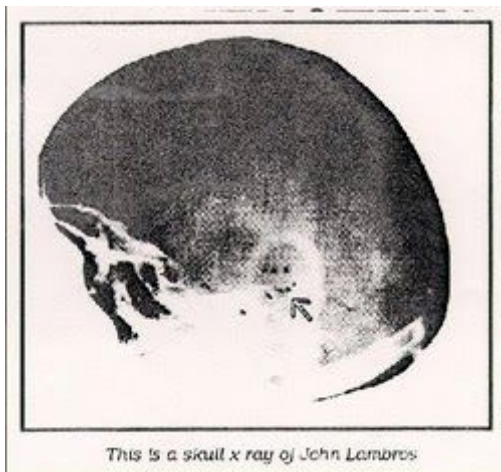
35. Page 6: Defendants state: "The complaint asserts claims against ... Defendants based upon Plaintiff's alleged arrest, In Brazil, ... where he was convicted of multiple drug-trafficking charges." **This is not true!** Plaintiff was arrested on a Parole Violation Warrant, as admitted by DEA Agents, that was illegal and Plaintiff was not extradited on by the Supreme Court of Brazil to the U.S. See, U.S. Parole Commission "WARRANT" for John Gregory Lambros, issued on August 21, 1989. In fact, I challenge Defendants to show this court a copy of this warrant being presented to Brazil.

36. Page 7: Defendants state: "The Complaint contains various lengthy and fanciful allegations. Among other things, Plaintiff alleges that while in Brazilian custody he was placed in a "depatterning cell" and "depatterned." *Id.* ¶¶ 7, 275. This was allegedly done through "**brain control implants** that monitored [*sic*] and control" his "mental functions, thoughts, deeds to this day" and that "force involuntary religious servitude." *Id.* ¶ 7. (emphasis added) **This is true NOT fanciful!** The following x-rays by the U.S. Government prove same:

**Here is the July 17, 1992 (07/17/92) RADIOLOGICAL CONSULTATION
REQUEST/REPORT of John Gregory Lambros by the U.S. Bureau Prisons Medical
Center, Rochester, Minnesota, which states, "In the lateral views there appear to be **clusters
of punctate radiopaque foreign bodies...."****

NAME (Last, first, middle initial) 00436-124 DOB: 08-13-1950 FMC ROCHESTER, MN		NUMBER (See Appendix) M	WARD/CLINIC 1-2	REGISTER NO.
LOCATION OF MEDICAL RECORDS 12		EXAMINATION REQUESTED (Use SF 518-B for multiple exams) Skull x-ray (4 views)	REQUESTED BY Dr. Stone	TELEPHONE NO. 088
SPECIFIC REASON(S) FOR REQUEST (Complaints and History) looking for foreign bodies		FILM NO.	DATE REQUESTED 7-15-92	PREGNANT <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
DATE OF EXAMINATION (Month, day, year) 7-17-92	DATE OF REPORT (Month, day, year) 07/22/92	DATE OF TRANSCRIPTION (Month, day, year) dd: 07/22/92 dt: 07/22/92 las		
RADIOLOGIC REPORT In the lateral views there appear to be clusters of punctate radiopaque foreign bodies. However, in the frontal projections no radiopaque foreign bodies are identified. Recommendation would be to repeat a lateral view to further exclude a foreign body.				
SIGNATURE William C. Wells, M.D.		LOCATION OF RADIOLOGIC FACILITY WELLS		
1 - MEDICAL RECORD		RADIOLOGIC CONSULTATION REQUEST/REPORT		STANDARD FORM 518-A (REV. 8-82) PREPARED BY GSA FPMR

HERE IS THE JULY 17, 1992 (07/17/92) x-ray of John Gregory Lambros by the U.S. Bureau of Prisons Medical Center, Rochester, Minnesota, that shows the clusters of PUNCTATE RADIOPAQUE FOREIGN BODIES. BRAIN CONTROL IMPLANTS.



37. Page 8: Defendants state: “Plaintiff contends that the four counts for which the Brazilian Supreme Court allowed his extradition carry prison sentences of either mandatory life without parole or a maximum of life without parole. *Id.* ¶ 10. Plaintiff alleges that, under Article 5(XLVII)(b) of the Brazilian Constitution, a sentence of life imprisonment is prohibited; that, under Article 75 of the Brazilian Criminal Code, the maximum allowable sentence for any crime

is 30 years; and that the Brazilian Supreme Court did not condition his extradition from Brazil on either of those restrictions. *Id.* ¶¶ 22. Plaintiff alleges that the Brazilian Supreme Court’s failure to place such restrictions on his extradition violated Brazilian law and the Treaty of Extradition between the United States and Brazil, Jan. 13, 1961, 15 U.S.T. 2093, T.I.A.S. 5691, 532 U.N.T.S. 177, (“Extradition Treaty”) and otherwise discriminated against him. *Id.* ¶¶ 22, 25-26. Yes this is true but not inclusive of **all due process arguments** that the Brazilian Supreme court decisions **offered to other U.S. citizens being extradited from Brazil - BUT DENIED PLAINTIFF.** See, **STATE VS. PANG, 940 P.2d 1293, 1357 (Wash. Supreme Ct. 1997). Pang was extradited from Brazil to the United States.**

- a. DOCTRINE OF SPECIALTY: PANG, at 1321.
- b. DOCTRINE OF DUAL CRIMINALITY: PANG, at 1322-23.
- c. **DOUBLE PUNISHMENT FOR THE SAME ACT, A BIS IN IDEM – MUTATIS MUTANDIS – PRINCIPLE OF ABSORPTION**: PANG, at 1338-39. Basically, Movant Lambros **COULD NOT** of been extradited for **COUNTS 5, 6, 8, AND 9 – AS THE COUNTS ARE INCLUSIVE WITHIN THE COUNT ONE (1) CONSPIRACY COUNT – THE COUNT MOVANT LAMBROS RECEIVED THE MANDATORY LIFE WITHOUT PAROLE ON.**
- d. PRINCIPLE OF SUBSIDIARITY: PANG, at 1341. Subsidiarity is implied when the crime defined by one of the rules is an **ELEMENT** or a legal circumstance of another crime. Again, a drug **CONSPIRACY** contains the **ELEMENTS** of the underlying counts of 21 U.S.C. 841 single counts.

38. Page 9: Defendants state, Plaintiff Lambros asserts fourteen claims - which includes “violations of the Racketeering Influence and Corrupt Organizations Act (“RICO Act”)”. This is true!

DEFENDANTS STATE THIS COURT LACKS SUBJECT MATTER JURISDICTION

39. Page 10 thru 13: Defendants Brazil state this Court lacks subject matter jurisdiction over Plaintiff Lambros claims. This is not true!
40. Page 13: Defendants state Plaintiff Lambros appears to allege that Brazil waived its immunity under the Brazil & U.S. Treaty of Peace, Friendship, Commerce and Navigation, Dec. 12, 1828, U.S.-Brazil, art. XII, 8 State. 390, 392, (“Amity Treaty”). **This is true!**

The **TREATY OF AMITY, COMMERCE, AND NAVIGATION**; December 12, 1828, ARTICLE XII, offers jurisdiction to **BOTH BRAZILIANS AND U.S. CITIZENS to the courts of the United States**. The Treaty clearly incorporates this key language “**subject to THE JURISDICTION OF THE ONE OR THE OTHER,**”. Plaintiff Lambros offers the following information that was incorporated within his complaint: “**TREATY WITH BRAZIL, DECEMBER 12, 1828 - ARTICLE XII:** Brazil and the United States have a treaty that **accords Americans and Brazilians access to U.S. Courts**, equivalent to that provided American citizens. See, **TREATY OF AMITY, COMMERCE, AND NAVIGATION**; December 12, 1828, ARTICLE XII: “Both the contracting parties promise and engage formally to give their special protection to the persons and property of the citizens and subjects of each other, of all occupations, who may be in their territories, **subject to THE JURISDICTION OF THE ONE OR THE OTHER**, TRANSIENT OR DWELLING THEREIN, **LEAVING OPEN AND FREE TO THEM THE TRIBUNALS OF JUSTICE FOR THEIR JUDICIAL INTERCOURSE, ON THE SAME TERMS WHICH ARE USUAL AND CUSTOMARY WITH THE NATIVES OR CITIZENS AND SUBJECT OF THE COUNTRY IN WHICH THEY MAY BE, IN DEFENSE FOR THEIR RIGHTS, SUCH ADVOCATES, SOLICITORS, NOTARIES, AGENTS AND FACTORS, AS THEY MAY JUDGE PROPER IN ALL THEIR TRIALS AT LAW.**” See, CONSTRUTORA NORBETO OBERBRECHT S.A. vs. GE, 2007 U.S. Dist., LEXIS 79219 or 2007 WL 3025699 (S.D.N.Y., 2007)(“the Second Circuit

has held that, “when a treaty with a foreign nation accords its nationals access to our courts equivalent to that provided American citizens, identical forum non conveniens standards must be applied to such nationals by American courts.” **Blanco v. Banco Indus. de Venezuela, S.A., 997 F.2d 974, 981 (2d Cir.1993)**; See also, **Mendes Junior Intern. Co. v. Banco Do Brasil, S.A.**, 15 F.Supp.2d 332, 337 (S.D.N.Y.1998). The U.S. and Brazil have such a treaty, see Treaty with Brazil, Dec. 12, 1828, U.S.- Brazil, art. XII, 8 State. 390, 392, which guarantees Brazilian citizens equal access to American courts. Mendes, supra, 15 F.Supp.2d at 337. Accordingly, a traditional forum non-conveniens analysis will apply in assessing the level of deference to accord plaintiff’s choice of forum. Also see, Irish National Insurance Company vs. Aer Lingus Teoranta, 739 F.2d 90, 92 (2 Cir. 1984)

Plaintiff Lambros offered this information to this Court and Defendants within his Complaint on page 17 and 18, paragraph 57. Plaintiff also incorporates paragraph 78(f), page 24, within his complaint in this action, as to legal opinions supporting **Plaintiff’s right to sue in his “PREFERRED FORUM”**, as per the language within the **TREATY OF AMITY**, December 12, 1828 - ARTICLE XII.

41. Page 20 thru 23: Defendants state “**The Complaint Must Be Dismissed Because Plaintiff Has Failed to Serve the Sovereign Defendants as Required by the FSIA**”. **This is not true!** Not only have the Defendants been served they have also **RESPONDED!**
 - A. February 10, 2017: The Superior Court for the District of Columbia, Civil Division filed this action, John Gregory Lambros vs. Federative Republic of Brazil, et. al., Case No. 2017-CA-929-B.
 - B. August 18, 2017: All service process was sent to Defendants.
 - C. October 6, 2017: UPS International confirmed process was received.

D. February 10, 2017: Crowe Foreign Services **received “Proof of Service” from both defendants in this action**, from the Central Authority for Brazil and the Brazilian courts with the Brazilian Court issued documentation detailing the action taken with respect to the above requests to serve the **Federative Republic of Brazil** and the **State of Rio de Janeiro of the Federative Republic of Brazil**.

E. Plaintiff incorporates and restates the above paragraphs 21 thru 28. What is most important is the fact that several of the Brazilian Judges clearly state **“the action that is in dispute should be filed before the Brazilian Judiciary.”** See, Paragraph 24 (Brazilian Judges Rapporteur and Vaz).

F. April 8, 2019: Judge Pan order granting Plaintiff Lambros’ Motion Requesting Entry of Default against both Defendants.

G. June 27, 2019: Defendants made their **first appearance in this action** and filed a Notice of Removal in this action to this Court.

42. **DEFAULT JUDGMENT IS WARRANTED IN THIS ACTION DUE TO THE FACTS STATED WITHIN PARAGRAPH 41 ABOVE:**

A. Defendants have not filed or served an answer or taken any other action as permitted by law from February 10, 2017 thru JANUARY 14, 2019, when Crowe Foreign Services received “Proof of Service” from **both defendants** in this action. The Superior Court never received any mailings from Defendants as to proof of service.

B. Defendants have **failed to appear at status conferences** from February 10, 2017 thru June 27, 2019. **Plaintiff is entitled to DEFAULT JUDGMENT in this action. See, Super.Ct.Civ.R. 16-II.**

“Rule 16-II. Failure to Appear for Conference If counsel or a self-represented party fails to appear at a pretrial, settlement, or status conference, the court may, where appropriate: (1) **enter a default**; (2) dismiss the case, with or without

prejudice; or (3) take other action, including the imposition of penalties and sanctions. (emphasis added)

COMMENT TO 2017 AMENDMENTS Stylistic changes were made to this rule to conform with the 2007 amendments to the Federal Rules of Civil Procedure.”

C. Defendants can **NOT TURN THE CLOCK BACK IN TIME AND START OVER AGAIN BY REMOVING THIS ACTION TO FEDERAL COURT!**

D. **Setting Aside an Order of Default:** Movant Lambros believes the court may have abused its discretion in setting aside the entry of default in this action. Movant believes Defendants willfully defaulted by displaying either an intentional or reckless disregard for the judicial proceedings, the court need make no other findings in denying relief. [Shepard Claims Service, Inc. v. William Darrah & Associates, 796 F.2d 190, 194-95 \(6th Cir. 1986\)](#). See, *Compania Interamericana v. Compania Dominicana*, 88 F. 3d 948, 951-952 - Court of Appeals, 11th Circuit 1996. Movant believes this warrants the finding of 'good cause' to set aside a default.

E. “Although a court receives evidence from only the plaintiff when **a foreign sovereign defendant has defaulted**, 28 U.S.C. § 1608(e) does not require a court to demand more or different evidence than it would ordinarily receive in order to render a decision. [Commercial Bank of Kuwait v. Rafidain Bank, 15 F.3d 238, 242 \(2d Cir. 1994\)](#).” See, *Gates v. Syrian Arab Republic*, 580 F. Supp. 2d 53, 63 - Dist. Court, Dist. of Columbia 2008.

43. Page 24: Defendants state within Foot Note 11 that Plaintiff is requesting “a judgment of \$500,000 for each day ...” This is not true. Plaintiff stated within paragraph 264 in the complaint “for each month” - not day. Please refer back to paragraphs 51-53 in the complaint, as to this amount awarded to a prisoner by a federal court jury in New Mexico.

44. Page 24: Defendants state that punitive damages are not possible in this action. This may not be true. Punitive damages “serve to punish and deter the actions for which they award.” See, *Murphy v. Islamic Republic of Iran*, 740 F. Supp. 2d 51, 80 - Dist. Court, Dist. of Columbia 2010.

45. Page 31-32: Defendants state that Plaintiff’s **NEGLIGENCE** claim fails as a matter of law and Plaintiff was not harmed by any such breach. This is not true!

Defendants and the U.S. Department of State - U.S. Embassy Brasilia, Brazil - after many meetings that Plaintiff could **ONLY RECEIVE A MANDATORY LIFE SENTENCE WITHOUT PAROLE** on the conspiracy charge. Extradition papers filed to Defendants proved the same, as all relevant statutes were attached that included punishments for each count. When Plaintiff entered into the **plea bargaining process before jury trial** within the District of Minnesota, all plea negotiations revolved around the MANDATORY LIFE SENTENCE on Count One conspiracy and Brazilian Law. At this most vital time of Plaintiff's life, Defendants crushed Plaintiff in the denial of the Brazilian Constitution, which states no life sentence is possible in Brazil.

CONCLUSION & RELIEF REQUESTED:

46. Plaintiff Lambros requests this Court to hold a telephone hearing with all parties to this action and Celeste Ingalls, Director of Operations, Crowe Foreign Services, as to all process followed, procedures performed on the service of this action on Defendants in Brazil, that are required under the Foreign Sovereign Immunities Act ("FSIA"). Plaintiff believes this Hearing is **required** before any ruling can be made by this Court to rule on Defendants Motion to Dismiss, as to Plaintiff's failure to serve Defendants, as required by the FSIA. See, Paragraph 12 & 13 above.

47. For the foregoing reasons, Plaintiff's Complaint should not be dismissed with Prejudice. See, Paragraphs 14, 15 & 16.

48. I JOHN GREGORY LAMBROS states the above information is true and correct under the penalty of perjury, as per Title 28 USC 1746.

EXECUTED ON: December 7, 2020

John Gregory Lambros, Pro Se

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Gary A. Crowe
President

Celeste Ingalls
Director of Operations
celeste@foreignservices.com

Phone: (503) 222-3085
Fax: (503) 352-1091

November 5, 2018

SENT VIA US MAIL

Honorable Florence Y. Pan
Superior Court of the District of Columbia, Civil Division
500 Indiana Avenue, N.W.
Washington, DC 20001

RE: JOHN GREGORY LAMBROS Vs. FEDERATIVE REPUBLIC OF BRAZIL, et. al.
Superior Court of D.C. Case No. 2017-CA-929-B

Dear Judge Pan:

At the request of John Gregory Lambros, I have outlined below the process followed, procedures performed to date, and current status of the services requested upon the Federative Republic of Brazil and the State of Rio de Janeiro in Brazil in accordance with the Inter-American Convention:

1. All documents to be served in the above case are required to comply with the Foreign Sovereign Immunities Act, which in Brazil means service in accordance with the Inter-American Convention.
2. On August 18, 2017, all documents in the above case, with the requisite Inter-American Convention documents and Portuguese translations of all, were forwarded to the designated Brazil Ministry of Justice (Central Authority for Brazil) for service upon the Federative Republic of Brazil and the State of Rio de Janeiro in accordance with the Inter-American Convention.
3. UPS International has confirmed that the above documents were received by the Ministry of Justice in Brasilia, Brazil on October 6, 2017.
4. According to the current Brazilian court docket (obtained from the Brazilian court today, November 8, 2018), it *appears* as though all Brazilian court processes have been completed (attached is a copy of the Brazilian court docket reports for each service). We are now simply waiting for the Brazilian court to return the proof paperwork. This is returned in the form of a bound "book", containing dozens of pages of what occurred within the Brazilian court process. Unfortunately, this will be in Portuguese and we have no way of knowing exactly when it will be returned.

Please feel free to contact me directly regarding any questions you have in this matter.

Very truly yours,



Celeste Ingalls
Director of Operations
Crowe Foreign Services

EXHIBIT - A



CR nº 12540 / US (2017/0236054-6) autuado em 13/09/2017

Detalhes

PROCESSO: CARTA ROGATÓRIA

JUSROGANTE: TRIBUNAL DISTRITAL DO DISTRITO DE COLUMBIA

INTERES.: MINISTÉRIO DA JUSTIÇA DO BRASIL

PARTE: JOHN GREGORY LAMBROS

A.CENTRAL: MINISTÉRIO DA JUSTIÇA E SEGURANÇA PÚBLICA

LOCALIZAÇÃO: Saída para MINISTÉRIO DA JUSTIÇA em 24/09/2018

TIPO: Processo eletrônico.

AUTUAÇÃO: 13/09/2017

NÚMERO ÚNICO: 0236054-31.2017.3.00.0000

RELATOR(A): Min. PRESIDENTE DO STJ

RAMO DO DIREITO: DIREITO PROCESSUAL CIVIL E DO TRABALHO

ASSUNTO(S): Objetos de cartas precatórias/de ordem, Diligências.

TRIBUNAL DE ORIGEM: SUPERIOR TRIBUNAL DE JUSTIÇA

NÚMEROS

ORIGEM: 08099013360201798, 201704034, 75152017, 8099013360201798 DE

1 volume, nenhum apenso.

ÚLTIMA FASE: 24/09/2018 (15:21) REMETIDOS OS AUTOS (PARA DEVOLUÇÃO À JUSTIÇA ROGANTE) PARA MINISTÉRIO DA JUSTIÇA

Fases

24/09/2018 15:21 Remetidos os Autos (para devolução à justiça rogante) para MINISTÉRIO DA JUSTIÇA (123)

24/09/2018 10:25 Transitado em Julgado em 24/09/2018 (848)

10/09/2018 02:48 ADVOCACIA-GERAL DA UNIÃO intimado eletronicamente da(o) Despacho / Decisão em 10/09/2018 (300104)

31/08/2018 11:47 Juntada de Petição de CieMPF - CIÊNCIA PELO MPF nº 487907/2018 (Juntada Automática) (85)

31/08/2018 11:47 Protocolizada Petição 487907/2018 (CieMPF - CIÊNCIA PELO MPF) em 31/08/2018 (118)

31/08/2018 11:35 MINISTÉRIO PÚBLICO FEDERAL intimado eletronicamente da(o) Despacho / Decisão em 31/08/2018 (300104)

30/08/2018 06:16 Disponibilizada intimação eletrônica (Decisões e Vistas) ao(à) MINISTÉRIO PÚBLICO FEDERAL (300105)

30/08/2018 06:15 Disponibilizada intimação eletrônica (Decisões e Vistas) ao(à) ADVOCACIA-GERAL DA UNIÃO (300105)

30/08/2018 05:34 Publicado DESPACHO / DECISÃO em 30/08/2018 (92)

29/08/2018 19:12 Disponibilizado no DJ Eletrônico - DESPACHO / DECISÃO (1061)

29/08/2018 09:08 Não Concedido o Exequatur (Publicação prevista para 30/08/2018) (12034)

28/08/2018 17:21 Recebidos os autos no(a) COORDENADORIA DA CORTE ESPECIAL (132)

16/04/2018 11:50 Conclusos para julgamento ao(à) Ministro(a) PRESIDENTE DO STJ (Presidente) (51)

EXHIBIT A.

2

13/04/201818:37 Juntada de Petição de ParMPF - PARECER DO MPF nº
193380/2018 (Juntada Automática)(85)
13/04/201818:36 Protocolizada Petição 193380/2018 (ParMPF - PARECER
DO MPF) em 13/04/2018 (118)
06/10/201720:34 Disponibilizada cópia digital dos autos à(o) MINISTÉRIO
PÚBLICO FEDERAL (300101)
06/10/201717:07 Autos com vista ao Ministério Público Federal (30015)
06/10/201708:26 Juntada de Petição de IMPUGNAÇÃO nº
520916/2017 (85)
05/10/201719:15 Protocolizada Petição 520916/2017 (IMP -
IMPUGNAÇÃO) em 05/10/2017 (118)
22/09/201710:01 Juntada de Mandado de Intimação nº 000128/2017-
CESP (581)
19/09/201716:52 Recebidos os autos no(a) COORDENADORIA DA CORTE
ESPECIAL (132)
15/09/201714:05 Conclusos para decisão ao(à) Ministro(a) LAURITA VAZ
(Presidente) - pela SJD (51)
14/09/201717:30 Distribuído por competência exclusiva à Ministra
PRESIDENTE DO STJ (26)
14/09/201709:40 Remetidos os Autos (fisicamente) para SEÇÃO DE
EXPEDIÇÃO (123)
14/09/201706:25 Processo digitalizado e validado (30080)

EXHIBIT A.

↓

CR nº 12537 / US (2017/0236039-3) autuado em 13/09/2017

- 26/09/201815:24 Remetidos os Autos (para devolução à justiça rogante) para **MINISTÉRIO DA JUSTIÇA** (123)
- 25/09/201806:53 Transitado em Julgado em 24/09/2018 (848)
- 24/09/201814:00 Desentranhamento de Certidão de Decurso nº 1313 VI 1 (30013)
- 24/09/201807:05 Decorrido prazo de **JOHN GREGORY LAMBROS** em 24/09/2018 para recurso (1051)
- 10/09/201802:48 **ADVOCACIA-GERAL DA UNIÃO** intimado eletronicamente da(o) **Despacho / Decisão** em 10/09/2018 (300104)
- 04/09/201813:20 Mandado devolvido entregue ao destinatário **ESTADO DO RIO DE JANEIRO** (Mandado nº 000118-2018-CORDCE) (106)
- 04/09/201813:20 Arquivamento de documento Mandado de Intimação das publicações nº 000118-2018-CORDCE (Decisões e Vistas) com ciente (30019)
- 31/08/201811:47 Juntada de Petição de CieMPF - **CIÊNCIA PELO MPF** nº 487908/2018 (Juntada Automática) (85)
- 31/08/201811:47 Protocolizada Petição 487908/2018 (CieMPF - **CIÊNCIA PELO MPF**) em 31/08/2018 (118)
- 31/08/201811:35 **MINISTÉRIO PÚBLICO FEDERAL** intimado eletronicamente da(o) **Despacho / Decisão** em 31/08/2018 (300104)
- 30/08/201806:16 Disponibilizada intimação eletrônica (Decisões e Vistas) ao(à) **MINISTÉRIO PÚBLICO FEDERAL** (300105)
- 30/08/201806:15 Disponibilizada intimação eletrônica (Decisões e Vistas) ao(à) **ADVOCACIA-GERAL DA UNIÃO** (300105)
- 30/08/201805:34 Publicado **DESPACHO / DECISÃO** em 30/08/2018 (92)
- 29/08/201819:12 Disponibilizado no DJ Eletrônico - **DESPACHO / DECISÃO** (1061)
- 29/08/201808:17 Negado seguimento ao pedido de **TRIBUNAL DISTRIAL DO DISTRITO DE COLUMBIA** (negado exequatur) (Publicação prevista para 30/08/2018) (30098)
- 28/08/201817:21 Recebidos os autos no(a) **COORDENADORIA DA CORTE ESPECIAL**(132)
- 23/04/201816:20 Conclusos para julgamento ao(à) **Ministro(a) PRESIDENTE DO STJ** (Relatora) (51)
- 23/04/201815:46 Juntada de Petição de nº 204511/2018 (85)
- 20/04/201819:00 Recebidos os autos no(a) **COORDENADORIA DA CORTE ESPECIAL**(132)
- 19/04/201812:27 Protocolizada Petição 204511/2018 (**PET - PETIÇÃO**) em 19/04/2018(118)
- 16/04/201818:25 Conclusos para julgamento ao(à) **Ministro(a) PRESIDENTE DO STJ** (Relatora) (51)
- 13/04/201818:36 Juntada de Petição de ParMPF - **PARECER DO MPF** nº 193378/2018 (Juntada Automática) (85)

EXHIBIT A

4

13/04/201818:36 Protocolizada Petição 193378/2018 (ParMPF - PARECER DO MPF) em 13/04/2018 (118)
13/10/201719:12 Disponibilizada cópia digital dos autos à(o) MINISTÉRIO PÚBLICO FEDERAL (300101)
13/10/201715:01 Autos com vista ao Ministério Público Federal (30015)
10/10/201716:36 Juntada de Petição de IMPUGNAÇÃO nº 528560/2017 (85)
10/10/201710:21 Protocolizada Petição 528560/2017 (IMP - IMPUGNAÇÃO) em 10/10/2017 (118)
26/09/201717:08 Juntada de Mandado de Intimação nº 000129/2017-CESP (581)
22/09/201710:03 Juntada de Mandado de Intimação nº 000129/2017-CESP (581)
19/09/201716:52 Recebidos os autos no(a) COORDENADORIA DA CORTE ESPECIAL(132)
15/09/201714:06 Conclusos para decisão ao(à) Ministro(a) LAURITA VAZ (Presidente) - pela SJD (51)
14/09/201716:30 Distribuído por competência exclusiva à Ministra PRESIDENTE DO STJ(26)
14/09/201709:40 Remetidos os Autos (fisicamente) para SEÇÃO DE EXPEDIÇÃO (123)
14/09/201706:25 Processo digitalizado e validado (30080)

EXHIBIT A.

STJ-Electronic Petition (PET) 00204511/2018 received on 4/19/2018 12:25:53



Her Excellency, Appellate Judge and Chair of the Superior Court of Justice

X → The State of Rio de Janeiro, in the case records of Letter Rogatory 12537, comes respectfully to request that the attached document be added to it and to reiterate the request for the *exequatur* to be denied. ←

In the same lawsuit filed in the United States, the State, now the applicant, and the Federal Government were indicated as defendants.

Given the defendant duplicity, two letters rogatory were issued, one serving process on the State, and the other serving process on the Federal Government. ← X

↔ → The letter serving process on the Federal Government is number 12540; and that of the State is number 12537.

X → Both letters rogatory went for an opinion to be issued by the Attorney General's Office, and both merited an opinion as to the invalidity of the claim in view of the obvious **JURISDICTIONAL IMMUNITY.** ← X

The opinion of the Attorney General's Office on this letter rogatory, number 12537, in which the State is petitioned, stated that it declared the petition should be rejected, within the terms of the statement set out in letter rogatory number 12540.

It turns out that the opinion on Letter 12540, which in fact provides the reasoning [behind this rejection], was not attached to this letter rogatory, that is, to Letter Rogatory 12537,

Thus, in order to clarify the meaning and scope of the manifestation of the Public Prosecutor in this case, the State requests that the opinion referred to on pages e-STJ 1295, that is, the opinion set out in Letter Rogatory 12,540, be attached, and reiterates its request for this claim to be declared invalid, as in fact the Federal Prosecution Office did.

~~Brasília, April 18, 2018~~

~~Marcelo Mello Martins
State Prosecutor~~

Electronic document e-Pet No. 2971102 with a digital signature
Signed by MARCELO ROCHA DE MELLO MARTINS: 31760066168 No. Certified series:
66711628169767614916420117984630027312
Id time stamp: 3640229 Date and time: 19/04/2018 12:25:53hs.

Electronic petition attached to the case on 4/23/2018 at 15:46:25 by user: GABRIEL TORRES BRAGA

EXHIBIT B.

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6.