



**SÃO PAULO SUPREME COURT**

TERRITORY OF CAMPINAS

FORUM OF CAMPINAS

2° CRIMINAL STICK

Av. Francisco Xavier de Arruda Camargo N° 300, block A, 2°, 2nd floor, room 215 – Garden Santana

Zip Code: 13088-653 - Campinas – SP

Tel: (19) 3756-3707 - E-mail: [Campinas2cr@tjsp.jus.br](mailto:Campinas2cr@tjsp.jus.br)

SENTENCE

Judicial

Process n°: **0076102-95.2012.8.26.0114**

Class – Subject: **Criminal action - Ordinary Procedure - National System Crimes  
of Arms –**

Author: **Public Justice**

Defendant: **Jeferson Fiuza de Moraes**

Judge of Law: **Abelardo de Azevedo Silveira**

VISAS

REPORT

**AUTHOR; PUBLIC MINISTRY OF THE STATE OF SAO PAULO**

**DEFENDANT: JEFERSON FIUZA DE MORAES, RG n° 43.631.078/SP. SEBASTIÃO JESUS  
GAROZZO, RG n° 6.122.880-1/SP.**

**ACCUSATIONS**

**DATE:** November, 19, 2012.

**HOUR:** Around 5pm.

**PLACE:** Street, Santa Cruz, n° 443, Cambuí, Campinas/SP.

**CONDUCT:** accused of carrying, the accused: Jeferson Fiuza de Moraes,  
and keep under your guard 172 ammunition Intact and Around 500 fuzes for firearm caliber 380.



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**DATE:** November, 19, 2012

**HOUR:** Not specified in report

**PLACE:** Not specified in report

**CONDUCT:** use: the accused Jeferson Fiuza de Moraes, of serious accusations consistent in chases automotive in order to further the interest of the financial institution Safra Bank, against the victim Airton de Campos, party in court proceedings moved against said bank.

**DATE:** Period understood between the day January 21, 2012 and November 19, 2012

**HOUR:** Not specified in report

**PLACE:** Not specified in report

**CONDUCT: TO COMPETE, THE ACCUSED:** the accused Jeferson Fiuza de Moraes, of serious accusations consistent in chases automotive in order to further the interest of the financial institution Safra Bank, against the victim Airton de Campos, party in court proceedings moved against said bank.

**DATE:** Period understood between the day January 21, 2012 and November 19, 2012

**HOUR:** Not specified in report

**PLACE:** Not specified in report

**CONDUCT:** To compete, the accused: Sebastião Jesus Garozzo, with the use of serious threat consistent in chases automotive, favor self-interest per security superintendente from Safra bank and interest of that institution, when hiring the company Unit, responsible for choosing a person who had a weapon skill fire and investigation, in the case the corréu Jeferson Fiúza de Moraes, in order to spy and frighten the victim Airton de Campos and other partners of the company 'Calçados Gobbo' and other companies of Family 'Gobbo'.

**LEGAL IMPACT:** Art. 14, *caput*, of law N° 10.826/03 e art. 344, in the form of the article 69, both of the Penal Code (defendant Jeferson Fiuza de Moraes) and art. 344 c.c art. 29, both of the Code Criminal (defendant Sebastião Jesus Garozzo).

**DEFENSE OF DEFENDANT:** Preliminary the ineffectiveness of the complaint, on merit, because it does not fit the legal definition of conduct and insufficient evidence.

### MAIN OCCURRENCES:

- 1) Receipt of complaint: fls. 296;
- 2) Quote: fls. 602 and 605
- 3) Responses to the prosecution: 325/562, 566/571 e 583/586;
- 4) decision keeping receipt of the complaint fls. 611/611 v°;
- 5) Conditional Suspension Proposal Hearing of prosecution of the accused Elias Ricardo Alves: fls. 654/656;
- 6) statement of witnesses involved and interrogations fls.672/676, 714/717, 791/793, 810/811, 836, 845/850, 865, 870 e 879/881;
- 7) empowerment of the victim as a prosecution assistant: fls: 710 and 927;
- 8) Declaration of extinction of punishment of defendant Elias Ricardo Alves in reason of the integral compliance with the conditions imposed; fls. 918;
- 9) Memorials: fls. 928/942, 945/1001, 1005/1025 e 1027/1031.



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### MOTIVATION

Complaint meets legal requirements and allows defendants to exercise fully your defenses, being inappropriate the allegation that the conduct of the defendant Sebastião it was not sufficiently described, because the bond of its performance finds legal support in the article 29 of the Penal Code and will be examined during the sentence.

On the merits, the criminal action is well founded.

Materiality is manifest and stems from the blatant,

hit report, acts of exhibition / seizure / delivery, orality and contract for services signed between the Safra Bank, through the defendant Sebastião and the company Unit Consult, responsible for hiring of defendant Jeferson (fls. 02/08, 11/18, 44/45, 136/147 e 159).

were also attached to acts the ammunition expert report, of the knife, of pair of handcuffs, and the iron bar seized with the accused Jeferson (fls. 116/122), Also the copy of the civil actions brought by the victim and other partners of the company Gobbo Against the Safra Bank (fls. 127/134 e 222/289)

The authorship it's also right and safe

with effect, in your judicial interrogation, the accused Jeferson said he was hired for the company Unit Consult to come to the city of Campinas accomplish investigation to identify the alleged perpetrator of defamatory pamphleting against the Safra Bank

Said it was in your vehicle, in the vicinity of said bank, when he visualized a car hurling defamatory leaflets, which is why he started to follow him to check if the material would be thrown again, what was harmed due to the police approach. further claims that, under no circumstances, there was car chase or any other attempt to intimidate the victim Airton. "I didn't know him" (fls. 870).

There was no apprehension of any of the alleged leaflets.

in relation to the ammunition seized in its possession, claimed to be participant in shooting range competitions, had forgotten to remove them from the car before to go to the city of Campinas. In order to prove your version, entered "guide of traffic" permissive transport of arms and ammunition, issued after the date of the facts.

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In relation to the other items seized in his possession, ironically claimed, that *“...the pair of handcuffs is because it has sexual fetish”*, the 25 cm blade knife *“...was to peel orange and the iron bar to help with the wheel wrench, in case of tire change”*.

The accused Sebastião, also denied any involvement possible against the victim Airton, claiming that only hired the company Unit Consult in order to identify the perpetrator of the defamatory leaflets against the bank, what occurred since August of that year and, So, produce sufficient evidence for the legal sector to institution take the appropriate judicial measures.

claimed, in your judicial interrogation, that the security industry, which is superintendente, does not have any subordination relationship with the company's legal área, so it was unaware of the civil actions filed by the group Gobbo, whose victim Airton was associated, before the date of fact. He argued, lastly, that only surfaced the information that one of company partners Gobbo had created a defamatory blog against the Bank after the date of the facts (fls. 879/881).

Yet the version brought by them was denied by the proof produced, otherwise let's see.

Companies Gobbo and Safra Bank are reported to have contract with each other for the purpose of anticipating amounts arising from the use of credit cards by the clients of that company. The contracts were signed on the basis of trust, without indication of the respective interest rate It

Turns out that at some point it was found that the institution included rates higher than those commonly used in the financial market, and far beyond what had been agreed by the parties. It is even reported that a former bank manager confirmed the change of said rates.

Therefore, group companies Gobbo filed several lawsuits against the Safra Bank, seeking reparation for damage caused by illegal practice. Given the severity of the case, and to demonstrate the degree of importance of such processes in the image of financial institution Safra, It is from the case that Federal Deputy Carlos Sampaio requested Public Hearing to determine the bank's conduct against its clients.



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Coincidentally, after some of the civil actions are filed by the group Gobbo, the victim Airton, partner of one of the group companies, was chased by Jeferson (fls. 127/134 e 222/289).

Heard in court, the victim informed that, on the date of the facts, during the period of

In the morning, he spotted the green Honda Civic vehicle in front of his shop, thought it was a customer trying to park on site.

However, a short time later, the victim visualized the same vehicle in your pursuit, which is why he sought help from a police station. Because the victim blocked the exit of vehicles in the police district the cops don't managed to approach the Honda Civic vehicle passing by place. (fls. 810/811).

That same day, in the afternoon, the victim again spotted the individual who chased him, now in a white Meriva and accompanied by someone else, posteriorly identified as Cassiano Ferreira dos Santos, and, immediately requested the help of police officers who, this time they managed to approach the stalker.

The testimony given by the victim was confirmed in its entirety, by military police Aleksander e Edson, and it was necessary to hear it twice, since, mysteriously, he remembered absolutely nothing the first time you were heard (fls. 791/793).

According to military police officer Aleksander, jefferson stated that "...was at the service of Safra Bank, of investigation and such that the businessman owed..". Besides that, Jeferson also indicated the location of the Honda Civic vehicle which, coincidentally, was standing next to a Safra Bank branch (fls. 810/811).

Stands out, that the statement by police officer Aleksander that the defendant had mentioned a "debt" between the victim and the bank, even if it was not presented on police ground, was held in court even after several times questioned, even by the defense.

The statements of the victim and the military police, besides consonants each other, are also corroborated by the elements of conviction gathered during the instruction procedural, such as a copy of the contract between the financial institution and the company responsible for carrying out the "investigation" the blatant situation of accused Jeferson who, clearly tried to intimidate the victim Airton chasing her all day, and the various objects seized in his possession, further reinforce the intimidating character of the persecution.

In fact, it seems that if it were not for police intervention, The persecution could end in some fact of more serious consequences. The testimony of witness Cassiano, who was in the company of the accused Jeferson when arrested in the act, is at least curious considering that it is diametrically opposed to the statement signed and joined by the prosecuting assistant (fls. 78). In that statement, which served as the basis for the filing of criminal complaint by bank against Gobbo partners, Cassiano informs that visualized When "... a white Fiorino passed throwing defamatory leaflets (sic) against Safra Bank at Av. José de Souza Campos, nº 900"

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However, when asked in court, at no time did he report that he had sighted the alleged pamphlet, reinforcing, several times even, that did not know the real reason for going to Campinas with the accused Jeferson, When asked if the accused Jeferson had accompanied a vehicle, stated categorically that “...no, I didn't realize at any time”. This latest version is in line with his statement in police ground. (fls. 07, 672/676 e 714/717).

If it were a mere investigation for the purpose of identifying the author of defamatory activity against the bank and subsequent adoption of appropriate judicial measures by the law, the Sebastião defendant tries to believe, there would be no reason why the witness Cassiano stated categorically and comically that he came to Campinas without know the real reason, justifying that it only complied with a request from Jeferson. Observe, including that he couldn't clarify why they came in separate cars either.

Already the witnesses listed by the Sebastião corridor brought nothing to the elucidation of the facts, just stating that the accused is a suitable person, there being no macula to his long acting at the banking institution; who became aware of the occurrence of defamatory leaflets and that there is no relationship between the security and security sectors bank's legal. About the day of the facts, nothing relevant said (fls. 845/850).

The whole evidential set allows us to infer that the claim is not plausible the claim that it was a mere leaflet investigation.

The accused Sebastião himself stated that, as of the date of the facts, there had been There were 28 (twenty-eight) cases of leafleting, 11 (eleven) of them only in the city of Campinas, without it was possible to identify the person responsible. Moreover, it was not brought to the file any investigation report of the other alleged cases, but only a few registered bulletins, which prove nothing.

Given such information, in particular the difficulty in identifying the perpetrators of defamatory acts, It is hard to believe that the Jeferson, in its only trip to the city of Campinas, and early in the morning, succeeded in spotting the person who would be throwing the flyers. If it were not enough, as well emphasized by the representative of the Prosecutor, the accused did not even carry a camera or any other item that could demonstrate the alleged investigation. On the contrary, it carried several ammunition, iron, handcuffs and knife, a real arsenal in the attempt to intimidate the victim Airton.

Note, even, that the alleged pamphlet was not even mentioned by Jeferson when interrogated at the police station, having been mentioned by the accused only informally at the time of approach.

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In this well-defined context is the criminal liability of both accused of the crimes imputed to him.

It is true that the crime of coercion took shape when Sebastião, Safra bank superintendente, hired the company Unit Consult so that through your employee Jeferson, intimidated Airton because of the pending of several civil actions filed by this and other partners of group Gobbo against that bank.

Evidently, the hiring of company Unit prior to date of facts, under the title providing security services, doesn't rule out the spurious goal that motivated the hiring that, by the way, it is quite questionable if we consider the sizes of both the companies. No report of any services was brought to the file either. Previously provided by the company mentioned herein.

And both the victim felt threatened by the persecution that in both times she visualized the accused Jeferson ostensibly after her, the first time with the Honda Civic and the second with Meriva, she immediately sought police assistance.

The criminal conduct of the Sebastião was properly configured in that, adopted the monistic theory by the homeland Penal Code, and being the only crime and indivisible, answers to him all who tried his practice.

Present, then, the requirements of plurality of agentes, relation of causality between conduct and outcome, subjective linkage and identity of criminal offense, It's fully justifiable the imputation of the crime of coercion in the course of proceedings, to the defendant Sebastião, because Jeferson wouldn't be right, or sufficient means to locate and frighten the Airton de Campos victim.

It's not too much to highlight, again that no evidence was brought of that there was leafleting by the victim on the day of the facts, which would easily be demonstrated with the presentation of a photograph or film or even with the apprehension of the flyers. Once again, the idea that this was an investigation falls apart, knowing that the "production of evidence" mentioned by Sebastião would be impossible without the apparatuses necessary for such verification.

In relation to the crime of illegal possession of ammunition, whose authorship is uncontroversial, the document presented by Jeferson is later than the facts, there's nothing to see (sic) of authorization to benefit the defendant. Still, if so otherwise, permission granted by the guide is limited to use in *"training and / or Participation in competitions in HEADQUARTERS, BRAZIL, assured the return to origin "* which was not the case in the case.

**I now proceed to the dosage of the sentence of the accused (CP, arts. 59 e 68):**

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### JEFERSON

#### ARTICLE 14

**A) Base Feather:** 02 years in seclusion and 10 fine days, unit equal to 1/30 minimum wage prevailing at the time of the facts.

**A1) Guilt (reprehensibility of conduct) and consequences:** nothing particularly burdensome that is no longer contained in the legal provision itself criminal.

**A2) Social conduct, motives, personality and circumstances:** nothing of conclusive was ascertained.

**A3) Behavior of the victim:** no influence on feather dosage

**A4) Criminal Record:** nothing to consider

**B) Mitigating and aggravating circumstances:** nothing to consider

**C) Causes of increased and decreased penalty:** nothing to consider, reason whereby the basic penalty applied.

#### **ARTICLE 344**

**A) Base Feather:** 01 year of imprisonment and 10 fine days, unit equal to 1/30 minimum wage prevailing at the time of the facts

**A1) Guilt (reprehensibility of conduct) and consequences:** nothing particularly burdensome that is no longer contained in the legal provision itself criminal.

**A2) Social conduct, motives, personality and circumstances:** nothing of conclusive was ascertained.

**A3) Behavior of the victim:** no influence on feather dosage.

**A4) Criminal Record:** Nothing to consider

**B) Mitigating and aggravating circumstances:** nothing to consider

**C) Causes of increased and decreased penalty:** nothing to consider, reason whereby the basic penalty applied.

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Due to the material tender, the penalties applied must be added, resulting in the final reprimand of 03 years of imprisonment and 20 fine days, unit equal to 1/30 of the minimum wage prevailing at the time of the facts.

The accused sports a lawsuit in progress (fls. 1039), what reveals dangerousness and contempt for criminal justice, making it impossible to grant any benefit. can, however, appeal freely, as you have responded freely to the case. The regime open will be enough to prevent and repress the offense (CP, art. 33, §§ 2º e 3º).

### SEBASTIÃO

### ARTICLE 344

**A) Base Feather:** 01 years in seclusion and 10 fine days, unit equal to 1/30 minimum wage prevailing at the time of the facts.

**A1) Guilt (reprehensibility of conduct) and consequences:** nothing particularly burdensome that is no longer contained in the legal provision itself criminal.

**A2) Social conduct, motives, personality and circumstances:** nothing of conclusive was ascertained.

**A3) Behavior of the victim:** no influence on feather dosage

**A4) Criminal Record:** nothing to consider

**B) Mitigating and aggravating circumstances:** nothing to consider

**C) Causes of increased and decreased penalty:** nothing to consider, reason whereby the basic penalty applied

**D) Appeal in freedom, sursis and substitution:** the offense was committed with the job of serious threat, which makes it impossible to replace the penalty. However, the accused is entitled to sursis as it meets the legal requirements (CP, art. 77, incisos I, II e III). Consequently, you can freely appeal.

**E) Penalty compliance:** for the chances of sursis getting no effect (article 161 of Law 7.210/84) or be repealed (Article 81 of the Penal Code), fixed the open regime. for commencement of the custodial sentence imposed (CP, art. 33, §§ 2º e 3º).

That said, I consider it appropriate to punitive claim expressed in the complaint that initiated this process nº 2.060/12 e



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**A) CONDEMN JUDERSON FIUZA DE MORAES, RG No. 43.631.078 / SP**, serving 03 years in prison, in open regime, and paying 20 fine days, equal to 1/30 of the minimum wage in force at the time of the facts, for violation of the norm of article 14, caput, of Law No. 10,826 / 03 and article 344 of the Penal Code, pursuant to article 69 of the later legal diploma.

**B) CONDEMN JUDGMENT OF JESUS GAROZZO, RG No.**

**6,122,880-1 / SP**, to serve 01 year of imprisonment, in open regime, and to pay 10 fine days, unit equal to 1/30 of the minimum wage in force at the time of the facts, for violation of the rule of article 344 c.c. The Article 29, both of the Penal Code.

The execution of the sentence deprived of liberty imposed will be suspended for 02 years, submitting the defendant, pursuant to article 78, §2º, penal Code, the conditions of: a) not frequent bars or places of dubious reputation; not leave the region where you live without court authorization, c) attend monthly, personally and obligatorily in court to inform and justify your activities.

Whereas ammunition seized (fls. 16) have gone to expertise and no longer matter to the process, officiate authorizing your referral to the Army, in accordance with terms of the article 509, §3º, das N.S.E.C.G.J.

I hereby AUTHORIZE the donation / destruction of the objects seized in the act (fls. 15), as well as the release of the amount collected as bail (fls. 26 e 54), the costs and the fine imposed pursuant to article 336 do CPP.

finalized the decision and sent to hearing  
Costs by defendants of 100 UFESPs, each one

P.R.I.C.

City of Campinas September 30, 2019

**Abelardo de Azevedo Silveira**  
Judge of Law

**DOCUMENT SIGNED DIGITALLY PURSUANT TO LAW 11.419 / 2006, IN ACCORDANCE WITH  
RIGHT MARGIN PRINTING**

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