

Federal Justice

Regional Federal Court of the 1st Region

PROCESS: 1011155-68.2017.4.01.3800 REFERENCE PROCESS:

1011155-68.2017.4.01.3800

CLASS: CIVIL APPEAL (198)

ACTIVE PARTY: WILLY FONSECA TEMPEL

REPRESENTATIVE(S) OF THE ACTIVE PARTY: JOAO RODOLPHO DE ARAUJO

MATTOS - SC33026-A

PASSIVE PARTY: INSTITUTO NACIONAL DO SEGURO SOCIAL

RULING JUDGE: CESAR JATAHY

COURT: Tribunal Regional Federal da 1ª Região

CHAMBER: 05 - FEDERAL JUDGE CÉSAR JATAHY

ELECTRONIC JUDICIAL PROCESS

CASE: 1011155-68.2017.4.01.3800 REFERENCE CASE: 1011155-68.2017.4.01.3800

CLASS: CIVIL APPEAL (198)

REPORT:

THE HONORABLE JUDGE FEDERAL CÉSAR JATAHY (REPORTER):

Deals with declaratory embargoes filed by the author against the ruling that denied the appeal filed by her, maintaining the decision of non-compliance with the request for readjustment of her benefit based on the new ceilings fixed by the Constitutional Amendments 20/98 and 41/2003.

The embargante argues that the ruling should be reformed because the limitation to the lowest ceiling was not observed, questioning the matter.

No counter-arguments were presented.

This is the report.

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KÁRIN SOUZA JALES

VOTE - WINNER

COURT: Tribunal Regional Federal da 1ª Região

CHAMBER: 05 - FEDERAL JUDGE CÉSAR JATAHY

ELECTRONIC JUDICIAL PROCESS

CASE: 1011155-68.2017.4.01.3800 REFERENCE CASE: 1011155-68.2017.4.01.3800

CLASS: CIVIL APPEAL (198)

VOTE

THE HONORABLE JUDGE FEDERAL CÉSAR JATAHY (REPORTER):

I receive the embargoes because they are timely.

In declaratory embargoes, the demonstration of material error, omission of the embarged ruling in the assessment of the matter impugned, of contradiction between the grounds and the dispositive part of the judgment, or of the need for clarification to resolve obscurity is required. However, the mere allegation of questioning, by itself, does not make it possible for the declaratory embargoes to be granted (since the occurrence of the legal hypotheses provided for in art. 1.022 of the CPC/2015 is essential for the appeal).

The present embargoes do not deserve to be granted.

In effect, the motivation expressed in the embarged ruling, with its conclusion, rejects, with its clarity, the claim presented by the appellant in her reasons for appeal, as well as she did not demonstrate any vice in the judgment.

It is not possible, in the way of declaratory embargoes, to rediscuss matter already decided with the aim of the defended thesis by the embargante prevailing.

In the case, dissatisfied with the judgment, the embargante filed the present appeal with infringing effects. Any insurgency of the parties should be manifested through a proper appeal.

Given the above, I reject the declaratory embargoes filed by the appellant.

This is the vote.

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OTHER VOTES

COURT: Tribunal Regional Federal da 1ª Região

CHAMBER: 05 - FEDERAL JUDGE CÉSAR JATAHY

ELECTRONIC JUDICIAL PROCESS

CASE: 1011155-68.2017.4.01.3800 REFERENCE CASE: 1011155-68.2017.4.01.3800

CLASS: CIVIL APPEAL (198)

APPELLANT: WILLY FONSECA TEMPEL

Appellant's Attorney: JOAO RODOLPHO DE ARAUJO MATTOS - SC33026-A

APPELLEE: INSTITUTO NACIONAL DO SEGURO SOCIAL

EMBARGANTE: WILLY FONSECA TEMPEL

E M E N T A

CIVIL PROCEDURAL LAW. REVIEW OF THE VALUE OF BENEFIT. CEILING.

CONSTITUTIONAL AMENDMENTS 20/98 AND 41/03. DECLARATORY EMBARGOES.

QUESTIONING. OMISSION. NON-EXISTENT FLAW. WELL-FOUNDED JUDGMENT.

INFRINGING EFFECT. IMPOSSIBILITY. DECLARATORY EMBARGOES REJECTED.

1. In declaratory embargoes, the demonstration of material error, omission of the embargued ruling in the assessment of the impugned matter, of contradiction between the grounds and the dispositive part of the judgment, or of the need for clarification to resolve obscurity is required. However, the mere allegation of questioning, by itself, does not make it possible for the declaratory embargoes to be granted (since the occurrence of the legal hypotheses provided for in art. 1.022 of the CPC/2015 is essential for the appeal).
2. Pursuit of the reform of the judgment, through declaratory embargoes, due to mere dissatisfaction. Infringing effects. The embargoes do not constitute an adequate means for the claim presented.
3. There is no room in the chosen way of declaratory embargoes for the rediscussion of matter already decided. Any insurgency of the parties should be manifested through a proper appeal.
4. Declaratory embargoes filed by the appellant rejected.

THE JUDGMENT

The Court decides to reject the declaratory embargoes, unanimously, in accordance with the vote of the reporter.

2nd Chamber of the TRF/1st Region - Brasília(DF), 9 de março de 2022.

Federal Judge CÉSAR JATAHY

Relator

KE/N

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JATAHY FONSECA - 22/03/2022 17:50:33

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