

1. Pursuant to Article 112, I, of the Penal Code, the initial term for the prescription of the enforceable claim is the date of final judgment for the prosecution, and not for both parties, with the prevailing interpretation being the most beneficial to the convicted person. Precedents.
2. In this case, final judgment for the prosecution occurred on 7/12/2016 (pg. 13). Therefore, as already stated, having elapsed a time period exceeding 3 years between the final judgment for the prosecution and the present day, the prescription of the enforceable claim is configured, in accordance with Article 109, VI, in conjunction with Articles 110, § 1, and 112, I, all of the Penal Code.

The internal appeal is denied.

(STJ, AgRg in HC 555043/SC, 6th Panel, Min. Nefi Cordeiro, decided on 05/05/2020, published on 05/15/2020)

With the same orientation: STJ, AgRg in HC 545998/SP, 5th Panel, Justice Leopoldo de Arruda Raposo, decided on 03/10/2020, published on 03/16/2020; STJ, AgRg in AREsp 1393147/RJ, 6th Panel, Min. Rogério Schietti Cruz, decided on 03/10/2020, published on 03/17/2020; STJ, EDcl in AgRg in EDcl in AREsp 1578442/RJ, 5th Panel, Min. Joel Ilan Paciornik, decided on 03/03/2020, published on 03/10/2020; STJ, AgRg in HC 449208/RJ, 5th Panel, Min. Ribeiro Dantas, decided on 02/04/2020, published on 02/12/2020.

Therefore, it is an eminently legal controversy and the arguments put forth are plausible. Considering also the purpose of the special appeal to unify the understanding of a certain provision of law, it is necessary to admit the appeal. In light of the above, I admit the special appeal.

Notify.

II - EXTRAORDINARY APPEAL.

This is an extraordinary appeal filed by Edvanaldo Guimarães Pereira (id 174917904, pg. 52/71) based on Article 102, III, a, of the Federal Constitution, against the decision of this Regional Federal Court, the summary of which was transcribed.

The appellant alleges, in summary: (i) that the decision contradicted Article 5, section II, of the Federal Constitution, as the non-literal interpretation given to Article 112, section I, of the Penal Code amounts to a true creation of criminal legislation; and (ii) that the decision also violated the principle of non-retroactivity of criminal law, described in Article 5, section XL, of the Federal Constitution, as the appellant was convicted for a crime against tax order in 2005, many years before the jurisprudential understanding that prohibited the early execution of the sentence and the creation of this new initial milestone of the prescription of the enforceable claim. (e-STJ Fl.458) Received electronically from the source

Counter-arguments from the Federal Public Ministry for the inadmissibility of the appeal and, if admitted, for its dismissal.

I decide.

Generic procedural requirements are met.

Regarding the alleged general repercussion, it is not within the competence of this Court to analyze it.

The appeal is admissible.

The intended discussion was raised by the Supreme Federal Court to the topic of general repercussion in the ARE 848.107/DF (Theme 788) on 12/12/2014, without, however, determining a national suspension.

In these terms, the allegation appears plausible.

In light of the above, I admit the extraordinary appeal.

Notify.

3. (e-STJ Fl.459) Received electronically from the source [REDACTED]