

Genocide charges depend on jurisdiction

Experts: Feds limited in case against Nshimiye

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A Lake Township man made headlines across the U.S. last week when he was accused of hiding his secret past that involved slaughtering people with a wooden club spiked with nails and raping women in the Rwanda genocide nearly 30 years ago.

Yet Eric T. Nshimiye's only federal charges in Boston are perjury, obstruction of justice/aiding and abetting and falsifying, concealing, and covering up facts.

The legal reasoning behind the lack of other charges, including murder, is likely based on court jurisdiction.

Eric Nshimiye's charges explained

Milena Sterio, a professor of international law at Cleveland State University, said federal prosecutors could not charge Nshimiye with genocide.

That's because under U.S. law, the U.S. criminal justice system doesn't have jurisdiction in cases where non-U.S. citizens are killed by other non-U.S. citizens outside the United States.

"There has to be some link to the United States" for someone to be charged with a federal crime, she said.

Michael Scharf, dean of Case Western Reserve University's School of Law and an international criminal law expert, said the U.S. does not have a statute allowing federal courts to prosecute those suspected of crimes against humanity or genocide abroad but can extradite or deport them to other countries.

"When an individual lies about their background when applying for asylum or citizenship in the United States, U.S. law provides for their status to be revoked and their deportation," Scharf wrote in an email.

Sterio said Nshimiye could be extradited to Rwanda to face charges there, but the United States has a policy of not extraditing defendants to countries with questions about their human rights record.

Scharf, however, said there is precedent for deporting Rwandan genocide perpetrators to face trial in their home country. A New Hampshire

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woman was deported in 2021 after serving 10 years in prison for lying during the naturalization process about her role in the genocide, and she later faced charges in Rwanda.

“Courts in Rwanda and around the globe continue to prosecute cases of individuals who participated in the genocidal killing of 800,000 Tutsis in Rwanda in 1994,” Scharf wrote. “There is no statute of limitations for genocide and crimes against humanity and international justice is patient and persistent.”

Sterio was less certain Nshimiye would face charges related to the genocide itself.

The United States, unlike some other countries, does not subscribe to the concept of universal jurisdiction. That’s when “some crimes are just so heinous that any country can prosecute as an agent for the international community,” she said.

And a “universal jurisdiction” country, like Germany, is unlikely to go to the effort of trying war crimes in Rwanda from 30 years ago unless there’s a link to Germany, Sterio said.

The International Criminal Tribunal for Rwanda, established by the United Nations to try those responsible for the genocide, shut down at the end of 2015. The International Residual Mechanism for Criminal Tribunes took over many of the tribunal’s functions. But Sterio said the entity is unlikely to expend the resources to prosecute a new defendant for 30-year-old crimes against humanity in Rwanda.

Eric Nshimiye’s arrest and court dates

Nshimiye’s next court appearance was set for today. He faces a maximum sentence of 20 years in the U.S. prison system.

His family members have denied his involvement and called the allegations baseless.

His neighbors expressed shock at his arrest last week, saying the longtime Goodyear engineer was known for being friendly and helpful to others.

The federal affidavit says Nshimiye’s actions took place in 1994 amid extrem-

ists of the Hutu people seeking to kill every ethnic Tutsi person they could, often raping women before killing them.

In the end, an estimated 800,000 people were killed. The affidavit cites four unnamed witnesses who say Nshimiye was behind the atrocities in Butare, Rwanda.

Nshimiye, 52, is accused of provided false and misleading answers to questions on U.S. immigration forms and questions asked in a screening interview by a U.S. immigration official in Kenya in 1995 and a U.S. immigration official in 2002 when seeking citizenship.

The questions asked if he committed any crimes or moral turpitude, taken part in persecuting anyone based on race, national identity or religion or committed genocide. Prosecutors say he falsely answered no to these questions when applying to be a refugee to enter the United States in 1995 while he was in Kenya, applying to become a permanent resident in 1997, and applying to become a U.S. citizen in 2001.

They also said Nshimiye committed perjury in the 2019 trial of an associate, Jean Leonard Teganya, who was tried for his part in the genocide and faced federal charges of visa fraud and perjury. The affidavit says Nshimiye falsely testified under oath that he and the Teganya had nothing to do with the genocide in Rwanda. Teganya was ultimately sentenced to 97 months in prison and will face “removal proceedings” after serving his sentence, according to a press release from the U.S. Attorney’s Office.

If Nshimiye is convicted, after he serves his sentence, the federal government is likely to ask a federal judge to strip Nshimiye of his U.S. citizenship. Sterio said in such cases, federal prosecutors often argue that the defendant obtained U.S. citizenship under false pretenses and a judge should approve that person being denaturalized.

If that happens, the U.S. could deport Nshimiye to the country of his birth: Rwanda. In the case of deportation, Sterio doesn’t see a warm reception there for Nshimiye.

“You’re looking at a unhappy ending for him for sure,” she said.

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