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HAITIAN DEATH SQUAD LEADER ORDERED TO PAY \$19 MILLION TO TORTURE SURVIVORS

JUDGE AWARDS DAMAGES TO THREE WOMEN FOR TORTURE AND CRIMES AGAINST HUMANITY

(NEW YORK, October 25, 2006). Emmanuel “Toto” Constant, the former leader of Haiti’s notorious death squad known as FRAPH, has been ordered to pay \$15 million in punitive and \$4 million in compensatory damages to three women who survived rape, other torture, and attempted killing committed by paramilitary forces under his command. U.S. District Court Judge Sidney H. Stein, of the Southern District of New York, awarded the survivors a total of \$19 million in damages after hearing testimony from the women and expert witnesses. The damages award was entered late yesterday.

The Court previously found Constant liable for torture, including rape, attempted extrajudicial killing, and crimes against humanity carried out as part of FRAPH’s reign of terror during the period of military rule in Haiti from 1991 to 1994. The judgment, entered August 16, 2006, marks the first judgment where someone has been held accountable for the state-sponsored campaign of rape in Haiti. In yesterday’s order, Judge Stein stated, “Though no price tag can be placed on the atrocities visited upon these plaintiffs and other innocent civilians by FRAPH, plaintiffs are indeed entitled to monetary compensation and the Court will therefore grant it. . . .”

Constant fled to the United States in December 1994. Despite the outcry from the Haitian community and human rights organizations, he lived and worked freely in New York until he was arrested in July 2006 in connection with a mortgage fraud scheme in Suffolk County, NY. He remains in jail awaiting a criminal trial on charges of grand larceny, forgery and falsifying business records.

The U.S. government moved to deport Constant in 1995. However, after he disclosed on 60 Minutes that he had been on the CIA payroll during the period when FRAPH was formed, he was released from detention and has been allowed to remain in the U.S.

The lawsuit was filed in December 2004 by the Center for Justice & Accountability (CJA) and the Center for Constitutional Rights (CCR) on behalf of the three women, all survivors of torture at the hands of FRAPH. Sonnenschein Nath & Rosenthal LLP acted as *pro bono* co-counsel in this matter.

Due to an on-going fear of reprisals, the plaintiffs had to submit their testimony anonymously. Two of the women testified in open court behind a screen.

During the hearing, Trinity University professor Robert Maguire testified that FRAPH worked closely with the Haitian Armed Forces and did the military’s “dirty work” in committing widespread human rights abuses and that FRAPH was “the muscle.” Ivor Samson of Sonnenschein Nath & Rosenthal LLP argued in his closing that in addition to compensatory damages, the court should also award punitive damages to punish Constant for his wanton, oppressive and malicious actions. A punitive damages award would send a message from the international community that Constant’s conduct will not be tolerated, and that U.S. courts, through laws such as the Alien Tort Statue and the Torture Victim Protection Act, can play an important role in discouraging and deterring future abuses.

Judge Stein agreed, finding that “Constant’s conduct was clearly malicious. As commander of FRAPH, Constant founded and oversaw an organization that was dedicated principally towards terrorizing and torturing political opponents of the military regime. His direction – or at a minimum, approval – of FRAPH’s state-backed campaign of violence constitutes an inexcusable violation of international law and merits a stiff punishment.”

Upon hearing the ruling, one of the plaintiffs stated, “Although this case is about justice, not money, I am very pleased that the court has held Toto Constant responsible for what happened to us. This is a victory for all the Haitian people.”

CJA’s lead attorney on the case, Moira Feeney, commented, “Yesterday’s ruling is a momentous step for accountability in Haiti. I hope that this case against Toto Constant will lead to other prosecutions and will assist the Haitian government in bringing other human rights abusers to justice.”

"Judge Stein's ruling on the monetary damages to be awarded to our clients is a terrific victory for the rule of law, " says Ivor Samson, Partner and Head of Sonnenschein Nath & Rosenthal LLP's San Francisco Litigation Practice. "While there is no price that can truly be put on our clients suffering, it is wonderful that they have had their day in court."

Added Jennie Green, Senior Attorney at CCR, "In holding that rape is a form of torture, this decision is an important addition to the body of law prohibiting sexual violence. The courageous women who brought this case have sent a message that torturers cannot live freely in the United States and will be held accountable. We also wish to thank all of the members of the Haitian community, especially in New York, who fought so hard over the years , often endangering their own security, to hold Constant accountable.”

The Center for Justice and Accountability is a San Francisco based human rights organization dedicated to ending torture and other severe human rights abuses through litigation, education and outreach.

For additional information about the case, please see CJA’s website: www.cja.org.

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