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\$19 Million Judgment Upheld Against Former Haitian Death Squad Leader

Toto Constant Liable for Rape, Other Torture, Attempted Killing

(NEW YORK, December 1, 2009). Today, the Second Circuit Court of Appeals upheld a \$19 million judgment against Emmanuel “Toto” Constant, the former leader of Haiti’s notorious death squad known as FRAPH, concluding “there is no basis on which to challenge the judgment of the district court,” which awarded \$15 million in punitive and \$4 million in compensatory damages to three women who survived rape, other torture and attempted killing committed by Haitian paramilitary forces under Constant’s command. The appeal was based on the judgment of U.S. District Court Judge Sidney H. Stein of the Southern District of New York finding 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 Second Circuit ruled that plaintiffs had presented sufficient allegations that Constant had “worked in concert with the Haitian military to terrorize and repress the civilian population,” relying on the legal standard the Circuit set forth in its prior ruling in *Kadic v. Karadzic* (against Bosnian Serb leader Radovan Karadzic, now on trial in the Hague). The Court also rejected Constant’s attempt to argue that he could not defend himself because of his incarceration in New York prison for mortgage fraud, holding that he was not even in prison at the time he was served with the lawsuit.

The Center for Justice and Accountability’s lead attorney on the case, Natasha Fain, commented, “Today’s ruling is a momentous step for accountability for the state-sponsored campaign of rape that destroyed so many families in Haiti.”

Added Jennie Green, former Senior Attorney at Center for Constitutional Rights (CCR) who litigated both the cases against Constant and Karadzic, “We are pleased that the Second Circuit followed the important ruling in the case against Radovan Karadzic that human rights violators acting with a brutal regime must be held accountable.”

Constant first came to the U.S. in 1994 to avoid a Haitian arrest warrant for murder and torture. Despite the outcry from the Haitian community and human rights organizations, he lived and worked freely in New York. 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 was allowed to remain in the U.S. He moved to Queens where he changed professions from death squad leader to mortgage broker. Constant began engaging in fraud and was eventually indicted in 2006 on criminal mortgage fraud charges by the New York Attorney General. In October of 2008, Constant was sentenced to 12 to 37 years in prison for his role in a criminal mortgage fraud scheme in New York.

The ATS 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.

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

CJA is a San Francisco-based human rights organization dedicated to deterring torture and other severe human rights abuses around the world and advancing the rights of survivors to seek truth, justice and redress. CJA uses litigation to hold perpetrators individually accountable for human rights abuses, develop human rights law, and advance the rule of law in countries transitioning from periods of abuse.

The Center for Constitutional Rights is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change. Visit www.ccrjustice.org.