



January 26, 2016

Tina M. Stanford, Esq.
Chairwoman of the Board of Parole
New York State Division of Parole
1220 Washington Ave, Building 2
Albany, New York 12226-2050

CC: Mr. William Close
Supervising Offender Rehabilitation Coordinator
Coxsackie Correctional Facility
11260 Route 9W
P.O. Box 200
Coxsackie, New York 12051-0200

RE: Opposition to the Release of Emmanuel Constant, DIN 08-A-5836

Dear Ms. Stanford:

We respectfully urge the Board of Parole not to release Emmanuel Constant. As a former Haitian paramilitary death-squad leader, Constant has an egregious record of violent human rights abuses. In 2006, he was found civilly liable for torture and crimes against humanity in a federal lawsuit. We wish to direct the Board's attention to Constant's full judicial record, which was considered at sentencing in 2008, and is highly relevant to parole. Constant's release would pose a threat to the Haitian-American community and jeopardize the volatile security situation in Haiti. For these reasons, Constant is not a criminal convict deserving leniency and should serve his full sentence.

The Center for Justice & Accountability (CJA) and the Center for Constitutional Rights (CCR) are both non-profit organizations dedicated to the eradication of torture and to respect of human rights globally. We have spent years investigating and litigating violent human rights crimes, including those committed by Constant and his henchmen in Haiti following the 1991 military coup that overthrew democratically elected President Jean-Bertrand Aristide.

Emmanuel Constant was a key player in the post-coup violence. In 1995, Constant admitted under oath in a deposition that he was a leader of the Front for the Advancement and Progress of Haiti ("FRAPH"¹)—a violent paramilitary organization.² FRAPH and the Haitian military have been implicated in the extrajudicial killing of 3,000–4,000 Haitians, as well as thousands of incidents of rape and torture, arson and arbitrary detention.³

Courts in the United States and Haiti have recognized Constant's responsibility for human rights crimes. CJA and CCR are co-counsel on behalf of three brave women who won a \$19 million

¹ The acronym "FRAPH" is a play on the Haitian Creole word "frapper": to strike a hard blow.

² Ex. 1, Deposition of Emmanuel Constant, *Alerte Balance v. FRAPH*, No. 94-2619 (E.D.N.Y. filed June 7, 1995).

³ Ex. 2, Human Rights Watch, *World Report 1995–Haiti*, <https://www.hrw.org/reports/1995/WR95/AMERICAS-07.htm>; Ex. 3, Human Rights Watch, *Terror Prevails in Haiti*, April 1994, at 34–35; Ex. 4, Decl. of Robert Maguire ¶19, May 18, 2007.

damages award against Constant for his responsibility for the torture and sexual violence they suffered at the hands of Constant's criminal organization, FRAPH.⁴ In 2006, Judge Sidney H. Stein of the U.S. District Court for the Southern District of New York found Constant civilly liable in a default judgment for human rights abuses.⁵ Constant contested that judgment all the way to the Supreme Court—and lost.⁶

The civil judgment against Constant in U.S. court followed years of judicial proceedings in Haiti seeking to hold Constant accountable for human rights crimes. In 2000, a Haitian court convicted Constant *in absentia* for the mass murder of civilians on April 22, 1994 in the town of Raboteau, Haiti.⁷ Constant has also been indicted in Haiti for participating in a December 1993 arson perpetrated against the Cité Soleil shantytown in Port-au-Prince that killed at least 36 people and destroyed more than 800 homes.⁸

Constant's long criminal history continued in the United States. He fled Haiti in or around 1994, after President Aristide was restored to power, and resettled in New York, where he undertook the fraudulent dealings in real estate that were the basis of his criminal conviction.⁹ While Constant lived at large in New York City, his reputation struck terror into the hearts of many of the city's Haitian-American residents.¹⁰

In light of Constant's repeated pattern of criminal conduct, we believe he poses a serious threat to the American and Haitian public. Haiti remains a fragile democracy with an extremely weak judicial system, allowing Constant's former associates to evade justice.¹¹ This very month, the country is undergoing an electoral crisis and, with it, a new wave of political violence.¹² Lawyers and human rights monitors in Haiti fear that if Constant were released from incarceration in New York, he would pose a serious flight risk, and might return to Haiti to exploit the tense situation to his political advantage.¹³

As a free man, Constant would represent a serious threat to public safety. Therefore, he should serve his full sentence and pay his debt to the people of New York, as it may be the only sanction he will ever face.

To assist the Board, we have enclosed the following, much of which was considered by the trial court at sentencing in August 2008:

A Summary of Emmanuel Constant's Human Rights Abuses in Haiti with the following supporting exhibits:

- (1) Excerpt from Constant's June 7, 1995 deposition in *Balance v. FRAPH*, No. 94-2619 (E.D. N.Y. filed June 1, 1994) admitting that he was a leader of FRAPH.

⁴ Ex. 5, Findings of Fact and Conclusions of Law, *Doe v. Constant*, No. 1:04-cv-10108-SHS (S.D.N.Y. Oct. 24, 2006).

⁵ *Id.*

⁶ Summary Order, No. 08-4827-cv, 354 Fed.Appx. 543 (2d Cir. Dec. 1, 2009) (affirming judgment); *cert denied* No. 09-11327 (U.S.S.C. Oct. 4, 2010).

⁷ Ex. 6, Decl. of Mario Joseph ¶4, May 2007; Ex. 7, Raboteau Judgment.

⁸ Ex. 5, Decl. of Mario Joseph ¶5, May 2007; Ex. 3, Human Rights Watch, *Terror Prevails in Haiti*, April 1994, at 34–35.

⁹ Ex. 8, David Grann, *Giving "The Devil" His Due*, *The Atlantic*, June 2001.

¹⁰ *Id.*

¹¹ Ex. 9, Decl. of Brian E. Concannon, Jr., Esq. ¶¶16–26; Ex. 10, U.S. Dept. of State, *Country Reports on Human Rights, 2014–Haiti*, pp. 12–14.

¹² Ex. 10, Joseph Guylor Delva, *Protestors vow to derail Haiti presidential vote; election offices burned*, Reuters, Jan. 18, 2016.

¹³ Ex. 11, Decl. of Scott A. Gilmore, Esq. ¶13, January 22, 2016.

- (2) Haiti chapter from the 1995 Human Rights Watch (HRW) World Report, stating that “The United Nations/Organization of American States International Civilian Mission investigated over two hundred reports of extrajudicial executions [by FRAPH and the army] from February to July, adding to the estimated death toll of 3,000-4,000 people since the September 1991 coup d’etat.”
- (3) A 1994 Report from HRW/Americans& National Coalition for Haitian Refugees entitled Terror Prevails in Haiti Human Rights Violations and Failed Diplomacy documenting Constant’s sabotage of the arrival of American and Canadian military trainers, thereby undermining the Governors Island Accord. “In a radio broadcast, FRAPH leader Emmanuel Constant urged all ‘patriotic Haitians’ to go down to the waterfront to protest the [U.S.] military mission’s arrival.” (p. 27.)
- (4) A declaration of Professor Robert E. Maguire, submitted to Judge Abraham Gerges of the New York Supreme Court in May 2007, describing atrocities committed by FRAPH under Constant’s command responsibility.
- (5) Judge Stein’s Findings of Fact and Conclusions of Law, holding Constant civilly liable for torture, crimes against humanity, and other abuses in *Doe v. Constant*, No. 1:04-cv-10108-SHS (S.D.N.Y. Oct. 24, 2006).
- (6) A declaration of Haitian lawyer Mario Joseph, submitted to Judge Abraham Gerges of the New York Supreme Court in May 2007, describing efforts to prosecute Constant in Haiti and the dysfunction of the Haitian justice system.
- (7) A November 2000 Haitian judgment convicting Constant *in absentia* for murder and ordering him to pay one billion Haitian Gourdes in damages to the families of the victims for his role in the Roboteau massacre. The Roboteau judgment is in French and English.
- (8) A June 2001 article in *The Atlantic*, interviewing Constant and Haitian-Americans: David Grann, Giving “The Devil” His Due, *The Atlantic*, June 2001.
- (9) A declaration of Brian E. Concannon, Jr., Esq., Executive Director of the Institute for Justice and Democracy in Haiti, submitted to Judge Abraham Gerges of the New York Supreme Court in May 2007, describing efforts to prosecute Constant in Haiti and the weakness of the Haitian legal system.
- (10) The U.S. State Department’s 2014 Country Report on Human Rights for Haiti.
- (11) A January 18, 2016 article in Reuters describing the political instability in Haiti: Joseph Guyler Delva, Protestors vow to derail Haiti presidential vote; election offices burned, Reuters, Jan. 18, 2016.
- (12) A letter dated March 29, 1995 from Secretary of State Warren Christopher to Attorney General Janet Reno stating “Mr. Constant is one of the co-founders and current President of FRAPH” who “was instrumental in sustaining the repression that prevailed in Haiti under the illegal military-led regime”
- (13) A declaration of Scott A. Gilmore, Esq., staff attorney for the Center for Justice and Accountability describing the current human rights situation in Haiti and consultations with Haitian lawyers and human rights monitors.
- (14) The August 29, 2006 hearing transcript of Jane Doe I and Jane Doe II’s testimony in *Doe v. Constant*, No. 1:04-cv-10108-SHS (S.D.N.Y. filed Dec. 12, 2004) testifying to

FRAPH members use of rape to punish the wife of a political activist for her husband's activism and describing and testifying to FRAPH members used rape to silence a female political activist.

- (15) Excerpts from the Organization of American States (OAS) Country Conditions Communication concerning violence and abuse visited upon Haitian women since the coup d'etat in 1991.
- (16) Supporting affidavit to the OAS Communication from a survivor of kidnapping and gang rape perpetrated by FRAPH members when she was fourteen years old.
- (17) Supporting affidavit to the OAS Communication from a coordinator of the women's section of the Center for Research and Action for Development (CRAD) describing the systematic campaign of rape against women following the coup d'etat in 1991 as an instrument of terror which increased dramatically after FRAPH was founded.
- (18) Excerpts from the OAS Final Report on the Situation of Human Rights in Haiti regarding violence against women and sexual abuse.

For these reasons, we strongly encourage the Board of Parole to deny Constant release on parole. We also reiterate that it is critical for the judicial system of New York to ensure that Constant serves his sentence in its entirety before he faces deportation back to Haiti.

Thank you in advance for your consideration. Should you have any questions, please contact Scott Gilmore at (202) 758-2362.

Respectfully submitted,



Scott A. Gilmore
Center for Justice & Accountability



Baher Azmy
Center for Constitutional Rights