

HAITIAN REFUGEE CENTER

JULY 2, 1980

The following are quotes from the "Final Order Granting Relief" in the Haitian Refugee Center v. Civiletti case.

page:

1: This case involves thousands of black Haitian nationals, the brutality of their government, and the prejudice of ours.

2: ...the court has seen a stark picture of how these plaintiff-immigrants will be treated if they return to Haiti. And it has seen an equally stark, and even more troubling, picture of the treatment of Haitians by the Immigration and Naturalization Service.

2: One central issue ... overshadows this entire case: unlawful discrimination. The plaintiffs charge that they faced a transparently discriminatory program designed to deport Haitian nationals and no one else. The uncontroverted evidence proves their claim.

The Haitians allege that the actions of INS constitute impermissible discrimination on the basis of national origin. They have proven their claim.

3: Prior to the most recent Cuban exodus, all of the Cubans who sought political asylum in individual 8 C.F.R. Sec. 108 hearings were granted asylum routinely. None of the over 4,000 Haitians processed during the INS "program" at issue in this lawsuit were granted asylum. No greater disparity can be imagined.

3-4: What (the Haitians) found was an Immigration service which sought to send them back to Haiti without any hearing by an immigration judge on their asylum claims, ... and a systematic program designed to deport them irrespective of the merits of their asylum claims.

4: In reaching its conclusions the court has listened to a wealth of in-court testimony, examined numerous depositions, and read hundreds of documents submitted by the parties. Much of the evidence is both shocking and brutal, populated by the ghosts of individual Haitians--including those who have been returned from the United States--who have been beaten, tortured and left to die in Haitian prisons. Much of the evidence is not brutal but simply callous--evidence that INS officials decided to ship all Haitians back to Haiti simply because their continued presence in the United States had become a problem. The manner in which INS treated the more than 4,000 Haitian plaintiffs violated the Constitution, the immigration statutes, international agreements, INS regulations and INS operating instructions. It must stop.

79: In short, the State Department Study Team members did not achieve the goal they set out for. They failed to obtain accurate, objective information on the treatment of returnees, and failed to comprehend the implications of that which they did learn. Ultimately, their conclusions can be given little weight., and do not provide a substantial contradiction to the pattern of mistreatment shown by the evidence.

122: The case is now well documented that the Haitians in this class deserved something more than they received from INS. Clearly their claims were more political than recognized, and the uniform rejection of their claims demonstrated a profound ignorance, if not an intentional disregard, of the conditions in Haiti. It is beyond dispute that some Haitians will be subjected to the brutal treatment and bloody prisons ...upon their deportation. Until INS can definitely state which Haitians will be so treated and which will not, the brutality and bloodletting is its responsibility.

44: ..."whatever conditions those Haitians experience on return (to Haiti) are ultimately conditions to which they are exposed by INS.

Substantial evidence was presented at trial concerning treatment of returnees in Haiti. A largely uncontradicted pattern emerged. Upon return to Haiti, persons whom the Haitian government views as political opponents will be mistreated. Persons who have fled Haiti and sought asylum elsewhere are seen as opponents of the Duvalier regime.

52: The evidence is clear that returnees are regarded as traitors , and that asylum claims are regarded as an insult to the Duvalier government. In a country where talking bad about the Government is a crime, those who have fled the country are considered guilty of making the rest of the world talk bad about the President. In this context the statements made by the Haitian government lead logically to a conclusion opposite from that reached by the (State Department) Study Team--returnees who have claimed asylum encounter a substantial risk of abuse.

Nearly every person who testified regarding Haitian jails recalled observing returnees who had been incarcerated.....

138-139: The Haitians alone have been consistently denied asylum. ...The differing treatment continues to this day...Raymond Morris, presently the District Director of INS Miami office, agreed that results are disparate. He did not know of a single Cuban whose asylum claim had been denied, nor more than a few Haitians whose claim had been granted.

As the discussion above illustrated, there was a program at work within INS to expel Haitians. Their asylum claims were prejudged, their rights to a hearing given second priority to the need for accelerated processing. The discussion below will detail the violations of due process which occurred during the Haitian Program. Virtually every one of the violations occurred exclusively to Haitians. The violations were discriminatory acts, part of a Program to expel Haitians. ...The District Director did not grant a single request for asylum between September 1978 and May, 1979. During that time, thousands of Haitians were processed. Those denials were not case-by-case adjudication, but an intentional, class-wide, summary denial.

...Over the past 17 years, Haitian claims for asylum and refuge have been systematically denied, while all others have been granted. The recent Haitian Program is but the largest-scale, most dramatic example of that pattern.

The Haitian Program: Systematic Due Process Violations

.... the violations were cumulative. The abuses listed below were systematic and pervasive; for the most part they were the direct and logical result of the orders from the INS Central Office discussed in the preceding section. As such, each abuse is colored with the intent to expel Haitians. Taken as a whole, the Haitian Program, and all of the abuses listed below, carried out that intent.

145: Immigration Judges were a functioning part of the Program. Having received orders from the Chief Immigration Judge, they tripled the number of hearings, forced Haitians to plead to alienage, and joined with the District Director in setting unreasonable time limits for filing asylum applications. As a result, Haitians were deprived of rights normally available to aliens in deportation proceedings, and the opportunity to adequately prepare their asylum applications. The judges contributed to an accelerated program the purpose and effect of which was to deny Haitians asylum.

162: Those Haitians who came to the United States seeking freedom and justice did not find it. Instead, they were confronted with an Immigration and Naturalization Service determined to deport them. The decision was made among high INS officials to expel Haitians, despite whatever claims to asylum individual Haitians might have. A Program resulted in wholesale violations of due process, and only Haitians were effected.

This Program, in its planning and executing, is offensive to every notion of constitutional due process and equal protection. The Haitians whose claims for asylum were rejected during the Program shall not be deported until they are given a fair chance to present their claims for political asylum.

ENDQUOTES.

Judge James L. King's ruling unequivocally places responsibility for the mass bloodletting so vividly described in the opinion which faces Haitians deported back to Haiti upon the backs of the Immigration and Naturalization Service and the United States government, which in a Program violative of any notion of due process, equal justice, or respect for human life, determined to expel all Haitian Refugees from the United States. Haitians DO have a "well-founded fear of persecution" upon deportation. INS DID systematically violate their most fundamental rights. We and all Americans who value American ideals of justice and fair play must be guided by the wisdom and justice of this result.