

UNITED STATES DEPARTMENT OF JUSTICE  
IMMIGRATION AND NATURALIZATION SERVICE  
WASHINGTON, D.C. 20536

PLEASE ADDRESS REPLY TO

OFFICE OF THE COMMISSIONER

AND REFER TO THIS FILE NO.

OO 703.1014

SEP 7 1979

Honorable Shirley Chisholm  
House of Representatives  
2182 Rayburn Building  
Washington, D.C. 20515

Dear Ms. Chisholm:

Your letter to the President dated July 24, 1979, concerning the Haitian situation in Miami, Florida, has been referred to me for reply.

You stated that Paul Vincent, an Immigration and Naturalization Service attorney, on July 23, 1979, had insisted that 243(h) evidentiary hearings on Haitian asylum claims as well as actual deportations continue despite a pending lawsuit. A statement of the factual background might be helpful in understanding the situation, in regard to Haitian deportation hearings, as it existed on July 23. Parenthetically your characterization of all Haitians in the Miami area as "refugees" is misleading. Those Haitians are aliens who have entered or attempted to enter the United States in an illegal status. Whether any of them is entitled to be classified as a "refugee" is a question which must be determined by their applications for asylum or 243(h) relief.

On November 15, 1978, the National Council of Churches filed a complaint under the Freedom of Information Act in the Federal District Court in Miami asking that the Immigration and Naturalization Service furnish it with the names and addresses of those Haitians who had previously been returned to Haiti. On January 9, 1979, a preliminary hearing was held on the complaint and the Court enjoined the Service from conducting any 243(h) hearings for a 90 day period. On April 6, 1979, the plaintiff and the Service entered into a stipulation of settlement. Under it the names and addresses of certain Haitians were furnished and the Service agreed not to conduct any 243(h) hearings until April 16, 1979.

About the time of this stipulation the State Department advised the Service that it was sending a team from the State Department to Haiti in an effort to determine what treatment had been given to the Haitians who had been returned to Haiti. The Service believing that such a trip would be helpful in understanding the



overall Haitian picture voluntarily refrained from conducting any further 243(h) hearings until such time as it received the State Department's report. The State Department report was completed on June 19, 1979, and it in substance, concluded that there was no evidence of any persecution or mistreatment of those Haitians who had been returned to Haiti from the United States.

The Immigration Court in Miami scheduled the renewal of 243(h) evidentiary hearings to begin on July 23, 1979. The calendar clerk scheduled two hearings for each of the four judges in the morning and two each in the afternoon.

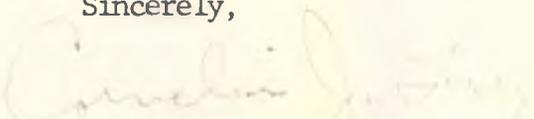
In May 1979, the Haitian Refugee Center had filed a complaint in the Federal District Court in Miami against the Attorney General seeking to have the Haitian asylum cases, which had previously been acted upon by the District Director in Miami, declare invalid. The complaint also sought a temporary restraining order enjoining the Service from proceeding with the hearing of any deportation cases until the Court had decided the case on its merits. On July 23 the Court held a status hearing on the application for a temporary restraining order.

The Court refused to enjoin the deportation hearings which included the evidentiary hearings of the 243(h) applications but did issue a temporary injunction restraining the Service from physically deporting any Haitians until the merits of this case could be determined upon the judge's return from his vacation in the early part of September 1979. Therefore, the Immigration Court in Miami has continued to hold deportation hearings including the 243(h) applications.

In regard to your allegation that one attorney is faced with seven hearings in one day I have been informed by the Miami office that your information, while factually correct, is incomplete. The attorney involved had stipulated with the judge that these seven cases could be calendered on one day and then requested the judge to increase this number to nine so that he would not have to make nine separate appearances.

I hope that the foregoing information will be helpful to you.

Sincerely,

  
Cornelius J. Leary  
Executive Assistant