

**MAXINE WATERS**

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**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0535**

June 10, 2009

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The Honorable Hillary Rodham Clinton  
Secretary of State  
Department of State  
2201 C Street, NW, Room 7226  
Washington, DC 20520

Re: Haitian Political Prisoner Ronald Dauphin

Dear Secretary Clinton:

I am writing to express my urgent and great concern about Ronald Dauphin, a seriously ill political prisoner in Haiti who is being denied medical treatment. Mr. Dauphin, a grassroots activist for the *Lavalas* party, has spent five years in prison without trial.

I have been informed that a human rights delegation from my home state of California saw Mr. Dauphin during a visit to the National Penitentiary on April 16<sup>th</sup>. The delegation included a nurse and an emergency medical technician, who examined Mr. Dauphin briefly and concluded that he suffered from multiple serious and perhaps life-threatening health problems. Mr. Dauphin even lost consciousness during the examination.

Mr. Dauphin's family and his attorney have tried to obtain adequate medical treatment for Mr. Dauphin, but the prison authorities have failed to provide authorization. His lawyer wrote to the prison authority's headquarters on April 23<sup>rd</sup>, and visited on April 24<sup>th</sup>, 27<sup>th</sup> and 30<sup>th</sup>, asking for authorization for a private Haitian doctor to visit and treat Mr. Dauphin, but has never received the authorization.

Mr. Dauphin was arrested by paramilitary forces, without a warrant, on March 1, 2004, the day after President Aristide was forced out of Haiti. He was charged in 2005 with participating in a massacre, but on April 13, 2007, the Appeals Court ordered the Trial Court to correct the "grave procedural errors," "violations of the right to defense," and "deplorable thoughtlessness" of the charging document. For the last two years, the case has been stuck in legal limbo and has not advanced. It does not even have a Trial Court judge assigned to it. Mr. Dauphin's legal situation is explained in more detail in the attached Background Paper.

Five years' imprisonment without trial is a great injustice in itself, but the injustice may become a death sentence soon if Mr. Dauphin is not transferred to a hospital. This risk is real; one of Mr. Dauphin's co-defendants, Wantales Lormejuste, died of untreated tuberculosis, in the ambulance from the prison to the hospital in 2007. A few weeks later, the Haitian court issued an order for Mr. Lormejuste's provisional release.

I respectfully request that you instruct the U.S. Embassy in Haiti to immediately contact the Haitian Government to express the United States' concern over the violations of Ronald Dauphin's civil and healthcare rights, and recommend that Mr. Dauphin be immediately transported to a hospital for full treatment of his illness. I also request that the U.S. Embassy urge the Haitian Government to take all appropriate measures to ensure that Mr. Dauphin is granted pre-trial release from prison, and that his case is either dismissed or promptly brought to trial.

As you know, I am committed to strengthening democracy in Haiti and follow events there closely, so I would appreciate it if your office would keep me informed about the measures you have taken in this regard.

Sincerely,

A handwritten signature in black ink, reading "Maxine Waters". The signature is fluid and cursive, with the first name "Maxine" written in a larger, more prominent script than the last name "Waters".

Maxine Waters  
Member of Congress

Enclosure

cc: United States Embassy in Haiti



## MEMORANDUM

To: Ronald Dauphin Case File

From: Mario Joseph, Av., Bureau des Avocats Internationaux  
Brian Concannon Jr., Esq. Institute for Justice & Democracy in Haiti

Date: June 6, 2009

Re: Legal Analysis of Ronald Dauphin Case

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### I. Background

Ronald Dauphin is a Haitian grassroots activist, customs worker and political prisoner. He is a member of the *Fanmi Lavalas* party, and was active in politics in the city of St. Marc. He has been imprisoned since March 2004, without trial, and his case has not progressed at all in the justice system since April 2007. Mr. Dauphin is represented by Attorney Mario Joseph of the Bureau des Avocats Internationaux (BAI), a public-interest law office in Haiti that handles political prisoner cases.

Mr. Dauphin is the last detainee held in the "La Scierie massacre" case. *Lavalas* opponents claimed that *Lavalas* officials and supporters killed over 50 people in the city of St. Marc, Haiti in February, 2004. Other La Scierie defendants include former Haitian Prime Minister Yvon Neptune and former Minister of the Interior Jocelerme Privert. No one has ever been convicted, or even tried in connection with the La Scierie incident. Louis Joinet, then the United Nations Commission on Human Rights' Independent Expert on Haiti, concluded after his investigation that there was no "massacre" at La Scierie as charged in court, but instead a clash between two armed groups with casualties on both sides.

### II. Arrest

Mr. Dauphin was arrested by armed paramilitary troops on March 1, 2004 at the Delmas 33 police station, soon after the forced departure of Haiti's constitutional government on February 29. Mr. Dauphin was handed over to the police, and imprisoned at the Delmas 33 facility. There was no warrant for his arrest or initial detention, which makes both illegal.

### III. Legal Proceedings

Mr. Dauphin's case, and all the La Scierie cases, were given to *Juge d'Instruction* Cluny Pierre-Jules of the St. Marc Trial Court on March 24, 2004. Under the Haitian system, the *Juge d'Instruction* carries out the principle pre-trial investigation. This investigation is required to be completed within three months. Judge Pierre-Jules, however, did not complete hers until September 14, 2005, almost 18 months later. On that day, Judge Pierre-Jules issued her *ordonnance* (analogous to an indictment in the U.S. system), ordering Mr. Dauphin and others to



stand trial on charges of murder, arson and "massacre." Massacre is not recognized by Haiti's penal code as a crime.

Judge Pierre-Jules' *ordonnance* was immediately criticized, by the Chief of Human Rights for MINUSTAH, the United Nations Peacekeeping mission in Haiti, and by Haitian human rights groups. The accused appealed, and although their case should have been heard within one month, it was not heard until May 2006, almost eight months later. The Appeals Court then took over eleven months more to file its decision, which was issued on April 13, 2007.

The Appeals Court decision sharply criticized Judge Pierre-Jules' work on the La Scierie case. It cited "grave procedural errors," "violations of the right to defense," and "unjustified haste and deplorable thoughtlessness." The Appeals Court dismissed the charges against some defendants, but remanded the cases of Ronald Dauphin and others back to the St. Marc Trial Court "to repair the above-mentioned omissions and abuses of power."

In the two years since the Appeals Court's decision was delivered, the Haitian courts have not taken a single step to advance the case. The Chief Judge of the St. Marc court has not even assigned the case to a *Juge d'Instruction*, because the case file has not been returned to him from the Appeals Court.

Mr. Dauphin's attorneys have filed three requests for pre-trial release, on April 24, 2007, September 14, 2007 and January 22, 2008. None of these requests have been granted. The courts have never even issued a response to the first two of these requests. The third, filed on January 22, 2008, was not decided until May 29, 2008. After considering the case for five months, the judge hearing the release request refused to even consider it because the case file had not been returned to the Appeals Court.

#### **IV. International Criticism of Case**

In August 2006, Amnesty International called on Haiti's government to promptly bring to trial or release all political prisoners, condemning the prolonged detention of *Lavalas* activists as politically-motivated. In October 2006, the National Lawyers Guild urged the Haitian government to release the remaining political prisoners, with particular emphasis on the defendants held in the La Scierie case. On December 14, 2008, the International Association of Democratic Lawyers (IADL) unanimously passed a Resolution calling for an end to Mr. Dauphin's persecution. Later that month, the National Lawyers Guild and the American Association of Jurists wrote to Haiti's Minister of Justice, urging an end to Mr. Dauphin's mistreatment.

In May 2008, the Inter-American Court of Human Rights (IACHR) ruled that the State of Haiti had violated the human rights of former Prime Minister Yvon Neptune, another *La Scierie* defendant, by holding him without trial for over two years with no proof he committed a crime. Mr. Dauphin has been held over twice as long as Mr. Neptune -- over five years now.

## V. Prison Conditions

Mr. Dauphin is currently held in Haiti's National Penitentiary. Haiti's prisons are among the worst detention facilities in the Americas. The Inter-American Court on Human Rights called the prison conditions "inhuman," while a U.S. Court of Appeals likened them to conditions on slave ships. On March 29, 2009, Michel Forst, the UN Human Rights Council's Independent Expert on Haiti denounced the prison conditions as "cruel, inhuman or degrading treatment." Infectious and malnutrition-related diseases thrive because prisoners do not have adequate access to potable water, food, healthcare, shelter, or exercise. Cells are so overcrowded that many prisoners must take turns to sleep on the floor (the Red Cross recommends providing prisoners, in the *absolute worst situations*, a minimum of 2 square meters. The average in Haiti's National Penitentiary is .41 meters, less than a quarter of the minimum).

One of Mr. Dauphin's La Scierie co-defendants, Wantales Lormejuste, died of tuberculosis in prison in April 2007, while awaiting the Appeal Court's decision (that granted his pre-trial release, posthumously).