

A non-profit
organization
dedicated to
protecting
and promoting
the basic human
rights of immigrants
of all nationalities



FLORIDA IMMIGRANT ADVOCACY CENTER, INC.

3000 Biscayne Blvd. • Suite 400 • Miami, Florida 33137 • Tel: 305-573-1106 • Fax: 305-576-6273 • www.fiacfla.org

January 26, 2009

The Honorable Janet Napolitano
Secretary, Department of Homeland Security
2001 Independence Avenue, SW
Washington, DC 20201
Fax: 202-282-8401

RE: Haitian Deportations and Temporary Protected Status

Dear Secretary Napolitano,

Congratulations on your new appointment. We understand that yours is a tough job. There are pressing issues to address as you begin to reshape DHS in the values of the new administration.

In that spirit, we bring an urgent concern to your attention: The former administration's late-term decisions to resume deportations to Haiti and to deny the Haitian government's request for a stay of those deportations through Temporary Protected Status (TPS). We ask that you stay the deportations while you consider reversing the former DHS secretary's denial of TPS on Dec. 19, 2008.

Continuing these deportations hampers Haiti's recovery from devastating storms last summer while increasing the misery in Haiti and in Haitian-American communities here. Given Haiti's current conditions, deportees will face hunger, homelessness and unemployment – and some could die because of the recent Bush administration decisions.

Immigration and Customs Enforcement (ICE) abruptly resumed deportations to Haiti in early December 2008 without public notice or explanation. Former DHS Secretary Michael Chertoff denied TPS in a letter to Haitian President René Préval on December 19, 2008. ICE had stayed deportations to Haiti on September 19, 2008, following strikes there by four tropical storms and hurricanes in August and early September 2008.

We were heartened by President Obama's quick move to suspend regulatory changes initiated in the waning days of the last

Executive Director

Cheryl Little, Esq.

Board of Directors

Officers

Carl Goldfarb, Esq.
President

John de León, Esq.
Vice President

Jane Herron
Secretary

Nancy Audain Allen
Treasurer

Directors

Tanya Dawkins

Cristina Dominguez

Kimberly Green

Denisse Lemos

Janet McAliley

Connie Hicks McMahan

Carlos Palomares

Antonio Prado

William Sancho

Yvonne Santa Maria

Annhy Shim

Holly Skolnick, Esq.

Aaron Swimmer, Esq.

Peter Upton, Esq.

Jose Valdés-Fauli

Rev. Priscilla Felisky Whitehead

Honorary Board

Cesar L. Alvarez, Esq.

Alberto R. Cardenas, Esq.

Hodding Carter III

Jonathan Demme

John Devaney

Edouard Duval Carrie

Senator Bob Graham

Pedro Jose Greer, Jr. MD

Mitchell Kaplan

Sr. Jeanne O'Laughlin

Eduardo Padron, PhD

Bishop Thomas Wenski

administration. While resuming deportations to Haiti was not a regulatory action, it was a DHS policy reversal that we believe is not in keeping with the Obama administration's values of fairness, transparency or human rights. The agency abruptly resumed deportations in December.

The storms killed 800 and have left tens of thousands of people homeless, living in shelters, on roofs and in mud-filled homes. Flooding wiped out livestock and most of the food crops, deepening already desperate hunger among more than 2 million Haitians. The four storms destroyed 15 percent of Haiti's fragile economy, the equivalent of eight to 10 Hurricane Katrinas hitting the United States in one month.

As The Miami Herald reported recently, "The gloomy prognosis is widespread [in Haiti] and comes amid a global financial meltdown that has largely detracted world attention from the storms' devastation, the worst humanitarian disaster to hit Haiti in 100 years."¹ Haiti's government is overwhelmed. Sending deportees who will need food and shelter only adds to Haiti's misery and the government's burden. Haitian President René Prével said as much last October in Miami, and TPS exists exactly for such natural calamities.

"Haiti will no longer be able to receive the deported individuals that the United States sends us on a regular basis," President Prével said. "This is the occasion for the United States administration to put in place for Haitians the benefit of TPS, the Temporary Protected Status, that has already been granted to other countries in the region, such as El Salvador, Honduras and Nicaragua."²

The United States typically grants TPS when foreign governments cannot handle the return of their nationals due to "ongoing armed conflict, an environmental disaster, or other extraordinary and temporary conditions."³ Six countries currently are designated for TPS. For example, the U.S. government granted TPS for nationals of El Salvador, Honduras and Nicaragua due to Hurricane Mitch in 1999 and severe earthquakes in El Salvador in 2001. In extending the period of TPS for those nationals in September 2008, DHS said "those countries are still recovering from the devastating effects of natural disasters" – a decade later.⁴

Imagine now the devastation in Haiti, the hemisphere's poorest country, only four months after the last of four killer storms. It is mind-boggling that under the previous administration ICE resumed deportations "based on the circumstances in Haiti." If anything, the prospects for Haiti's recovery are worse today than four months ago when ICE properly stayed the deportations in Hurricane Ike's wake. It is mind-boggling that

¹ Jaqueline Charles, *Haiti at a crossroads as donations dry up and upheaval looms*, The Miami Herald. January 15, 2009. <http://www.miamiherald.com/news/front-page/v-fullstory/story/853954.html>.

² Jaqueline Charles and Trenton Daniel, *President Prével: Haiti needs help, not U.S. deportees*, The Miami Herald. Oct. 04, 2008.

³ Temporary Protected Status, U.S. Citizenship and Immigration Service.

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnnextoid=609d3591ec04d010VgnVCM10000048f3d6a1RCRD&vgnnextchannel=609d3591ec04d010VgnVCM10000048f3d6a1RCRD>.

⁴ Homeland Security Leadership Journal. September 26, 2008.

<http://www.dhs.gov/journal/leadership/2008/09/temporary-protected-status-extensions.html>.

former Secretary Chertoff could conclude that Haiti did not “currently warrant a TPS designation,” with no further explanation. If not now for Haiti, when?

Some U.S. officials have argued that stopping deportations for Haiti would encourage a Haitian exodus. That old saw doesn't cut. When Haitians were granted a stay of deportation during the Clinton administration, no mass migration to U.S. shores materialized. Nor were there signs of frenzied boat building or Haitians fleeing when deportations were stayed recently. TPS would only be available to Haitians already here on the date it is granted, not to new arrivals. So TPS would not encourage more Haitians to come.

On the contrary, TPS would help Haiti recover. Haitians in the United States could obtain work permits and would increase the already significant flow of remittances to their homeland. Haitians who receive that aid are more likely to stay and rebuild Haiti. Many depend on those remittances for their very survival. That flow of dollars is among the best foreign aid that the United States can provide, and it costs taxpayers nothing.

For years, Haiti has been deserving of TPS. Too often the country has been wracked by political violence and natural disasters. Yet the U.S. government has not granted TPS. We do not raise concerns about racism lightly. Nonetheless, we are hard pressed to find any logical reason for the Bush administration's policy reversal on deportations to Haiti.

Beyond policy issues, lives are on the line. Haitian families will have to decide whether to subject U.S. citizen spouses and children to Haiti's disastrous conditions or to leave them behind and be torn apart.

Louiness Petit-Frere (A- 77 004 720), 31, for example, was deported last Friday, January 23. Here 10 years, he had no criminal history. Yet he was detained at the Citizenship and Immigration Services (CIS) interview while he and his U.S.-citizen wife were in the process of legalizing his status. In fact, his wife's petition on his behalf (the I-130) had been approved. His mother and four siblings all live in the United States legally. One brother, U.S. Marine Sgt Nikenson Peirreloui, served and was injured in Iraq. Sgt Peirreloui said, “I do not think it's right to deport him after he was doing the right thing in trying to legalize.”

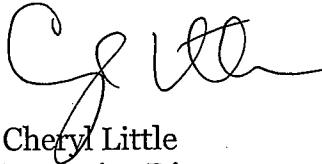
In September President Obama, then a Senator, issued a statement. “The Haitian-American community is doing its part by supporting family and friends in Haiti in their time of need,” he said. “Now the United States government and the international community must intensify relief efforts to bring food, water and shelter to the storm victims.”⁵

Haiti still needs our help. We urge you to immediately stay the inhumane deportations to Haiti and to seriously consider granting TPS for Haitians here. Not only will this speed Haiti's recovery, but it is in the best interest of the United States.

⁵ Sen. Barack Obama Statement, Need for Humanitarian Assistance to Haiti, September 8, 2008. <http://www.margueritelarent.com/campaigns/campaigntwo/tpsforhaitians.html#obama>.

Attached is additional information for your review.

Sincerely,



Cheryl Little
Executive Director
Florida Immigrant Advocacy Center

cc: Senate Majority Leader Harry Reid
Senate Judiciary Committee Chairman Patrick Leahy
Senator Edward Kennedy
Senator Bill Nelson
Senator Mel Martinez
House Speaker Nancy Pelosi
House Judiciary Committee Chairman John Conyers, Jr.
Congressional Black Caucus Chairwoman Barbara Lee
House Immigration Subcommittee Chairwoman Zoe Lofgren
Representative Sheila Jackson Lee
Representative Corrine Brown
Representative Alan Grayson
Representative Bill Posey
Representative Tom Rooney
Representative Kendrick B. Meek
Representative Ileana Ros-Lehtinen
Representative Robert Wexler
Representative Debbie Wasserman Schultz
Representative Lincoln Diaz-Balart
Representative Ron J. Klein
Representative Alcee L. Hastings
Representative Suzanne Kosmas
Representative Mario Diaz-Balart
White House Political Director Patrick Gaspard
White House Intergovernmental Affairs Director Cecilia Muñoz