

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE OF IMMIGRATION REVIEW
IMMIGRATION COURT

XX

In the Matter of:
XX YYY

IN REMOVAL PROCEEDINGS

XX

DECLARATION OF ZZZZZ

I, **ZZZZZ**, hereby declare under penalty of perjury that the following statements are true and correct to the best of my knowledge.

1. I do not recall having ever met XX YYY in person. This affidavit is based on my review of Mr. YYY's Application for Asylum and my knowledge of relevant conditions in Haiti. I am familiar with the broader context of Mr. YYY's application for asylum, including the history of political violence in Haiti, especially surrounding elections, attacks against journalists and the current security and human rights conditions in Haiti.

Radio in Haiti

2. In Haiti, radio is by far the most important media format. Only a small percentage of the population can afford television, and electricity shortages limit the usefulness of the televisions that are in service. An even smaller percentage can afford internet access. Over half the people do not read well, and newspaper circulation is minuscule. There are many radio stations in Haiti, with reception available in almost every corner of the country. Radios are inexpensive to buy and can operate without municipal electricity.
3. Radio's general importance makes it particularly important for elections. Radio programs, especially call-in shows, are Haiti's most important forum for discussing candidates and parties. As a result, radio stations become contested ground for political advocacy, especially around elections. Candidates, officials and others involved in politics work hard and spend money to obtain favorable coverage. Often, they resort to violence to discourage unfavorable coverage. There is a long history of attacks against Haitian radio stations on account of their coverage of politics.

4. In 2000, I worked on the investigation of the murder of Jean Dominique, Haiti's most popular and influential radio journalist. Mr. Dominique was killed on April 3, just before the elections held on May 21 of that year. He was shot as he drove into his radio station, *Haiti Inter* for the morning news. There have been no convictions in the killing, but the principle suspect is Dany Toussaint, a senate candidate at the time, who eventually prevailed in the May 2000 elections. Mr. Toussaint had clashed publicly with Mr. Dominique over *Haiti-Inter's* coverage of politics, especially the elections. In 1980, Mr. Dominique had been forced into exile for his editorial critical of the Duvalier dictatorship, and his radio station was destroyed. He also fled from a hostile government in 1991.
5. On October 30, 2003, Radio Caraibes, a station in Port-au-Prince, was attacked by gunmen who drove by, shooting. Witnesses reported that the car had official government plates. The government claimed that the plates were probably stolen.
6. On January 14, 2004, armed men in a truck attacked an antenna facility on a hill overlooking Port-au-Prince that hosted antennae from a variety of radio and television stations. The facility did not host journalists or station offices, but the attack did disable the broadcasting capacity of eight radio stations, putting them off the air for several days until repairs were made. On February 21, 2004, journalist Pierre Elisem, director and owner of Radio Hispagnola, in the northern city of Trou du Nord, was shot, and paralyzed, and his station was burned down. He reported threats from government supporters angry about his criticism of the government.
7. On February 9, 2005, gunmen shot and wounded radio host Raoul Saint-Louis as he sat in his car outside Radio Megastar where he worked. Mr. Saint-Louis reported that he had received telephone threats from people criticizing his coverage of the government.
8. On April 21, 2011, the community radio station *Tèt Ansanm Karis* was attacked and completely destroyed by a group of armed men identified as supporters of Jean Berthole Bastien, a Member of Parliament from the *Inite* party. The station had recently broadcast controversial results indicating that Deputy Bastien had lost his race for reelection.

Elections in Haiti

9. Haiti's elections have often spawned violence. Virtually every election cycle I have watched or studied in Haiti has led to politically-motivated killings. Although some of the violence has appeared to be organized on a national level, much of it is perpetrated by local supporters of a party or candidate in one area attacking or intimidating a local supporter of a rival candidate or party.
10. One cause of electoral violence in Haiti is the large stakes involved, especially at the local level. Haiti does not have a tradition of a civil service independent from elected politicians. Most government jobs are considered "political," in the sense that the person in the job is hired in part because of a connection with an elected official.
11. The lack of an independent civil service raises the election's stakes for supporters of a candidate or party. Haiti is a desperately poor country, where steady paying jobs are hard

to come by. Having one's candidate elected provides the chance for a job, which can make the difference between children going to school or not, or a family member receiving life-saving medical treatment or not. The prospect of government jobs, therefore, gives elections an importance beyond the setting of government policies, and provides supporters and candidates an incentive to take extreme measures to ensure that they prevail.

12. President René Préval was elected in elections in 2006 as a member of the newly-formed *Lespwa* ("Hope") party. At some point, I believe it was 2009, President Préval formed a new party, *Inite* ("Unity") as a vehicle for his involvement in the elections that were eventually held in November 2010.

2010 Elections

13. Haiti ran first round elections for President, the House of Deputies and one-third of the Senate on November 29, 2010. These elections were marked by widespread fraud, especially by supporters of *Inite*, the party of President René Préval.
14. In these elections, *Inite* representatives at polling sites engaged in ballot stuffing that was so blatant that it was caught by Canadian Broadcasting Corporation film crews. They had pre-marked ballots that they stuffed into ballot boxes by the handful, in full view of journalists, electoral officials and representatives of other parties.
15. The November 2010 elections were so obviously fraudulent that 16 of the Presidential candidates called a press conference while the voting was going on to denounce the fraud and call for a cancellation of the voting and new elections. The Electoral Council, which had been handpicked by President Préval, declared that two candidates, Mirlande Manigat from the *Rassemblement Des Démocrates Nationaux Progressists* (National Collection of Progressive Democrats, or "RNDP"), and Jude Celestin of *Inite* finished in the top two positions, and should go to a runoff. Following large demonstrations that closed much of Haiti down and international pressure, the Electoral Council changed its decisions, and placed Michel Martelly in the run-off with Ms. Manigat.
16. Mr. Martelly prevailed in the March 20, 2011 runoff, and is now Haiti's President. The *Inite/Lespwa* party is the largest Parliamentary block, with an outright majority in the Senate and a plurality in the House of Deputies.

Police Violence and Politicization

17. Haiti's police force has been highly politicized, and has a history of political violence. Historically, the police force was part of the army, and was openly brutal in repressing opposition to Haiti's rulers. In 1995, Haiti inaugurated a new, civilian police force that has had a better human rights record than the military police, but has not completely eliminated politicized police violence. Police officers have been implicated in violence on both sides of Haiti's 2004 rebellion that led to the overthrow of the elected government. Several police officers were accused of violence against anti-government organizations,

including a February 2004 massacre in the city of St. Marc. Other officers have been accused of attacking government supporters, and the rebellion was led by Guy Philippe, a former police officer.

18. Neither the police nor the judiciary effectively investigate or prosecute political killings. Although the government has made arrests in some high profile incidents, in most cases these arrests were illegal, and no evidence has been presented against the accused. In the one case where an adequate investigation was done- the August 2005 football game massacre in which police officers and civilians working with the police killed dozens of people with machetes and handguns- the police implicated in the killings were released. As a result, the justice system provides almost no deterrence to would-be political killers.
19. The police and judiciary also fail to effectively investigate or prosecute politically-motivated assaults. Although there are occasional arrests in political assault cases, the chance of an arrest and prosecution is dependent on the political sympathies of the police and judicial officials. As a result, the justice system provides little deterrence to political assault.
20. Police have also been implicated in common crime. The Police force's Director General, Mario Andresol, publicly conceded that a quarter of his officers might have been involved in criminal activities. The head of the Judicial Police, Haiti's main investigative unit, Michael Lucius, was fired and arrested in November 2006, for his involvement in kidnappings. He was released in December, 2007, against the protest of the judge who issued the original arrest order.
21. In February 2008 Human Rights Watch issued a report finding that "police lawlessness continues to contribute to overall insecurity. The HNP is largely ineffective in preventing and investigating crime. HNP members are responsible for arbitrary arrests, as well as excessive and indiscriminate use of force. They also face credible allegations of involvement in criminal activity, including drug trafficking.

Attacks Against Préval Regime Opponents

22. On August 12, 2007, Lovinsky Pierre-Antoine, a prominent critique of the Préval administration and potential Senate candidate in elections then scheduled for 2008, disappeared. The day after his disappearance, his car was found abandoned, and the day after that his family received a ransom demand. Although the family started negotiations, kidnappers cut off contact on August 17, 2007. There have been no communications from the kidnappers or signs of Mr. Pierre-Antoine since then. The circumstances of the disappearance, Mr. Pierre-Antoine's profile and the course of the "negotiations" indicate that Mr. Pierre-Antoine was taken because of his political activities, and that his disappearance was most likely related to the Senate elections.
23. Several individuals and organizations complained that the police did not vigorously investigate Mr. Pierre-Antoine's disappearance, including Amnesty International, the UN Peacekeeping Force, and Mr. Pierre-Antoine's friends and family. Although President Préval had worked with Mr. Pierre-Antoine to establish his grassroots organization in 1997, President Préval did not publicly demonstrate any leadership or interest in the investigation of Mr. Pierre-Antoine's death.
24. On October 28, 2007, Maryse Narcisse, the top official of the *Fanmi Lavalas* and a Préval Administration critic, was kidnapped on her way home from a political meeting. She was released a few days later, reportedly after a ransom was paid.
25. On March 8, 2011, three men believed to be RNDP activists putting up posters for RNDP Presidential candidate Mirlande Manigat were found dead in Port-au-Prince, their bodies apparently mutilated.
26. According to press reports, on November 21, 2010, a dozen armed men carrying posters of *Inite* candidate Jude Celestin attacked a campaign meeting of Mirlande Manigat, the RNDP candidate for President, by throwing tear gas. On December 9, 2010, gunshots were fired in front of the house of an RNDP official in Fort Liberte.
27. Although *Inite* did not prevail in the 2010-2011 Presidential elections, party members continue to exercise substantial power in Haiti. First, *Inite* is by far the most powerful party in the legislature, with a clear majority in the Senate (by some calculations. Others believe it has a plurality because of recent defections), and a clear plurality in the House of Deputies. Second, *Inite* members serve as local officials, and many *Inite* supporters appointed to government position under President Préval maintain their positions.
28. Although the *Inite/Lespwa* movement is technically independent from the executive branch run by President Martelly, in practice the distinction is not as clear. Although *Inite* members in Parliament do oppose the administration on some issues, *Inite* members provide important support on other matters. The Coordinator of *Inite*, Senator Joseph Lambert, recently received the endorsement of President Martelly for the next elections.

On February 18, 2012, *Inite* Senator Edwin Zenny announced that he would leave the *Inite* party to support a pro-Martelly organization.

29. It is likely that politics in Haiti will become even more hotly contested in the coming months and years, due to the unsettled political situation and problems created by the fraudulent elections of 2010 and 2011. Elections for 1/3 of the Senate are already overdue, with no date for voting yet announced. Both the Executive and Legislative branches of government have very low public approval. Neither the *Espwa/Inite* group nor President Martelly would likely win a fair election, a situation that has in the past led to incumbent office holders using violence or fraud to maintain their power. In addition, a special Parliamentary Committee is investigating charges that President Martelly has U.S. and/or Italian citizenship, which would make him ineligible for the Presidency. If those charges are proven, they would provoke a potentially violent constitutional crisis.
30. Based on my experience and knowledge of country conditions in Haiti, I believe that the events related in XX YYY's affidavit would lead to a reasonable fear of assault and even death if he were returned to Haiti. The attacks described in Mr. YYY's affidavit are consistent with other documented attacks and abuses committed against journalists who provide political commentary critical of government actors and powerful political parties.

Signed this day of 2012, in
