

**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
OFFICE OF THE IMMIGRATION JUDGE
NEW YORK**

In the Matter of:	:	
	:	
	:	
	:	File No. A
	:	Honorable Judge William P. Van Wyke
	:	
Respondent.	:	

DECLARATION OF THOMAS M. GRIFFIN, ESQ.

I, Thomas M. Griffin, pursuant to 28 USC §1746, declare that the following is true and correct:

QUALIFICATIONS

1. I am a full-time immigration lawyer and a principal at the law firm of Morley Surin & Griffin, P.C., in Philadelphia, Pennsylvania. I am an experienced human rights investigator and reporter, which a recent focus on Haiti. My work, which has included four trips and three investigations since the ouster of the elected government in Haiti on February 29, 2004, has been published by the National Lawyers Guild and the Center for the Study of Human Rights at the University of Miami School of Law. I have attached a copy of the University of Miami report to this declaration, and the National Lawyers Guild report is available at http://www.nlg.org/programs/international/Haiti_delegation_report1.pdf. Additionally, the University of Miami report has been copyrighted and is on file at the Library of Congress. A third report, based on my investigation as part of the Commission of Inquiry, led by former Attorney General Ramsey Clark, on behalf of the International Tribunal of Haiti, is currently in progress.

2. In addition to the investigations and reports, due to the escalating political and social crisis, I have appeared to report and testify on the human rights situation in Haiti before the Department of Homeland Security, the President's Office on Faith-Based Initiatives, the State Department, and the National Security Council, as well as in several House and Senate briefings, and before the Congressional Black Caucus. In March 2005, I was part of a team of lawyers from Harvard University, the University of Miami, and others who presented evidence against the Interim Government of Haiti and the United Nations peacekeeping mission before the Inter-American Commission for Human Rights at the Organization of American States. I also presented my findings in the Canadian Parliament in Ottawa before a group of parliamentarians, government officials, diplomats, and community members.
3. Most recently, I was selected by the International Tribunal on Haiti to be a member of the Commission of Inquiry, a group of human rights investigators that is led by former U.S. Attorney General Ramsey Clark. I was with the Commission in Haiti October 6-11, 2005.

COUNTRY CONDITIONS IN HAITI

4. On October 14, 2005, the United Nations Haiti Mission Chief for Human Rights described the human rights conditions in Haiti as "catastrophic."¹ Foreshadowing that United Nation's ("UN") declaration, in July 2005, the Inter-American Commission on Human Rights of the Organization of American States proclaimed that the human rights situation in Haiti at that time was as grave as any the commissioners had seen in 30 years of monitoring.²

¹ The UN Human Rights Chief, Thierry Fagart, said: "The situation is catastrophic. It is so catastrophic that it needs to be corrected rapidly . . . [D]efenseless people were being hacked and burned to death by mobs that sometimes acted with the connivance of the police." Press Release, Notes de Point de Presse de la MINUSTAH, United Nations, Oct. 14, 2005, *available in French at* <http://www.minustah.org/ppress/pb141005.pdf> (unofficial translation).

² IACHR press release No. 29/05, July 22, 2005. Just one month earlier, on June 29, 2005, Jean-Marie Guéhenno, the Under-Secretary-General for the United Nations Peacekeeping Operations in Haiti, declared that the humanitarian and human rights crisis for the internally displaced in Haiti was "in [a] worse situation than . . . in Darfur (Sudan)." *Id.*

5. The human rights catastrophe in Haiti in 2005 can be traced to years of economic, natural disaster, and political crises.
6. Haiti has struggled for over 200 years -- since staging the only successful slave revolution in the world, and then giving birth to the world's first Black republic in 1804 -- against diplomatic and economic embargoes, occupation, foreign invasion, exploitation of its natural resources and farmland, dictatorships, and massive foreign debt that has crippled the growth of its economic, social, educational, healthcare, and democratic institutions.
7. Tragically, the economic brutalization of Haiti continues to this very moment.³ Among other things, in 2001 and 2002, the U.S. Government, with the concurrence of the European Union and international banks, interdicted the Inter-American Development Bank's ("IDB") disbursement of humanitarian aid loans to Haiti, further crippling Haiti's ability to aid the population with planned infrastructure projects for clean water, roads, schools, healthcare, and basic nutrition.⁴ Compounding this economic blow, Haiti, nevertheless, was forced to pay a \$185,238.75 "credit commission" on never-dispersed loans.⁵ Even more insulting to the poor of Haiti is the fact that in July 2003 the Haitian government sent more than 90% of its foreign reserves to the IDB in Washington, D.C.⁶ In addition, Haiti's foreign debt has grown from \$302

³ See generally, Farmer, Paul, The Uses of Haiti, Common Courage Press, Third Edition (2005); Douglass, Frederick, "Lecture on Haiti," Delivered at the Chicago World's Fair, Jan. 2, 1893, *available at* <http://haitiforever.com/windowsonhaiti/fdouglass1.shtml> (recognizing the historical conflicts with, and brutality against Haiti).

⁴ Stockman, Farah, "Before Fall of Aristide Haiti Hit by Aid Cutoff," Boston Globe, March 7, 2004 *available at* <http://www.indybay.org/news/2004/03/1672737.php>; Farmer Paul, "Haiti: Short and Bitter Lives," Le Monde Diplomatique, July 2003, *available at* <http://mondediplo.com/2003/07/11farmer>; Farmer, Paul, The Uses of Haiti, *supra* n. 14, at pp 358-366; Press Release, "By Ignoring Island's Suffering, U.S.'s Frivolous Haiti Policy Invites Approaching Catastrophe," Council on Hemispheric Affairs, June 13, 2002, *available at* http://www.coha.org/NEW_PRESS_RELEASES/New_Press_Releases_2002/02.15_Haiti_Approaching_Catastrophe.htm.

⁵ Farmer, The Uses of Haiti, *supra* n. 3 at 383-385; see also, Norton, Michael, "Haiti Clamors for Release of Blocked Loans That Might Take Years to Disburse", Associated Press, March 11, 2002.

⁶ Farmer, The Uses of Haiti, *supra* n. 3 at 383-385.

million in 1980 to \$1.134 billion in 2005.⁷ Much of this debt constituted arrearage dating to the 1957-1986 Duvalier family dictatorships which were responsible for removing over \$500 million from the Haitian treasury.⁸

8. Deadly natural and environmental disasters have added to the economic strife in Haiti. They have resulted in deaths of thousands and displacement of hundreds of thousands.
9. The devastating exploitation by foreign merchants and corporatized agriculture, combined with the poor majority's pressing need, today, for charcoal -- due to lack of cooking fuel and electricity -- have reduced this once lush country to a mere 1% in forest coverage. The lack of trees has allowed the fertile topsoil to wash into the ocean, and to silt up canals, streams, and lakes, making it almost impossible for Haitians to find fish. The lack of forestation has greatly reduced the rainfall cycle, further contributing to the consequences of drought. But most of all, when hurricanes hit Haiti, there is nothing to hold back entire mountainsides from cascading over communities, washing away miles of dusty, unpaved roads, and drowning people and houses under mud.⁹
10. Since 2004, four such natural disasters have devastated densely populated and impoverished communities:
 - a. on May 26, 2004, in the area around the Haiti-Dominican Republic border suffered massive flooding caused by heavy rains that left as many as 2,665

⁷ Farmer, Paul, "Who Removed Aristide?," London Review of Books, April 15, 2000, *available at* http://www.lrb.co.uk/v26/n08/farm01_.html. Despite its high poverty rate and high external debt level, Haiti does not qualify for "The World Bank's Multilateral Debt Relief Initiative for Heavily Indebted Poor Countries" due in part to the failure of its governance and institutions. "Haiti and the Heavily Indebted Poor Countries Debt Relief Initiative," The World Bank Group, *available at* <http://lnweb18.worldbank.org/External/lac/lac.nsf/Countries/Haiti/4939BA8C8760F114852569960056D487>.

⁸ Farmer, Paul, "Haiti: Short and Bitter Lives," Le Monde Diplomatique, July 2003, *available at* [The Guardian, June 17, 2000, *available at* <http://www.guardian.co.uk/debt/Story/0,2763,333220,00.html>.](http://mondediplo.com/2003/07/11farmer; Bowcott, Owen,)

⁹ Farmer, Paul, The Uses of Haiti, *supra* n. 14, at p. 374; Cox, James, "Economy in Haiti on Life Support" USA TODAY, Feb. 29, 2004 *available at* http://www.usatoday.com/money/world/2004-02-26-haitiecon_x.htm; Braken, Amy, "Deforestation Exacerbates Haiti Floods," Associated Press, Sep. 23, 2004 *available at* <http://forests.org/articles/reader.asp?linkid=35159>.

dead, at least 1,484 missing and presumed dead, and an estimated 300,000 displaced or homeless. Insecurity has impeded any substantial relief efforts;¹⁰

- b. in September 2004, Tropical Storm Jeanne struck the mountains overlooking the historic northern city of Gonaives, burying almost the entire city under mud rendering it a total disaster, killing more than 2,000, injuring 3,000, and leaving tens of thousands more of its poorest city-side slum dwellers displaced;¹¹
- c. mudslides were triggered once again in October 2005, as hurricane Wilma attacked the island killing as many as ten;¹² and
- d. later in October Tropical Storm Alpha poured down onto already saturated ground causing at least 8 deaths and damaging at least 400 homes across the country.¹³

11. Each natural disaster has been made worse by the cumulative effect of each prior crisis, including the current social and political instability.

12. On November 26, 2000, Jean-Bertrand Aristide, of the Fanmi Lavalas Party, was elected President of Haiti by 91.8% of the electorate with 62% of registered voters casting ballots.¹⁴ On February 29, 2004, this democratically elected government of Haiti was ousted, and a cadre of top U.S. Embassy officials, with a contingent of U.S. Marines, brought President Aristide to an awaiting U.S. Government airplane, under threat of an ensuing “bloodbath” if he did not

¹⁰ “Death Toll Rises in Haiti,” Press Release Haiti 23904, UN Office for the Coordination of Humanitarian Affairs, available at <http://ochaonline.un.org/DocView.asp?DocID=1929>; Braken, Amy, “Number Of Dead From Haiti Floods Tops 1,070, With 1,250 Others Missing,” Associated Press, Sept. 28, 2004, available at <http://www.forests.org/articles/print.asp?linkid=352830>; see also “Temporary Protected Status Option for Haitians,” Congressional Research Memorandum, Oct. 18, 2004 available at <http://www.immigrationforum.org/documents/CRS/CRS-HaitianTPS2004.pdf>.

¹¹ “Haiti: Working Amid Intensifying Violence,” Medecins Sans Frontiers, Jan. 12, 2006, available at http://www.msf.org/msfinternational/invoke.cfm?objectid=F7D4E8E5-E018-0C72-09644E95862CE333&component=toolkit.article&method=full_html; “World Food Program Rushes Aid to Haiti Flood Victims,” available at http://www.wfp.org/newsroom/in_brief/americas/haiti/040921_haitistorm.html; “Tropical Storm Jeanne Devastates Haiti,” United Nations, Sept. 2004 available at <http://www.un.org/av/photo/subjects/minustah0904.htm>; McKinley, Jr. John C., “Floodwaters Recede From Haitian City, But Hunger Does Not,” New York Times, Sept. 25, 2005, available at <http://www.latinamericanstudies.org/haiti/recede.htm>.

¹² “Hurricane Wilma Strengthens, Turns Deadly in Haiti,” Reuters, available at <http://www.planetark.com/dailynewsstory.cfm/newsid/33060/newsDate/19-Oct-2005/story.htm>.

¹³ “Alpha Leaves 8 Dead in Haiti Before Weakening,” Associated Press, Oct. 24, 2005, available at <http://www.msnbc.com/id/9785551>; Taft, Julia, “Storm-Tossed Lessons,” New York Times, Oct. 3, 2005 available at http://www.undp.org/bcpr/disred/documents/press/news/oct04/nytimes_031004.pdf.

¹⁴ CNN World Election Watch, available at <http://www.cnn.com/WORLD/election.watch/americas/haiti1.html>.

comply.¹⁵ After being taken to, and held under guard in the Central African Republic, South African President Thedo Mbeki later invited President Aristide and his family to live and work in his country.¹⁶

13. Perhaps even more devastating to Haitian democracy than even the ouster of its elected President, some 7,000 elected local and national officials nationwide -- virtually the entire government -- were thrown or chased out of office, and those not killed were forced into exile or hiding within Haiti.¹⁷

14. Upon the ouster of the elected Government, the human rights situation in Haiti, and the prospect for continued democracy, took an abrupt turn toward the catastrophic conditions to which the UN admitted in October of 2005. Haiti's catastrophic free-fall can be traced to, among other things:

- a. the March 2004 appointment of the U.S.-selected interim government, led by Florida resident Gerard Latortue as Prime Minister, and a group of U.S. and Canadian

¹⁵ U.S. Officials forced President Aristide to write a "resignation letter" on the way to the airport in Port-au-Prince, and then, without prior knowledge or consent of the President, forcibly took him to the former French slave colony of the Central African Republic. See Aristide's Resignation Letter *available at* <http://www.cnn.com/2004/WORLD/americas/03/01/aristide.letter/>; see, generally, Kurzban, Ira, "The February 29th Coup d'Etat Against President Jean-Bertrand Aristide and the Role of the United States in the Coup," *Haiti Progres*, March 17 and 24, 2004, *available at* <http://www.haitiprogres.com/2004/sm040317/eng03-17.html> and <http://www.haitiprogres.com/2004/sm040324/eng03-24.html>; Farmer, Paul, "Who Removed Aristide?," *London Review of Books*, April 15, 2000, *available at* http://www.lrb.co.uk/v26/n08/farm01_.html. For details of Aristide's forced departure and exile, see "Aristide Details Last Moments In Haiti, Calls For Stop To Bloodshed In First Address To Haitian People From Exile" *Flashpoints Radio*, Mar. 5, 2004 *available at* http://criticalconcern.com/aristide_details_last_moments_in.htm.

¹⁶ Robinson, Hazel Ross, "Forced Into Exile: Madame Mildred Aristide," *Essence*, October 2005, *available at* <http://haitinews.blogspot.com>; Adams, Sheena, "Aristide, Wife Not Paid Salaries," *Pretoria News*, Sept. 11, 2004, *available at* <http://www.unisa.ac.za/cmsys/staff/contents/news/newsclips/docs/PtaNews09112004.pdf>. President Aristide is currently living in Pretoria, South Africa (at the expense of the South African government) with his wife and children, where he is a Research Fellow at the University of South Africa. "Annual Report 2004," *University of South Africa*, 2004, at p. 4, *available at* <http://www.unisa.ac.za/happening/docs/UNISA%20Annual%20Report%202004.pdf>.

¹⁷ See Cohn, Marjorie, "U.S. Pulls Strings in Haiti," *Truthout.org*, *available at* http://www.truthout.org/docs_2005/092905I.shtml; Fenton, Anthony, "Were Canadians Involved in a Haitian Massacre," *The Republic* (Vancouver), No. 94, Aug. 5, 2004, *available at* http://republic-news.org/archive/94-repub/94_fenton.htm; "Stop the War Against the Haitian People: International Declaration of Support for the Haitian People," *San Francisco Bay View*, Sept. 28, 2005, *available at* <http://www.sfbayview.com/092805/stopthewar092805.shtml>; Griffin, Thomas, "Summary Report of Human Rights Delegation – March 29 to April 5, 2004," *National Lawyers Guild*, *available at* http://www.nlg.org/programs/international/Haiti_delegation_report1.pdf.

educated/trained officials in the Justice Ministry and Haitian National Police who have failed to secure legitimacy or authority in the eyes of their people;¹⁸

- b. the “cleansing” of the high command of the Haitian National Police and the replacement with members of the disbanded Haitian Army;¹⁹
- c. the unauthorized return of the former Haitian Army soldiers, which began patrolling the streets with high-powered weapons;²⁰
- d. the mass displacement and/or wrenching apart of families because former government employees, including elected officials, policemen, and clerks, have fled into the mountains from cities, or into the capital from the mountains, to avoid death by mobs and the new official forces;²¹
- e. the occupation by UN forces, including over 7,500 soldiers and policemen, under the leadership of Brazil, and the subsequent breakdown of their mandate which has led to UN violence against, and repression of, those in the poorest neighborhoods, which the de facto government considers as “pro-Aristide” or Lavalas strongholds;²²
- f. the arrests and ongoing detention of prominent members of the elected government, outspoken democracy supporters, and the leading Lavalas presidential candidate in violation of the Haitian Constitutional right to free speech and association, and its protections against arbitrary and warrantless arrests.²³

¹⁸ “A New Chance for Haiti?,” ICG Latin America/Caribbean Report No. 10, International Crisis Group, Nov. 18, 2004, pp 11-12 *available at*

http://www.crisisgroup.org/library/documents/latin_america/10%20A%20New%20Chance%20for%20Haiti.pdf.

¹⁹ See Keeping the Peace in Haiti, Harvard Law Students for Human Rights, March 2005 (hereinafter Harvard Report) *available at* http://www.law.harvard.edu/programs/hrp/CAP/Text/Haiti_English_Final.pdf. (President Aristide, upon his 1994 return after a 1991 violent military coup, disbanded the Haitian Army due to its repeated abuses of the civilian population and proclivity for *coupes d'état*.); see also, Delva, Joseph Guyler, “Haiti Police Absorbs Army and Stokes Rights Fears,” Reuters, March 16, 2005.

²⁰ Griffin, Thomas, Haiti Human Rights Investigation November 11-21, 2005, Center for the Study of Human Rights at the University of Miami Law School, Jan. 14, 2005, (hereinafter U.Miami Report) p. 13, *available at* <http://www.law.miami.edu/cshr/>.

²¹ “Human Rights Violations in Haiti: February – May 2004,” Institute for Justice and Democracy in Haiti, July 19, 2004, *available at* http://www.ijdh.org/articles/article_ijdh-human-rights-violations.html.

²² See Podur, Justin, “Two Faced in Haiti,” ZMag.org, Oct. 01, 2005, *available at* http://www.zmag.org/content/print_article.cfm?itemID=8850§ionID=1.

²³ Among those who have been arrested and remain in prison at this writing without being tried include the elected government’s Prime Minister Yvonne Neptune, the elected government’s Interior Minister Joclyerme Privert, and celebrated 65-year-old female folk singer Anne “So An” Auguste. “Imprisoned Without Charge: Yvon Neptune and Haiti’s Political Prisoners,” Memorandum to the Press, Council on Hemispheric Affairs, March 14, 2005, *available at*

http://www.coha.org/NEW_PRESS_RELEASES/New_Press_Releases_2005/05.30%20Haiti%20Neptune%20the%20one.htm; Hunter, Aina, “Haiti Under U.S. Pressure to Release Neptune But no mention of Jean-Juste or Annette August,” Village Voice, Aug. 15, 2005 *available at* [7](http://www.villagevoice.com/generic/show_print.php?id=66886&page=hunter3&issue=0533&printcde=MzQwMDMxNDM3OA==&refpage=L25ld3MvaW5kZXgucGhwP2lzc3VlPTA1MzMmcGFnZT1odW50ZXIzJmlkPTY2ODg2; Inter-American Commission on Human Rights, Press Release N° 19/05, “IACHR Expresses Concern Over The Situation Of Yvon Neptune,” <i>available at</i></p></div><div data-bbox=)

- g. the targeting of journalists sympathetic to Aristide and the Lavalas party after the President's ouster.²⁴
 - h. the proliferation of weapons, the bulk of which are from the United States, without a functioning disarmament program.²⁵
15. New elections for national and local offices in Haiti, first promised for October 2005 and postponed five times, finally took place on February 7, 2006. After weeks of protests and uncertainty throughout the election process, Rene Preval was elected President of Haiti.²⁶ Mr. Preval, a former Aristide protégé,²⁷ swept the popular vote at nearly a 4 to 1 margin on a platform of eradicating poverty, violence, and corruption.²⁸
16. Although Mr. Preval ran as a member of the Lespwa party, the majority of his political base was comprised of Aristide and Lavalas supporters.²⁹ Mr. Preval's campaign was extremely limited in

<http://www.cidh.org/Comunicados/English/2005/19.05.htm>. The IACHR has recently declared admissible a complaint filed on Prime Minister Neptune's behalf, against the IGH. IACHR, Report N° 64/05, Petition 445/2005, Oct. 12, 2005, *available at* http://www.ijdh.org/articles/article_yvon_neptune11-16-05.htm; 1987 Constitution of Haiti, *available at* <http://www.georgetown.edu/pdba/Constitutions/Haiti/haiti1987.html>.

Another political prisoner, Father Gerard Jean-Juste, a Catholic priest and long-time refugee advocate who had become the leading Presidential candidate of the Famni Lavalas party in the most recent elections, was released from prison in December 2005. Father Gerard, who suffers from leukemia, was only released so that he could obtain urgent medical treatment for his condition. It took months of international humanitarian pleas on his behalf to effectuate the release. Ehrenreich, Ben, "Haiti's Hope," LA Weekly, *available at* <http://www.laweekly.com/general/features/haiti8217shope/13089/>.

²⁴ "Attacks on the Press 2004," Committee to Protect Journalists, *available at* <http://www.cpj.org/attacks04/americas04/haiti.html> and

http://www.cpj.org/cases04/americas_cases04/haiti.html; *see also*, Haiti Human Rights Report, presented to the International Association of Democratic Lawyers by Professor Bill Quigley, Loyola University School of Law, 2005, *available at* <http://www.law.loyno.edu/~quigley/haiti%20report%20engl%20final1.pdf>.

²⁵ According to the Small Arms Survey, in 2005 \$1.9 million in weapons, including 300 military style, 500 shotguns, and 3500 revolvers and pistols went to Haiti from Washington, D.C. The Small Arms Survey, a Geneva-based research institution, also states that 4,735 military-style weapons, 700 MP5 rifles, 5,133 non-military-style weapons (e.g., pistols, revolvers, shotguns) and one million rounds of ammunition worth \$6.95 million are alleged to have gone to the interim government's Haitian National Police in 2004 via the U.S.-based company, Roman Associates. The State Department, however, denies this. Muggah, Robert, "Securing Haiti's Transition: Reviewing Human Insecurity and the Prospects for Disarmament, Demobilization, and Reintegration," Small Arms Survey, Oct. 2005 *available at* <http://www.smallarmssurvey.org/OPs/OP14B-Haiti-English.pdf>.

²⁶ Thompson, Ginger, "A Deal Is Reached to Name a Victor in Haiti's Election," New York Times, February 16, 2006.

²⁷ Delva, Joseph Guyler, "Security a Concern for Haiti's April Election," Reuters, April 4, 2006, *available at* http://www.ijdh.org/articles/article_recent_news_4-5-06b.htm.

²⁸ Campbell, Duncan, "President Preval Needs the Backing of the World—and His Opponents—to Bring Calm to Haiti," The Guardian, February 21, 2006, *available at* www.ijdh.org/articles/article_halfhourforhaiti_2-22-06c.htm.

²⁹ DeLong, Seth, "Giving Haiti's New President a Good Launch," Council on Hemispheric Affairs, April 3, 2006, *available at* <http://www.caribbeannetnews.com/cgi-script/csArticles/articles/000011/001140.htm>.

scope due to the violent nature of Haitian politics and elections. For example, because of the attacks carried out against Mr. Preval and his supporters, Mr. Preval was unable to launch a comprehensive campaign strategy nor schedule more than just a few appearances before the election.³⁰ These precautions were absolutely necessary, “just to survive until election day.”³¹ Despite these precautions, Mr. Preval’s opponents carried out attacks at his campaign events, once tore down the stage he was scheduled to appear upon, and ultimately forced him to cancel his final campaign rally out of fear of continued violence.³²

17. While some allegations of irregularities in the election process surfaced, international observers concluded that Mr. Preval had been democratically selected by the voice of the Haitian people.³³

President-Elect Preval is scheduled to take office on May 14, 2006.³⁴

18. While Mr. Preval’s election has stayed the hand of chaos for the time being, “Preval’s victory will [not] solve Haiti’s many problems”³⁵ and “many questions remain regarding just how effective a Preval government can be.”³⁶

19. It is true that many Haitians and international organizations are hopeful that Preval’s administration will be a turning point for Haiti.³⁷ However, many others recognize that the state of affairs in Haiti is still “teetering,”³⁸ “on the brink of anarchy,”³⁹ “fragile,”⁴⁰ “precarious,”⁴¹ and akin to a “tinderbox.”⁴²

³⁰ Concannon, Brian, “Making Our Country Safe for Democracy in Haiti,” 2006 TransAfrica Forum Annual Foreign Policy Conference, Panel, April 1, 2006, *available at* http://www.ijdh.org/articles/article_recent_news_4-5-06.htm.

³¹ *Id.*

³² *Id.*

³³ Thompson, Ginger, “A Deal Is Reached to Name a Victor in Haiti’s Election,” New York Times, February 16, 2006.

³⁴ “Haiti Postpones Preval Inauguration,” United Press International, March 27, 2006, *available at* <http://www.upi.com/NewsTrack/view.php?StoryID=20060327-122919-8980r>.

³⁵ Campbell, Duncan, “President Preval Needs the Backing of the World—and His Opponents—to Bring Calm to Haiti,” The Guardian, February 21, 2006, *available at* www.ijdh.org/articles/article_halfhourforhaiti_2-22-06c.htm.

³⁶ DeLong, Seth, “Giving Haiti’s New President a Good Launch,” Council on Hemispheric Affairs, April 3, 2006, *available at* <http://www.caribbeannetnews.com/cgi-script/csArticles/articles/000011/001140.htm>.

³⁷ *Id.*; Charles, Jacqueline, “Trip to Haiti Yields Hope,” Miami Herald, March 21, 2006, *available at* <http://www.thestate.com/mld/miamiherald/news/world/haiti>.

³⁸ Toro, Juan Pablo, “Teetering Nation Strives to Train, Maintain Police,” Associated Press, April 3, 2006, *available at* <http://www.philly.com/mld/inquirer/news/nation/14248830.htm>.

20. One of the many challenges that Preval faces is the overhaul of Haiti's corrupt, inefficient, and inadequate police force. At best, the Haitian police force today is critically understaffed and unable to efficiently respond to security situations. At worst, it has been reported that police have committed arbitrary arrests, torture, and even summary executions.⁴³ At present, "there is no public agency in Haiti capable of ensuring security."⁴⁴ As a result, gang members, criminals, and kidnappers roam the streets of Haiti with impunity.⁴⁵ Were political or other violence to erupt, the Haitian police forces would likely be unable or unwilling to protect Haitian citizens.
21. Legislative run-off elections are scheduled to be held this Friday, April 21, 2006. Many Haitians fear that disgruntled candidates, eliminated in the first round, might continue to stir violence and unrest during the upcoming days. Some candidates and their supporters have already provoked violent incidents and have threatened further acts of aggression. Election officials are pressing the interim government and the U.N. peacekeepers to take active steps to prevent the realization of these threats.⁴⁶
22. The reality today is that Haitians have ample empirical knowledge that a temporary calm, such as the one currently offered by President-Elect Preval, could be shattered with arbitrary and sudden violence at any moment. Such violence could be committed at the hands of Haitian citizens, or by official forces, who have arrested and indefinitely incarcerated thousands of individuals in the past.⁴⁷ The sad truth is that those struggling to work, meet minimal nutritional requirements,

³⁹ *Id.*

⁴⁰ Thompson, Ginger, "A Deal Is Reached to Name a Victor in Haiti's Election," New York Times, February 16, 2006.

⁴¹ *Id.*

⁴² Campbell, Duncan, "President Preval Needs the Backing of the World—and His Opponents—to Bring Calm to Haiti," The Guardian, February 21, 2006, *available at* www.ijdh.org/articles/article_halfhourforhaiti_2-22-06c.htm.

⁴³ Toro, Juan Pablo, "Teetering Nation Strives to Train, Maintain Police," Associated Press, April 3, 2006, *available at* <http://www.philly.com/mld/inquirer/news/nation/14248830.htm>.

⁴⁴ *Id.*

⁴⁵ *Id.*

⁴⁶ Delva, Joseph Guyler, "Security a Concern for Haiti's April Election," Reuters, April 4, 2006, *available at* http://www.ijdh.org/articles/article_recent_news_4-5-06b.htm.

⁴⁷ Only a few weeks ago, the UN Human Rights Chief, Thierry Fagart, accused the Haitian government of illegally detaining over 4,000 prisoners. Most of these prisoners have not been formally charged or tried in a court of law.

maintain the integrity of family, neighborhood, and community, and progress through education and social programs, cannot yet look to their government for protection or services.

LIKELIHOOD OF HARM IN HAITI

23. I have read Mr. _____'s I-589 and supporting declaration and am familiar with the statements set forth therein. Assuming that those statements are true, I would conclude the following with respect to Mr. _____'s future in Haiti:
24. While President-Elect Preval has the support of the Lavalas party and would have no motivation to seek out former Aristide supporters, or imputed Aristide supporters, such as Mr. _____, President-Elect Preval's legitimacy has not yet been firmly established among the factions of Haiti. The fact that President-Elect Preval's own inauguration has been postponed twice in the past few weeks is only one small indication of the unstable nature of Haitian politics.⁴⁸ Those familiar with Haiti understand how fragile the political situation there can be – that, without a moment's notice, an entire political regime can be discarded and replaced.
25. Furthermore, President-Elect Preval faces the Herculean task of overhauling the corrupt Haitian police force, which contains untold numbers of former military supporters amongst its ranks.⁴⁹
26. Were the military to again overthrow the elected government, Mr. _____ would be in danger of violent reprisal. Given the fact that a leader in the former military has a personal vendetta against Mr. _____, has publicly denounced Mr. _____ as an Aristide supporter, and was frustrated in his last two attempts to murder Mr. _____, Mr. _____ is particularly at risk.⁵⁰

Delva, Joseph Guyler, "UN Accuses Haiti of Massive Illegal Detentions," *Reuters*, April 7, 2006, *available at* http://www.ijdh.org/articles/article_recent_news_4-7-06.htm.

⁴⁸ "Haiti Postpones Preval Inauguration," *United Press International*, March 27, 2006, *available at* <http://www.upi.com/NewsTrack/view.php?StoryID=20060327-122919-8980r>.

⁴⁹ DeLong, Seth, "Giving Haiti's New President a Good Launch," *Council on Hemispheric Affairs*, April 3, 2006, *available at* <http://www.caribbeannetnews.com/cgi-script/csArticles/articles/000011/001140.htm>.

⁵⁰ U.S. Department of State, *Country Reports on Human Rights Practices for 2005, Haiti*, p. 6-8, *available at* <http://www.state.gov/g/drl/rls/hrrpt/2005/61731.htm>.

During my human rights investigations in Haiti in 2004, I witnessed the violence and carnage carried out against persons thought to be supporters of Aristide.⁵¹ Bands of restless soldiers, armed with swords and automatic rifles, roamed the streets, seeking to take revenge upon Aristide sympathizers.⁵²

27. If Marjorie _____, Mr. _____'s eight year-old U.S. citizen daughter, were forced to live in Haiti, she would face an uncertain future and would undoubtedly suffer greatly. While many are hopeful that President-Elect Preval will improve the lives of common Haitians, it is still uncertain as to when and how he could bring about such drastic changes. His election has done nothing to change the fact that Haiti still lacks the basic infrastructure necessary for survival.

28. Like most people living in Haiti, Marjorie would most likely live in abject poverty.⁵³ Furthermore, like most children in Haiti, Marjorie would likely be undernourished.⁵⁴ She would also have limited access to clean drinking water,⁵⁵ and be extremely susceptible to infections and rampant disease.⁵⁶

29. Because only one doctor exists for every 10,000 people in Haiti,⁵⁷ if Marjorie becomes sick she would have extremely limited access to health care professionals and medicine. During my human rights investigation in Haiti in 2004, I saw shocking evidence of the catastrophic

⁵¹ Griffin, Thomas, Haiti Human Rights Investigation November 11-21, 2005, Center for the Study of Human Rights at the University of Miami Law School, Jan. 14, 2005, (hereinafter U.Miami Report) p. 13-18, *available at* <http://www.law.miami.edu/cshr/>.

⁵² *Id.* at pp. 13-18.

⁵³ Central Intelligence Agency, World Factbook, Haiti (January 10, 2006) p. 6, *available at* <http://www.cia.gov/cia/publications/factbook/geos/ha.html>.

⁵⁴ Luxner, Larry, "Haiti to Mark 200th Anniversary Amid Worsening Poverty," Washington Diplomat, January 2004, *available at* http://www.washdiplomat.com/04-01/a2_04_01.html.

⁵⁵ "By Ignoring Island's Suffering, U.S.'s Frivolous Haiti Policy Invites Approaching Catastrophe," Council on Hemispheric Affairs, June 13, 2002, *available at* http://www.coha.org/NEW_PRESS_RELEASES/New_Press_Releases_2002/02.15_Haiti_Approaching_Catastrophe.htm.

⁵⁶ U.S. Department of State, Country Reports on Human Rights Practices for 2005, Haiti, p. 12, *available at* <http://www.state.gov/g/drl/rls/hrrpt/2005/61731.htm>.

⁵⁷ Luxner, Larry, "Haiti to Mark 200th Anniversary Amid Worsening Poverty," Washington Diplomat, January 2004, *available at* http://www.washdiplomat.com/04-01/a2_04_01.html.

conditions under which Haitian children lived. I have personally seen the bodies of children that have died from starvation and disease in Haiti.⁵⁸

30. Because the former disbanded military members have united, there is a reasonable chance they could again overthrow the elected government. If that were to take place, Marjorie would be vulnerable to political violence.⁵⁹ During my human rights investigations in Haiti over the past several years, I have witnessed the effects that this unrest can have upon young people caught amidst the violence. In 2004, I personally viewed the bodies of young people that had been killed in the crossfire.⁶⁰

31. Marjorie's life in Haiti would only be made worse by the fact that her primary caretaker and provider, Mr. _____, is mentally and physically disabled. Over two-thirds of the population in Haiti is currently unemployed.⁶¹ Given the extreme competition that exists for the few jobs available in Haiti, Mr. _____'s disabilities would greatly decrease his chances of finding a job. Furthermore, even if Mr. _____ is able to find a job, he would likely earn less than \$1.00 per day.⁶² Such a meager income would barely provide for the necessities of life for one person, let alone two. Mr. _____ would struggle to pay for the food, clothing, and shelter that Marjorie needs in order to survive.

32. In order to supplement her father's income, Marjorie would likely be compelled to enter the workforce at a very young age. While official laws state that children cannot be employed until

⁵⁸ Griffin, Thomas, Haiti Human Rights Investigation November 11-21, 2005, Center for the Study of Human Rights at the University of Miami Law School, Jan. 14, 2005, (hereinafter U.Miami Report) p. 46, *available at* <http://www.law.miami.edu/cshr/>.

⁵⁹ U.S. Department of State, Country Reports on Human Rights Practices for 2005, Haiti, p. 12, *available at* <http://www.state.gov/g/drl/rls/hrrpt/2005/61731.htm>.

⁶⁰ Griffin, Thomas, Haiti Human Rights Investigation November 11-21, 2005, Center for the Study of Human Rights at the University of Miami Law School, Jan. 14, 2005, (hereinafter U.Miami Report) p. 43-44, *available at* <http://www.law.miami.edu/cshr/>.

⁶¹ Central Intelligence Agency, World Factbook, Haiti (January 10, 2006) p. 7, *available at* <http://www.cia.gov/cia/publications/factbook/geos/ha.html>.

⁶² Luxner, Larry, "Haiti to Mark 200th Anniversary Amid Worsening Poverty," Washington Diplomat, January 2004, *available at* http://www.washdiplomat.com/04-01/a2_04_01.html.

age 12, many young children begin working in the domestic sector before then.⁶³ Over 173,000 children between the ages of 5 and 17 years were employed as domestic servants in 2002.⁶⁴

33. Even if she is not forced to begin working at a young age, Marjorie, like most children in Haiti, would have extremely limited access to education. At least 75% of adolescents in Haiti do not attend school.⁶⁵ Few families can afford to spend their meager incomes on education, because it is something viewed as non-essential to survival.⁶⁶

34. Marjorie would also be very vulnerable to becoming an orphan and being left to fend for herself in the harsh streets of Haiti. Considering the numerous physical problems that Mr. suffers from, the likelihood that he will be unable to find a job to support himself due to his disabilities, the likelihood that he will be unable to purchase enough food, the certain difficulty he will have in obtaining medical assistance of any kind, and the likelihood that he will be recognized and targeted by the military regime if the military again overthrows the elected government, Mr. will most likely not survive for long in Haiti. If Mr. were to die, few social services exist that could help an orphaned child, such as Marjorie, in Haiti.⁶⁷ The streets of Port-au-Prince are already filled with a large population of street children,⁶⁸ and, without a father or other family members in Haiti, Marjorie may be forced to join them.

CONCLUSION

If Mr. is deported to Haiti, his future is extremely uncertain. While a former protégé of Aristide was recently elected by an Aristide constituency to be Haiti's president, it still remains to be

⁶³ U.S. Department of State, Country Reports on Human Rights Practices for 2005, Haiti, p. 12, *available at* <http://www.state.gov/g/drl/rls/hrrpt/2005/61731.htm>.

⁶⁴ *Id.*

⁶⁵ *Id.*

⁶⁶ U.S. Department of State, Bureau of Western Hemisphere Affairs, Background Note, Haiti (March 2006) p. 2, *available at* <http://www.state.gov/r/pa/ei/bgn/1982.htm>.

⁶⁷ U.S. Department of State, Country Reports on Human Rights Practices for 2005, Haiti, p. 12, *available at* <http://www.state.gov/g/drl/rls/hrrpt/2005/61731.htm>.

⁶⁸ *Id.*

seen whether the new president's authority will be recognized. If, as has repeatedly happened in the recent past, the elected government was overthrown by soldiers, Mr. _____ would likely be targeted, arrested, detained, tortured, or killed because of his affiliation with President Aristide. If Marjorie _____, an eight year old U.S. citizen, is forced to live in Haiti, she will struggle against extreme odds. At the very best, she faces a childhood stricken by poverty, malnourishment, disease, child labor, and few if any educational prospects. At worst, she faces violence, death, or being orphaned and left to fend for herself amongst the street children of Haiti.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and understanding.

Thomas M. Griffin, Esq.

Dated: April 19, 2006
Philadelphia, Pennsylvania