**RAD File No. / No de dossier de la SAR : MC0‑00869**

***Private Proceeding / Huis clos***

## Reasons and Decision − Motifs et décision

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| **Person who is the subject of the appeal** | **XXXX XXXX** | **Personne en cause** |
|  |  |  |
| **Appeal considered / heard at** | Ottawa, Ontario | **Appel instruit / entendu à** |
|  |  |  |
| **Date of decision** | March 12, 2021 | **Date de la décision** |
|  |  |  |
| **Panel** | Me Murielle Henri | **Tribunal** |
|  |  |  |
| **Counsel for the person who is the subject of the appeal** | Claude Whalen | **Conseil de la personne en cause** |
|  |  |  |
| **Designated representative** | N/A | **Représentant(e) désigné(e)** |
|  |  |  |
| **Counsel for the Minister** | N/A | **Conseil du ministre** |
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### **REASONS FOR DECISION**

**OVERVIEW**

1. XXXX XXXX (the appellant), a citizen of Haiti, alleges a fear of returning to Haiti by reason of his imputed political opinion.

**DETERMINATION**

1. I dismiss the appeal. The appellant has not demonstrated that he would face a risk should he return to Haiti.

**BACKGROUND**

1. In XXXX 2004, XXXX XXXX and his associates (opponents of the Fanmi Lavalas political party) XXXX XXXX to the appellant’s family XXXX because his father was a party member. The appellant left Haiti in XXXX 2004. He stayed in the XXXX XXXX, and then in XXXX XXXX XXXX. In XXXX 2006, he moved to the United States and stayed there until XXXX 2017, when he came to Canada.
2. On December 19, 2019, the Refugee Protection Division (RPD) rejected the appellant’s claim for refugee protection, finding the appellant not credible.

**ANALYSIS**

1. My role is to examine all of the evidence and determine whether the RPD’s decision is correct.[[1]](#endnote-1) The determinative issue is the risk of return.
2. The appellant alleges in his memorandum that the RPD erred in its analysis of the objective evidence, in particular with respect to the fact that when a persecutor has lost sight of their victim, it is not a certainty that they will target that person’s family.
3. I cannot accept this allegation. The appellant testified that XXXX XXXX would target him because of his father’s political affiliation. However, the appellant also testified that his seven siblings have lived in Gonaïves for 15 years without experiencing any problems.[[2]](#endnote-2) Given that they too are their father’s children and were living in the house that was XXXX XXXX XXXX, there is nothing to explain why XXXX XXXX and his associates have not targeted them. Moreover, the appellant testified that four of his siblings are still living in the same house.[[3]](#endnote-3) Finally, the appellant’s mother and daughter also live in Gonaïves and have not experienced any problems. The appellant himself returned to Gonaïves four times (in 2011, 2012, 2014 and 2015), staying for up to 15 days each time, and went about his normal activities there such as attending church without anything happening to him.
4. Therefore, I am of the opinion that the RPD did not err in drawing an adverse inference with respect to the allegations of fear.
5. The appellant argues in his memorandum that it is unreasonable to conclude that XXXX XXXX imprisonment in the US eliminates all risk of persecution, given that his group is still in Haiti.
6. I cannot accept this allegation. Fifteen years have elapsed since the incident that gave rise to the appellant’s fear, and he has not explained why he believes the group is still present in Haiti. XXXX XXXX has been XXXX XXXX in the US since 2017; according to the documentary evidence, if a gang leader dies, or gets older and is less active, even if the gang continues to operate, the probability that a person will be targeted for revenge decreases substantially. The evidence further states that in another five or ten years, the threat of revenge should be completely gone, even if the leader XXXX XXXX XXXX XXXX. Thus, it would appear that the likelihood of revenge being carried out diminishes with time.[[4]](#endnote-4) The onus was on the appellant to demonstrate that, 15 years after the fact, he would still be a person of interest to XXXX XXXX and his associates. However, he has not done so.
7. I have analyzed the RPD’s decision as a whole, and I conclude that the appellant has not demonstrated that he would face a serious possibility of persecution on a Convention ground or that, on a balance of probabilities, he would be personally subjected to a danger of torture, to a risk to his life, or to a risk of cruel and unusual treatment should he return to Haiti.

**CONCLUSION**

1. I confirm the determination that the appellant is not a Convention refugee or a person in need of protection.
2. The appeal is dismissed.

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| (*signed*) | *Murielle Henri* |
|  | **Murielle Henri** |
|  | **March 12, 2021** |
|  | **Date** |

1. *Canada (Citizenship and Immigration) v. Huruglica*, 2016 FCA 93; *Rozas del Solar v. Canada (Citizenship and Immigration)*, 2018 FC 1145. [↑](#endnote-ref-1)
2. Recording of the hearing held on December 17, 2019, at approximately 00:40:00. [↑](#endnote-ref-2)
3. Ibid., at approximately 00:45:00. [↑](#endnote-ref-3)
4. SPR‑1, document 3, National Documentation Package on Haiti, September 30, 2019, Tab 7.6: Acts of revenge committed by gangs or by other organized crime entities; ability of gangs or other organized crime entities to track down their targets, including those who return to Haiti after a long absence (2015–June 2018), Immigration and Refugee Board of Canada, July 3, 2018, HTI106117. FE, pp. 5–6. [↑](#endnote-ref-4)