

JUDGE ASSAILS U.S. HANDLING OF HAITIANS

The New York Times

July 3, 1980, Thursday, Late City Final Edition

Copyright 1980 The New York Times Company

Section: Section A; Page 12, Column 1; National Desk

Length: 1101 words

Byline: By JOHN M. CREWDSON

Dateline: MIAMI, July 2

Body

A Federal district **judge** declared today that the Immigration and Naturalization Service had knowingly violated "the constitutional, statutory, treaty and administrative rights" of thousands of Haitian refugees seeking political asylum in this country.

Judge James L. King, ruling in a class-action lawsuit brought by more than 4,000 **Haitians**, ordered that the service take no further action against the plaintiffs until the Government had presented him with an acceptable plan for reconsidering their asylum claims. That plan, he said, must eliminate the "wholesale violations of due process" that he found had characterized the service's previous denials of those claims.

"**Haitians** who came to the **United States** seeking freedom and justice did not find it," **Judge** King wrote in a 180-page decision. Instead, he said, "they were confronted with an Immigration and Naturalization Service determined to deport them," and to do so "irrespective of the merits of their asylum claims."

AN-A

The **Haitians** had contended that the mere act of seeking political asylum in the **United States** would prompt the Government of Jean-Claude Duvalier, Haiti's President-for-Life, to view them as opponents of his regime, and that many of them would be subject to political persecution if forced to return home. They sought review of asylum claims that have been denied, and an end to practices that violated their rights.

The Government had argued that nearly all the **Haitians** here were merely seeking better economic conditions and faced no threat of political persecution upon return. But **Judge** King dismissed that position as unsupported by the evidence presented in the year-long trial here that ended May 21.

"The court has seen a stark picture of how these plaintiffimmigrants will be treated if they return to Haiti," he wrote, "and it has seen an equally stark, and even more troubling, picture of the treatment of **Haitians** by the Immigration and Naturalization Service."

In unusually scathing judicial criticism of an executive agency, **Judge** King also suggested that officials of the service had been motivated to some degree by racial prejudice in seeking mass deportation of the **Haitians**.

No Explanation But Bias

"The plaintiffs are part of the first substantial flight of black refugees from a repressive regime to this country," he said, adding that while "prejudice of any type is seldom overt," he could place no other interpretation on some key pieces of evidence, including an internal immigration service memorandum asserting that the **Haitians** threatened the economic and social "well-being" of Miami.

JUDGE ASSAILS U.S. HANDLING OF HAITIANS

Judge King characterized as "stark, brutal and bloody" the testimony and other evidence offered by the Haitians to show that many of those deported to Haiti had been badly mistreated, imprisoned and even murdered upon their return. He declared that "until the I.N.S. can definitely state which Haitians will be so treated and which will not, the brutality and the bloodletting is its responsibility."

Verne Jervis, a spokesman for the immigration service, said in Washington that his agency would have no comment on the decision. Robert Havel, a spokesmen for the Justice Department, said it would be some time before a decision was reached on whether to appeal today's ruling. The department, of which the service is a part, was the defendant in the lawsuit.

Administration's 'Parole'

The practical benefit of today's decision for the Haitian plaintiffs is unclear. On June 20 the Carter Administration, which had been under considerable pressure from the Congressional Black Caucus to respond to the Haitians' plight, granted a temporary "parole" allowing the Haitians and the recent Cuban refugees to remain in this country for at least six months.

This "parole," which can be renewed, is intended to give Congress time to pass legislation that would allow the Haitians to become permanent residents and, eventually, citizens of the United States. But the order applies only to the estimated 30,000 Haitians living here as of June 20, and those arriving later still will be subject to deportation unless granted asylum by the service.

The plaintiffs in the suit before Judge King are covered by the parole order, and presumably would have no reason to pursue asylum claims unless their parole expired before Congress had granted them permanent resident status.

The Justice Department had based its defense primarily on State Department interviews with 86 of the 700 or so Haitians who have been deported or have returned to Haiti voluntarily.

None of the 86 acknowledged having been persecuted or otherwise mistreated, the State Department said. All conceded fleeing Haiti, the poorest country in the Western Hemisphere, for economic and not political reasons, it said.

But Judge King dismissed this study as methodologically unsound and "unworthy of belief." His courtroom, he said, had become "populated by the ghosts of individual Haitians - including those who have been returned from the United States - who have been beaten, tortured and left to die in Haitian prisons." Those not imprisoned, he added, faced harassment and intimidation and "the continuing threat of a midnight visit" from the Haitian secret police.

The immigration service, the judge said, had also "demonstrated its failure to grasp the fundamental rules of Haitian politics and economics." He suggested that the "dramatic poverty" in that country was "a function of the political system" and "a result of Duvalier's efforts to maintain power."

Bias Is 'Central Issue'

The judge wrote that one "central issue" overshadowed all others raised by the Haitian plaintiffs, that of systematic discrimination by the service on the basis of national origin.

"The plaintiffs charged that they faced a transparent discriminatory program designed to deport Haitian nationals and no one else," he said. "The uncontroverted evidence proves their claim."

Thousands of asylum claims, the judge said, were denied before cases could be fully presented, with the subsequent violation of numerous immigration regulations and Constitutional guarantees. The abuses, he said, were "systematic and pervasive," and he accused the immigration service of demonstrating "a willingness to sacrifice due process for the sake of speed."

JUDGE ASSAILS U.S. HANDLING OF HAITIANS

"The manner in which I.N.S. treated the more than 4,000 Haitian plaintiffs violated the Constitution, the immigration statutes, international agreements, I.N.S. regulations and I.N.S. operating procedures," he said. "It must stop."

Classification

Language: ENGLISH

Subject: POLITICAL ASYLUM (92%); IMMIGRATION (90%); CITIZENSHIP (90%); US FEDERAL GOVERNMENT (90%); **JUDGES** (90%); SUITS & CLAIMS (90%); IMMIGRATION LAW (90%); DEPORTATION (89%); REFUGEES (89%); EVIDENCE (88%); DUE PROCESS (78%); POLITICS (78%); LITIGATION (78%); CLASS ACTIONS (77%); RACE & ETHNICITY (77%); TESTIMONY (76%); RACISM & XENOPHOBIA (73%); ECONOMIC CONDITIONS (63%); ECONOMIC NEWS (50%)

Company: IMMIGRATION & NATURALIZATION SERVICE (91%); IMMIGRATION & NATURALIZATION SERVICE (91%)

Organization: IMMIGRATION & NATURALIZATION SERVICE (91%); IMMIGRATION & NATURALIZATION SERVICE (91%); IMMIGRATION & NATURALIZATION SERVICE (91%); IMMIGRATION & NATURALIZATION SERVICE (91%)

Geographic: HAITI (98%); **UNITED STATES** (92%)