No. 25-1083 & 25-1084

In the Supreme Court of the United States

MARKWAYNE MULLIN, SECRETARY
DEPARTMENT OF HOMELAND SECURITY,
ET AL.,
Petitioners,
v.
DAHLIA DOE, ET AL.,
Respondents

DONALD J. TRUMP, PRESIDENT OF THE
UNITED STATES, ET AL.,
Applicants,
v.
FRITZ EMMANUEL LESLY MIOT, ET AL.,
Respondents

ON WRITS OF CERTIORARI BEFORE
JUDGMENT TO THE UNITED STATES COURT
OF APPEALS FOR THE SECOND AND DISTRICT
OF COLUMBIA CIRCUITS

**HAITIAN AMERICAN LAWYERS'
ASSOCIATION AS AMICUS CURIAE IN
SUPPORT OF RESPONDENTS**

Steve Art
Counsel of Record
Julia Rickert
Lindsay Hagy
LOEVY AND LOEVY
311 N. Aberdeen St.,
3rd Floor Chicago, IL 60607
steve@loevy.com

April 12, 2026

QUESTION PRESENTED

Amicus will address the following question:

Was racial or national origin animus a motivating factor in the DHS Secretary's decision to cancel Temporary Protected Status for Haitians in the United States?

TABLE OF CONTENTS

QUESTION PRESENTED ii

TABLE OF AUTHORITIES v

INTEREST 1

SUMMARY OF ARGUMENT 2

I. THE UNITED STATES HAS A LONG HISTORY OF EXCLUDING AND EXPELLING HAITIAN IMMIGRANTS, MAKING THEM UNIQUELY RELIANT ON TPS 5

II. THE GOVERNMENT'S ATTEMPT TO END TEMPORARY PROTECTED STATUS VIOLATES THE EQUAL PROTECTION CLAUSE BECAUSE IT IS THE PRODUCT OF ANIMUS..... 16

A. The *Arlington Heights* Factors That Govern This Claim..... 16

B. Statements and Actions by Both the First and Second Trump Administrations Demonstrate Racial Animus..... 17

1. The President Has Openly Flagged His Discriminatory Intent 17

2. The President's Proxies Demonstrate Animus as Well 25

C. During the Current Trump Administration, HLA's Haitian Clients Have Faced Increased Differential Treatment Tied to Their National Origin..... 28

III. HAITIAN IMMIGRANTS, HLA AND THEIR CLIENTS ARE ASSETS TO THEIR COMMUNITY, DEMONSTRATING THAT THE DISPARATE TREATMENT OF HAITIAN AMERICANS IS UNWARRANTED..... 30

CONCLUSION..... 34

TABLE OF AUTHORITIES

Cases **Page(s)**

Haitian Refugee Center v. Civiletti,
503 F. Supp. 442 (S.D. Fla. 1980) 8, 13

Jean v. Nelson, 472 U.S. 846 (1985) 7, 11, 12

Louis v. Nelson, 544 F. Supp. 973
(S.D. Fla. 1982) 11

Ramos v. Nielsen, 321 F. Supp. 3d 1083
(N.D. Cal. 2018) 4, 13, 16, 20, 32, 33

Reno v. Bossier Par. Sch. Bd.,

520 U.S. 471 (1997) 17

Village of Arlington Heights v. Metro. Hous. Dev. Corp., 429 U.S. 252 (1977) 2, 16, 17

Statutes

8 U.S.C.A. § 1254a (West) 18

8 U.S.C.A. § 1254a(b)(1)(A) (West) 19

8 U.S.C.A. § 1254a(b)(1) (B)(i)-(ii) (West) 19

Other Authorities

Stuart Anderson, *Stephen Miller, Not Kristi Noem, May Be Driving U.S. Immigration Policy*, Forbes (February 1, 2026), https://www.forbes.com/sites/stuartanderson/2026/02/01/stephen-miller-not-kristi-noem-may-be-driving-us-immigration-policy/ 25

Raymond Audain, *Not Yet Forgiven for Being Black,* 52 LOYOLA LOS ANGELES L. REV. 409 ..... 11, 15

William Brangham and Mary Fecteau, *Ohio city with Haitian migrant influx thrust into political spotlight*, PBS News (September 9, 2024), https://www.pbs.org/newshour/show/ohio-city-with-haitian-migrant-influx-thrust-into-political-spotlight 21

Alicia A. Caldwell, *AP Exclusive: U.S. Digs for Evidence Haitian Immigrant Crimes*, AP NEWS (May 9, 2017), https://apnews.com/article/crime-immigration-haiti-only-on-ap-united-states-government-740ed5b40ce84bb398c82c48884be616 20

Mike Catalini, Julie Carr Smyth, and Bruce Shipkowski, *Trump amplifies false racist rumor about Ohio's Haitian immigrants in debate*, Associated Press and PBS News (September 11, 2024), https://www.pbs.org/newshour/politics/watch-trump-amplifies-false-racist-rumor-about-ohios-haitian-immigrants-in-debate 21

CBS News, *Trump's travel ban on nationals from 12 countries takes effect* (July 9, 2025), https://www.cbsnews.com/news/trump-travel-ban-nationals-12-countries-takes-effect/ 22

Congress.gov, *Expanded "Travel Ban" to Take Effect January 1, 2026* (December 19, 2025), https://www.congress.gov/crs_external_products/RS/PDF/RS21349/RS21349.19.pdf 3

Congressional Research Services, *U.S. Immigration Policy on Haitian Migrants* (May 17, 2011), https://www.congress.gov/crs_external_products/RS/PDF/RS21349/RS21349.19.pdf 14

Daniel Dale, *Almost Eight Years Later, Trump Confirms He Used the Phrase Shithole Countries*, CNN (Dec. 10, 2025), https://www.cnn.com/2025/12/10/politics/donald-trump-shithole-countries-phrase 24

Azadeh Dastyari, *United States Migrant Interdiction and the Detention of Refugees in Guantanamo Bay*, 20 (Cambridge University Press 2015) 11, 13

Josh Dawsey, *Trump Derides Protections for Immigrants from 'Shithole' Countries*, Washington Post (Jan. 12, 2018), https://www.washingtonpost.com/politics/trump-attacks-protections-for-immigrants-from-shithole-countries-in-oval-office-meeting/2018/01/11/bfc0725c-f711-11e7-91af-31ac729add94_story.html?utm_term=.b56f11cc896f 20

Department of Homeland Security, *DHS Terminates Haiti TPS, Encourages Haitians to Obtain Lawful Status, Homeland Security* (June 27, 2025), https://www.dhs.gov/news/2025/06/27/dhs-terminates-haiti-tps-encourages-haitians-obtain-lawful-status 25

Jordan E. Dollar & Allison D. Kent, *In Times of Famine, Sweet Potatoes Have No Skin: A Historical Overview and Discussion of Post-Earthquake U.S. Immigration Policy Towards the Haitian People*, 6 INTERCULTURAL HUM. RTS. L. REV. 87, 102–03 (2011) 14

Frederick Douglass, Lecture on Haiti (1893), in *Great Speeches by Frederick Douglass* 105, 106 (James Daley ed., 2013) 3

Michael Edison Hayden, *Stephen Miller's Affinity for White Nationalism Revealed in Leaked Emails*, Southern Poverty Law Center (November 12, 2019), https://www.splcenter.org/resources/hatewatch/stephen-millers-affinity-white-nationalism-revealed-leaked-emails/ 25

Forbes Breaking News, *Markwayne Mullin Asks Experts About China's Influence In Haiti* https://www.youtube.com/watch?v=G5CLB72navg 27

Joshua Gerstein and Ted Hesson, *Trump extends legal protection for nearly 59,000 Haitians in U.S.,* Politico (May 22, 2017), https://www.politico.com/story/2017/05/22/trump-legal-protection-haitians-238677 18

Immigration History, Ban on "importation" of "any negro, mulatto, or other person of colour" (1803) (effective 1808) (2019) https://immigrationhistory.org/item/1803-ban-on-importation-of-any-negro-mulatto-or-other-person-of-colour-effective-1808/#:~:text=Ban%20on%20%E2%80%9Cimportation%E2%80%9D%20of%20%E2%80%9Cany,blacks%20to%20contain%20anti%2Dslavery%20campaigners 6

Annika Kim Constantino, *U.S. Border Patrol will no longer use horses in Del Rio, Texas, after outrage over treatment of Haitian migrants* (September 23, 2021), https://www.cnbc.com/2021/09/23/border-patrol-wont-use-horses-in-del-rio-after-outrage-over-treatment-of-haitians.html ... 26

Library of Congress, Latinx Resource Guide: Civil Rights Cases and Events in the United States, https://guides.loc.gov/latinx-civil-rights/cuban-adjustment-act 7

Carl Lindskoog, *Detain and Punish: Haitian Refugees and the Rise of the World's Largest Immigration Detention System* (Univ. of Fla. Press 2018) 7

Stephen Miller (@StephenM), X (June 28, 2025 at 5:57 PM) https://x.com/StephenM/status/1939095726379655404 26

Stephen Miller (@StephenM), X (June 28, 2025 at 6:02 PM) https://x.com/StephenM/status/1939097161288786141 26

Stephen Miller (@StephenM), X (October 20, 2025 at 9:07 PM) https://x.com/StephenM/status/1980455961472139721 27

S. Priya Morley, *Haitian migration through the Western hemisphere: a racial (in)justice analysis,* OPEN GLOB AL RIGHTS (Oct. 25, 2021), https://www.openglobalrights.org/haitian-migration-through-the-western-hemisphere-a-racial-injustice-analysis/.....26

Fact Sheet: Termination of Temporary Protected Status for Haiti, National Immigration Forum (July 17, 2025), https://forumtogether.org/article/fact-sheet-termination-of-temporary-protected-status-for-haiti/ 21

Bill Ong Hing, *Addressing The Intersection Of Racial Justice And Immigrant Rights*, 9 BELMONT L. REV. 357 (Spring, 2022).....21

Michael D. Shear and Julie Hirschfeld Davis, *Stoking Fears, Trump Defied Bureaucracy to Advance Immigration Agenda,* N.Y. Times (Dec. 23, 2017), https://www.nytimes.com/2017/12/23/us/politics/trump-immigration.html.....19

U.S. Citizenship and Immigration Services, *Policy Memorandum Hold and Review of all Pending Asylum Applications and all USCIS Benefit Applications Filed by Aliens from High-Risk Countries* (December 2, 2025) https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-

PendingApplicationsHighRiskCountries-20251202.pdf 23

U.S. Citizenship and Immigration Services, *Policy Memorandum: Hold and Review of USCIS Benefit Applications Filed by Aliens from Additional High-Risk Countries* (January 1, 2026) www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0194-PendingApplicationsAdditionalHighRiskCountries-20260101.pdf 4

U.S. Department of State, *Cuba (08/04),* https://tinyurl.com/4v7w4she 5

U.S. Department of State, *2017 Country Reports on Human Rights Practices: Haiti*, https://www.state.gov/reports/2017-country-reports-on-human-rights practices/haiti#:~:text=Recruitment%20of%20children%20for%20sexual,/legal/compliance.html. 18

The White House, *Promises Made Promises Kept* https://www.whitehouse.gov/priorities/border-immigration/ 23

The White House*, Restricting and Limiting the Entry of Foreign Nationals to Protect the Security of the United States* (December 16, 2025) https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-

entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/ 22

Treaties

T.I.A.S. No. 10241 (August 1, 1981) 10

Regulations and Executive Actions

46 Fed. Reg. 48109 (Sept. 29, 1981) 10

80 Fed. Reg. 51582 (Aug. 25, 2015) 16

82 Fed. Reg. 23830 (May 24, 2017) 18

90 Fed. Reg. 24497 (June 10, 2025)..... 22

90 Fed. Reg. 54733 (Nov. 28, 2025) 22, 31

INTEREST

Founded in 1997 in Miami, Florida, the Haitian Lawyers Association (HLA) is a non-profit legal organization dedicated to protecting and advocating for the legal rights of Haitians and Haitian Americans in the United States. Florida is home to nearly 50% of all Haitian immigrants in this country, and the attorneys who make up HLA are overwhelmingly Haitian or Haitian American. HLA was founded by Haitian American immigration attorney Clarel Cyriaque and 30 other Haitian and Haitian American attorneys and now has a membership of 280 lawyers and 20 South Floridian law students.

Since Haiti was devastated by an earthquake in 2010, HLA has focused a large portion of its *pro bono* services on processing Temporary Protected Status ("TPS") applications for Haitian immigrants in the United States and on resolving collateral legal issues relating to TPS applications. HLA has assisted with over 4,000 TPS applications for Haitian nationals. This experience gives HLA unique insight into both the animus faced by Haitian immigrants and the contributions made by Haitians in Florida.

SUMMARY OF ARGUMENT

This case asks in part whether racial or national origin animus was a motivating factor in the government's decision to cancel TPS for Haitians in the United States. Under *Village of Arlington Heights v. Metropolitan Housing Development Corporation*, 429 U.S. 252 (1977), government action may violate the Equal Protection Clause if a discriminatory purpose was a motivating factor. To make this determination, a court may look beyond the government's stated reason for acting to circumstantial evidence of a discriminatory purpose, including (among other non-exclusive factors) a decision's historical background "reveal[ing] a series of official actions taken for invidious purposes": "[t]he specific sequence of events leading up [to] the challenged decision"; and "[t]he legislative or administrative history . . . especially where there are contemporary statements by members of the decisionmaking body, minutes of its meetings, or reports." *Id.* at 267–68.

These factors all point to a discriminatory motive in this case. President Trump and key members of his administration openly display their disdain for Haitians and their desire to eject Haitians from this country. Their extreme anti-Haitian invectives are strong evidence that the administration's cancelation of TPS is motivated by animus.

The Trump Administration's anti-Haitian stance also must be understood in historical context. The Administration's baseless attacks

on Haitians are a continuation of a shameful tradition in this country of demonizing and excluding Haitians, one that dates back over two centuries. Haiti gained its independence through revolution and was founded by formerly enslaved people in 1804, and from the start, the United States treated the new nation as a threat to the established order. As Frederick Douglas observed in the 1890s: "Haiti is black, and we have not yet forgiven Haiti for being black or forgiven the Almighty for making her black."[1]

Unfortunately, Douglas's observation has continued to ring true. In myriad ways, Haitians, nearly all of whom are of African descent and are Black, have been treated by the United States government as less desirable than immigrants from other countries. Indeed, the grant of TPS to Haitians under the Obama Administration was an anomaly in the longstanding effort to exclude Haitians from the United States, and now, the Trump Administration is seeking to remedy that anomaly by canceling TPS for Haitians—without genuinely finding that the designation is no longer warranted. Meanwhile, Haiti is the only western hemisphere country subject to the Trump Administration's full "travel ban,"[2] and

---

[1] Frederick Douglass, Lecture on Haiti (1893), in GREAT SPEECHES BY FREDERICK DOUGLASS 105, 106 (James Daley ed., 2013).

[2] Expanded "Travel Ban" to Take Effect January 1, 2026, Congress.gov (December 19, 2025), https://www.congress.gov/crs_external_products/RS/PDF/RS21349/RS21349.19.pdf (last accessed April 26, 2026).

even immigrant visas for Haitian family members have been suspended.[3]

HLA's experience in Florida provides further context for the cancelation of TPS for Haitians, showing how it advances a longstanding discriminatory project. Over the past 60 years, Haitians have been subject to harmful differential treatment in our immigration system, often through the application of facially neutral legislation. As the attorneys of HLA know firsthand, immigrants from other countries are consistently treated more favorably, most notably immigrants from Haiti's fellow Caribbean nation, Cuba. As a result, although a plaintiff challenging TPS cancellation is not strictly required to identify a similarly situated group that is being treated better to demonstrate that animus was a motivating factor in the cancellation, *see Ramos v. Nielsen,* 321 F. Supp. 3d 1083, 1124 (N.D. Cal. 2018), the plaintiffs in this case are able to do so. Similar to the Afrikaners from South Africa, who are of European descent and receive preferential treatment as discussed in other briefs submitted in this case, the large majority of Cubans are of European descent.[4] Both

---

[3] USCIS, Policy Memorandum: Hold and Review of USCIS Benefit Applications Filed by Aliens from Additional High-Risk Countries (January 1, 2026), https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0194-PendingApplicationsAdditionalHighRiskCountries-20260101.pdf (last accessed April 12, 2026).

[4] According to the U.S. State Department's most recent published statistics, only 11% of Cubans identify as

Afrikaners and Cubans are welcomed in the U.S. while, at the same time, immigration officials concede that Haitian immigrants applying for green cards are being denied because of their nationality.

The government's intent to cancel TPS and force Haitians to return to highly dangerous conditions in their country exacerbates this disparity in treatment, leaving Haitians without their single avenue to remain in the comparative safety of the United States. This disparate treatment is also unwarranted, as HLA's clients, like most Haitians in the United States, are assets to their community. In fact, one impact of the longtime skepticism of Haitian immigrants is that Haitians who are in the United States legally, including through TPS, are even more thoroughly vetted than other groups. They should be permitted to remain in the United States until conditions in Haiti stabilize.

I. THE UNITED STATES HAS A LONG HISTORY OF EXCLUDING AND EXPELLING HAITIAN IMMIGRANTS, MAKING THEM UNIQUELY RELIANT ON TPS

Just fifteen years after the United States' 1776 founding, the enslaved people of the Caribbean state of Saint-Domingue, which occupied the western third of the island of

---

Black. U.S. Department of State, Cuba Background Note, https://tinyurl.com/4v7w4she (last accessed April 12, 2026).

Hispaniola, rose up in revolution. After years of fighting, the Black-run country of Haiti was founded there in 1804.[5]

The Haitian Revolution sparked an early wave of refugees to the United States, as white slave owners fled Haiti, often bringing with them people they planned to retain as slaves in the United States.[6] In response to southern slaveowners' fears that the arrival of enslaved people from the former Saint-Domingue could set off a similar slave revolt here, the United States passed a series of laws limiting naturalization to "free whites" and banning the "importation" of "any negro, mulatto, or other person of colour, not being a native, a citizen, or a registered seaman, of the United States."[7] Nearly 60 years would pass before the United States would recognize Haiti as an independent state.

Even well after the United States made that small concession to reality, fear, suspicion,

---

[5] United States Office of the Historian, the United States and the Haitian Revolution, 1791 to 1804, https://history.state.gov/milestones/1784-1800/haitian-rev (last accessed April 12, 2026).

[6] *Id.*

[7] Immigration History, Ban on "importation" of "any negro, mulatto, or other person of colour" (1803) (effective 1808) (2019) https://immigrationhistory.org/item/1803-ban-on-importation-of-any-negro-mulatto-or-other-person-of-colour-effective-1808/#:~:text=Ban%20on%20%E2%80%9Cimportation%E2%80%9D%20of%20%E2%80%9Cany,blacks%20to%20contain%20anti%2Dslavery%20campaigners (last accessed April 12, 2026).

and antipathy toward Haiti and its Black population persisted. Frederick Douglas, who had acted as U.S. minister and counsel general to Haiti, remarked in 1893 that "Haiti is black, and we have not yet forgiven Haiti for being black or forgiven the Almighty for making her black."

Douglas's words, unfortunately, have continued to ring true in the 20th and 21st centuries. By the 1970s, the United States was almost uniformly rejecting immigrants from Haiti. From 1972 to 1980, there were 50,000 Haitian petitions for asylum and only 100 were granted.[8] In the 1980s, faced with an influx of undocumented immigrants from Haiti and Cuba, the United States government began to detain undocumented immigrants. *Id*. Prior to 1981, undocumented immigrants arriving in the United States were generally on parole while their immigration status was being determined. *Jean v. Nelson*, 472 U.S. 846, 849 (1985). This detention program was fully operational in South Florida by July 31, 1981, *id.*, but Haitians faced detention and repatriation at far higher rates than Cuban immigrants. Unlike Haitians, Cubans benefited from the Cuban Adjustment Act of 1966, which granted work authorization and green card status to any Cuban national who was in the United States for over a year.[9]

---

[8] Carl Lindskoog, *Detain and Punish: Haitian Refugees and the Rise of the World's Largest Immigration Detention System,* 16 (Univ. of Fla. Press 2018).

[9] Library of Congress, Latinx Resource Guide: Civil Rights Cases and Events in the United States,

In 1980, recognizing that Haitians were not being granted asylum when warranted (let alone green cards), South Floridian Attorney and HLA collaborator Ira J. Kurzban represented the Haitian Refugee Center—a precursor group to HLA—in a lawsuit in the United States District Court for the Southern District of Florida. This case challenged the uniform denial of asylum cases for Haitians under the Immigration and Naturalization Service's 1978 Haitian Program, a program established to address the backlog of asylum cases filed by Haitian immigrants, contending the denials were motivated by national origin discrimination. *Haitian Refugee Ctr. v. Civiletti*, 503 F. Supp. 442, 451 (S.D. Fla. 1980), *modified sub nom. Haitian Refugee Ctr. v. Smith*, 676 F.2d 1023 (5th Cir. 1982). The case exposed that the INS Regional Commissioner Armand J. Salturelli had flown to Miami in 1978 to assess what he called "the Haitian Situation" and "Problem" and had determined that all Haitians should be detained on arrival and promptly returned. To that end, INS suspended its regular operating procedures—for Haitians only—thereby accelerating their asylum denials. *Id.* at 513, 524.

Also in 1978, the Director of Intelligence for the INS wrote a memo explaining the "Haitian Problem in Florida." The memo concluded that Haitians were merely economic refugees and that, if they were too well received

---

https://guides.loc.gov/latinx-civil-rights/cuban-adjustment-act (last accessed April 12, 2026).

here, other Haitians would also immigrate. *Id.* at 513. The INS Associate Director of Enforcement concluded that the government could discourage Haitian immigrants through 1) detention; 2) not authorizing them to work, in contrast to other groups like Cubans or Nicaraguans; 3) expulsion; and 4) enforcement actions against smugglers. *Id.* at 514, 519. The court in *Haitian Refugee Center* compared this treatment to the INS's Miami Cuban Task Force, which dealt with a backlog of Cuban immigration applications by expediating applications rather than by expelling Cubans. *Id.* at 516. The INS commissioner urged government attorneys to oppose Haitian immigration applications by arguing that Haitian immigrants were "volatile" and "unusual" and "threatening the community's well-being-socially & economically." *Id.* at 517.

Considering this evidence, the court in *Haitian Refugee Center* found the Haitians proved their claim of national origin discrimination and added:

> This court cannot close its eyes, however, to a possible underlying reason why these plaintiffs have been subjected to intentional "national origin" discrimination. The plaintiffs are part of the first substantial flight of black refugees from a repressive regime to this country. All of the plaintiffs are black. In contrast, for example,

> only a relatively small percent of the Cuban refugees who have fled to this country are black. Prior to the most recent Cuban exodus, all of the Cubans who sought political asylum in individual 8 C.F.R. Sec. 108 hearings were granted asylum routinely. None of the over 4,000 Haitians processed during the INS "program" at issue in this lawsuit were granted asylum. No greater disparity can be imagined.

Id. at 451 (footnotes omitted).

Nevertheless, in 1981 the Reagan Administration adopted another tool specifically designed to curb Haitian immigration: it entered into a treaty with Haiti that allowed the United States to board Haitian boats and detain and repatriate Haitians onboard.[10] With the treaty, President Reagan issued an executive order that allowed the Coast Guard to board Haitian ships.[11] While the treaty technically allowed the United States to grant asylum to any Haitian who met the criteria to be a refugee, in the decade from 1981 to 1991, over 23,000 Haitians were intercepted and returned to Haiti, and only 28 (less than 3 per year) were permitted to proceed to the United States and apply for

---

[10] Treaty, T.I.A.S. No. 10241 (Aug. 1, 1981).

[11] Interdiction of Illegal Aliens, Exec. Order No. 12324, 46 FR 48109, 46 FR 48109, 1981 WL 404170(Pres.), Sept. 29, 1981.

asylum. [12] Moreover, from 1981 to 1990, not a single Haitian refugee or asylee was accepted by the United States for permanent refugee status. [13]

The Haitian Refugee Center, Haitians in Miami, and Kurzban endeavored to remedy the discriminatory detention of Haitians by bringing several class actions lawsuit on behalf of all undocumented Haitians who had arrived in the Southern District of Florida and were detained pending exclusion proceedings. *Jean*, 472 U.S at 849. The plaintiffs alleged that their detentions violated the Fifth and Fourteenth Amendments because they were the result of plaintiffs being Black and Haitian. A district court judge explained, "It is undisputed that Haitians are impacted to a greater degree by the new detention policy than aliens of any other nationality at the present time." *Louis v. Nelson,* 544 F. Supp. 973, 1000 (S.D. Fla. 1982), *aff'd in part, rev'd in part sub nom. Jean v. Nelson*, 711 F.2d 1455 (11th Cir. 1983), *on reh'g*, 727 F.2d 957 (11th Cir. 1984), *aff'd*, 472 U.S. 846 (1985).

The Haitian plaintiffs also alleged that, through their detention in remote locations all over the country, they were denied access to counsel, were not apprised of their right to file an asylum claim, and were given their charges in only English and not Creole. *Louis*, 530 F.

---

[12] Azadeh Dastyari, *United States Migrant Interdiction and the Detention of Refugees in Guantanamo Bay*, 20 (Cambridge University Press 2015).

[13] Raymond Audain, *Not Yet Forgiven for Being Black,* 52 LOYOLA LOS ANGELES L. REV. 409, 421.

Supp. at 926. Ultimately, this Court sided with the plaintiffs on statutory grounds. *Jean*, 472 U.S. at 857. Justice Marshall stated in dissent, however, that he "would hold that petitioners have a Fifth Amendment right to parole decisions free from invidious discrimination based on race or national origin." *Jean*, 472 U.S. at 858 (Marshall, J., dissenting). He explained that the government's own briefing supported his conclusion that the parole statute allowed nationality-based distinctions because the government had explicitly argued that "the Executive is not precluded from drawing nationality-based distinctions, for Congress has delegated the full breadth of its parole and detention authority to the Attorney General." *Id.* at 863. Justice Marshall observed, "If in this case the Government acted out of a belief that Haitians (or Negroes for that matter) are more likely than others to commit crimes or be disruptive of the community into which they are paroled, its detention policy certainly would not pass constitutional muster." *Id.* at 881.

In 1989, U.S. Representative Bruce Morrison, explained that INS was treating Haitians unfairly: "There's been a lot of discrimination [against them]," he said, "They're black, they are from a nation close to ours, and their country isn't communist."[14]

Around the same time, in 1990, Congress and President George H. W. Bush created the Temporary Protected Status ("TPS") Program which codified a long-standing practice dating

---

[14] *Id.*

back to President Eisenhower of permitting groups of otherwise deportable immigrants to remain in the United States when repatriation could endanger their lives or safety. *Ramos,* 321 F. Supp. 3d at 1091. The first TPS recipients were immigrants from El Salvador in 1990.[15]

Haitians, however, continued to be excluded from this country following the ouster of the Haitian President by a coup in 1991. In eight months, 38,000 Haitians were interdicted at sea by the U.S. Coast Guard.[16] They were detained on U.S. Coast Guard vessels and then at Guantanamo Bay. *Haitian Refugee Ctr. v. Civiletti*, 503 F. Supp. at 515.

In its advocacy role, the HLA witnessed the impact on Haitians in Florida of the differential treatment they received under U.S. immigration policy. In 1997, the HLA learned that Congress was working on a bill to enable Nicaraguans to become legal permanent residents. HLA and other organizations pushed to add Haitians to the bill. Lawmakers, however, told Haitians they were too late to be added to the bill and that their addition might mean that the bill would not pass. Nevertheless, Cuban immigrants were subsequently added to the bill. The HLA and other advocates were asked to

---

[15] Library of Congress, Latinix Resource Guide: Civil Rights Cases and Events in the United States, 1990: Temporary Protected Status, https://guides.loc.gov/latinx-civil-rights/tps (last accessed April 12, 2026).

[16] Azadeh Dastyari, *United States Migrant Interdiction and the Detention of Refugees in Guantanamo Bay*, 21 (Cambridge University Press 2015).

stand down and let the bill—eventually called the Nicaraguan Adjustment and Central American Relief Act (NACARA)—pass in 1997 without the Haitian community's objection, with the promise that another bill would be brought to enable Haitians to achieve permanent residency.

In 1998, Congress enacted the Haitian Refugee Immigration Fairness Act (HRIFA), but this legislation was more limited than NACARA, and much more limited than the Cuban Adjustment Act. For example, it did not have age-out protections for children and had a restrictive parole requirement absent from the other Acts.[17] [18]

Scholar Roger Daniels has explained:

> It is instructive to note that, despite the ideological differences between the Carter, Reagan, Bush I, Clinton, and Bush II administrations, each has persistently discriminated against Haitian entrants as opposed to Cubans. The Reagan administration began the practice

---

[17] Congressional Research Services, U.S. Immigration Policy on Haitian Migrants (May 17, 2011) at 16, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.congress.gov/crs_external_products/RS/PDF/RS21349/RS21349.19.pdf (last accessed April 12, 2026).

[18] Jordan E. Dollar & Allison D. Kent, *In Times of Famine, Sweet Potatoes Have No Skin: A Historical Overview and Discussion of Post-Earthquake U.S. Immigration Policy Towards the Haitian People*, 6 INTERCULTURAL HUM. RTS. L. REV. 87, 102–03 (2011).

> of towing Haitian, but not Cuban, vessels back to where they came from, the first Bush administration initiated the use of the naval base at Guantanamo for detained Haitians, and the Clinton administration expanded the use of the Cuban base, out of the federal judiciary's reach, as a warehouse for Haitians.[19]

Through decades of different administrations, Haitians faced strikingly harsh consequences for attempting to immigrate to the United States—not just denial of immigration status, but harsh detention and forced repatriation.

Then, in 2010, Haiti suffered a devastating earthquake. As a result, the Obama Administration granted TPS to Haitian Americans for the first time. *Id.*[20] The Obama Administration extended this status four times, each time finding that the extraordinary and temporary conditions caused by the strongest earthquake in 200 years and affecting "three million people-one-third of Haiti's population" made return to Haiti unsafe. 75 Fed. Reg 3476

---

[19] Raymond Audain, *Not Yet Forgiven for Being Black,* 52 LOYOLA LOS ANGELES L. REV. 409, 421-22.

[20] In 2004 and 2008, HLA and other groups advocated for TPS status for Haitians after devasting tropical storms and flooding but these efforts failed. Congressional Research Services, U.S. Immigration Policy on Haitian Migrants (May 17, 2011) at 8, *available at* chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.congress.gov/crs_external_products/RS/PDF/RS21349/RS21349.19.pdf (last accessed April 12, 2026).

(Jan. 21, 2010); 80 Fed. Reg. 51582 (Aug. 25, 2015); *Ramos,* 321 F. Supp. 3d. at 1095. TPS for Haitians has therefore become an important target for those who continue to believe that Haitians should be excluded from the United States. At the same time, the long history of limiting Haitian immigration means that Haitians currently benefiting from TPS have no realistic avenue for staying in the United States legally to avoid the dangerous conditions of Haiti if TPS is canceled.

II. THE GOVERNMENT'S ATTEMPT TO END TEMPORARY PROTECTED STATUS VIOLATES THE EQUAL PROTECTION CLAUSE BECAUSE IT IS THE PRODUCT OF ANIMUS

A. The *Arlington Heights* Factors That Govern This Claim

Under *Village of Arlington Heights*, a party shows a violation of the Equal Protection Clause by demonstrating proof of the government's racially discriminatory intent or purpose in carrying out an action. 429 U.S. at 266. This Court recognizes that those cases where "a clear pattern, unexplainable on grounds other than race," results from seemingly neutral legislation are "rare." *Id.* Accordingly, discriminatory intent violating the Equal Protection Clause can also be shown through the historical background of the decision. *Id.* at 267. This assessment of intent

also includes the legislative or administrative history and, in particular, "contemporary statements by members of the decisionmaking body[.]" *Id.* at 268; *see also Reno v. Bossier Par. Sch. Bd.*, 520 U.S. 471, 489 (1997) ("Other considerations relevant to the purpose inquiry include, among other things, 'the historical background of the [jurisdiction's] decision'; '[t]he specific sequence of events leading up to the challenged decision'; '[d]epartures from the normal procedural sequence'; and '[t]he legislative or administrative history, especially ... [any] contemporary statements by members of the decisionmaking body.'") (quoting *Arlington Heights*).

The *Arlington Heights* analysis rightly focuses on the intent of the current decisionmakers. In the case of Haiti, those decisionmakers are seeking to continue and strengthen the longstanding exclusion of Haitians from the United States.

B. Statements and Actions by Both the First and Second Trump Administrations Demonstrate Racial Animus

1. The President Has Openly Flagged His Discriminatory Intent

The first Trump Administration made its antipathy for Haitians apparent early on. In May 2017, the Trump Administration extended

Haitian TPS by six months, rather than the usual 18 months, and warned Haitian TPS beneficiaries "to prepare for their return to Haiti."[21] Homeland Security Secretary John Kelly announced, "This six-month extension should allow Haitian TPS recipients living in the United States time to attain travel documents and make other necessary arrangements for their ultimate departure from the United States[.]"[22] At that time, the State Department was still warning of dangerous conditions in Haiti, including violence, widespread government corruption, and abundant human rights violations.[23]

The law permits termination of TPS when the Attorney General determines that the country "no longer continues to meet the conditions for designation[.]" 8 U.S.C.A. § 1254a (West). The conditions authorizing TPS status

---

[21] 82 Fed. Reg. 23830, 23831 (May 24, 2017).

[22] Joshua Gerstein and Ted Hesson, *Trump extends legal protection for nearly 59,000 Haitians in U.S.,* POLITICO (May 22, 2017) https://www.politico.com/story/2017/05/22/trump-legal-protection-haitians-238677 (last accessed April 12, 2026).

[23] 2017 Country Reports on Human Rights Practices: Haiti U.S. Dep't. of State, https://www.state.gov/reports/2017-country-reports-on-human-rights-practices/haiti#:~:text=Recruitment%20of%20children%20for%20sexual,/legal/compliance.html (last accessed April 12, 2026).

include: "ongoing armed conflict within the state," that for returning nationals "would pose a serious threat to their personal safety"; "there has been an earthquake, flood, drought, epidemic, or other environmental disaster in the state resulting in a substantial, but temporary, disruption of living conditions in the area affected"; and "the foreign state is unable, temporarily, to handle adequately the return to the state of aliens who are nationals of the state[.]" 8 U.S.C.A. § 1254a(b)(1)(A) and (B)(i)-(ii) (West). A non-discriminatory decision to end TPS status would include showing that the authorizing conditions no longer exist.

But from the outset, the Trump Administration linked termination of status not to conditions in Haiti, as required by the TPS statute, but instead to the President's fear and dislike of the Haitian people. Around the same time, President Trump reportedly stated that Haitian immigrants "all have AIDS."[24] To justify ending TPS, Secretary of Homeland Security John Kelly sought to compile data about crime and public assistance rates for Haitian TPS beneficiaries, even though people on TPS are not

---

[24] Michael D. Shear & Julie Hirschfeld Davis, *Stoking Fears, Trump Defied Bureaucracy to Advance Immigration Agenda,* N.Y. TIMES (Dec. 23, 2017), https://www.nytimes.com/2017/12/23/us/politics/trump-immigration.html (last accessed April 12, 2026).

eligible for public benefits and crime data is not a statutory consideration for TPS designation.[25]

President Trump's open animus toward Haitians continued. In January 2018, when discussing protections for immigrants from Haiti, El Salvador, and countries in Africa, he is reported to have said, "Why are we having all these people from shithole countries come here?"[26] People attending the meeting say that he then singled out Haiti stating, "Why do we need more Haitians? . . . Take them out"[27] of any potential immigration deal." *Ramos*, 321 F. Supp. 3d at 1100. Then Secretary of Homeland Security Kirstjen M. Nelson responded by announcing that TPS status for Haitians would end in July 2019. *Id.* The termination of TPS was delayed throughout the first Trump Administration by the U.S. District Court ruling

---

[25] Alicia A. Caldwell, *AP Exclusive: U.S. Digs for Evidence Haitian Immigrant Crimes*, AP NEWS (May 9, 2017) https://apnews.com/article/crime-immigration-haiti-only-on-ap-united-states-government-740ed5b40ce84bb398c82c48884be616

[26] Josh Dawsey, *Trump Derides Protections for Immigrants from 'Shithole' Countries*, WASH. POST (Jan. 12, 2018), https://www.washingtonpost.com/politics/trump-attacks-protections-for-immigrants-from-shithole-countries-in-oval-office-meeting/2018/01/11/bfc0725c-f711-11e7-91af-31ac729add94_story.html?utm_term=.b56f11cc896f (last accessed April 12, 2026).

[27] *Id.*

in Ramos and other judicial decisions.[28]

Further, in the later part of the first Trump Administration, Haitians were detained by ICE at higher rates than non-Black immigrants and were subjected to 54% higher immigration bonds than immigrants of other nationalities--an average of $16,7000 as opposed to $10,500 for non-Haitian immigrants from June 2018 to June 2020.[29]

As explained in more detail in other briefs, the Trump campaign and then administration has continued to exhibit animus toward Haitians. For example, leading up to the 2024 election, then Vice Presidential Candidate, J.D. Vance claimed that Haitian migrants are "draining social services and causing chaos."[30] During the presidential debate the next day, then Presidential Candidate Trump parroted false claims that Haitian immigrants in Ohio were stealing and eating people's pets.[31]

---

[28] Fact Sheet: Termination of Temporary Protected Status for Haiti, National Immigration Forum (July 17, 2025), https://forumtogether.org/article/fact-sheet-termination-of-temporary-protected-status-for-haiti/ (last accessed April 12, 2026).

[29] Bill Ong Hing, *Addressing The Intersection Of Racial Justice And Immigrant Rights*, 9 BELMONT L. REV. 357, 362 (Spring, 2022).

[30] William Brangham and Mary Fecteau*, Ohio city with Haitian migrant influx thrust into political spotlight,* PBS News (September 9, 2024), https://www.pbs.org/newshour/show/ohio-city-with-haitian-migrant-influx-thrust-into-political-spotlight (last accessed April 12, 2026).

[31] Mike Catalini, *et. al., Trump amplifies false racist rumor*

Not long after taking office for the second time, on June 9, 2025, President Trump signed a proclamation banning travelers to the United States from twelve countries; the only country in the western hemisphere was Haiti.[32] The ban explained that Haiti is included because the influx of Haitians creates "acute risks" of the "establishment of criminal networks, and other national security threats."[33] These unsupported assertions were then cited by then Department of Homeland Security Secretary Noem in her second notice of Haitian TPS termination described below.[34] On December 16, 2025, President Trump extended his restriction on travel and immigration from these countries,[35] and USCIS issued policy memorandum instructing holds to be placed on all asylum

---

about Ohio's Haitian immigrants in debate, Associated Press and PBS NEWS (September 11, 2024) https://www.pbs.org/newshour/politics/watch-trump-amplifies-false-racist-rumor-about-ohios-haitian-immigrants-in-debate (last accessed April 12, 2026).

[32] Trump's travel ban on nationals from 12 countries takes effect, CBS News (July 9, 2025), https://www.cbsnews.com/news/trump-travel-ban-nationals-12-countries-takes-effect/ (last accessed April 12, 2026).

[33] 90 Fed. Reg. 24497 (June 10, 2025).

[34] 90 Fed. Reg. 54733 (Nov. 28, 2025).

[35] Restricting and Limiting the Entry of Foreign Nationals to Protect the Security of the United States, The White House (December 16, 2025), https://www.whitehouse.gov/presidential-actions/2025/12/restricting-and-limiting-the-entry-of-foreign-nationals-to-protect-the-security-of-the-united-states/ (last accessed April 12, 2026).

applications[36] and on all immigration benefits applications by immigrants from the countries listed in the ban including on immigration visas for family members.[37]

The White House website currently lists the campaign promises that President Trump has kept, including eliminating TPS "for a variety of dangerous, third-world countries, including Somalia, Venezuela, and Haiti," seemingly failing to recognize that danger in those countries is precisely why TPS is warranted under the statute.[38]

Recently, during a speech that was supposed to be about the economy, President Trump also boasted that he had put "a permanent pause on Third World migration, including from hellholes like Afghanistan, Haiti,

---

[36] USCIS, Policy Memorandum Hold and Review of all Pending Asylum Applications and all USCIS Benefit Applications Filed by Aliens from High-Risk Countries (December 2, 2025), chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0192-PendingApplicationsHighRiskCountries-20251202.pdf (last accessed April 12, 2026).

[37] USCIS, Policy Memorandum: Hold and Review of USCIS Benefit Applications Filed by Aliens from Additional High-Risk Countries (January 1, 2026), https://www.uscis.gov/sites/default/files/document/policy-alerts/PM-602-0194-PendingApplicationsAdditionalHighRiskCountries-20260101.pdf (last accessed April 12, 2026).

[38] White House, Promises Made Promises Kept, https://www.whitehouse.gov/priorities/border-immigration/ (last accessed April 12, 2026).

Somalia, and many other countries."[39] When somebody in the audience called out the word "shithole." Trump responded, to laughter, "I didn't say 'shithole,' you did." He then explained that during the meeting in 2018 he had said:

> "Why is it we only take people from shithole countries, right? Why can't we have some people from Norway, Sweden—just a few—let us have a few. From Denmark—do you mind sending us a few people? Send us some nice people, do you mind? But we always take people from Somalia. Places that are a disaster, right? Filthy, dirty, disgusting, ridden with crime."[40]

In short, President Trump has explicitly voiced that he wants U.S. immigration policy to discriminate against Haitians.

The historical discrimination against Haitians in America gives context to the recent statements from President Trump and members of his administration. The contemporaneous comments of members of the Trump Administration indicate that the termination of Haitian TPS status arises not from a belief that Haiti is safe for their return—but as Justice

---

[39] Daniel Dale, *Almost Eight Years Later, Trump Confirms He Used the Phrase Shithole Countries*, CNN (Dec. 10, 2025), https://www.cnn.com/2025/12/10/politics/donald-trump-shithole-countries-phrase (last accessed April 12, 2026).
[40] *Id.*

Marshall forecasted—that the Trump Administration has bought into the false narrative that Haitians are more likely to commit crimes, drain public resources, and sow chaos.

2. The President's Proxies Demonstrate Animus as Well

During President Trump's second presidency, then DHS Secretary Noem announced the decision to terminate Haitian TPS status starting on September 2, 2025.[41] Reportedly, United States Homeland Security Advisor Stephen Miller was the person directing Secretary Noem's actions.[42] And Miller, before the 2016 election, had told Breitbart reporters that "TPS is everything" and shared an article from an anti-immigration activist falsely explaining that people from countries like Haiti exploit natural disasters to get TPS and then eventual permanent status.[43] Then, shortly

---

[41] DHS Terminates Haiti TPS, Encourages Haitians to Obtain Lawful Status, Homeland Security (June 27, 2025), https://www.dhs.gov/news/2025/06/27/dhs-terminates-haiti-tps-encourages-haitians-obtain-lawful-status (last accessed April 12, 2026).

[42] Stuart Anderson, *Stephen Miller, Not Kristi Noem, May Be Driving U.S. Immigration Policy*, Forbes (February 1, 2026), https://www.forbes.com/sites/stuartanderson/2026/02/01/stephen-miller-not-kristi-noem-may-be-driving-us-immigration-policy/ (last accessed April 12, 2026).

[43] Michael Edison Hayden, *Stephen Miller's Affinity for White Nationalism Revealed in Leaked Emails*, Southern

before the Administration announced the end of TPS for Haitians, Miller posted on social media, "….If Haiti is as much as a mess as you say, why are Democrats trying to relocate Haiti to the United States?"[44] He then added, "And a follow-up: if Haiti is in need of economic development don't we have an obligation to return their own citizens back home?"[45] In October 2025, Miller posted a video of what appear to be Haitian migrants crossing the border at Del Rio in September 2021[46] and stated, "Never forget

---

Poverty Law Center (November 12, 2019), https://www.splcenter.org/resources/hatewatch/stephen-millers-affinity-white-nationalism-revealed-leaked-emails/ (last accessed April 12, 2026).

[44] Stephen Miller (@StephenM), X (June 28, 2025 at 5:57 PM) https://x.com/StephenM/status/1939095726379655404 (last accessed April 12, 2026).

[45] Stephen Miller (@StephenM), X (June 28, 2025 at 6:02 PM) https://x.com/StephenM/status/1939097161288786141 (last accessed April 12, 2026).

[46] In 2021, the assassination of the Haitian President and discrimination against Haitians in Brazil and Chile, lead to increased immigration of Haitians in Del Rio. The Biden Administration placed thousands of Haitians in DHS custody, repatriated at least 1,000 more, and faced backlash for images of DHS agents on horseback hitting Haitian with reigns or whips. S. Priya Morley, *Haitian migration through the Western hemisphere: a racial (in)justice analysis,* OPEN GLOB AL RIGHTS (Oct. 25, 2021), https://www.openglobalrights.org/haitian-migration-through-the-western-hemisphere-a-racial-injustice-analysis/ (last accessed April 12, 2026); Annika Kim Constantino, U.S. Border Patrol will no longer use horses in Del Rio, Texas, after outrage over treatment of Haitian migrants, CNBC (Sep. 23, 2021),

what they did to us . . . and what they will do to us again if given the chance."[47]

Newly appointed DHS Secretary Markwayne Mullin has not reversed the decision to terminate TPS status for Haitians, despite his repeated acknowledgment that Haiti is dangerous.[48] During a Senate Appropriations Committee hearing on February 10, 2026, Mullin stated that while Haiti hopefully has a bright future, it also has a "dark history" and a challenging path to recovery.[49] Given his acknowledgment of the dangers in Haiti, Secretary Mullin's failure to reconsider whether there are extraordinary and temporary circumstances that makes returning there unsafe demonstrates that this administration is holding firm in its national origin and race based animus against Haitian immigrants.

---

https://www.cnbc.com/2021/09/23/border-patrol-wont-use-horses-in-del-rio-after-outrage-over-treatment-of-haitians.html (last accessed April 12, 2026).
https://www.cnbc.com/2021/09/23/border-patrol-wont-use-horses-in-del-rio-after-outrage-over-treatment-of-haitians.html

[47] Stephen Miller (@StephenM), X (October 20, 2025 at 9:07 PM) https://x.com/StephenM/status/1980455961472139721 (last accessed April 12, 2026).

[48]Markwayne Mullin Youtube Channel, Sen. Mullin reacts to brutal Haitian murder of Oklahoma-based missionaries (May 28, 2004) https://www.youtube.com/watch?v=KA-LvuPSl3g&t=78s (last accessed April 12, 2026).

[49] Forbes Breaking News, *Markwayne Mullin Asks Experts About China's Influence in Haiti* https://www.youtube.com/watch?v=G5CLB72navg at 5:17 (last accessed April 12 2026).

C. During the Current Trump Administration, HLA's Haitian Clients Have Faced Increased Differential Treatment Tied to Their National Origin

During the current Trump Administration, HLA attorneys in South Florida have observed their Haitian clients experiencing much slower and more difficult immigration processing than other clients.

One HLA attorney represents a significant number of Haitian clients who have applied for adjustment of status based on family petitions and have appeared for USCIS interviews. Over the past year, the majority of these Haitian clients are either still awaiting decisions well beyond normal processing times or have received Requests for Evidence (RFEs) that appear to impose heightened evidentiary demands. By contrast, the attorney's non-Haitian clients in similar circumstances have had their cases adjudicated within days or weeks following their interviews, often without additional requests for documentation. Haitian clients' interviews also have been scheduled and then abruptly canceled without explanation. This pattern has not arisen in the attorney's non-Haitian cases.

Additionally, an HLA attorney's Haitian naturalization applicants who successfully passed their N-400 examinations have had their

oath ceremonies canceled. No clear justification has been provided.

Recently an HLA attorney's Haitian client with TPS who has resided in the United States since adolescence after entering lawfully applied for adjustment of status based on a family petition and attended his USCIS interview. During the interview, the adjudicating officer provided positive feedback regarding the strength of the case and indicated that a decision would likely be issued within weeks. However, several months have passed without a decision. Upon inquiry with USCIS, the only explanation provided has been that the case is on "hold." The client has no criminal history and presents no factors that would suggest a risk to public safety or national security. Similarly situated non-Haitian clients have not been subjected to comparable delays or indefinite holds.

In another case, a Haitian client was interviewed for adjustment of status in July 2025 based on an approved family petition. Despite the approval of the underlying petition and the absence of any criminal history, the adjustment application remained pending for several months. After multiple follow-ups, the client received an RFE in February 2026 seeking information that had already been addressed during the initial interview. To date, the case remains unadjudicated. Similarly, another HLA attorney's client—a private wealth management banker with multiple certifications and an MBA in finance who contributes to her community

and church—has been subjected to an RFE in order to keep her H-1B Visa, causing stress and uncertainty.

In some cases, immigration officials have even stated openly that an applicant's Haitian origin stood in their way. An HLA attorney recently handled multiple Adjustment of Status cases where immigration officers explained that, but for the applicant's Haitian nationality, the case would have been approved. Similarly, even during visa interviews, Haitian applicants were told that their Haitian nationality negatively impacted the outcome of their applications.

These experiences reflect a concerning pattern in which Haitian nationality has influenced adjudicatory outcomes. Haitians have not been able to stay in the country based on other immigration means like family petitions. Without TPS status, they will need to return to Haiti while it remains dangerously unsafe.

III. HAITIAN IMMIGRANTS, HLA, AND THEIR CLIENTS ARE ASSETS TO THEIR COMMUNITY, FURTHER DEMONSTRATING THAT THE DISPARATE TREATMENT OF HAITIANS IN THIS COUNTRY IS UNWARRANTED

In stark contrast to the negative picture of Haitian immigrants the Government seeks to paint (for example by characterizing Haitians,

without evidence, as gang members[50]), the TPS clients of HLA's attorneys are deeply integrated into the U.S. workforce and make meaningful contributions to their communities. HLA attorneys represent individuals working as nurses, nursing assistants, entrepreneurs, and engineers—many of whom serve in essential roles. And the cases Haitian immigrants bring in court push back against the discriminatory application of our immigration laws, benefiting us all.

Some examples illustrate how HLA clients work hard to be assets to this country. One HLA TPS client fled Haiti as a trained physician but was unable to immediately practice medicine in the United States due to licensing and educational barriers. Without access to financial aid as a TPS holder, she worked as a nurse while supporting herself and her U.S. citizen child as a single mother. She is now pursuing advanced training to become a nurse practitioner. Also in the medical field, another HLA TPS client has worked as a certified nursing assistant, restorative aid, and patient care technician in Miami, including caring for COVID-19 patients throughout the pandemic and completing daily living activities for low-functioning patients. These stories reflect the resilience, work ethic, and long-term contributions that many TPS holders bring to this country despite significant structural obstacles and the temporary nature of their residence here.

---

[50] 90 Fed. Reg. 54733, 54735 (Nov. 28, 2025).

Bringing civil rights cases is another way Haitian immigrants and the attorneys who represent them contribute to this country. As discussed above, civil rights cases like *Haitian Refugee Center* and *Jean* have helped ensure that the federal government follows civil rights and immigration laws. In another example, in 2018, Floridian and Haitian-American Hnaidi Cenemet, a fourteen-year-old United States citizen, and her mother, Wilna Destin,[51] who was born in Haiti but lived in the United States for 18 years, brought a lawsuit challenging the first Trump Administration's revocation of TPS status for several countries, including Haiti, as being the product of discriminatory animus against non-white immigrants and for violating the due process rights of both TPS recipients and their citizen children. *Ramos*, 321 F. Supp. 3d at 1093.

Specifically relevant here, in *Ramos* the plaintiffs argued that, even if a DHS Secretary did not express animus toward Haitians, canceling TPS still violated the Equal Protection Clause if President Trump's animus, as described above, influenced or directed the Secretary's decision-making process. 321 F. Supp 3d at 1123. The district court found that the cat's paw theory of animus—where a

---

[51] *Ramos v. Nielsen,* 3:18-cv-1554-EMC (N.D. Cal. Aug. 23, 2018), Dkt. # 95, *available at* chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.nationaltpsalliance.org/wp-content/uploads/2018/08/2018-08-23-Declaration-dckt-95_0.pdf.

subordinate's animus can influence the decision making of someone above them—can "apply with equal force when the superior entity or authority (here, the President) influences a subordinate (here, a cabinet member) to perform an action charged to the latter." *Id.* The court explained "it would be surprising if [Trump's] discriminatory intent [could] effectively be laundered by being implemented by an agency under his control." *Id.* (internal quotations and citations omitted).

Further, in 2019, Southern Floridian lawyer Kurzban and HLA founder Clarel Cyriaque, along with other attorneys, brought *Saget v. Trump*, 375 F. Supp. 3d 280 (E.D.N.Y. 2019), on behalf of individuals from New York and Southern Florida and a Miami-based organization, the Family Action Network Movement. As in *Ramos* and here, the government argued that the plaintiffs failed to allege that Acting Secretary Duke harbored discriminatory animus motivating the termination of TPS. *Id.* at 303. The *Saget* court rejected this argument, finding that liability for discrimination exists when a biased individual—in this case the person who can remove the DHS Secretary at will—manipulates the decision-maker into taking discriminatory action. *Id.* The court also noted that under *Arlington Heights*, courts can consider not only statements by the decision-maker, but the series of events leading up to the decision. Cases like these develop the law and help to build a legal system grounded in evidence and fairness.

CONCLUSION

The Government's decision to terminate TPS status for Haitians is impermissibly based on national origin and race discrimination against Haitians, in violation of the Equal Protection Clause. The judgment below should be affirmed.

Respectfully submitted,

Steve Art
Counsel of Record
Lindsay Hagy
Julia Rickert
LOEVY & LOEVY
311 North Aberdeen St.
Chicago, IL 60607
(312) 243-5900
steve@loevy.com

ADDITIONAL COUNSEL

CLAREL CYRIAQUE
Immigration Counsel
Clarel Cyriaque Law Offices
25 SE 2nd Avenue, Suite 1050
Miami, Florida 33131
Founder and President Haitian Lawyers Association (1997-2000)

EMMANUELLA A. TELFORT
Immigration Counsel
Telfort Law Firm, P.A.
20200 W. Dixie Highway, Suite 902
Aventura, Florida 33180
President-Elect Haitian Lawyers Association (2025–2026)

PATRICIA ELIZEE
Immigration Counsel
Elizee Law Firm, P.A.
1110 Brickell Avenue, Suite 315
Miami, Florida 33131
President Haitian Lawyers Association (2016–2017)

RUTH JEAN
Immigration Counsel
Jean Law Group, LLC
4992 N Pine Island Rd Lauderhill, FL 33351-9332
Member Haitian Lawyers Association (2025–2026)

MICHAÈL'S DÉBORAH SAINT-VIL
Immigration Counsel
1175 NE 125th Street, Suite 206,
North Miami, FL 33161
President
Haitian Lawyers Association (2024–2025)

NADINE GEDEON
Immigration Counsel
Gedeon & Morales Law Group, PLLC
2450 Hollywood Boulevard, Suite 104
Hollywood, Florida 33020
President
Haitian Lawyers Association (2022–2023)

C. CASSANDRA SUPRIN
Immigration Counsel
1175 NE 125th Street, Suite 206,
North Miami, FL 33161

LOUNE-DJENIA ASKEW
Attorney At Law
Askew & Associates, P.A.
3500 N. State Road 7, Suite 300-2
Lauderdale Lakes, Florida 33319
Vice President
Haitian Lawyers Association (2025–2026)

EDNA PIERRE
Attorney At Law
Pierre Legal, P.A.
3350 SW 148th Avenue, Suite 110
Miramar, Florida 33027
Board Director
Haitian Lawyers Association (2025–2026)

Member
Haitian Lawyers Association (2025–2026)

MARCK K. JOSEPH
Attorney At Law
Florida Board-Certified in Marital and Family Law
The Joseph Firm, P.A.
290 NW 165th Street, Penthouse 6
Miami, Florida 33169
Member
Haitian Lawyers Association (2025–2026)

VANESSA JOSEPH
Attorney At Law
National Haitian American Officials Network, Inc.
1320 North Pine Hills Road
Orlando, Florida 32808
Secretary
Haitian Lawyers Association (2017-2018)