

Nos. 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.*,
Petitioners,

v.

FRITZ EMMANUEL LESLY MIOT, *et al.*,
Respondents.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURTS OF
APPEALS FOR THE SECOND AND DISTRICT OF COLUMBIA CIRCUITS

**BRIEF OF PROJECT ROUSSEAU
AS *AMICUS CURIAE*
IN SUPPORT OF RESPONDENTS**

ANDREW HEINRICH
Counsel of Record
PROJECT ROUSSEAU
1560 Broadway, Suite 805
New York, NY 10036
(917) 734-7219
andrew.heinrich@projectrousseau.org

Attorney for Amicus Curiae

TABLE OF CONTENTS

	<i>Page</i>
TABLE OF CONTENTS.....	i
TABLE OF CITED AUTHORITIES	ii
INTEREST OF THE AMICUS CURIAE.....	1
INTRODUCTION AND SUMMARY OF ARGUMENT	1
ARGUMENT.....	4
I. The Government Is Not Likely to Succeed on The Merits.....	4
II. The Government Will Not Suffer Irreparable Harm if a Stay Is Not Granted	9
III. Haitians with TPS Stand to Suffer Irreparable Harm if a Stay Is Granted	10
IV. Haitian Youth and Families Would Suffer Disparate Irreparable Harm.....	11
V. Permitting TPS to Continue Is in the Public Interest.....	20
CONCLUSION	22

TABLE OF CITED AUTHORITIES

	<i>Page</i>
Cases	
<i>Doe v. Noem</i> , 2026 WL 184544 (N.D. Ill. 2026)	8
<i>Fischer v. United States</i> , 144 S.Ct. 2176 (2024)	6
<i>Matter of W-B-M-R-</i> , 28 I. & N. Dec. 118 (B.I.A. 2020)	10
<i>Miot v. Trump</i> , 2026 WL 266413 (D.D.C. Feb. 2, 2026)	5
<i>Nat'l TPS All. v. Noem</i> , 150 F.4th 1000 (9th Cir. 2025).....	5
<i>Nat'l TPS All. v. Noem</i> , 166 F.4th 739 (9th Cir. 2026).....	8
<i>Nken v. Holder</i> , 556 U.S. 418 (2009).....	9, 11-13
<i>Winter v. Natural Resources Defense Council, Inc.</i> , 555 U.S. 7 (2008).....	11
<i>Wisconsin Gas Co. v. FERC</i> , 758 F.2d 669 (D.C. Cir. 1985)	10

Cited Authorities

	<i>Page</i>
Statutes and Other Authorities	
6 U.S.C. § 557.....	5
8 U.S.C. § 1229b(b)(2)(A)(i) (2024).....	13
8 U.S.C. § 1254a(b)(1)	5
8 U.S.C. § 1254a(b)(3)	2, 4-6
18 U.S.C. § 1512.....	6
8 C.F.R. § 204.11(b)(3).....	12
8 C.F.R. § 244.14(a)(1)	10
Algernon Austin, <i>Haitian Americans: A Socioeconomic Snapshot</i> , Ctr. for Econ. & Pol’y Rsch. (Sept. 18, 2024), https://cepr.net/publications/haitian-americans-a-socioeconomic-snapshot/	20, 21
Associated Press, <i>Haiti’s Gangs Have ‘Near-Total Control’ of the Capital, U.N. Says</i> , <i>NPR</i> (July 3, 2025), https://www.npr.org/2025/07/03/nx-s1-5455540/haiti-gangs-capital-port-au-prince-violence	7

Cited Authorities

	<i>Page</i>
Center for Preventative Action, <i>Criminal Violence in Haiti</i> , Council on Foreign Rels. (Dec. 4, 2025), https://www.cfr.org/global-conflict-tracker/conflict/instability-haiti	7
<i>Consultation Between DHS and State Pertaining to TPS Determination</i> (Sept. 5, 2025).	6
David Figlio et al., <i>The Distribution of English Learners Across Schools</i> (CALDER Working Paper No. 180, 2017).	21, 22
Freedom House, <i>Haiti</i> (2026), https://freedomhouse.org/country/haiti/freedom-world/2025#:~:text=Overview,and%20the%20rule%20of%20law (last visited Apr. 10, 2026).	7
GAO, <i>Temporary Protected Status</i> (Apr. 2020)	8
Global Ctr. for the Responsibility to Protect, <i>Haiti</i> , GlobalR2P, https://www.globalr2p.org/countries/haiti/ (last visited Apr. 10, 2026).	15
Foreign, Commonwealth & Development Office, <i>Haiti Travel Advice: Safety and Security</i> , GOV.UK, https://www.gov.uk/foreign-travel-advice/haiti/safety-and-security (last visited Apr. 10, 2026).	16

Cited Authorities

	<i>Page</i>
The Haitian Times, “Road Transport Resumes in Haiti’s Northwest as Gangs Tax Drivers to Reach Port-au-Prince” (Aug. 2, 2025), https://haitiantimes.com/2025/08/02/road-transport-resumes-in-haitis-northwest-as-gangs-tax-drivers-to-reach-port-au-prince/	16
Eric A. Hanushek & Ludger Woessmann, <i>The Economic Impacts of Learning Losses</i> (OECD Educ. Working Papers No. 225, 2020)	18
Inter-American Development Bank, <i>Nourishing Futures: How School Meals Are Building Resilience and Transforming Lives in Haiti</i> , IDB Blog (Education), (Mar. 27, 2026), https://www.iadb.org/en/blog/education/nourishing-futures-how-school-meals-are-building-resilience-and-transforming-lives-haiti	18
International Rescue Committee, Haiti’s gang violence crisis: What to know and how to help (Jan. 12, 2026), https://www.rescue.org/article/haitis-gang-violence-crisis-what-know-and-how-help#:~:text=Haiti%20descended%20into%20political%20chaos,the%20same%20period%20in%202024	14
Roobens Isma, <i>Telecom Failures Deepen Isolation of Haiti’s Southern Region</i> , Le Nouvellist (Aug. 18, 2025), https://lenouvelliste.com/en/article/259031/telecom-failures-deepen-isolation-of-haitis-southern-region	20

Cited Authorities

	<i>Page</i>
Ebenezer Obadare, <i>Rescuing Haiti from Gang Rule</i> , <i>Council on Foreign Rels.</i> (Nov. 26, 2024), https://www.cfr.org/articles/rescuing-haiti-gang-rule	7
Office of the United Nations High Commissioner for Human Rights, <i>Situation of Human Rights in Haiti</i> , U.N. Doc. A/HRC/61/74 (Mar. 23, 2026)	15
Research Directorate, Immigration and Refugee Board of Canada, <i>Haiti: Treatment of Haitian Nationals Who Return to Haiti After an Extended Absence Abroad, Particularly Those Returning from Canada, and Treatment of Their Family Members in Haiti by Society, Criminal Groups and Authorities; State Protection (2024–July 2025)</i> , HTI202375.E (Aug. 14, 2025), https://www.irb-cisr.gc.ca/en/country-information/rir/Pages/index.aspx?doc=458918&utm	15-17
Rios, <i>As Legal Status Is Set to End for Many Haitians</i> , WBUR (Aug. 7, 2025), https://www.wbur.org/news/2025/08/07/haitians-tps-massachusetts-trump-health-care	21
David Shepardson, <i>U.S. Extends Flight Restrictions to Haiti Capital Until Early September</i> , Reuters (Mar. 4, 2026), https://www.reuters.com/business/aerospace-defense/us-extends-flight-restrictions-haiti-capital-until-early-september-2026-03-04/	19

Cited Authorities

	<i>Page</i>
Sarah D. Sparks, <i>Student Mobility: How It Affects Learning</i> , Educ. Week (Aug. 11, 2016), https://www.edweek.org/leadership/student-mobility-how-it-affects-learning/2016/08	21
Becky Sullivan, <i>As Its Only Remaining Elected Officials Depart, Haiti Reaches a Breaking Point</i> , NPR (Jan. 18, 2023), https://www.npr.org/2023/01/18/1149556481/haiti-last-elected-official-political-crisis#:~:text=The%20constitutional%20mandate%20of%20Haiti's,and%20otherwise%20%E2%80%94%20has%20been%20relentless	6, 7
U.N. Off. of the High Comm’r of Human Rts., <i>Gangs Expand Reach in Haiti Amid Persistent Deadly Violence – UN Human Rights Office Report</i> (Mar. 24, 2026), https://www.ohchr.org/en/press-releases/2026/03/gangs-expand-reach-haiti-amid-persistent-deadly-violence-un-human-rights#:~:text=Gangs%20have%20terrorized%20the%20population,use%20of%20force%20by%20police	7
United Nations Children’s Fund, <i>Child Alert: Haiti’s Children Confront a Polycrisis</i> , UNICEF (Oct. 2025), https://www.unicef.org/child-alert/haitis-children-confront-polycrisis	14, 17

Cited Authorities

	<i>Page</i>
United Nations Children’s Fund, <i>Child Recruitment in Haiti Surges Threefold in Just One Year</i> , UNICEF (Feb. 12, 2026), https://www.unicef.org/press-releases/child-recruitment-haiti-surges-threefold-just-one-year-unicef . Child recruitment is growing rapidly, increasing by 200% in 2025.	14
United Nations Children’s Fund, <i>Education Under Attack in Haiti</i> , UNICEF Press Centre (Feb. 28, 2025), https://www.unicef.org/press-releases/education-under-attack-haiti	18
United Nations Office at Geneva, <i>Haitian Media Struggle to Survive in Face of Attacks, Revenue Collapse</i> , U.N. News (Mar. 19, 2025), https://www.ungeneva.org/en/news-media/news/2025/03/104523/haitian-media-struggle-survive-face-attacks-revenue-collapse	19, 20
United Nations, Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3	17, 18
United States Department of State, <i>Haiti Travel Advisory</i> (Jul. 15 2025), https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/haiti-travel-advisory.html	16

Cited Authorities

	<i>Page</i>
Christina Vazquez, <i>How Many Public School Students in Miami-Dade Have Connections to Haiti? We Now Know</i> , Local 10 News (Feb. 6, 2026), https://www.local10.com/news/local/2026/02/06/miami-dade-schools-report-over-4000-students-with-ties-to-haiti-amid-tps-uncertainty/	21

INTEREST OF THE AMICUS CURIAE¹

Project Rousseau is a non-profit organization that helps young people in the communities in the greatest need throughout the United States reach their full potential. Project Rousseau provides comprehensive legal services, social services, and education and enrichment programs. Amicus represents a number of Haitian children and families who have Temporary Protected Status. Amicus has a professional interest in ensuring that these youth and families do not suffer irreparable harm.

**INTRODUCTION AND
SUMMARY OF ARGUMENT**

The main question before the Court is whether the Government can terminate Temporary Protected Status (TPS) for Haitian and Syrian nationals while Courts of Appeals consider its appeals of District Courts' injunctions against the Secretary of Homeland Security's terminations. While the question of irreparable harm has traditionally focused on the archetypal single adult Haitian with TPS, a closer examination reveals the disparate, irreparable harm done to Haitian children and families in particular. Young people and families suffer particularly severe harm that must be considered when analyzing whether the Government should be permitted to terminate TPS for Haitian nationals. Many youth are eligible for certain immigration relief that requires ongoing physical presence in the United States.

1. No party or party's counsel authored or financially supported any of this brief. Only Amicus and its counsel contributed to the brief.

Likewise, youth and families are particularly vulnerable to permanent harm if they have to return to Haiti, and might be less likely to be able to return to the United States if they are subsequently permitted to do so.

The question of whether the Government is permitted to terminate TPS for Haitian nationals while the appeals run their course turns on four factors: whether the Government is likely to prevail on the claim, whether the Government would suffer irreparable harm if the decision is not stayed in the interim, whether TPS holders would suffer irreparable harm if the decision is stayed in the interim, and the public interest. Each of these four factors favors not staying the decision to enjoin the Secretary's termination of TPS.

The Government is not likely to prevail on its claim because it violated 8 U.S.C. § 1254a(b)(3) when it terminated TPS for Haitians. When seeking to terminate TPS for Haiti, the Secretary of Homeland Security did not engage in the required consultations with the Department of State or any other competent agency. The hasty process that was not informed by consultations or an examination of country conditions in Haiti stands in stark contrast to the statutorily compliant, thorough process the Secretary historically has followed for all other designations, redesignations, and terminations until recently.

The Government will not suffer irreparable harm from allowing Haitians to retain their TPS status while the courts hear appeals. It will be able to resume removal proceedings against any Haitians after their TPS expires. Conversely, Haitians with TPS are likely to suffer irreparable harm if a stay were granted. Haitians would

be removed to Haiti, which has no head of state and is a largely anarchical domestic context run by a number of profoundly violent gangs with extensive armed conflict between them. Daily life is rife with danger in Haiti, and many Haitians are killed, disappeared, and raped every day.

The risk of irreparable harm is even greater for youth and families. Youth pursuing or who have been previously granted Special Immigrant Juvenile Status (SIJS) would lose their ability to pursue status upon being removed from the United States. All children and families would be at far greater risk of physical harm and death in Haiti, since children are particularly vulnerable targets. Girls are kidnapped and forced into sex slavery at alarming and ever-increasing rates in Haiti. Simply traveling through Haiti poses a significant danger to children and families. Children are also widely unable to attend school across Haiti due to the violent, anarchical domestic context; the academic, socioemotional, and psychological impact of being unable to attend school is likely to lead to irreparable harm for many Haitian children. Even if a deported Haitian were to be permitted to return to the United States after the appeals ran their course, he may be physically unable to return to the United States given the profound restrictions on international travel.

Finally, the public interest favors allowing these Haitian youth and families — who have become productive and beloved classmates, employees, and members of our communities across the United States — to remain here while litigation continues to unfold.

ARGUMENT

I. The Government Is Not Likely to Succeed on The Merits

The Government is not likely to succeed on the merits because the record plainly shows that the Secretary of Homeland Security did not undertake the required consultation with other federal agencies to make its determinations. TPS can only be terminated if:

after consultation with appropriate agencies of the Government, [the Secretary of Homeland Security] reviews the conditions in the foreign state (or part of such foreign state) for which a designation is in effect under this subsection and shall determine whether the conditions for such designation under this subsection continue to be met.

8 U.S.C. § 1254a(b)(3).

The language of the text is clear: the Secretary must 1) consult with the appropriate agencies of the Government, 2) review the “conditions” in the foreign state, and 3) determine whether the conditions that led to the TPS designation continue.

When Congress enacted the TPS statute, it wanted to ensure that the Executive exercised reasoned, informed discretion when making determinations related to temporary relief for foreign nationals, leaning on the agencies most expert in conditions in foreign countries. This legislative history suggests that “consultation,”

within the meaning of the statute, requires something more than a mere email exchange in order to terminate TPS.

Prior to 1990, the Executive Branch provided temporary relief to certain nationals through “haphazard regulations and procedures, resulting in discretionary temporary stays that left recipients uncertain of their immigration status.” *Miot v. Trump*, 2026 WL 266413, at *2 (D.D.C. Feb. 2, 2026). In response to this “ad hoc framework,” *Nat’l TPS All. v. Noem*, 150 F.4th 1000, 1010 (9th Cir. 2025), Congress enacted the TPS statute, reflecting the legislative desire for “a system of temporary status that was predictable, dependable, and insulated from electoral politics.” *Id.* at 1008.

To accomplish such predictability, dependability, and political insulation, Congress imposed certain processes on the Attorney General, and later the DHS Secretary. *See Miot*, 2026 WL 266413 at *2; 6 U.S.C. § 557. Once the Secretary “consult[s] with appropriate agencies” to designate a country for TPS, 8 U.S.C. § 1254a(b)(1), “[e]xtension [of TPS] is the default.” *Miot*, 2026 WL 266413 at *3. Only after consultation with the appropriate agencies to determine whether the conditions justifying TPS still exist can the Secretary terminate a TPS designation. 8 U.S.C. § 1254a(b)(3).

In short, the “consultation” requirement reflects the legislative history of TPS and the original Congressional intent to create a more systematic approach for the Executive to make informed, reasoned, and thoughtful decisions regarding temporary status for immigrants.

By the Government’s own admission, it did not make an informed decision based on consultation when it terminated TPS to Haiti. According to the Government’s filings, there was one email between a member of the Department of Homeland Security and an employee of the Department of State that mentioned terminating TPS for Haitian nationals. *See* J.A. 763 (*Consultation Between DHS and State Pertaining to TPS Determination* (Sept. 5, 2025)). Though the Department of State employee comments on a matter of concern to his Department — namely, the potential reactions of states other than Haiti, a *noscitur a sociis* analysis² of the term “consultation” in 8 U.S.C. § 1254a(b)(3) clearly demonstrates that this email exchange does not qualify as a “consultation” under the statute. Given that the statutory language instructs the Secretary to proceed — after this “consultation with appropriate agencies of the Government” — to “review the conditions in the foreign state” and “determine whether the conditions for such designation . . . continue to be met,” it is clear that Congress requires “consultation” with respect to the foreign state’s, in this case Haiti’s, conditions.³

2. *Noscitur a sociis*, or “it is known by the company it keeps,” calls for understanding the meaning of a word in a statute based on the other words in the same sentence. *See, e.g., Fischer v. United States*, 144 S.Ct. 2176, 2183–85 (2024) (reasoning that the “otherwise” provision of 18 U.S.C. § 1512 is “limited by the preceding list of criminal violations,” *id.* at 2185.).

3. Country conditions in Haiti might well dictate that different parts of Haiti must be evaluated differently. There has been no head of state of Haiti since then-President Jovenel Moïse was assassinated on July 7th, 2021. Becky Sullivan, *As Its Only Remaining Elected Officials Depart, Haiti Reaches a Breaking Point*, NPR (Jan. 18, 2023), <https://www.npr.org/2023/01/18/1149556481/haiti-last-elected-official-political-crisis#:~:text=The%20constitutional%20mandate%20of%20>

The Department of Homeland Security has a well-established practice carrying out statutorily compliant consultations, as they have done them extensively in the past with respect to other TPS designations. Indeed, for much of the last thirty-six years since TPS’s enactment, the Attorney General and/or DHS Secretary *have* engaged in “consultation” within the meaning in the statute. “A 2020 Government Accountability Office report documenting DHS’s standard TPS decision-making practices explains that DHS typically collects (1) a country conditions report compiled by U.S. Citizenship

Haiti’s, and otherwise E2%80%94%20has%20been%20relentless; Freedom House, *Haiti* (2026), <https://freedomhouse.org/country/haiti/freedom-world/2025#:~:text=Overview,and%20the%20rule%20of%20law> (last visited Apr. 10, 2026). Since then, different parts of the country have been *de facto* governed by different gangs, which are often engaged in bitter conflict with one another. Ebenezer Obadare, *Rescuing Haiti from Gang Rule*, *Council on Foreign Rels.* (Nov. 26, 2024), <https://www.cfr.org/articles/rescuing-haiti-gang-rule>; Associated Press, *Haiti’s Gangs Have ‘Near-Total Control’ of the Capital*, *U.N. Says*, NPR (July 3, 2025), <https://www.npr.org/2025/07/03/nx-s1-5455540/haiti-gangs-capital-port-au-prince-violence>. Akin to national borders, these gang-controlled territories have checkpoints between them. *See, e.g., Gangs Expand Reach in Haiti Amid Persistent Deadly Violence – UN Human Rights Office Report*, U.N. Off. of the High Comm’r of Human Rts. (Mar. 24, 2026), <https://www.ohchr.org/en/press-releases/2026/03/gangs-expand-reach-haiti-amid-persistent-deadly-violence-un-human-rights#:~:text=Gangs%20have%20terrorized%20the%20population,use%20of%20force%20by%20police>. There is no meaningful control by the nominal central government of Haiti, leaving the gangs as the primary governing authority in their respective territories. *See* Center for Preventative Action, *Criminal Violence in Haiti*, *Council on Foreign Rels.* (Dec. 4, 2025), <https://www.cfr.org/global-conflict-tracker/conflict/instability-haiti>.

and Immigration Services (“USCIS”); (2) a memorandum with a recommendation from the USCIS Director to the Secretary; (3) a country conditions report compiled by the State Department; and (4) a letter with a recommendation from the Secretary of State to the Secretary of Homeland Security.” *Nat’l TPS All. v. Noem*, 166 F.4th 739, 773 (9th Cir. 2026) (Mendoza, J., concurring). Although the Secretary of Homeland Security may decline to follow the Department of State’s recommendations — as occurred in five TPS determinations between 2014 and 2018 — the record demonstrates that DHS nevertheless engaged in a meaningful and consistent consultation process with State, including the submission of detailed country conditions reports and a formal recommendation letter from the Secretary of State in those instances. *See* J.A. 104 (*GAO, Temporary Protected Status* (Apr. 2020)).

However, in the case of the Secretary of Homeland Security’s termination of TPS for Haiti, none of these steps were taken. A single email exchange by DHS with the Department of State was “a far cry from a meaningful exchange of information” required to terminate Haiti’s TPS. *Doe v. Noem*, 2026 WL 184544 (N.D. Ill. 2026). The statutory definition of the “consultation” must be about the country conditions in Haiti, and the Department of Homeland Security has extensive experience in carrying out precisely the types of consultations that Congress requires. Indeed, with the notable exceptions of some recent terminations of TPS before the Court, the Department has always carried out these required consultations in line with the statutory interpretation offered here.

Since the Secretary of Homeland Security did not carry out the statutorily-required consultations before terminating TPS for Haitians, the Government is unlikely to succeed on the merits of the case. Therefore, the analysis turns to the next factors: whether the Government would face irreparable harm if a stay is not granted, and whether Haitian nationals with TPS would face irreparable harm if a stay is granted.

II. The Government Will Not Suffer Irreparable Harm if a Stay Is Not Granted

If the injunctions are not stayed and the Government must continue to honor TPS for Haitians while the appeals run their course, the Government will not suffer irreparable harm. The Court has understood “irreparable” in line with its plain meaning: that it is a harm that could not be repaired in the future. *See, e.g., Nken v. Holder*, 556 U.S. 418, 435 (2009).

While the Government has a legitimate interest in removing foreign nationals from the United States when the law dictates it can, these injunctions would only delay their ability to do so by a few months. Furthermore, TPS is hardly the only factor limiting the Government’s ability to remove Haitians: violent country conditions have severely limited travel to Haiti. By definition, a few months’ delay— particularly when capacity is significantly limited— is not irreparable harm, since the Government would be able to begin to carry out the removals it wishes by the end of 2026.

Furthermore, while the Court has recognized a heightened government interest in swiftly removing

criminal non-citizens from the United States, TPS does not preclude the Government's ability to do so. A Haitian who was ineligible for TPS due to criminal history would have been denied TPS on that ground, and a Haitian with TPS who is subsequently convicted of either one felony or two or more misdemeanors can have his TPS rescinded and may be removed from the United States. "The Director may withdraw TPS if the applicant was not in fact eligible at the time TPS was granted or later becomes ineligible. 8 C.F.R. § 244.14(a)(1). An individual is ineligible for TPS if he or she has been convicted of a felony or two or more misdemeanors committed in the United States. Section 244(c)(2)(B)(i) of the Act." *Matter of W-B-M-R-*, 28 I. & N. Dec. 118 (B.I.A. 2020). The Government can fully pursue its interest of deporting Haitians with criminal records with the injunctions in place.

III. Haitians with TPS Stand to Suffer Irreparable Harm if a Stay Is Granted

If a stay is granted and the Government is permitted to temporarily rescind TPS for the 350,000 Haitians residing in the United States with TPS, all of those Haitians stand to suffer irreparable harm. By being erroneously returned to Haiti while awaiting the resolution of the matter, these Haitian nationals may be killed, kidnapped, or otherwise harmed in Haiti.

Irreparable harm is severe injury that cannot be remedied with financial restitution or other retroactive action, and can include physical harm, destruction of property, and deprivation of Constitutional rights. *See Wisconsin Gas Co. v. FERC*, 758 F.2d 669, 674 (D.C. Cir. 1985). This Court has previously held that removal, though

certainly burdensome, is not itself irreparable harm. *See Nken v. Holder*, 556 U.S. 418 (2009). However, this finding overlooks the irreparable harm to those youth who hold SIJS, whose physical presence in the United States is required to maintain eligibility. Furthermore, the Court has emphasized that irreparable harm must be greater than a “mere possibility.” *Winter v. Natural Resources Defense Council, Inc.*, 555 U.S. 7 (2008) at 22. In this case, far beyond a mere possibility, it is likely that Haitians with TPS would be irreparably harmed if a stay is granted.

Country conditions in Haiti demonstrate that all Haitians returning to Haiti are likely to suffer irreparable harm. Haiti’s central government currently does not exercise control over Haiti; rather, dozens of gangs operate with impunity and a viciousness that impacts the entire population.

IV. Haitian Youth and Families Would Suffer Disparate Irreparable Harm.

More so even than other Haitians, Haitian youth and families stand to suffer disparate irreparable harm were they to lose TPS while this matter is under appeal for multiple reasons. First, youth who have been granted SIJS would lose their ability to pursue their claims, given the physical presence requirement. SIJS applicants are also particularly vulnerable youth who are most likely to be irreparably harmed if erroneously returned to Haiti. Second, all youth and families are particularly susceptible to extreme violence in Haiti. Girls and young women are extremely susceptible to gender-based violence and being abducted into sex slavery in Haiti, which has become rampant. All youth are at significant risk of abduction

as well. Third, families will be particularly likely to be physically harmed while traveling between various controlled territories within Haiti. Families traveling together with children are particular targets for gang members who are *de facto* authorities in parts of Haiti, since they move more slowly, and are less able to defend themselves. Finally, since over 1,600 schools are currently closed in Haiti due to the ongoing domestic anarchy, youth who return to Haiti would suffer the irreparable harm of being unable to return to school, and unable to ensure their safety; given the enduring impacts of childhood trauma and learning loss, these children would suffer irreparable harm in Haiti.

Special Immigrant Juvenile Status (SIJS) is a form of immigration relief for youth who are (1) under the age of 21 years old, (2) currently living in the United States, (3) unmarried, and (4) have received an order from a family court or other competent state court stating that they are dependent on the court; were abandoned, abused, or neglected by one or both parents; and that it is not in their best interests to return to their home country. Youth who are eligible for SIJS are typically among the most vulnerable: they may be victims of serious child abuse or rape, or kidnapped or orphaned.

In order to qualify for SIJS, the young person applying must be in the United States. *See* 8 C.F.R. § 204.11(b)(3) (requiring that a young person seeking SIJS is “physically present in the United States”). Therefore, SIJS runs counter to the logic provided in *Nken*, where the Court held that removal alone does not constitute irreparable harm because “[a]liens who are removed may continue to pursue their petitions for review, and those who prevail can be afforded effective relief by facilitation of their

return, along with restoration of the immigration status they had upon removal.” *Nken*, 556 U.S. at 435. SIJS is distinct from a claim to asylum, or any other claim that would have been brought in an immigration court and subject to a petition for review, in that it requires physical presence in the United States. A young person who is removed from the United States while pursuing SIJS is irreparably harmed because she no longer meets the physical presence requirement.⁴

F.⁵ is a 2-year old Haitian girl who has been abandoned by her father. Her mother was brutally raped and held captive by a leader of a G-Pèp aligned gang. If F. was to return to Haiti, her mother fears that the gang may harm F. in retaliation for the family fleeing Haiti. Her fear is well-founded: her own sister has been living in hiding since late 2025 after the gang began to terrorize her. Were F. to lose TPS and be removed to Haiti, F. would suffer irreparable harm because she would lose her ability to pursue SIJS.

Additionally, SIJS applicants and SIJS holders are particularly vulnerable youth who are among the most

4. Eligibility for relief under the Violence Against Women Act (VAWA) also requires the petitioner’s physical presence in the United States under almost all circumstances. *See, e.g.*, 8 U.S.C. § 1229b(b)(2)(A)(i) (2024). Though Project Rousseau represents numerous individuals and families pursuing VAWA petitions, it so happens that none of those clients is Haitian. However, any Haitian petitioning for VAWA stands to suffer the same irreparable harm that would befall a SIJS applicant, given the physical presence requirement.

5. F. is an anonymized, true example of a Project Rousseau client.

likely to be irreparably harmed if they have to return to Haiti. They are least likely to have a parent to care for them, or a household to which to return. A family court has already determined that it is not in their best interests to return to Haiti, typically because these very risk factors exacerbate the dangerous domestic conditions.

All children and families would suffer irreparable harm if returned to Haiti because of the anarchical domestic context, rampant kidnapping and sex slavery, and endemic gang violence. Though these impact all Haitians in Haiti, these factors disproportionately impact youth and families. Over 2.7 million Haitians live in areas of Haiti that are directly and solely controlled by an armed group; of those, 1.6 million— a majority— are women and children. United Nations Children’s Fund, *Haiti Child Alert* (Oct. 2025), at 6. Children are both disproportionately impacted and targeted by violence in Haiti. Children are being targeted for gang recruitment at alarming and ever-growing rates. According to UNICEF, at least half of all gang members in Haiti are children. United Nations Children’s Fund, *Child Recruitment in Haiti Surges Threefold in Just One Year*, UNICEF (Feb. 12, 2026), <https://www.unicef.org/press-releases/child-recruitment-haiti-surges-threefold-just-one-year-unicef>. Child recruitment is growing rapidly, increasing by 200% in 2025. *See id.* Children are now arbitrarily targeted and killed in the streets on suspicion of potential gang membership. *See* International Rescue Committee, *Haiti’s gang violence crisis: What to know and how to help* (Jan. 12, 2026), <https://www.rescue.org/article/haitis-gang-violence-crisis-what-know-and-how-help#:~:text=Haiti%20descended%20into%20political%20chaos,the%20same%20period%20in%202024>.

Furthermore, certain armed groups have taken control of the civil registry office, which makes it impossible for individuals to receive new national ID cards. *See* Office of the United Nations High Commissioner for Human Rights, *Situation of Human Rights in Haiti*, U.N. Doc. A/HRC/61/74 (Mar. 23, 2026). There have been reports that Haitians without ID are at “very high risk” of killings by self-organized defense groups, such as Bwa Kale, which assume these individuals without ID are threats. *See* Research Directorate, Immigration and Refugee Board of Canada, *Haiti: Treatment of Haitian Nationals Who Return to Haiti After an Extended Absence Abroad, Particularly Those Returning from Canada, and Treatment of Their Family Members in Haiti by Society, Criminal Groups and Authorities; State Protection (2024–July 2025)*, HTI202375.E (Aug. 14, 2025), <https://www.irb-cisr.gc.ca/en/country-information/rir/Pages/index.aspx?doc=458918&utm>. Youth, especially young children, are typically far less likely than average to have ID, and would now be unable to get ID. This places children and families at particularly high risk of being killed.

Girls are also being targeted by rampant sexual violence. Haiti ranks among the top five countries with the highest number of child victims of sexual violence. *See* Global Ctr. for the Responsibility to Protect, *Haiti*, GlobalR2P, <https://www.globalr2p.org/countries/haiti/> (last visited Apr. 10, 2026).

Daily life in Haiti is extremely dangerous, and traveling outside of one’s home can be a life-threatening endeavor. Violence is rampant. Gangs exert *de facto* control over territories within Haiti without any government oversight

or challenge to their authority. Gangs operate checkpoints between and within the territories over which they lay claim, and often extort, harm, and murder individuals at their checkpoints. *See, e.g.*, “Road Transport Resumes in Haiti’s Northwest as Gangs Tax Drivers to Reach Port-au-Prince,” *The Haitian Times* (Aug. 2, 2025), <https://haitiantimes.com/2025/08/02/road-transport-resumes-in-haitis-northwest-as-gangs-tax-drivers-to-reach-port-au-prince/>. Furthermore, throughout Haiti, daily travel has become extremely dangerous and carjacking is common. *See, e.g.*, Foreign, Commonwealth & Development Office, *Haiti Travel Advice: Safety and Security*, GOV.UK, <https://www.gov.uk/foreign-travel-advice/haiti/safety-and-security> (last visited Apr. 10, 2026).

Any Haitian returned from the United States would have to travel through Haiti to go to wherever they might reside, if they have a place to reside. The data demonstrate that this journey alone is likely to result in irreparable harm. In fact, even attempting to leave the immediate area surrounding the airport in Port-au-Prince poses a high risk of extortion, kidnapping, and exposure to gang violence. *See* United States Department of State, *Haiti Travel Advisory* (Jul. 15, 2025), <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/haiti-travel-advisory.html>. It stands to reason that those returning from the United States might be disparately targeted on the belief that they may have money or valuable items in their possession, and because they are perceived as outsiders. *See* Research Directorate, Immigration and Refugee Board of Canada, *Haiti: Treatment of Haitians Nationals Who Return to Haiti After an Extended Absence Abroad, Particularly Those Returning from Canada, and Treatment of Their Family Members in*

Haiti by Society, Criminal Groups and Authorities; State Protection (2024–July 2025), HTI202375.E (Aug. 14, 2025), <https://www.irb-cisr.gc.ca/en/country-information/rir/Pages/index.aspx?doc=459047>. This is more than a “mere possibility”; in light of the tragic situation in Haiti, and the lack of any stable government to ensure a civilian’s safety or law and order, it is likely that any Haitian returned to Haiti would suffer irreparable harm merely by attempting to travel through Haiti.

The impossibility of going to school itself constitutes irreparable harm for a child. The education sector is in crisis in Haiti. Due to the domestic country conditions, over 1,600 schools were closed in Haiti in the 2024-2025 academic year alone. *See* United Nations Children’s Fund, *Child Alert: Haiti’s Children Confront a Polycrisis*, UNICEF (Oct. 2025), <https://www.unicef.org/child-alert/haitis-children-confront-polycrisis>. Other schools had already closed, and many more are closing as the conditions in Haiti remain dire. For example, L.⁶ is a Haitian teenager. Before coming to the United States, he had to attend a different school almost every year, as school after school closed due to violence in Haiti. He fled Haiti for the United States as conditions in Haiti had become progressively dangerous. L. is a standout student: in the United States, he graduated high school early at the age of sixteen, and is now enrolled in college.

The right to education is a fundamental right of a child, and is essential to his intellectual, social, and emotional growth. *See* United Nations, Convention on the Rights

6. L. is an anonymized, true example of a Project Rousseau client.

of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3. Learning loss causes significant, enduring damage to a child that can impact his long-term life prospects. *See, e.g.*, Eric A. Hanushek & Ludger Woessmann, *The Economic Impacts of Learning Losses* (OECD Educ. Working Papers No. 225, 2020).

The inability to attend school also has lasting social and emotional impacts. When children are unable to go to school for extended periods of time, they might experience difficulties forging relationships, regulating emotions, and developing a sense of belonging. *See* Inter-American Development Bank, *Nourishing Futures: How School Meals Are Building Resilience and Transforming Lives in Haiti*, IDB Blog (Education), (Mar. 27, 2026), <https://www.iadb.org/en/blog/education/nourishing-futures-how-school-meals-are-building-resilience-and-transforming-lives-haiti>. Furthermore, in the developing world, school is often a central location to receive food and other essential services; without school, Haitian children are more likely to go hungry and to not get necessary medical attention. *See Id.*

Approximately one third of children in Haiti are considered to not be in school, with far more unable to attend school on a recurring basis due to widespread violence; approximately one million additional children are at imminent risk of having to drop out of school. *See* United Nations Children’s Fund, *Education Under Attack in Haiti*, UNICEF Press Centre (Feb. 28, 2025), <https://www.unicef.org/press-releases/education-under-attack-haiti>. It is unfortunately safe to assume that even if a Haitian child were to be able to return safely to a home in Haiti, he would be unlikely to be able to attend school

for the duration of his time in Haiti, which in and of itself constitutes irreparable harm. Furthermore, the harms of not attending school for a prolonged period of time will compound these baseline harms and constitute further irreparable harm.

Any theory of the ability to reverse harm done to a wrongfully removed Haitian would be predicated upon their ability to return to the United States in the event that a court ordered their return. However, current country conditions suggest that this is impossible. Return Travel to the United States is impossible, and consistent communication is difficult. There are no international flights leaving Port-au-Prince at the moment due to the chronic unrest and lack of safety. More specifically, the FAA has extended its prohibition on U.S. airlines landing planes in Haiti through September 2026. *See* David Shepardson, *U.S. Extends Flight Restrictions to Haiti Capital Until Early September*, Reuters (Mar. 4, 2026), <https://www.reuters.com/business/aerospace-defense/us-extends-flight-restrictions-haiti-capital-until-early-september-2026-03-04/>. As such, it is highly improbable that removed Haitians would be able to return to the United States, even if they were permitted to do so.

Furthermore, communicating with Haitians in Haiti has become increasingly difficult. Radio is the primary form of mass media communication in Haiti with broadcasts largely locally operated and subject to limited oversight, and journalists and stations frequently facing threats and intimidation from armed groups. *See* United Nations Office at Geneva, *Haitian Media Struggle to Survive in Face of Attacks, Revenue Collapse*, U.N. News (Mar. 19, 2025), <https://www.ungeneva.org/en/news->

media/news/2025/03/104523/haitian-media-struggle-survive-face-attacks-revenue-collapse. In the event that Haitians were to be removed from the United States and ultimately were granted the opportunity to return, it would be difficult for those Haitians to even hear of the news, much less coordinate with an attorney in the United States when only 7% of homes have internet access and telecommunications infrastructure is subject to repeated and deliberate attacks by armed groups. *See* Roobens Isma, *Telecom Failures Deepen Isolation of Haiti's Southern Region*, *Le Nouvellist* (Aug. 18, 2025), <https://lenouvelliste.com/en/article/259031/telecom-failures-deepen-isolation-of-haitis-southern-region>.

V. Permitting TPS to Continue Is in the Public Interest

Approximately 500,000 Haitians currently live in the United States under TPS, some having lived in the country for upwards of fifteen years building families, careers, and communities in this period. During their time in the United States, they have contributed significantly to communities across the country, especially in the health professions and in public education.

J.⁷ is a college student enrolled at her local community college in an Associates of Nursing program. She is a Haitian TPS holder and an applicant for SIJS. J. aspires to serve her local community as a nurse, reflecting a broader pattern within the Haitian diaspora: one fifth of the Haitian and Haitian-American population in the United States work in the healthcare professions. *See* Algernon

7. J. is an anonymized, true example of a Project Rousseau client.

Austin, *Haitian Americans: A Socioeconomic Snapshot*, Ctr. for Econ. & Pol’y Rsch. (Sept. 18, 2024), <https://cepr.net/publications/haitian-americans-a-socioeconomic-snapshot/>. Indeed, some American healthcare providers have warned that the loss of TPS for Haitian nationals could result in the loss of between 7-20% of their workforce. See Rios, *As Legal Status Is Set to End for Many Haitians*, WBUR (Aug. 7, 2025), <https://www.wbur.org/news/2025/08/07/haitians-tps-massachusetts-trump-health-care>.

The removal of Haitian students and families would not only disrupt Haitian children’s educations but also undermine the academic, cultural, and operational stability of the wider public school communities across the country in which they are deeply embedded. The sudden loss of a classmate disrupts classroom instruction and imposes socioemotional harm on the American children who remain. See Sarah D. Sparks, *Student Mobility: How It Affects Learning*, Educ. Week (Aug. 11, 2016), <https://www.edweek.org/leadership/student-mobility-how-it-affects-learning/2016/08>. These effects would be particularly acute in public school systems with significant Haitian student populations. For example, Miami-Dade County Public Schools enrolls more than 4,000 students with Haitian ties, and in New York City public schools, Haitian Creole speakers exceed 10% of the student body in dozens of schools. See Christina Vazquez, *How Many Public School Students in Miami-Dade Have Connections to Haiti? We Now Know*, Local 10 News (Feb. 6, 2026), <https://www.local10.com/news/local/2026/02/06/miami-dade-schools-report-over-4000-students-with-ties-to-haiti-amid-tps-uncertainty/>; David Figlio et al., *The Distribution of English Learners Across Schools*

(Working Paper No. 180, CALDER, 2017). In such school communities, the removal of Haitian students would have a cascading effect on classroom cohesion, peer relationships, and the overall learning environment for the students left behind.

CONCLUSION

Haiti is in a state of unparalleled domestic turmoil. There is no head of state, and the State is powerless to combat the numerous gangs who now lay claim to their territories throughout the country. Murder, child abduction, sex slavery, and armed conflict between rival gangs are now endemic throughout Haiti. Over a third of Haiti's school-aged children are unable to attend school, while many more are too scared to try. It is against this horrific background that the Government proposes to deport Haitians back to Haiti while it awaits the outcome of its appeals of lower courts' injunctions of its termination of TPS.

Then-Secretary Noem failed to meet her statutory obligations when she terminated TPS for Haitians. Had she undergone the required consultations and examined the country conditions, she all but certainly would have found that profound harm awaits many Haitians were they to return to Haiti.

While many Haitians would be likely to suffer irreparable harm, youth and families face disproportionate risk of irreparable harm. Youth would lose their opportunity to pursue SIJS by no longer being physically

present in the United States. More so than their adult counterparts, Haitian youth are targeted with violence, forced gang recruitment, and sex slavery. Children are unable to go to school. These irreparable harms must be considered as part of the broader analysis of irreparable harm to all Haitians.

It is also in the interest of communities across America to continue to have these young people and families enrich their schools, workplaces, and community organizations.

To permit the Government to terminate TPS for Haitians while appeals are ongoing would be to subject Haitian youth and children to severe irreparable harm. Therefore, the Court must find that the Government cannot terminate TPS for Haitians.

Respectfully submitted,

ANDREW HEINRICH
Counsel of Record
PROJECT ROUSSEAU
1560 Broadway, Suite 805
New York, NY 10036
(917) 734-7219
andrew.heinrich@projectrousseau.org

Attorney for Amicus Curiae