

1991 WL 330942

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United States District Court, S.D. Florida.

HAITIAN REFUGEE CENTER, INC., a
not-for-profit corporation, Plaintiff,
v.

James BAKER, III, Secretary of State, Rear
Admiral Robert Kramek, and Admiral Kime,
Commandants, United States Coast Guard, Gene
McNary, Commissioner, Immigration and
Naturalization Service, the United States
Department of Justice, Immigration and
Naturalization Service, and the United States of
America, Defendants.

No. 91-2653-CIV-ATKINS. | Nov. 19, 1991.

Opinion

TEMPORARY RESTRAINING ORDER

GRAHAM, District Judge.

*1 THIS CAUSE came before the Court upon Plaintiff's emergency application for a temporary restraining order to prevent Defendants from returning to Haiti, Haitians intercepted and/or in the care, custody and control of the United States Coast Guard. Presently, the Haitians are being detained on the high seas and at the U.S. Coast Guard Base at Guantanamo Bay, Cuba.

THE COURT has considered the Motion, argument of counsel, and the pertinent portions of the record, and being otherwise fully advised in the premises, it is hereby

ORDERED AND ADJUDGED that the said Application

is GRANTED. Defendants are precluded from continuing to repatriate Haitians currently on board U.S.-flagged vessels and Haitians currently being held on land under United States' control and at Guantanamo Bay, Cuba until further order, to maintain the *status quo*.

Due to the importance of the matters presented and the exigent circumstances surrounding this case, additional consideration on the issue of standing is critical. Therefore, it is further

ORDERED AND ADJUDGED that Plaintiff's counsel shall, within five (5) days from the date of this Order, file a memorandum of law discussing whether Plaintiff has standing to file suit on behalf of the Haitians that have been intercepted by the United States Coast Guard, and addressing the following elements required for the issuance of a temporary restraining order:

1. that there is a substantial likelihood that Plaintiff will prevail on merits;
2. that there is a substantial threat that Plaintiff will suffer irreparable injury if the injunction is not granted;
3. that threatened injury to Plaintiff outweighs threatened harm the injunction may do to Defendant; and
4. that granting preliminary injunction will not disserve the public interest.

Haitian Refugee Center, Inc. v. Nelson, 872 F.2d 1555, 1561-1562 (11th Cir.1989) (listing factors for granting injunctive relief), *aff'd*, 111 S.Ct. 888 (1991). Defendants shall file a reply memorandum of law within two (2) days of the filing of Plaintiff's memorandum. The Court will then determine the appropriateness of granting continuing or further injunctive relief.