

DETENTION WITHOUT TRIAL IN HAITI

APPEAL CASE: RELEASE RONALD DAUPHIN

**AMNESTY
INTERNATIONAL**



Ronald Dauphin, a Lavalas Party activist, has spent four years in prison without trial for his alleged involvement in an armed confrontation between government supporters and opponents where several people were killed. He is the last remaining in prison of 16 Lavalas members and supporters who were arrested in relation to the killings and other crimes that occurred between 9 and 11 February 2004 in St. Marc's neighbourhood of La Scierie, 100km North of Haiti's capital, Port-au-Prince.

Amnesty International believes that the delay in bringing Ronald Dauphin to trial is unjustifiable and is politically motivated. The organization opposes Ronald Dauphin's continued detention without trial, which is in violation of his rights and urges the Haitian authorities to release him pending trial.

Amnesty International also calls on the Haitian authorities to conduct a thorough and impartial investigation into the 2004 events in La Scierie and bring to justice all those responsible for the killings and other crimes committed by both groups involved in the confrontation, in trials that adhere to international standards of due process and fairness. Impunity for these crimes must not prevail but justice is not served by depriving Ronald Dauphin of his rights.

The investigation into the events in La Scierie and the legal proceedings that prevent Ronald Dauphin's release pending trial were marred with irregularities and no effort has been made by the Haitian judicial authorities to rectify the situation. As a result, the Haitian state not only has denied Ronald Dauphin his right to a fair and prompt trial but has also denied the victims and their family members the right to justice, truth and redress.

Ronald Dauphin was detained in Port-au-Prince on 1 March 2004 by members of the Resistance Front, a group of armed rebels which launched a rebellion in early February 2004 against Jean-Bertrand Aristide, President of Haiti. President Aristide, leader of the Lavalas Party, was removed from power the day before Ronald Dauphin's arrest. Ronald Dauphin's detention was made without any legal grounds: there was no arrest warrant against him issued by a competent Haitian judicial authority and the Resistance Front had

no legal powers of arrest. The Resistance Front transferred Ronald Dauphin to the custody of the Haitian National Police which kept him at Delmas 33 police station before he was transferred to the National Penitentiary in Port-au-Prince.

A St. Marc magistrate in charge of the investigation issued an arrest warrant against Ronald Dauphin and 27 other people on 25 March 2004, three weeks after his detention. The warrant sought the arrest of Lavalas Party supporters allegedly involved in the confrontation and included former Prime Minister Yvon Neptune who was later indicted as an "accomplice" in the La Scierie case.

On 14 September 2005, an investigating magistrate from the St. Marc First Instance Court published, after 18 months, his report of the investigation (*ordonnance de clôture*) in which charges were formulated against Ronald Dauphin as one of the alleged perpetrators of the killings. The magistrate however failed to establish the individual responsibility of any of the co-accused in the events that took place in La Scierie. The magistrate's report called for Ronald Dauphin and his co-accused to stand trial on charges of murder, arson and "massacre" although this is not recognized as a crime in Haiti's Penal Code.

The investigating magistrate has only focused on the alleged crimes committed by the group supporting former president Jean-Bertrand Aristide and failed to identify the victims among the former president supporters and their alleged perpetrators. Furthermore, the magistrate referred the co-accused to stand trial without a jury, contrary to the provisions of Haiti's Penal Code. All crimes of blood have to be brought to trial with a jury. Ronald Dauphin and his co-accused appealed against the indictment.

On 13 April 2007, the Court of Appeal in Gonaïves (75km to the North of St. Marc) issued a decision criticizing "grave procedural errors," and "deplorable thoughtlessness" in the pre-trial investigation and requesting a new investigation. It also ordered the cases of Ronald Dauphin and several others to be sent back to the St. Marc First Instance Court "to repair the above-mentioned omissions and abuses of power" and dismissed the charges against some of the co-accused

prompting their release from prison. More than two years later, no advances have been made in the case. The Gonaïves Court of Appeal retains until today the case file without any valid legal reason. In practice, this prevents the chief magistrate of the St. Marc Court to launch a new investigation into the La Scierie case. In the mean time, Ronald Dauphin remains imprisoned while there is no indication that he, or the other co-accused, will be brought to trial. His lawyer has filed already with the Court in St. Marc four petitions of habeas corpus challenging Ronald Dauphin's detention. However, the Court in St. Marc did not answer those petitions because the case file was still lingering in the Court of Appeal in Gonaïves.

On 19 February 2005, Ronald Dauphin was one of more than 400 detainees who fled the National Penitentiary when a group of armed men attacked the facility. He remained at liberty until 22 July 2006 when he was re-arrested by the Haitian police and brought back to the National Penitentiary.

Ronald Dauphin suffers from a prostate condition and bronchial asthma and his health has deteriorated during his imprisonment. In 2008, the medical deputy director of the Directorate of Penal Administration stated on the case of Ronald Dauphin that *"given the detention conditions and the limitations in availability of treatments in a prison, the improvements offered by the medicines administered by the doctors remain temporary"*. In May 2009, private doctors examined again Ronald Dauphin and called on the authorities to immediately transfer Ronald Dauphin to a hospital where he could receive appropriate medical care. While

all of the other co-defendants have now been released (one died in prison from untreated tuberculosis), Ronald Dauphin remains imprisoned as a result of the vagaries of the Haitian judicial system.

Background information

Between 9 and 11 February 2004 a group of Lavalas Party supporters called Bale Wouze ("clean sweep") clashed with members of the opposition group RAMICOS (Rassemblement des Militants Conséquents de la Commune de St Marc – Assembly of Committed Activists from the Town of St Marc) in La Scierie. Lavalas Party opponents claimed that Bale Wouze killed at least 50 people. However, following his investigation, the United Nations Commission on Human Rights' Independent Expert on Haiti, Louis Joinet (2002-2008) dismissed allegations that there had been a "massacre" at La Scierie, but instead a clash between two armed groups which resulted in casualties on both sides. No one has ever been convicted, or even tried in connection with the La Scierie killings.

The case of former Primer Minister Yvon Neptune, as a co-accused in the La Scierie case was brought before the Inter-American Court of Human Rights which ruled that the Haitian state violated, among others, Mr. Neptune's rights to be heard promptly by a competent court, his right to liberty and personal integrity. Mr. Neptune spent two years in prison without trial and was released on 27 July 2006 on humanitarian grounds.

TAKE ACTION NOW

PLEASE WRITE TO THE HAITIAN AUTHORITIES:

- Urging the authorities to release Ronald Dauphin pending trial;
- Calling for the judicial authorities to carry an impartial and thorough investigation into the La Scierie killings and other human rights abuses and bring those responsible on both sides to justice.

PLEASE SEND APPEALS TO:

PRIME MINISTER
Michèle D. Pierre-Louis
Première Ministre
La Primature, Route de Bourdon,
Imp. Prosper, No.1 (Villa d'Accueil)
Port-au-Prince, HAITI
Fax: + 509 2298 3900
Salutation: Madame la Première
Ministre / Dear Prime Minister

MINISTER OF JUSTICE AND PUBLIC SECURITY
M. Jean Joseph Exumé
Ministre de la Justice et de la
Sécurité Publique
Ministère de la Justice
19 Avenue Charles Sumner
Port-au-Prince, HAITI
Fax: +509 2245 0474
Salutation: M. le Ministre / Dear
Minister

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