

**National Human Rights Defense Network
(RNDDH)**

**Illicit drug trafficking:
The Government of MARTELLY / LAMOTHE
makes every effort to protect drug traffickers
close to Power**

September 19th, 2013

I. Introduction

Having learned the speed with which the Judiciary in the South handled a recent drug trafficking case, the *National Human Rights Defense Network* (RNDDH) and the *South Coordination for the Defence of Human Rights* (CSDDH / RNDDH) conducted an investigation and now seeks to share the results.

II. Methodology

As part of this investigation, the following judicial authorities were interviewed:

- Deputy Justice of the Peace in *Port-Salut* , Emile JOSEPH;
- Deputy Justice of the Peace in Les *Cayes*, Jean Perlège GERARD;
- Government Commissioner, Court of First Instance in Les *Cayes*, Jean Marie SALOMON;
- Magistrate, Court of First Instance in Les *Cayes*, Joseph Josias JEAN PIERRE.

In addition, RNDDH and CSDDH met with local residents and other personalities of the Southern Department.

III. Facts

September 10th, 2013, upon request of the Police Inspector Jean JEANNOT, head of the *Port-Salut* police station; the Deputy Justice of the Peace in *Port Salut*, Mr. Emile JOSEPH, went to *Dan's Creek Hotel*, which is owned by Evinx DANIEL, in order to verify and record the presence of a certain quantity of drugs. The Magistrate recorded in the minutes having found *twenty-three (23) packages of a substance similar to marijuana*. The packages were delivered to the Head of the *Port-Salut* police station for shipment to the Head of the *Departmental Judicial Service of the Police* (SDPJ) in Les *Cayes* in order for the appropriate legal proceedings to be carried out.

The same day, the Deputy Justice of the Peace in *Les Cayes*, Jean Pélèrge GERARD, was required by the Government Commissioner of *Les Cayes*, Jean Marie SALOMON, to give his report in the police station at Les *Cayes*, acting as the local SDPJ, to assure the arrival and amount of packages, sent by the Magistrate JOSEPH Emile.

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On September 11th, 2013, Emile JOSEPH forwarded to Magistrate SALOMON, the notes he had taken during his observation, as well as all other documents included in said file, and the next day, September 12th, 2013, Jean Marie SALOMON issued *five (5)* arrest warrants for the ***traffic of narcotics*** against:

1. Evinx DANIEL
2. Patrick MONDESIR alias Ti Pap
3. Fanel LOUIS,
4. Georgy Alert MAURICE
5. David YACINTHE

The case has since been highly publicized. However, only Evinx DANIEL has been arrested. ***With all respect due to his rank as a personal friend of the President, he is installed*** in a cell in the police station in *Les Cayes*. He has been allowed to keep his cell phone and has intervened via the programming of several radio stations in *Cayes* as well as in the capital; in efforts to inform the general public that he is actually a victim, having done a good deed by collecting the floating drug cargo, seeking to prevent the seizure and sale of its' contents to children and minors. He has also accused the Government Commissioner Jean Marie SALOMON of arrogance.

In addition he claims that he himself carried the drugs to his home, and called the police and judicial authorities in order to facilitate their recuperation of the shipment.

The file, by indictment of Public Prosecution, was transferred to the Cabinet of Instruction on September 12th, 2013, and the file referred to Magistrate Joseph Josias JEAN PIERRE.

The defendant appealed to *two (2)* legal firms in *Cayes* for his defense. They are supported by the lawyers Patrick LAURENT and Camille FIEVRE, members of the private office of the ***Minister of Justice and Public Security***, Jean Renel SANON.

Magistrate JEAN PIERRE without any direction from the Prosecutor decided the same day, to release the accused; in violation of all laws governing criminal investigation Haiti. However, in order to explain his rapid response to the case, Joseph Josias JEAN PIERRE confirmed that Evinx DANIEL was indeed brought before him, and after having heard his testimony; was unavailable to discern the offense for which he was charged.

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In addition, the Government Commissioner Jean Marie SALOMON has been accused of abuse of authority following the statements *of the Minister of Justice and Public Security*, Jean Renel SANON as reported by the journalist Jean Monard METELLUS at *Radio Caraibes FM* during his prime-time program *Ranmase*.

Personalities who intervened in the press confirmed that Jean Marie SALOMON is in trouble and that his safety is being threatened. The Magistrate himself confirmed that he has fallen prey to threats. However, no action has been taken by the authorities in place to ensure his safety.

Meanwhile, Magistrate Salomon has not received any formal communications, or disciplinary action, and to date remains in office.

On September 13th, 2013 the deputy spokesperson of the *National Police of Haiti* (PNH), Inspector Garry DESROSIERS, quickly held a press conference in which he congratulated Evinx DANIEL, and noted that the police force has no reason to reproach him. While both apologizing for, and questioning the arrest; the Inspector said that the PNH had not been involved.

However, many people, including the former Deputy of *Les Cayes*, Gabriel FORTUNE, said that Evinx DANIEL was indeed recovering a drug shipment, and according to rumours circulating in the region, the boat had run out of fuel, thus allowing for the simulation of being a “good Samaritan”.

To great surprise; in the midst of public outcry over this case; on September 17th 2013, the MARTELLY / LAMOTHE government announced the creation of an independent commission to investigate the release of Evinx DANIEL. This commission is composed of *three* (3) institutions namely, the *Superior Council of the Judiciary* (Supreme Council), the *Unit for Combating Corruption* (ULCC) and the *National Police of Haiti* (PNH).

IV. Profile: Evinx DANIEL

Evinx DANIEL is known in the Southern Department as a major drug lord. He owns a luxury hotel in *Port-Salut*, called *Dan's Creek Hotel*. He also owns the *Hot Spot Restaurant* located on *Boulevard des Quatre Chemins*, in the town of *Les Cayes*.

Moreover, Evinx DANIEL is on good terms with the government and does not hide it. He has often had the opportunity to welcome President Michel Joseph MARTELLY in

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his hotel, when on business in the Southern Department. The last visit of the President to *Dan's Creek Hotel* was dated August 3rd to 4th, 2013.

V. Comments and Recommendations

RNDDH and CSDDH are outraged at the behavior displayed by the political establishment in a case involving a personal friend of the Head of State, Michel Joseph MARTELLY, namely, Evinx DANIEL who has been denounced via public outcry as being a big drug lord in the Southern Department.

RNDDH and CSDDH and have identified a number of disturbing facts in this case, and it is important to note:

Indeed, it is the accused himself, who, posing as a good Samaritan with a mission to protect young people from the dangers of drugs, said that he himself transported the drugs to his home before calling the authorities. But who can confirm the amount of drugs actually recovered, especially by someone criticized by the public as being involved in drug trafficking?

In addition, RNDDH and CSDDH have noticed that Evinx DANIEL'S case has been processed with such remarkable speed such that it now questions the very existence of the problem of prolonged pretrial detention that is rife in Haitian prisons. The process for the judicial inquiry has been clearly laid out. According to this 12 step process, *in less than forty-eight (48) hours, the Judiciary in the South seems to have carried out:*

1. The arrest of a presumed drug trafficker,
2. The registration of the file with the Prosecution, via the Court of First Instance in *Les Cayes*
3. The preparation of a indictment by the Prosecution,
4. Transfer of the file to the office of the Court of First Instance in *Les Cayes*
5. The selection of a Magistrate,
6. The registration of the case by the Magistrate's clerk in preparation of the latter.
7. The order of Extraction to the Magistrate,
8. Interrogation of the accused,
9. Communication of the file to the Public Prosecutor for indictment,
10. Order of release,
11. Execution of the order,
12. Release of the accused.

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It is clear that if all these acts were indeed performed so quickly, in order to achieve the release of Evinx DANIEL ; the Haitian justice has indeed become strangely effective.

RNDDH and CSDDH judges the unwelcome public intervention by the PNH, through its spokesman, which dared to question an arrest made by Judiciary, the institution to which it is deemed an auxiliary; as actively engaging in politics.

RNDDH and CSDDH regret that the Government of MARTELLY / LAMOTHE would expect Evinx DANIEL to be released prior to the establishment of a commission, and hence questions the effectiveness of such a body, since it is composed of *three* (3) totally under the control of power in place.

Moreover, RNDDH and CSDDH remind all citizens in general, and members of the Government of MARTELLY / LAMOTHE in particular that Haiti is a party to several regional and international conventions on drug trafficking, which among others include, the ***Convention on Narcotic of 1961, as amended by the 1972 Protocol*** and the ***1988 Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances.***

By virtue of these commitments, the Haitian political and judicial authorities have a moral duty to effectively fight drug trafficking. In this sense, Article 2 of the ***UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances*** provides that: "*Subject to its constitutional principles and the basic concepts of its legal system, each Party shall adopt such measures necessary to establish as criminal offenses under its domestic law, when the act was committed intentionally, **the possession** and sale of narcotics and psychotropic substances and drug cultivation for personal consumption as violation of the 1961 Convention as amended or the 1971 Convention.* "

Consequently, RNDDH and CSDDH fail to see how a case involving an individual in such a serious offense has been dealt with so casually when clearly in flagrant violation of the agreements to which Haiti is a part; and in violation of the ***Haitian Act of 7 August 2001 on the Control and Suppression of Illicit Traffic in Drugs*** condemns in Articles 9 and 49 detention and transportation of drugs. These sections provide as follows:

Article 9:

*"Are prohibited the production, manufacture, trade, distribution, wholesale and retail, **transport, possession,** supply, transfer for consideration or free of charge,*

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acquisition, use, import, export, transit through the national territory of the plants, and substances listed in Schedules I, II and III preparations, subject to the provisions of Article 43. "

Article 49:

*"Any person who offers, offers for sale, sells, **distributes, holds,** uses unlawfully buy, book, ships, **transports,** operates brokerage or any other form of drugs through outside authorized by this Act is punishable under a maximum sentence of 30 years imprisonment and a fine of five million (5,000,000) to ten million (10,000,000) gourds. "*

From the foregoing, RNDDH and CSDDH believe that the case of Evinx DANIEL should call into question the national consciousness regarding the relationship of political and judicial authorities with the mafia sector.

Finally, RNDDH and CSDDH invite authorities concerned to:

- Reopen the judicial investigation surrounding the drug case;
- Refer the case to an independent Magistrate in order to bring light to the issue;
- Proceed with the arrest of all those involved in the illicit traffic of narcotics in Haiti, especially in the department of the South, regardless of their political connections;
- Effectively combat drug trafficking, money laundering and corruption in the country;
- Remove from public and political institutions all drug traffickers, and those suspected of being involved in drug trafficking.

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