

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 04-814 (RCL)
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
	)	
Defendant.	)	
_____	)	

AFFIDAVIT OF BOB SMITH

Bob Smith hereby swears and affirms:

1. From 1985 to 1990, I served as a member of the United States House of Representatives for New Hampshire's 1st Congressional District. From 1990 to 2003, I served as the United States Senator, representing New Hampshire. The Senate Select Committee on POW/MIA Affairs was a special committee convened by the United States Senate during the George H. W. Bush administration (1989 to 1993) to investigate the Vietnam War POW/MIA issue, that is, the fate of United States service personnel listed as missing in action during the Vietnam War. I wrote, and introduced, the Senate Resolution establishing that Committee, to attempt to get the documents and the truth released to the public. I served as the Committee's Vice Chairman. It was in existence from August 2, 1991 to January 2, 1993.

2. On January 17, 1973, the Paris Peace Accords were signed by the United States, South Vietnam, Viet Cong and North Vietnam. They were touted as "An Agreement Ending the War and Restoring Peace in Vietnam." The agreement did not, however, end the war and restore the peace for the hundreds of POWs and MIAs who were not returned

from the war, for their families, who have waited for decades for answers, nor for the tens of thousands of South Vietnamese who were murdered or imprisoned in “re-education camps” in the North. “All of our American POWs are on the way home” said Richard Nixon shortly after the signing.

3. Soon thereafter, 527 men returned alive from the war to a well-deserved heroes’ welcome. What President Nixon did not tell the American people and the families of the missing was that the American government had numerous classified documents and human intelligence that men were, in fact, still alive in Southeast Asia. We had men on our lists, that we knew had been captured alive, yet, they never appeared on the homecoming lists and were never returned. We simply accepted the “word” of the North Vietnamese that the lists were complete.

4. President Nixon had sent the North Vietnamese a secret letter promising them approximately \$3.5 billion in war reparations. The Vietnamese retained “collateral” for that money. The money never came because Congress did not approve it, when congressmen became aware of the torture of many of the returning prisoners.

5. Two former Secretaries of Defense testified under oath before the Select Committee, that men were left behind. Schlesinger, when asked directly if we left men, said, “I can come to no other conclusion.” Secretary Laird went into even more detail saying that the Pentagon had “solid information, such as letters or direct contacts, with about 20 airmen who survived in Laos after their planes were shot down.”

6. On one of my frequent visits to Southeast Asia as a U.S. senator and congressman, I had occasion to speak to one of the North Vietnamese officials who was present at the negotiations in Paris. He told me point blank that “the American side handed

over their list and we handed over ours and there was little discussion,” and that “the POW issue was not aggressively pursued at all.”

7. The live-sighting reports of former Marine Bobby Garwood, who remained behind in Vietnam until 1979, are well documented. Bobby told me with tears in his eyes how he had seen Americans climb out of a box car in the late 70’s in Yen Bai, Vietnam. I took Garwood back on a trip to Vietnam in the 90’s when I was in the Senate and he showed me where he had seen American POWs on an island in Tach Ba Lake, in Vietnam as well.

8. The investigators on the Senate Select Committee found literally thousands of live-sighting reports over the years from the end of the war into the 1990s. There was also ample evidence of pilot-identifier codes on the ground and seen from the air. I personally have seen hundreds of classified documents that could and should be released as they pose no national security risk. What is really at risk are the reputations and careers of the intelligence officials who participated in and perpetrated this sorry chapter in American history.

9. During the Senate Select Committee's tenure, I fought with the bureaucrats, and Senators McCain and Kerry, to the point of exhaustion. It was a very sad chapter in American history.

10. One of the most intriguing documents on the issue is the one called the “1205 Document,” or the “1205.” This document was retrieved from the old Soviet archives by an independent researcher from Australia by the name of Stephen Morris. He was not a so-called “POW activist” and was not looking for information on American POWs from Vietnam. While doing unrelated research, he found a document stamped “Extremely

Secret” from the old Soviet General Staff Intelligence (GRU). The contents of this document depicted a speech given to the Politburo of the Vietnamese Communist Party in September of 1972 by General Tran Van Quang, the Deputy Chief of the General Staff of the Vietnam People’s Army (VPA). In his remarks Quang told the Politburo members that North Vietnam was holding 1205 prisoners of war. This, of course, is critical since only a few months later the Vietnamese released less than half of that number, 527.

11. In the spring of 1997, in relation to Senate confirmation of a U.S. Ambassador to Vietnam, the Assistant to the President for National Security Affairs, Samuel R. Berger, directed the U.S. Intelligence Community (IC) to undertake a special National Intelligence Estimate (NIE) on the Vietnam War POW/MIA issue and to provide the ICs updated assessment of the so-called "1205" document from the Russian archives. Mr. Berger further directed the IC to consult with the Senate Select Committee on Intelligence (SSCI) on the terms of reference for the NIE. Mr. Berger's directives followed personal discussions with both myself and the Senate Majority Leader, Senator Trent Lott. Subsequent to Mr. Berger's pledge to have the IC conduct a special NIE, I met personally with the Director of Central Intelligence, George Tenet, and the Director of the Defense Intelligence Agency, Lt Gen. Patrick Hughes, to underscore the importance I attached to the need for this NIE to be thorough and objective.

12. In the fall of 1997, Congress passed, and the President signed into law, the National Defense Authorization Act for fiscal Year 1998, which included a provision that I authored that required the Director of Central Intelligence to "provide analytical support on POW/MIA matters." The legislative history of this provision made clear that it was

related to both the preparation of the forthcoming NIE, which would be relied on by departments and agencies involved with POW/MIA matters.

13. The POW/MIA issue addressed in the NIE centered on two key questions, as stated in the NIE's Scope Note: (1) Since 1987, to what extent has the leadership of Vietnam demonstrated a commitment to cooperating with the United States to achieve the fullest possible accounting of missing in action personnel, and (2) What is the Intelligence Community's assessment of the so-called "1205" and "735" documents from the Russian archives?

14. The IC released its NIE in early 1998. It judged the "1205" to be unreliable. The NIE was extremely inaccurate, misleading, speculative and unsupported. It ignored that virtually all other detailed statements in the 1205 were known to be true. Yet the IC singled out only the statements about the 1,205 POWs as being false. In November of 1998, I demanded that the NIE be retracted, in a detailed, 160-page Critical Assessment ("Report").

15. This Report was sent to the Members of the National Foreign Intelligence Board and the Military Intelligence Board, along with a request that those boards meet to consider and approve the retraction of the NIE. The Report was also sent to relevant Congressional leaders, along with requests that oversight hearings concerning this NIE be conducted at the earliest possible date. Additionally, the Report was sent to officials who may rely on the NIE, such as U.S. policy-makers with responsibility for U.S. relations with the Government of the Socialist Republic of Vietnam, and to U.S. military officials with responsibility for POW/MIA accounting efforts in Southeast Asia.

16. The CIA released this Report to the plaintiffs in this case, in redacted form, in 2016. Accuracy in Media has posted this record on its website, here

<http://www.aim.org/pdf/Hall-CIA/CIA-Production-2016-209-pages.pdf>. The Report's cover-page reads:

A Critical Assessment of the 1998 National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue, Prepared and Submitted by the Office of U.S. Senator Bob Smith, November, 1998.

Sen. Smith is the U.S. Chairman of the Vietnam War Working Group of the U.S.-Russia joint Commission on POWs and MIAs. He is also a senior Member of the Senate Committee on Armed Services and the former Co-Chairman of the Senate Select Committee on POW/MIA Affairs (1991-1993).

17. I spoke to a high ranking former member of the KGB who told me point blank that the document is real, because the Soviets actually had the Vietnamese Politburo bugged and the words were a verbatim transcript. He told me that he would never state this publicly, for obvious reasons. The English translation of the 1205 Document is in the Annex to the Report.

18. The 1205 accurately recounts that the Socialist Republic of Vietnam held 1,205 men, just months before it released Vietnamese released only 527 of them.

19. The American government wrote off all pending POW/MIA cases at war's end to close the books on this ugly foreign policy disaster. After decades of FOIA requests, emotional appeals from family members, senators and congressmen, and House and Senate Committee investigations, the intelligence agencies still keep numerous documents classified under the guise of national security.

20. I can state without any equivocation that they are still holding documents that should be declassified. The families of these men, and the American public, deserve to know the truth about what is in those files.

Date: August 13, 2016.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.



Bob Smith  
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