

**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.	)	
_____	)	

**DEFENDANT’S RENEWED MOTION FOR SUMMARY JUDGMENT**

Defendant, the Central Intelligence Agency (CIA), by and through the United States Attorney for the District of Columbia, hereby respectfully submits this motion for summary judgment pursuant to Fed. R. Civ. P. 56. In this case brought under the Freedom of Information Act 5 U.S.C. § 552, plaintiff sought seven categories records concerning Vietnam War POWs and MIAs. In previous opinions, the Court has granted in part and denied in part defendant’s dispositive motions. *See* Nov. 12, 2009, Mem. Op. (ECF No. 137); Aug. 3, 2012, Mem. Op. (ECF No. 187); Aug. 3, 2017, Mem. Op. (ECF No. 291). This renewed motion for summary judgment encompasses the documents as to which the Court denied summary judgment in its August 3, 2017, memorandum opinion. As explained in the Declaration of Antoinette B. Shiner, filed herewith, summary judgment in defendant’s favor is warranted as to all remaining issues.

Dated: Nov. 29, 2017

Respectfully submitted,

JESSIE K. LIU, D.C. Bar # 472845  
United States Attorney

DANIEL F. VAN HORN, D.C. Bar # 924092  
Chief, Civil Division

By: /s/ Damon W. Taaffe  
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**DEFENDANT’S STATEMENT OF FACTS**

Pursuant to Local Rule 7(h), defendant respectfully submits this Statement of Material Facts Not in Genuine Dispute in support of its renewed motion for summary judgment.

1. Part of the CIA’s search for “Item 5” records consisted of a search of temporary records files in the Agency archives. Specifically, the Agency conducted conducted searches for the 1700 names of POW/MIAs provided by Plaintiffs. As a result of those searches, the Agency uncovered a number of “hits” which indicated that potentially responsive records may have been held in 114 files that had been destroyed. Those files were largely administrative in nature. Based on the nature of the records contained in the files, these documents were designated as “temporary” and only required to be kept for designated period of time (from one to 10 years, depending on file type). By the time the searches were conducted, the files had been properly destroyed in connection with the relevant record control schedule. Given the volume and commonness of the names requested, although the CIA encountered “hits” during its searches, there is no indication that these records were truly responsive to Plaintiffs’ request. *See* Shiner Decl. at ¶ 7 (filed herewith).

2. In addition to its thorough decennial review, CIA searched for and released to

Plaintiffs any records that had been removed from operational files and therefore had lost that designation. Most of CIA's documents on POWs/MIAs have been permanently accessioned to NARA in association with mandated declassification, although CIA also has searched its records to ensure that Plaintiffs received all responsive, non-exempt material in its possession. *Id.* at ¶ 12.

3. For all records shared with Congress that were not part of the NARA project, CIA has treated all responsive records in its possession and produced them to Plaintiffs throughout this litigation (with the exception of Operational files). *Id.* at ¶ 16.

4. With respect to the documents whose dates are at issue, CIA has determined as follows: CIA has ascertained approximate dates from the content, recipients, and dates noted within the text. Document 2, C05999027, is dated 2000; Document 3, C05999550, is dated 2003; and Document 15, C06002421, is dated 1991. *Id.* at ¶ 3.

Dated: Nov. 29, 2017

Respectfully submitted,

JESSIE K. LIU, D.C. Bar # 472845  
United States Attorney

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_____	)	

**ORDER**

Upon consideration of defendant’s motion for summary judgment as to all remaining claims, it is hereby ordered that the motion is **GRANTED**.

**SO ORDERED.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Royce C. Lamberth  
United States District Judge