

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 JAMES SANDERS

James Sanders hereby swears and affirms:

1. After my 1976 retirement as a police officer, from the Seal Beach, California, Police Department, I began my career as an investigative journalist. For more than 25 years, I have researched POW/MIA issues, and have had a number of articles published. I, along with coauthor Mark Sauter, wrote the book, *The Men We Left Behind: Henry Kissinger, the Politics of Deceit and the Tragic Fate of POWs After the Vietnam War*, published in 1993. In 1992, I testified, as an expert witness, before the Senate Select Committee on POW/MIA Affairs.

**1991 Senate Committee on Foreign Relations Staff Report**

2. On May 23, 1991, the U.S. Senate Committee on Foreign Relations Republican Staff released its Report, "An Examination of U. S. Policy Toward POW/MIAs," hereinafter cited as "Report." Accuracy in Media published that Report on its website

<http://www.aim.org/pdf/Hall-CIA/An-Examination-of-US-Policy-Toward-POW-MIAs-US-Senate-1991-105-pages.pdf>.

3. The Report succinctly relates the history of communist regimes holding back POWs in World War I, World War II, the Korean War, and the Second Indochina War, known as the Vietnam War. The Report also accurately summarizes other aspects of the matter. I agree with the conclusions from the Report, quoted below, in paragraphs four through 16.

#### **Communist policy to hold back POWs**

4. The Report relates the long-standing communist policy holding back POWs in furtherance of political and economic goals.

The war that Americans call the Vietnam War is really, from the standpoint of history, the Second Indochina War. The French have the dubious distinction of having fought the First Indochina War--a most important fact to know in order to understand that the Communist Vietnamese act out of an acquired experience of warfare with Western countries. Moreover, the Vietnamese, as Communists, have had the additional benefit of the experience of other Communist regimes in dealing with the United States and European powers. Therefore, it is not surprising to learn that the problems which the United States has had in dealing with prisoners of war and the missing in action are not the result of chance, but of historic Communist policy.

Indeed, history reveals that policy. In the years after World Wars I and II, the Soviet regime, and later their North Korean cohorts, held American soldiers and citizens captive in the aftermath of these wars.

\* \* \*

The fact is that Soviet and Asian Communist regimes view POW/MIAs, living or dead, not as a problem of humanitarian concern but as leverage for political bargaining, as an involuntary source of technical assistance, and as forced labor. There is, therefore, no compelling reason in Communist logic to return POWs, or their remains, so long as political and economic goals have not been met.

Report at page 13.

#### **Paris peace talks contemplated reparations**

5. "Five days after the signing of the Paris Peace Accords, Kissinger hand-carried a letter, dated February 1, 1973 to the North Vietnamese Prime Minister which

detailed the Administration's interpretation of Article 21 of the Paris Peace Accords, which pledged that the United States would 'contribute to the healing the wounds of war and post-reconstruction of the Democratic Republic of Vietnam.'" Report at 67. The Committee reprinted that letter in the Report. The salient provision:

- 1) The Government of the United States of America will contribute to postwar reconstruction in North Vietnam without any political conditions.
- 2) Preliminary United States studies indicate that the appropriate programs for the United States contribution to postwar reconstruction will fall in the range of \$3.25 billion of grant aid over five years.

*Id.*

Kissinger's letter was not made public for another four years.

6. "In fact, U.S. reparations to North Vietnam were being discussed in Paris, France from April through June of 1973. The negotiations were extensive and detailed. A list of specific items was drawn up for the first year of U.S. aid. Among some of the items on the list: 700,000 square meters of prefabricated housing and warehouses; 200,000 metric tons of steel building supplies; 50,000 cubic meters of timber; 40 million meters of cloth; 2,000 metric tons of Rayon fibers; between 2,650 and 2,900 tractors, bulldozers and excavators..." Report at 5-7.

7. "The Vietnamese believed that they had a deal--a dirty deal, to be sure, in which prisoners would be exchanged for cold cash. It was a deal brokered by Secretary of State Henry Kissinger via a secret hand-carried letter. It would be perfectly consistent with the historical Communist policy to hold back prisoners against their will, and even the remains of the dead, to exchange for dollars at a later date. The evidence of this investigation, therefore, must be weighed against the probabilities of the historical background." Report at 14.

8. "[T]he fate of POW/MIAs of the Vietnam War may be tied to the diplomatic history of the Paris Peace Accords of 1973. Some may agree, as Col. Peck indicated, that the real abandonment of the American POW/MIAs took place at the Paris Conference, and that the present POW/MIA policies of the U.S. Government are merely an implementation of flawed decisions taken at that time." Report at 11-12.

#### **Congress refused to pay**

9. "One news report related that Secretary of State William P. Rogers Wednesday refused to rule out reconstruction aid to North Vietnam by presidential order if Congress fails to appropriate the funds. Rogers three times called for restraint by members of Congress in making adverse comments on the aid issue, *at least until* American troops are out of Vietnam and *all American prisoners are released.*" Report at 70. Emphasis in original. However, "Congress saw Kissinger's plan as a betrayal and an admission of guilt." *Ibid.*

10. "The final death-knell for the payment of reparations to North Vietnam occurred a week later when Armed Services Chairman F. Edward Hebert... served notice he will introduce a proposal to prohibit any U.S. aid for Hanoi.... It was the very next day... that the United States made its definitive statement that there were no more Americans alive in Southeast Asia and that 'rumors' did the families a disservice." *Ibid.*

#### **Bureaucratic motives**

11. I also agree with the Report's observations about the government's motivations to declare POWs dead.

On the record, the U.S. government has professed to give these concerns "the highest national priority." Off the record, this priority vanishes. Instead, other considerations emerge: Grand visions of a foreign policy of peace and reconciliation; desire for a new economic order of trade and investment;

ideological imperatives to downplay the hostility of antagonistic systems; and the natural tendency of the bureaucracy to eliminate its workload by filing cases marked "closed" instead of finding the people.

Report at 8.

### **Laos**

12. "The United States did not receive the list of Americans POWs whom North Vietnamese admitted they were holding in captivity until after the peace accords were signed." Report at 64. "[I]t was widely known that the Pathet Lao were holding many other U.S. POWs. The absence of names on the U.S. POW list handed over by the North Vietnamese of Americans captured in Laos and held by the Pathet Lao was one of the great blunders of the Paris Peace Accord negotiations and caused great confusion and emotional duress among family members of missing and captured personnel." *Ibid.*

### **Live sightings**

13. As the Report states, the intelligence community has records of over 1,400 first-hand live-sighting reports, and several thousand second-hand reports.

The original plan of the Minority Staff was to review the U.S. government's handling and evaluation of "live-sighting" reports. These reports are first-hand narratives by witnesses who believe that they have seen American military personnel alive in various locations in Southeast Asia.

\* \* \*

For Vietnam, the U.S. Government has at least 1,400 such reports, including reports that have been received up until the publication of this report in May, 1991. In addition, the U.S. Government has received thousands and thousands of second-hand reports--accounts often full of vivid detail...

Indeed, a list has circulated among POW/MIA families purporting to show that 20 U.S. personnel listed as deserters, or AWOL, were left in North Vietnamese custody after OPERATION HOMECOMING, the 1973 prisoner exchange. Four others are listed as disappearing under unexplained or unusual circumstances. The Minority Staff takes no position on the validity of this list, but it does note that almost all of the individuals cited appear on a

DIA alphabetic list entitled "U.S. Casualties in South East Asia," dated 2/26/80, but are conspicuously absent from a similar DIA list dated 8/22/84. Report at 78.

### **News media**

14. "[O]ne news report quoted a United States government spokesman, who stated, 'Rumors that there were hundreds of U.S. Servicemen held in Laotian prison camps, does the families [of the missing] a disservice.' These statements were made notwithstanding the eighty men cited by Henry Kissinger held by the North Vietnamese, and notwithstanding the fact the no U.S. POWs held by Pathet Lao forces have ever been repatriated. Clearly, both of the above United States Government statements were demonstrably false; they were designed--one can only speculate--to persuade the media that information with regard to prisoners still alive in Southeast Asia had no foundation whatsoever, and furthermore, only compounded the emotional anxiety of anxious and grieving family members. The fact of the matter is that the Pathet Lao publicly admitted to holding U.S. POWs in Laos, and Kissinger implicitly agreed...." Report at 66-67.

15. Aside from repeating official government positions, the news media has a history of suppressing information, as requested by the government.

Several weeks later, in June, 1973, the American Embassy, Saigon, sent a cable to the Secretary of State, in Washington, D.C. which documents one of the attempts to cover up evidence that the U.S. Government abandoned U.S. POWs in Southeast Asia...

Defector Nguyen Thanh Son was surface by GVN to press June 8 in Saigon. In follow on interview with AP, UPI and NBC American correspondents, questions cited information that he had seen six prisoners whom he believed were Americans who had not yet been released. American officer present at interview requested news services to play down details: AP mention was consistent with embargo request, while UPI and NBC after talk with Embassy press officer omitted it entirely from their stories.

Report at 73-74.

### **Cover-up**

16. In February 1991, Colonel Millard Peck, Chief of the Special Office for Prisoners of War and Missing in Action, resigned. The Report tells of Colonel Peck's resignation letter.

Colonel Peck confirms that a "cover-up" has been in progress. He speaks of a "mindset to debunk"--that is, to discredit witnesses rather than to ascertain the truth of their statements. He says that there was no effort to pursue "live sightings." He states that "any soldier left in Vietnam, even inadvertently, was, in fact, abandoned years ago." He also criticizes the U.S. government's treatment of the families and friends of the POW/MIAs.

These statements should be evaluated in the light of Colonel Peck's long career of faithful service in the U.S. Army, including three combat tours in Vietnam, for which he was awarded numerous medals of gallantry, including the nation's second-highest award, the Distinguished Service Cross. These are serious charges put forth by a man who knows their seriousness.

Moreover, he is one of the few who have intimate knowledge of the way the U.S. Government's POW/MIA policy operates.

Report at 79.

### **Men held in Laos**

17. Leaders of the Pathet Lao claimed throughout the war that they were holding American prisoners in Laos. U.S. defense and intelligence officials hoped that 40 servicemen captured in Laos would be released at operation homecoming, instead of the less than a dozen who were actually repatriated.

18. Dr. Kissinger sent a cable to Le Duc Tho on March 20, 1973 saying in part that the U.S. side had become increasingly disturbed about the question of American prisoners how old or missing in Lao. The U.S. side made it clear on many occasions that the list of only nine American prisoners presently presented belatedly by the Pathet Lao is clearly incomplete. During the first 60 days while the American troop withdrawal was underway,

the Nixon administration contacted North Vietnamese officials repeatedly to express concern about the incomplete nature of the prisoner lists that had been received. In early February, President Nixon sent a message to the DRV prime minister saying, with respect to the list of only 10 POWs from Laos, that:


*Laos* U.S. records show there are 317 American military man on the counter for in ~~Laos~~ and it is inconceivable that only 10 of these men's would be held prisoner in Laos.

19. Soon thereafter, Dr. Kissinger presented DRV officials with 19 case folders of Americans who should have been accounted for, but who were not. The U.S. protests continued, and, in mid-March, the U.S. threatened to hold the withdrawal of American troops. Based on intelligence reports, some officials advised military action aimed at gaining the release of the additional POWs.

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DATE: September 8, 2016.

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

  
James Dwight Sanders