

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, <u>et al.</u> ,	:	
	:	
	:	
V.	:	
	:	C.A. 04-0814 (RCL)
	:	
CENTRAL INTELLIGENCE	:	
AGENCY	:	
	:	

OPPOSED MOTION FOR ONE-DAY EXTENSION OF TIME

Plaintiffs Roger Hall, Studies Solutions Results Inc. and Accuracy in Media moved the Court pursuant to Rule 6(b) of the Federal Rules of Civil Procedure, for a one-day extension of time, to an including April 10, 2017, within which to file their Replies to defendant Central Intelligence Agency's opposition to their motions for summary judgment and other relief. As grounds for the motion, plaintiffs represent to the Court as follows.

1. By Minute Order issued today, this Court granted plaintiffs prior motion for an extension of time to and including April 7, 2017.

2. James H. Lesar, counsel for plaintiffs Hall and SSR, Inc., continued to experience the kinds of problems he explained in prior motions for extensions of time. These include continuing health problems, fatigue, pain which makes him

unable to work effectively or at all, and various kinds of computer malfunctions, some undoubtedly attributable to his technically deficient administration of computer programs, others perhaps attributable to other factors. He was also erratically unable to receive phone calls on his office phone, resulting in phone calls on his cell phone which interrupted his sleeping cycle. An omnipresent factor is vision, which is so bad that he has abandoned driving.

3. Defendant CIA has advised that it opposes this motion. It requested that the following statement be included in this motion.

“The Agency opposes plaintiff’s request. It states that, although it is sympathetic to counsel’s health difficulties and has consented to five previous extensions, it has now been more than two months since the Agency filed its opposition to plaintiffs’ cross-motions. The Agency considers it unlikely that neither plaintiff has been able to craft a reply during that period. Consequently, it opposes further extensions in this 13-year-old case.”

Email from AUSA Taaffe at 10:32 AM.

4. The CIA ignores the fact that plaintiffs filed their cross-motions for summary judgment on October 21, 2016, ECF #s 258-259, and the CIA did not respond until Jan. 30, 2017. This was three months after it was originally due. Its reply was 17 pages in length and characterized by generalities and dodginess which require time-consuming analysis and fact-checking in response. The CIA also ignores the fact that, as detailed in the prior five motions for extension of time,

during the period from January 28, 2017 through February 25, 2017, counsel was twice hospitalized for life-threatening illnesses whose consequences continue to plague his efforts to complete his reply brief.

5. Notably, in another case in which the undersigned counsel also appears but has not prepared the pleadings, the CIA, represented by AUSA Taaffe has sought extensive extensions of time, including a generalized statement of his own hospitalization, to respond to plaintiff's motion for partial summary judgment in a FOIA case, *AARC v. CIA*, C. A. No. 17-160. The CIA has in that case criticized plaintiff for having "[w]ithin mere days of filing its complaint, and without so much as conferring with the Agency or awaiting an answer, . . . mov[ing] for partial summary judgment seeking 'an order to require [the Agency] to perform an adequate search for responsive records and to release nonexempt records or portions thereof to plaintiff.'" *Id.* ECF #s 10 and 11. In its motion for a stay, the CIA sought a 4-month extension of time to review and process any responsive documents. It sets forth no factual basis for the 4-month extension it now seeks. Where it originally denied that the CIA had any records responsive to the request, it now has admitted this. It also has admitted that it has to conduct searches, including a search of operational files, which earlier it had denied or avoided. Rule 56 provides that a dispositive motion may be filed at any time after a complaint has been filed. Since it is a dispositive motion, there is no requirement that counsel

consult with opposing counsel before filing it. Plaintiff filed it 21 days after the complaint was filed. The effect has been to advance the status of the case way beyond what normally occurs when a plaintiff waits for a government agency to file an answer or dispositive motion, a process which normally takes months if not years.

6. Accuracy in Media's counsel has been bedridden for the past week, requiring counsel Lesar to prepare this motion for an extension. Attorney Clarke joins in this motion for an extension.

7. Defendant opposes this motion.

_____/s/_____
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