

U.S. District Court
FOR THE DISTRICT OF COLUMBIA CIRCUIT

Civil Action No. 04-5235 (HHK)

Roger Hall,
Plaintiff

Filed On:

v.

Central Intelligence Agency,
Defendant

BRIEF OF AMICUS CURIAE CAROL HRDLICKA PRO SE
IN SUPPORT OF PLAINTIFF ROGER HALL

Carol Hrdlicka
Amici Curiae
770 N. Mayfield Rd.
Conway Springs, KS 67031
620/456-2439

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Freedom Of Information Act

ATTACHMENT #1

Executive Orders

EO 12812

Act, I hereby waive the application of sections 402(a) and 402(b) of the Act with respect to Tajikistan and Turkmenistan.

GEORGE BUSH

THE WHITE HOUSE,

June 24, 1992

Executive Order 12812 of July 22, 1992

Declassification and Release of Materials Pertaining to Prisoners of War and Missing in Action

WHEREAS, the Senate, by S. Res. 324 of July 2, 1992, has asked that I "expeditiously issue an Executive order requiring all executive branch departments and agencies to declassify and publicly release without compromising United States national security all documents, files, and other materials pertaining to POWs and MIAs;" and

WHEREAS, indiscriminate release of classified material could jeopardize continuing United States Government efforts to achieve the fullest possible accounting of Vietnam-era POWs and MIAs; and

WHEREAS, I have concluded that the public interest would be served by the declassification and public release of materials pertaining to Vietnam-era POWs and MIAs as provided below:

NOW, THEREFORE, by the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby order as follows:

Section 1. All executive departments and agencies shall expeditiously review all documents, files, and other materials pertaining to American POWs and MIAs lost in Southeast Asia for the purposes of declassification in accordance with the standards and procedures of Executive Order No. 12356.

Sec. 2. All executive departments and agencies shall make publicly available documents, files, and other materials declassified pursuant to section 1, except for those the disclosure of which would constitute a clearly unwarranted invasion of personal privacy of returnees, family members of POWs and MIAs, or other persons, or would impair the deliberative processes of the executive branch.

Sec. 3. This order is not intended to create any right or benefit, substantive or procedural, enforceable by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

GEORGE BUSH

THE WHITE HOUSE,

July 22, 1992

ATTACHMENT

#2

THE WHITE HOUSE
WASHINGTON

OF
PDD 8

1a

June 10, 1993

SUBJECT: Declassification of POW/MIA Records

In accordance with my Memorial Day Announcement of May 31, 1993, all executive agencies and departments are directed to complete by Veterans Day, November 11, 1993, their review, declassification and release of all relevant documents, files pertaining to American POW's and MIA's missing in Southeast Asia in accordance with Executive Order 12812.

/s/ William J. Clinton

ATTACHMENT #3

Look for blue background on the front of this check, and the image of the eagle on back. If not present, do not cash.

STUDIES SOLUTIONS RESULTS, INC.
T/A POW/MIA FOIA & LITIGATION ACCOUNT
PH. 301-585-3361 TAX NO. 52-2126323
P.O. BOX 8044
SILVER SPRING, MD 20907-9044

840

PAY TO THE ORDER OF Central Intelligence Agency DATE 7-22-02 \$ 19,000.00
Ten Thousand & 00/100 DOLLARS

Bank of America.
ACH R/T 052001832

FOR Cont Case & search Roger Hall

⑈000840⑈ ⑆052001633⑆ 003928298933⑈

ATTACHMENT #4

STUDIES SOLUTIONS RESULTS, INC.
T/A POW/MIA FOIA & LITIGATION ACCOUNT

854

PH. 301-585-3361 TAX NO. 52-2126323
P.O. BOX 8044

SILVER SPRING, MD 20907-8044

DATE 8-13-02

7-163/520 MD
2414

PAY
TO THE
ORDER OF

Mark Zaid

\$ 10000.00

Ten Thousand & 00/100

250238110 060 0885 1326 1500 DARS

Bank of America.

ACH R/T 052001633

FOR

CIA court ordered search fee

Roger Hall

⑈000854⑈ ⑆052001633⑆ 003928298933⑈

⑈0001000000⑈

ATTACHMENT #5

103D CONGRESS
1st Session

SENATE

REPORT
103-1

POW/MIA'S

R E P O R T

OF THE

SELECT COMMITTEE ON POW/MIA AFFAIRS
UNITED STATES SENATE



JANUARY 13, 1993.—Ordered to be printed
Filed pursuant to Senate Resolution 10

Availability limited. Please contact
The Secretary of the Senate.

Statement of Identity and Interest of the Amicus Curiae

I am the wife of Colonel David Hrdlicka, a known Prisoner of War captured in Laos in 1965. Colonel Hrdlicka has been repeatedly reported alive since the United States withdrew from Vietnam, Laos and Southeast Asia in March 1973. POW/MIA documents have been wrongfully withheld relevant to David Hrdlicka's survival and the survival of other POW/MIAs in Laos and other countries after the end of the United States involvement in the Vietnam War ending 1973.

Laos was the domain of the Central Intelligence Agency (CIA) during the Vietnam War and ran the war in Laos utilizing Department of Defense resources and CIA contractors (i.e., U.S. Military Assistance Command Vietnam - Special Operations Group (SOG), Air America, Agency For International Development, Etc.). This secret war was managed by the military role of the CIA out of the American Embassy in Vientiane, Laos under the authority of the U.S. Ambassador. Presidential authority empowered the ambassador to manage and conduct military operations that included U.S. military aircraft and personnel (Report of the Senate Select Committee on POW/MIA Affairs (SSC)). The CIA is wrongfully withholding documentation relevant to surviving POW/MIAs or surviving unreturned American's.

ARGUMENT

Plaintiff Roger Hall did meet court requirements on intent to pay for documents sought following Judge Friedman's July 22, 2002 ruling on denial of fee waiver to Roger Hall. Plaintiff Hall delivered a \$10,000 check # 840 (Attachment 1) dated July 22, 2002 on July 22, 2002 to Mark Zaid made out to the CIA following a conversation of the court requirements for that order. This check is already a matter of record. On August 13, 2002 attorney Mark Zaid called plaintiff Roger Hall telling him to make the check out to him (check # 856, Attachment 2) stating that he [Mr. Zaid] would make out a check to the CIA to determine the documents to be released and the total cost. Mr. Zaid told Plaintiff that he would give the CIA \$1,000 for a production list of documents so plaintiff Hall would know what he was getting (i.e., not duplicates of released documents). Plaintiff Hall delivered the 2nd \$10,000 check dated August 13, 2002 on August 13, 2002 to Mr. Zaid's office. The Plaintiff wanted the \$10,000 paid that he felt was required.

Mr. Zaid had told plaintiff that he should never pay anyone for documents without knowing what he was getting, the only person to trust was his attorney and to make the check out to him [Mark Zaid]. Hall

expressed concern that Judge Friedman wanted the documents paid for and wanted the court to be informed. Mr. Zaid stated he would inform the U.S. Attorney that Plaintiff Hall had paid him the money and intended to pay for the documents. Mr. Zaid stated that was all that needed to be done. A follow-up conversation with Mr. Zaid later that August confirmed that Mr. Zaid spoke to the U.S. Attorney and informed him of Roger Hall's payment of \$10,000 and intent to pay.

The CIA has now made an issue and continues to argue that the Plaintiff had failed to comply with Judge Friedman's order. Judge Friedman dismissed the case that had been in court for five years when plaintiff had paid the \$10,000 believing he had paid the required costs and the court had been informed.

The CIA was also to be given a beginning list of areas to be searched for documents, this was not a complete list in that:

- Plaintiff did not have the insight into CIA's filing system and methods of document storage, the CIA should understand and assist in searches
- Plaintiff had witnesses willing to testify on withheld documents plus some hostile witnesses to be subpoenaed when the case progressed to that stage

- It was the CIA's responsibility under the FOIA, E. O. 12812 and PPD 8 to reveal all POW documents in that he was not an intelligence professional
- The CIA did not look for special/compartimentalized intelligence
- Certain documents the CIA said were privileged to the director and only two other CIA employees, joint operations controlled by the Joint Chiefs of Staff, and other executive branch operations were being hidden

The \$10,000 worth of documents found by the CIA had already been ordered released and should have been reviewed for declassification under E.O. 12812, and PDD 8. Many of these documents were sought by the SSC and were not turned over to that Committee. The CIA arrogantly and defiantly ignores E. O. 12812, PDD 8, and the FOIA.

The POW/MIA documents withheld by the CIA are a conflict of interest. First, because of the CIA's tasking from the many agencies and departments of government often are contrary to existing laws i.e., E.O. 12812, PDD 8. Second, the withholding of these documents is because the CIA has continuously refused to release such documentation in order to prevent embarrassment to the agency and its employees; and the embarrassment of those from other departments and agencies that worked

with the CIA on related matters. The CIA is running a delaying action to prevent disclosure of their actual POW/MIA document holdings. Each time the CIA is required to search further they find additional documents. During a court appearance in September 1998 the CIA knowingly attempted to deceive the court stating that all POW/MIA documents had been declassified. When in fact 40,000 pages of POW/MIA documents sent to the SSC by the CIA and later transferred to the National Archives were being refused for declassification review by the CIA and denied to exist. Later that year the CIA found two file cabinets of documents, and in 2000 they found many other documents that were released and some that are still classified. They keep finding more when required.

The \$10,000 was raised from donations specifically to pay for documents from the CIA as required by the court. From the CIA's writing in later filings to the court they stated Hall never complied with the court order. Hall attempted in every way to comply through his attorney Mark Zaid who was handling the financial matters of the case. From Judge Friedman's position everyone got the impression that Roger Hall refused to pay for the documents and never intended to pay. The case before Judge Friedman was dismissed because no one informed him of Plaintiff's payment to, conversation with, instructions to Attorney Mark Zaid, Mr. Zaid's reported

conversation with the Assistant U.S. Attorney, and that Hall was told that the court would be informed. The documents released and additional searches have been delayed by the government's shell game of trying to maneuver Mr. Hall out of his document requests in violation of the FOIA and executive orders.

The CIA and U.S. Attorney are playing a shell game denying the existence of POW/MIA documents until Plaintiff finds a way to identify them within the classified hiding areas. An impossible task for a common plaintiff. Documents are withheld and denied to exhaust the FOIA requesters time, and resources.

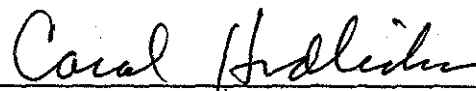
Plaintiff has been undermined after paying in compliance with Judge Friedman's orders and is entitled to the \$10,000 worth of documents and documents located in future searches. Mr. Hall has demonstrated by example how he will and to whom he will disseminate the information. Mr. Hall is constantly finding new media outlets willing to disseminate new information when it is released. It would benefit the court and the public good to include this information in its decision making.

SUMMARY AND CONCLUSION

Plaintiff made every reasonable effort to comply with the court requirements for agreement to pay. Mr. Hall had relayed his "intent to pay" through his conversations with his attorney which is established by his checks dated July 22, 2002 and August 13, 2002.

POW/MIA documentation originated by or under the control of the Central Intelligence Agency on surviving POW/MIAs is still being hidden and withheld in violation of E.O. 12812, PDD 8, and the FOIA.

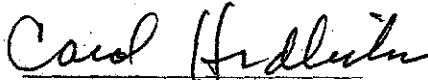
The amici, plaintiffs, and the United States public would be severely and irreparably damaged absent a correction of the manifest in justice of profound legal errors associated with case civil action #98-1319 that has impacted and undermined the current case.



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**Certificate of Compliance with Rule 32(a)(7B)
of the Federal Rules of Procedure,
and within the time allowed by F.R.A.P. 29**

I hereby certify, that I have complied pursuant to Fed. R. 32(a), with the provisions of the rule except for the proportionally spacing which is not available to this amicus filer, the brief has a typeface of 14 point and contains 1380 words (which does not exceed the applicable 14,000 word limit.


Carol Hrdlicka

AFFIADAVIT OF SERVICE

**U.S. District Court
FOR THE DISTRICT OF COLUMBIA
Civil Action No. 04-0814**

-----)
Roger Hall, et al.,
Plaintiffs

Filed On:

v.

Central Intelligence Agency,
Defendant
-----)

I, Carol Hrdlicka, being over the age of 18, upon my oath state that:

I am filing this Amici Curiae pro se

That on the 18nd Day of July, 2005, I served the within **Brief of Amicus**

Curiae Carol Hrdlicka Pro Se In Support Of Plaintiff upon:

Assistant U.S. Attorney
Craig Lawrence
555 4th St., N.W., WASHINGTON, D.C.
20530
202/514-7159

James Lesar, Attorney
1003 K St., N.W.
Suite 640
Washington, DC 20001
202/393-1921

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Carol Hrdlicka

FedEx

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