

**UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT
DOCKETING STATEMENT--CIVIL/AGENCY CASES**

Directions: Counsel must make a **docketing statement (civil/agency) filed** entry in CM/ECF within 14 days of docketing of the appeal, or within the due date set by the clerk's docketing notice, whichever is later. File with the entry the (1) docketing statement form with any extended answers and (2) any transcript order form. Parties proceeding pro se are not required to file a docketing statement. Opposing counsel who finds a docketing statement inaccurate or incomplete may file any objections within 10 days of service of the docketing statement using the ECF event-**docketing statement objection/correction filed**.

Appeal No. & Caption	25-2177 Driggs et al v. Central Intelligence Agency
Originating No. & Caption	1:23-cv-1124-DJN Driggs et al. v. Central Intelligence Agency
Originating Court/Agency	U.S. District Court for the Eastern District of Virginia

Jurisdiction (answer any that apply)		
Statute establishing jurisdiction in Court of Appeals	28 U.S.C. § 1291	
Time allowed for filing in Court of Appeals	60 days	
Date of entry of order or judgment appealed	August 6, 2025	
Date notice of appeal or petition for review filed	October 3, 2025	
If cross appeal, date first appeal filed		
Date of filing any post-judgment motion		
Date order entered disposing of any post-judgment motion		
Date of filing any motion to extend appeal period		
Time for filing appeal extended to		
Is appeal from final judgment or order?	☒ Yes	☐ No
If appeal is not from final judgment, why is order appealable?		

Settlement (The docketing statement is used by the circuit mediator in pre-briefing review and mediation conducted under Local Rule 33. Counsel may make a confidential request for mediation by calling the Office of the Circuit Mediator at 843-731-9099.)		
Is settlement being discussed?	☐ Yes	☒ No

Transcript (transcript order must be attached if transcript is needed and not yet on file)		
Is transcript needed for this appeal?	☒ Yes	☐ No
Has transcript been filed in district court?	☒ Yes	☐ No
Is transcript order attached?	☐ Yes	☒ No

Case Handling Requirements (answer any that apply)		
Case number of any prior appeal in same case		
Case number of any pending appeal in same case		
Identification of any case pending in this Court or Supreme Court raising similar issue	If abeyance or consolidation is warranted, counsel must file an appropriate motion.	
Is expedited disposition necessary?	☐ Yes	☒ No
	If yes, motion to expedite must be filed.	
Is oral argument necessary?	☒ Yes	☐ No
Does case involve question of first impression?	☐ Yes	☒ No
Does appeal challenge constitutionality of federal or state statute in case to which federal or state government is not a party	☐ Yes	☒ No
	If yes, notice re: challenge to constitutionality of law must be filed.	

Nature of Case (Nature of case and disposition below. Attach additional page if necessary.)
Action under Freedom of Information Act against the CIA seeking disclosure of records of unrepatriated American POWs from the Korean and Vietnam Wars. In 1998 Senator Bob Smith issued his Critical Assessment of the "National Intelligence Estimate (NIE) on Vietnamese Intentions, Capabilities, and Performance Concerning the POW/MIA Issue." In 2000 the DoD and CIA responded with their Joint Report, "A Review of the 1998 National Intelligence Estimate on POW/MIA Issues and the charges Levied by A Critical Assessment of the Estimate." Plaintiffs challenge redactions to this CIA review of Senator Smith's charges against it. Plaintiffs also averred that the CIA was required to search its operational records under an exception provided by the CIA Act. The District Court granted summary judgment in favor of the CIA.

Issues (Non-binding statement of issues on appeal. Attach additional page if necessary)

1. Whether the District Court erred in holding that agency bad faith in the underlying activities that generated the records at issue is legally irrelevant under the FOIA.
2. Whether the District Court erred in holding that the CIA was not required to search its operational records under an exception provided by the CIA Act.

Adverse Parties (List adverse parties to this appeal and their attorneys; provide party's address if the party is not represented by counsel. Attach additional page if necessary.)

Adverse Party: Central Intelligence Agency

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Adverse Parties (continued)

Adverse Party: Central Intelligence Agency

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Adverse Party:

Attorney:

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E-mail:

Phone:

Appellant (Attach additional page if necessary.)

Name:

Name:

Attorney:
Address:Attorney:
Address:

E-mail:

E-mail:

Phone:

Phone:

Appellant (continued)

Name:

Name:

Attorney:
Address:Attorney:
Address:

E-mail:

E-mail:

Phone:

Phone:

Signature: /s/ John H Clarke**Date:** 10/14/25**Counsel for:** Appellants

Certificate of Service (required for parties served outside CM/ECF): I certify that this document was served on _____ by ☐ personal delivery; ☐ mail; ☐ third-party commercial carrier; or ☐ email (with written consent) on the following persons at the addresses or email addresses shown:

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