

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

MICHAEL DRIGGS, *et al.*)
)
Plaintiffs,)
)
v.)
) Civil Action No. 23-01124
CENTRAL INTELLIGENCE AGENCY,)
)
Defendant.)
_____)

PLAINTIFFS' FIRST SET OF REQUEST FOR ADMISSIONS TO DEFENDANT

Pursuant to 50 U.S.C. § 3141 (f)(5), and Rule 36 Federal Rules of Civil Procedure, plaintiffs propound the following Request for Admissions to the Defendant Central Intelligence Agency.

Instructions

1. Please respond to the following Plaintiffs' requests for admissions, and submit your response with your Answer to the Complaint.
2. Under Rule 36 of the Federal Rules of Civil Procedure, if you do not admit a matter, your answers shall specifically deny the Request or set forth in detail the reasons why you cannot truthfully admit it.
3. Your denial should specify so much of the Request is true, and qualify or deny the remainder.
4. You may not give lack of information or knowledge as a reason for failure to admit or deny the Request unless you state that you have made reasonable inquiry and that the information known or readily available to you is insufficient to enable you to admit or deny the Request.

Definitions

1. "CIA" refers to Defendant Central Intelligence Agency.
2. The term "responsive records" refers to records of Korean and Vietnam era American prisoners of war, and should be read to include individuals reported to have been killed in action, and individuals reported to have been missing in action.
3. The term "operational file repository" means records that are exempt from the search, review, and disclosure provisions of Freedom of Information Act, 5 U.S.C. § 552, under the CIA Act, 50 U.S. Code § 3141 - *Operational files of the Central Intelligence Agency*.
4. The Affidavit of Bob Smith is attached to the Complaint as Exhibit B ("*Smith Aff.*"). As U.S. Senator representing New Hampshire (1990-2003), Senator Smith served as vice-chairman of the 1991–1993 Senate Select Committee on POW/MIA Affairs. On November 10, 1992, he released his 54-page Report on Korean War American POWs and MIAs; CHRONOLOGY OF POLICY AND INTELLIGENCE MATTERS CONCERNING UNACCOUNTED FOR U.S. MILITARY PERSONNEL AT THE END OF THE KOREAN CONFLICT AND DURING THE COLD WAR. That Report appears in his Affidavit, verbatim.
5. The term "WITHDRAWAL NOTICE" refers to Exhibits one and two attached hereto. They are two documents titled WITHDRAWAL NOTICE, retrieved from the files housed at the National Archives and Records Administration ("NARA"). These sheets appear in the place and stead of the records identified, which the CIA withdrew as "ACCESS RESTRICTED" because they contain "Security-Classified Information."

REQUEST FOR ADMISSIONS

REQUEST NO. 1: The CIA declined to release responsive records upon its completions of its Decennial Reviews in 1985, 1995, 2005, and 2015.

Records cited in Affidavit of Bob Smith

REQUEST NO. 2: The CIA withholds in full its August 11, 1951 record *CIA Report No. S065823* cited in the *Smith Aff.* ¶ 36.

RESPONSE:

REQUEST NO. 3: The record identified in the foregoing Request is maintained in an operational file repository.

RESPONSE:

REQUEST NO. 4: The CIA withholds in full its 1951 record *CIA Report No. S069870* cited in the *Smith Aff.* ¶ 37.

RESPONSE:

REQUEST NO. 5: The record identified in the foregoing Request is maintained in an operational file repository.

RESPONSE:

REQUEST NO. 6: The CIA withholds in full its August 22, 1951 record *CIA Report No. S070338* cited in the *Smith Aff.* ¶ 38.

RESPONSE:

REQUEST NO. 7: The record identified in the foregoing Request is maintained in an operational file repository.

RESPONSE:

REQUEST NO. 8: The CIA withholds in full its August 24, 1951 record *CIA Report No. S070512* cited in the *Smith Aff.* ¶ 39.

REQUEST NO. 9: The record identified in the foregoing Request is maintained in an operational file repository.

RESPONSE:

REQUEST NO. 10: The CIA withholds in full its September 6, 1951 record regarding 60 American Prisoners of War cited in *Smith Aff.* ¶ 40.

REQUEST NO. 11: The record identified in the foregoing Request is maintained in an operational file repository.

RESPONSE:

REQUEST NO. 12: The CIA withholds in full its October 4, 1951 record *CIA Report No. S073337* cited in the *Smith Aff.* ¶ 43.

RESPONSE:

REQUEST NO. 13: The record identified in the foregoing Request is maintained in an operational file repository.

RESPONSE:

REQUEST NO. 14: The CIA withholds in full its October 27, 1951 record regarding 125 American Prisoners of War cited in the *Smith Aff.* ¶ 46.

REQUEST NO. 15: The record identified in the foregoing Request is maintained in an operational file repository.

RESPONSE:

REQUEST NO. 16: The CIA withholds in full its January 5, 1952 record regarding 13 American and 8 British prisoners of war cited in the *Smith Aff.* ¶ 52.

REQUEST NO. 17: The record identified in the foregoing Request is maintained in an operational file repository.

RESPONSE:

REQUEST NO. 18: The CIA withholds in full its February 14, 1951 record regarding “Chinese Communists [that] were parading U.S. captives” cited in the *Smith Aff.* ¶ 54.

REQUEST NO. 19: The record identified in the foregoing Request is maintained in an operational file repository.

RESPONSE:

REQUEST NO. 20: The CIA withholds in full its April 15, 1952 record regarding 50 American prisoners of war cited in the *Smith Aff.* ¶ 57.

RESPONSE:

REQUEST NO. 21: The record identified in the foregoing Request is maintained in an operational file repository.

RESPONSE:

REQUEST NO. 22: Upon its Decennial Reviews in 1985, 1995, 2005, and 2015, the CIA declined to release every one of the 70-year-old records identified in the foregoing REQUEST FOR ADMISSIONS numbers two through 21.

RESPONSE:

National Archives Withdrawal Notices

REQUEST NO. 23: The WITHDRAWAL NOTICE attached hereto as Exhibit 1 is authentic.

RESPONSE:

REQUEST NO. 24: The CIA withholds its March 28, 1955 record *A16 -2/26.27.8 Prisons...* cited in the WITHDRAWAL NOTICE attached hereto as Exhibit 1.

RESPONSE:

REQUEST NO. 25: The CIA failed to release the aforementioned 70-year-old record upon its Decennial Reviews in 1985, 1995, 2005, and 2015.

RESPONSE:

REQUEST NO. 26: The WITHDRAWAL NOTICE attached hereto as Exhibit 2 is authentic.

RESPONSE:

REQUEST NO. 27: The CIA withholds its July 15, 1955 record *A16 -2/26.27.8 Prisons...* cited in the WITHDRAWAL NOTICE attached hereto as Exhibit 2.

RESPONSE:

REQUEST NO. 28: The CIA failed to release the aforementioned 70-year-old record upon its Decennial Reviews in 1985, 1995, 2005, and 2015.

RESPONSE:

Date: September 5, 2023.

John H. Clarke (VSB No. 023842)
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TAB #: 20

NTRY: POW Desk

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ACCESS RESTRICTED

The item identified below has been withdrawn from this file:

Folder Title: A16-2/26.27.8 Prisons...

Document Date: 28/03/55

Document Ser.#: _____

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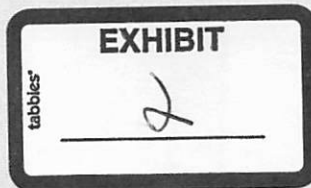
On the review of this file this item was removed because access to it is restricted. Restrictions on records in the National Archives are stated in general and specific record group restriction statements which are available for examination. The item identified above has been withdrawn because it contains:

X Security-Classified Information

ND: 957307

WITHDRAWN: 12/12/94 by: PMK

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