

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al., :  
 :  
 Plaintiffs, :  
 :  
 v. : Civil Action No. 04-0814 (HHK)  
 :  
 CENTRAL INTELLIGENCE AGENCY, :  
 :  
 Defendant :

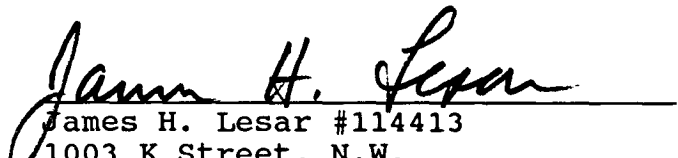
**MOTION OF PLAINTIFF ROGER HALL TO REQUIRE DEFENDANT  
TO PRODUCE CERTAIN CATEGORIES OF RECORDS FORTHWITH**


Plaintiff Roger Hall moves the Court for an order requiring defendant to immediately produce certain categories of records; viz., (1) the records which the CIA previously searched for and requested payment of \$10,906.33 in search fees from Hall; and (2) the records responsive to Item 6 of Hall's February 7, 2003 request.

Defendant opposes this motion.

Respectfully submitted,

August 3, 2004

  
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Counsel for Plaintiffs Roger Hall  
and Studies Solutions Results, Inc.

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CENTRAL INTELLIGENCE AGENCY,	:	
	:	
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**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF  
PLAINTIFF ROGER HALL'S MOTION TO REQUIRE DEFENDANT TO  
IMMEDIATELY PRODUCE CERTAIN CATEGORIES OF REQUESTED RECORDS**

**BACKGROUND**

By letter dated February 7, 2003, plaintiffs requested that the Central Intelligence Agency ("the CIA") produce the following categories of records:

1. Southeast Asia POW/MIAs (civilian or military) and detainees, who have not returned, or whose remains have not been returned to the United States, regardless of whether they are currently held in prisoner status, and regardless of whether they were sent out of Southeast Asia.

2. POW/MIAs sent out of Southeast Asia (for example, to China, Cuban, North Korea, Russia).

3. Prepared by and/or assembled by the CIA between January 1, 1960 and December 31, 2002, relating to the status of any United States POWs or MIAs in Laos, including but not limited to any reports, memoranda, letters, notes or other documents prepared by Mr. Horgan or any other officer, agent or employee of the CIA for the Joint Chiefs of Staff, the President, or any federal agency.

4. Records of the Senate Select Committee on POW/MIA Affairs which were withdrawn from the collection at the National Archives and returned to the CIA for processing.

5. Records relating to 47 individuals who allegedly are Vietnam era POW/MIAs, and whose next-of-kin have provided privacy waivers to Roger Hall, see Attachment 1 hereto, and those persons who are on the Prisoner of War/Missing Personnel Office's list of persons whose primary next-of-kin (PNOK) have authorized the release of information concerning them (Attachment 2).

6. All records on or pertaining to any search conducted for documents responsive to Roger Hall's requests dated January 5, 1994, February 7, 1994, and April 23, 1998, including but not limited to all instructions and descriptions of searches to be undertaken by any component of the CIA and all responses thereto, and all records pertaining to the assessment of fees in connection therewith, including but not limited to any itemizations or other records reflecting the time spent on each search, the rate charged for the search, the date and duration and kind of search performed, etc.

7. All records on or pertaining to any search conducted regarding any other requests for records pertaining to Vietnam War POW/MIAs, including any search for such records conducted in response to any request by any Congressional Committee or executive branch agency.

See Complaint, Exhibit 1. The CIA received plaintiffs' February 7, 2003 request on February 15, 2003.

The CIA let 15 months pass before it even acknowledged the request. When it did respond, after this suit was filed, it sought to intimidate plaintiffs by estimating that the search fees for three items of the request alone would amount to \$600,000. See Exhibit 1, June 15, 2004 letter from Alan W. Tate to James H.

Lesar. It then moved this Court either to indefinitely stay proceedings until administrative remedies are exhausted, or to dismiss the action without prejudice.

Plaintiffs have opposed the CIA's motion to stay proceedings or dismiss this case. There are no administrative proceedings to be exhausted, and this Court can provide some of the relief sought by plaintiffs without waiting for the fee waiver issues to be litigated and resolved.

First, the CIA already has conducted searches for some of the records sought by plaintiffs. It stated this in the January 31, 2004 Joint Report in Response to the Court's Order of January 16, 2003, in Hall v. Central Intelligence Agency, Civil Action No. 98-1319. In that report the CIA represented that "the searches and processing conducted after August 2000 amounts to at least \$29,000. Prior to being notified that this was the amount of fees that would be incurred, Hall had no idea of the amount of fees he might incur, so he sent the CIA a check for \$1,000 and specified the priority of the searches to be undertaken. See Exhibit 2, Letter from James H. Lesar to Ms. Katherine I. Dyer. Subsequently, after Hall requested copies of records showing the time spent and fees incurred, the CIA filed a Notice of Corrected Calculation of Search Fees lowering the amount of such fees to \$10,906.33. See Exhibit 3, Notice of Corrected Calculation of search Fees. On November 26, 2003, Hall sent the CIA two checks totalling \$10,906.33. See Exhibit 4, letter from James H. Lesar to Mr. Robert T. Herman, and Exhibit 5,

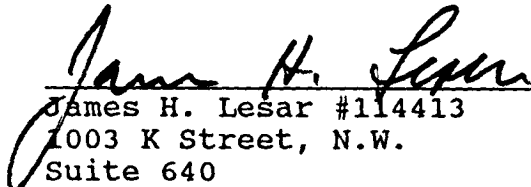
letter from Mark S. Zaid. By letter dated June 15, 2004, the CIA returned these checks to Hall. See Exhibit 5.

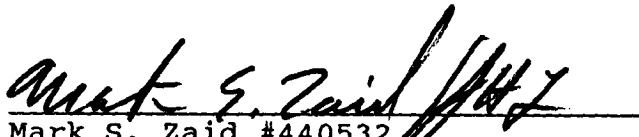
By letter dated July 29, 2004, attorney Zaid sent the CIA two new checks totalling \$10,906.33 and referenced plaintiffs' new request, No. F-2003-00449. <sup>See Exhibit 6.</sup> Thus, Hall has once again paid for searches which the CIA has represented to the Court it has already done. There can be no justification for not immediately producing the records surfaced as a result of that search.

Additionally, Item 6 of the request at issue in this lawsuit seeks records pertaining to searches conducted in response to Hall's 1994 and 1998 requests, including both descriptions and instructions regarding the searches and records reflecting the time spent and costs incurred on such searches. See Exhibit 5. By the very nature of the request, a search for this category of records should require a minimal amount of time. The request for them has now been pending for nearly a year and a half. Again, there is no justification for not producing these materials immediately.

Respectfully submitted,

August 3, 2004

  
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O R D E R

Upon considerations of the motion of plaintiff Roger Hall to require defendant Central Intelligence Agency to produce certain categories of records immediately, defendant's opposition thereto, and the entire record herein, it is by this Court this \_\_\_\_ day of August, 2004, hereby

ORDERED, that defendant shall provide defendant Roger Hall with all nonexempt records or portions thereof of the following categories of records with \_\_\_\_ days hereof:

(1) all records which the CIA located for which it sought payment from plaintiff Hall in the amount of \$10,906.33; and

(2) all records responsive to Item 6 of Hall's February 7, 2003 request which is at issue in this litigation.

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UNITED STATES DISTRICT COURT