

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____	)	
ROGER HALL, <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Civil Action No. 04-00814 (HHK)
	)	
CENTRAL INTELLIGENCE AGENCY,	)	
	)	
Defendant.	)	
_____	)	

**DEFENDANT’S OPPOSITION TO PLAINTIFFS’ MOTION FOR ORDER  
REQUIRING DEFENDANT TO FILE A STATUS REPORT INDICATING STEPS  
TAKEN TO COMPLY WITH THE JANUARY 21, 2009, MEMORANDUM BY  
PRESIDENT OBAMA AND THE MARCH 19, 2009, FOIA GUIDELINES OF  
ATTORNEY GENERAL ERIC HOLDER**

Defendant the Central Intelligence Agency (“CIA” or “Defendant”), by and through undersigned counsel, respectfully submits this Opposition to Plaintiffs’ motion (“Plaintiffs’ Motion”) for an order requiring the CIA to file a status report indicating steps taken to comply with President Obama’s January 21, 2009, “Memorandum for the Heads of Executive Departments and Agencies” (“Obama Memorandum”) and with Attorney General Holder’s March 19, 2009, Freedom of Information Act (“FOIA”) memorandum of the same name (“Holder Memorandum”). In support of its Opposition, Defendant states as follows:

By their own terms, both the President’s and the Attorney General’s FOIA memoranda state unambiguously that they are meant only to provide policy guidance to executive agencies and do not vest FOIA requesters, including Plaintiffs, with any enforceable rights, benefits, or private right of action. See Obama Memorandum at 2 (“This memorandum does not create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its

departments, agencies, or entities, its officers, employees, or agents, or any other person.”); Holder Memorandum at 3 (providing a materially identical statement).<sup>1</sup> Plaintiffs thus are not entitled to demand – and Defendant has no obligation to provide – a status report detailing what steps the CIA has taken to comply with the Obama Memorandum or the Holder Memorandum.

For the foregoing reasons, Defendant respectfully requests that the Court deny Plaintiffs’ Motion.

Respectfully submitted,

/s/  
CHANNING D. PHILLIPS, D.C. Bar #415793  
Acting United States Attorney

/s/  
RUDOLPH CONTRERAS, D.C. Bar #434122  
Assistant United States Attorney

/s/ David C. Rybicki  
DAVID C. RYBICKI, D.C. Bar #976836  
Assistant United States Attorney  
Civil Division  
555 4th St. N.W.  
Washington, D.C. 20530  
Phone: (202) 353-4024  
Fax: (202) 514-8780

---

<sup>1</sup> Nor does the OIP’s FOIA Guidance, published on April 7, 2009, vest Plaintiffs with any right to demand a status report concerning the implementation of FOIA policy directives at the CIA.