

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, <u>et al.</u> ,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	C. A. No. 04-0814 (RCL)
	:	
CENTRAL INTELLIGENCE	:	
AGENCY,	:	
	:	
Defendant	:	

SUPPLEMENTAL RULE 56(F) Declaration of Roger Hall

I, Roger Hall, pursuant to Rule 56(f) of the Federal Rules of Civil Procedure, declare and say as follows:

1. I am a plaintiff in the above-entitled cause of action.
2. I am unable to present by affidavit all of the facts essential to countering all aspects of the motion which defendant Central Intelligence Agency ("CIA") has filed for dismissal or partial summary judgment. There are a number of reasons why this is the case. First, this case concerns the operations and activities of the CIA regarding Prisoners of War (POWs) and persons Missing in Action (MIAs) and records pertaining thereto. To a considerable degree, information pertinent to whether or not certain

responsive records were created, and where they might be located, is exclusively within the possession of the CIA; without discovery I cannot establish that certain important operations and activities created records or categories of records pertaining to POW/MIAs which are likely still maintained by the CIA.

3. Second, the existence and content of many records which may be pertinent to this case is concealed because their existence or content is still allegedly properly classified. Again, without discovery, I have no means of establishing this.

4. Third, persons who provided significant information to me about CIA operations or activities or records when I interviewed or corresponded with them are no longer living and thus are not available to provide affidavits or deposition testimony as to what they told me that bears on the adequacy of the CIA's search.

5. Fourth, several persons who have given me significant information about CIA operations and activities which would have generated records pertaining to POW/MIAs have refused to provide such information without what they regard as the protection of a court subpoena or unless they are called as witnesses at an evidentiary hearing.

6. For decades now, Carol Hrdlicka, has been seeking information regarding her husband, David L. Hrdlicka. See, for example, her July 27, 1992 Freedom of Information/Privacy Act (“FOI/PA”) request which is reproduced as Attachment 2 to the Declaration of Carol Hrdlicka (“Hrdlicka Decl.”). The United States Government has informed her that he was captured but died in captivity. Indeed, “[o]n three different occasions, the Department of Defense (“DOD”) told her that he had died. Id., ¶ 1.

7. However, a Russian journalist interviewed him several times in Sam Neua, Laos, where he was seen at the dedication of a cave complex which the journalist, Ivan Shchedrov witnessed. Id., ¶ 2. State Department records located by me at the LBJ Library reveal an attempt to rescue Hrdlicka. See State Department Incoming Telegram of June 20, 1965 reproduced as Attachment 2A. However, he was recaptured.

8. But Hrdlicka states that “[d]ocuments obtained from the CIA over the years never had my husband’s name in them. The CIA never has released documents pertaining to the escape and recapture of my husband.” Id., ¶ 4. At long last, however, a document released in this lawsuit indicates that Hrdlicka’s husband was alive in 1968. Id., Attachment 3.

9. General Richard Secord has personal knowledge of the efforts of the Central Intelligence Agency (“CIA”) to locate missing POWs in Laos.

He served the CIA in the field in Laos in 1966-1968 and was back there again, “briefly, in 1969.” See Exhibit 1 hereto, testimony of General Richard Second before the Senate Select Committee on Intelligence (“SSCI”) at 149. He testified that he had personal knowledge of the “famous case of Hrdlicka” because he was “involved in an abortive attempt to rescue those guys [meaning Hrdlicka and two other POWs] back in late ‘66 or ‘67. . . .” Id., at 151. In responding to a question about how many POWs there were in Laos, Second said: “You would have to go to CIA to get all those cables, but there’s raft of cables on that. We knew that they existed alive because we had an agent inside. We knew their names. We knew where they were.” Id. He indicated that there were a larger number than nine missing POWs in Laos and that none of the many missing POWs he was tracking came back from Laos: “None of them, that I know of, have been located or even heard of since the Paris Accords.” Id. at 152. In regard to the information about these missing POWs, Second testified that “there was just a mountain of intelligence on all of this.” Id.

10. It is clear that General Second possesses a great deal of information that is pertinent to the search issue in this case. He has information about the amount of records created, information concerning the tracking of missing POWs, and knowledge of the nature of such records, where they

were filed, the number of copies created and disseminated to agency and departmental units, etc. He also has pertinent information about operations to rescue POWs and the types of records created concerning such operations and by whom they were created and to whom they were disseminated.

11. Another person with highly relevant knowledge is Bob Taylor, who was a Senate Select Committee investigator in 1991-1993. After the SSC ended, satellite imagery and other information kept coming in. He turned these materials over to Barry Toll, who took them over to the White House for a meeting with Anthony Lake, Carol Hrdlicka, and Geroge Carver. He turned the imagery over to Lake. Further details regarding this meeting are recounted in a prior declaration executed by Carol Hrdlicka in 2008. See Exhibit 2.

12. The CIA has not been providing imagery pertinent to POW/MIAs. This is an issue which relates both to the adequacy of the search and to an alleged need to protect intelligence sources and methods. Because of their knowledge about imagery bears both on the adequacy of search and claims that material is covered by exemption claims based on protection of intelligence sources and methods, both General Secord and Bob Taylor should be permitted to testify about such matters.

13. John McCreary, who was a Defense Intelligence Agency (“DIA”) Officer who worked on loan for the SSCI, had the highest security clearance permitting him to have access on POW/MIA records at the CIA and NSA. He revealed to me that NSA had a mother lode of documents that had not been turned over to the SSCI. The public interest in obtaining the full record about missing POW/MIAs would be greatly enhanced by allowing him to testify as to his knowledge about records that he told me were not turned over to the SSCI.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 20th day of June, 2012.

ROGER HALL

9-24-1992

149

1 TESTIMONY OF MAJOR GENERAL RICHARD SECORD, LAOS CHIEF OF
2 AIR, CENTRAL INTELLIGENCE AGENCY, 1966-1968; LAOS DESK
3 OFFICER, DEFENSE DEPARTMENT, 1972-1975

4 General Secord: Yes, sir. Well first let me just say
5 for the record that I had a lot of years of experience with
6 Laotian matters, as I think most of the committee knows. I
7 served in Central Intelligence Agency in the field in Laos for
8 1966, '67, and '68. And I was back there again, briefly, in
9 '69. And then I was the Laos desk officer in the Office of
10 the Secretary of Defense, International Security Affairs, for
11 a while in '72. And then by the time you're talking about
12 here, I guess I was the head of the Southeast Asia Branch,
13 having been promoted to Colonel.

14 So I served as a middle level officer during the time
15 that you are focusing on here. And I wish I could take credit
16 for that memorandum, because I think it's a good one, but it
17 only represented -- it was the input of a number of officers
18 who were working on this matter. And a memorandum of this
19 nature to the Secretary of Defense himself would have had to
20 have been coordinated, as a minimum, with the Chairman of the
21 Joint Chiefs, and probably all the Chiefs. Roger Shields
22 undoubtedly chopped on this message, or coordinated I should
23 say. And probably a number of other DIA and others.

24 So I was an action officer and it was my job -- I'm sure
25 I was told by probably Assistant Secretary Eagleburger, after

Exhibit 1

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WASHINGTON, D.C. 20005
(202) 289-2260
(800) FOR DEPO

1 a SECDEF staff meeting would be my guess. When this was first
2 showed to me by your staff I didn't remember it. You know,
3 there was a blizzard of memoranda.

4 And then when I read it I did remember it, but it was
5 unusual for us in my section to draft POW-type correspondence,
6 because we had an office for POW affairs. I believe that my
7 office was assigned the primary drafting responsibility in
8 this case because this memorandum was kind of operational in
9 nature rather than just an accounting kind of report.

10 Because, after all, it recommended a diplomatic track and
11 a military track. Which we knew, of course -- we could read
12 the papers too, those of us who drafted it -- that the force
13 option would be one that would be hard for the decisionmakers
14 to take given the environment that existed in the country at
15 that time. Nonetheless, we thought it was feasible. So I
16 guess I part company with some who have testified who said
17 that they did not think that the force option was even
18 remotely available. We obviously felt it was.

19 But what was going on with respect to the POW's is we
20 were tracking as carefully as we could all the intelligence
21 information available on POW's, especially after it became
22 clear that there was going to be a Paris Accord. Because we
23 knew this would -- knowing the Vietnamese as we knew them, we
24 knew this was going to be a really tough -- a tough matter.

25 We also knew that the notion that there was a Pathet Lao,

1 as Ambassador Godley said -- you know they existed but they
2 didn't have any power. The North Vietnamese army had them
3 completely in their control.

4 Vice Chairman Smith: Can I just interrupt.

5 General Secord: Yes.

6 Vice Chairman Smith: I do not want to interrupt your
7 story at all, I just want to ask you a point right there. So
8 based on your tracking, then, there were confirmed U.S. POW's
9 in Laos during the war.

10 General Secord: Indeed. You've mentioned some of their
11 names earlier this morning.

12 Vice Chairman Smith: Do you have any idea how many?

13 General Secord: No, sir, I can't remember. But there
14 were a number of names that we knew with -- what do you know
15 for sure. I mean with reasonable certitude we knew.

16 For instance, the famous case of Hrdlicka and two others.
17 I had personal knowledge of that because I was involved in an
18 abortive attempt to rescue those guys back in late '66 or '67,
19 I think it was. You would have to go to CIA to get all those
20 cables, but there's a raft of cables on that. We knew that
21 they existed alive because we had an agent inside. We knew
22 their names, we knew where they were.

23 Vice Chairman Smith: And I just want -- again for the
24 record, and again I apologize for interrupting your flow
25 there. When you say POW's in Laos, a number, you are

1 obviously referring to a larger number than the nine.

2 General Secord: In addition to those nine.

3 Vice Chairman Smith: Well in addition to those nine.

4 General Secord: Yes, sir.

5 Vice Chairman Smith: And did all of those people come
6 home that you were tracking?

7 General Secord: None of them, that I know of, have been
8 located or even heard of since the Paris Accords. But we did
9 know to, I think, a reasonable level of certitude, that there
10 were more, hence the memorandum.

11 Vice Chairman Smith: Good intelligence. I mean
12 Secretary Schlesinger said excellent intelligence. Do you
13 concur with that conclusion, good intelligence?

14 General Secord: He was Director of Central Intelligence.
15 I was just a low level officer. Of course it was good
16 intelligence. Intelligence, as we all know here, is a matter
17 of relativity and it's a matter of judgment, and you might
18 read one intelligence report differently than I might read it.

19 But there was just a mountain of intelligence on all of
20 this. And earlier somebody was asking was there a systematic
21 method of tracking this kind of data in Laos. Oh, yes, there
22 was, there was a very systematic method.

23 Vice Chairman Smith: Let me just ask for your comment,
24 then, on -- if you have knowledge, I would appreciate the
25 direct knowledge; if you have an opinion, then state it as an

1 opinion -- as to why this data base was apparently looked at
2 differently as we came down to this period of March 28th
3 through April 15th, in that period of time when President
4 Nixon made his statement, Mr. Shields made his statement?

5 What happened differently? Was there something there
6 that we are missing that caused this change in analysis of the
7 intelligence? Or do you believe that there were people there
8 after Operation Homecoming, based on what you knew?

9 General Secord: Well, yes, of course I believe there
10 were people after Operation Homecoming. This memorandum was
11 written contemporaneously with

12 Vice Chairman Smith: Just specifically tell me why you
13 believe that. I mean if it is based on solid evidence, tell me
14 what you had, why did you believe that?

15 General Secord: Because the Central Intelligence Agency,
16 aided by the Air Force in particular, the air attache
17 organization in Laos -- which, by the way, was very extensive.
18 It wasn't one little office; it was a very large organization
19 with representatives and detachments in every part of Laos,
20 all five provinces, all five military regions.

21 These two organizations, principally operating together,
22 kept extensive records as we were losing our aircraft, and we
23 lost a lot of aircraft, as you know. And all the data that
24 could be collected was collected immediately. It was put into
25 the system. It was reported at least once a day by a sitrep

1 situation report to headquarters, Central Intelligence Agency.
2 And the attache was reporting, of course, to DIA.

3 And so we didn't have the capability to do a
4 sophisticated compilation and tracking in the field, and so
5 this stuff was reported to MACV, MACVSOG, which is an
6 organization I haven't heard mentioned today, but they had the
7 responsibility, primarily, as you know, for mounting rescue
8 operations and also for tracking. This data was reported to
9 CINPAC, it was reported to headquarters CIA, DIA, the world.
10 And so they, in different organizations back here in
11 Washington and other headquarters, kept very close track of
12 these raw data as we collected it, and a picture starts to
13 emerge.

14 We in our headquarters when I was in CIA in Udorn, which
15 was the base where we controlled all paramilitary operations,
16 kept track of this ourselves.

17 Chairman Kerry: Could I interrupt your testimony just
18 for a minute, and I apologize to my vice chairman, I know that
19 is not helpful. But Secretary Richardson did have to go at
20 2:00 and he stayed a little later. If I could ask if
21 colleagues have quick questions to pose to Secretary
22 Richardson, and then we will return immediately to Senator
23 Smith to finish up with General Secord.

24 Are there any questions at this point? Yes, Senator
25 Robb.

1 very much, sir. We would appreciate it.

2 General, I earlier interrupted the colloquy with the Vice
3 Chairman, and I apologize again for that, in order to
4 accommodate Secretary Richardson. Thank you for your patience
5 also. Senator Smith?

6 Vice Chairman Smith: Thank you, Mr. Chairman. General
7 Secord, let me see if I can just come back to get us back
8 where we were, if we can both remember that.

9 As I think has already been put on the record, you were
10 the Lao Chief of Air, Central Intelligence Agency, from 1966
11 to 1968, and you were also the Lao Desk Officer in 1972 and
12 1975.

13 General Secord: '73.

14 Vice Chairman Smith: I am sorry, 1973. That is correct.
15 And basically these were your guys on the ground over there in
16 Laos, correct?

17 General Secord: Yes, sir.

18 Vice Chairman Smith: That is a nice way of putting it.

19 General Secord: To an extent. Things changed over time.

20 Vice Chairman Smith: I am just interested in hearing
21 from you, not really to interrupt you with questions. What I
22 am trying to focus on -- the testimony from a number of
23 witnesses seems to come across that this intelligence existed,
24 this information existed. I am focusing on Laos now. And it
25 was passed up to the highest levels.

1 I do not want to, at this point, pass any judgment on
2 what happened in that regard, but I would like to know from
3 you, as specifically as you can say, what information you had
4 at your disposal to allow you to come to the conclusions that
5 you came to, and which you passed on to your superiors at this
6 time in March-April? And feel free to be as specific as you
7 like.

8 And, again, you already testified before we moved over to
9 Secretary Richardson that you said it was absurd to think that
10 there were not POW's there during the war that were captured.
11 And it was inconceivable, the President said, and you went
12 beyond that and said absurd, to think that people were not
13 there after Operation Homecoming.

14 And obviously, that is a significant statement from the
15 one person, if anybody, who could make a definitive statement
16 to that effect. You can. And I really want to give you the
17 opportunity to just take the microphone and tell me why and
18 how you know that, because it is extremely significant to this
19 whole issue. So, please feel free to just do that.

20 General Secord: We had been fighting for 10 years in
21 Laos at the time you are talking about here, in 1973, with
22 increasing severity say from '65 or '66 onward. We had 80,000
23 odd so-called irregulars under arms that we were supporting
24 throughout Laos -- North and South Laos.

25 The war in North Laos was quite different from the war in

Affidavit of Carol Hrdlicka

May 12, 2008

I Carol Hrdlicka declare and say as follows:

On November 4, 1993 George Carver, who served in the CIA as Special Assistant for Vietnamese Affairs to three successive Directors of Central Intelligence, accompanied me to the White House. In that capacity George Carver was privy to vast intelligence related to Vietnam. Mr. Barry Toll was also part of our group. Mr. Toll had served in the army and had been attached to the Secretary of Defense at various times, he served as an Operations and Intelligence specialist.

When we entered the office of Mr. Anthony Lake who was the National Security adviser in the Clinton administration, Mr. Lake said to us "This is about the Wrye photo", which pertains to satellite imagery picked up several different times over the years with Wrye's authenticator code on it. Barry informed Mr. Lake there were other photos with Wrye's authenticator code on them. Mr. Lake was also informed there were also other men's authenticator codes picked up by satellite imagery which were in the stack of documents Barry brought to the White House meeting.

There was also satellite imagery of Allinson's authenticator code, which was 8888, that I had seen before the meeting and it was in the documents turned over to Kent Wiedemann. Kent Wiedemann who was Anthony Lake's assistant promised the documents would be returned to Mr. Toll after copying them. Barry made frequent request for the documents to be returned. His requests were ignored. I also requested the return of the documents to Barry Toll. To date the documents have not been returned.

The purpose of the meeting other than presenting the imagery and evidence concerning POWs was to ask for an independent investigation outside of the government agencies with people from the private sector that did not have prejudice against the probability that men were still alive.

During some research on the imagery, Roger Hall asked what had happened to the documents that we had turned over to the White House at our meeting. Mr. Hall was told at one time that the documents were on a shelf and nothing had been done with them. On the second time he was told they were sent to the Defense POW/MIA Office or DPMO.

Attached are Mr. George Carver's notes.

I declare under penalty of perjury that the foregoing is true and correct.
Executed this 12th day of May 2008.

Signed

Carol Hrdlicka

Co. Su St. KS

Subom A May

Exhibit 2

