

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

ROGER HALL, et al.,	.	
	.	
Plaintiffs,	.	
	.	CA No. 04-0814 (RCL)
v.	.	
	.	
CENTRAL INTELLIGENCE AGENCY,	.	Washington, D.C.
	.	Tuesday, March 19, 2013
Defendant.	.	9:40 a.m.
. . . . .	.	

TRANSCRIPT OF STATUS HEARING  
BEFORE THE HONORABLE ROYCE C. LAMBERTH  
UNITED STATES DISTRICT JUDGE

APPEARANCES:

For Plaintiffs Roger Hall, Studies Solutions Results:	JAMES H. LESAR, ESQ. 1003 K Street, NW Suite 640 Washington, DC 20001 (202) 393-1921
For Plaintiff Accuracy in Media:	JOHN H. CLARKE, ESQ. Law Office of John H. Clarke 1629 K Street, NW Suite 300 Washington, DC 20006-1631 (202) 332-3030
For the Defendant:	MERCEDEH MOMENI, AUSA U.S. Attorney's Office Civil Division 555 Fourth Street, NW Washington, DC 20530 (202) 307-0821
Court Reporter:	BRYAN A. WAYNE, RPR, CRR Official Court Reporter U.S. Courthouse, Room 4704-A 333 Constitution Avenue, NW Washington, DC 20001 (202) 354-3186

Proceedings reported by stenotype shorthand.  
Transcript produced by computer-aided transcription.

1 P R O C E E D I N G S

2 THE DEPUTY CLERK: Civil action 04-814. Roger Hall,  
3 et al., versus the Central Intelligence Agency. Counsel, please  
4 introduce yourself to the Court.

5 MR. LESAR: Good morning, Your Honor. James H. Lesar  
6 representing Roger Hall and Studies Solutions Results, Inc.

7 MR. CLARKE: Good morning, Your Honor. John Clarke on  
8 behalf of Accuracy in Media, Inc.

9 THE COURT: Okay.

10 MS. MOMENI: Good morning, Your Honor. Mercedeh  
11 Momeni, U.S. Attorney's Office, on behalf of the CIA.

12 THE COURT: Good morning. You want to tell us where  
13 we are?

14 MS. MOMENI: Your Honor, there are two categories of  
15 documents left that the Court had ordered us to do a sampling  
16 of, and we're here with some good news this morning, actually,  
17 Your Honor. So the first category involves the search of the  
18 documents of the 1700 names, and within that universe, there are  
19 two subcategories of places we had to search.

20 First of all, the archives, those are the hard copies with  
21 boxes, so on and so forth. The agency had sent personnel out to  
22 the archives, and they have determined that there are 36  
23 responsive folders which contain 9,000 documents, and the search  
24 for those are not complete. They're in the process of  
25 processing them. They hope to be done with that within six

1 months.

2 We can do this in a shorter period of time if we're able to  
3 sit down with plaintiffs and figure out whether there are  
4 certain miscellaneous type items within these folders that they  
5 may not be interested in, in which case the processing will go  
6 much faster.

7 For example, there's information in there about benefits  
8 that were paid out to the next-of-kin. There's information  
9 about the time spent on the job or sick leave that this person  
10 took. So, for example, personnel and HR-related stuff.

11 So if we're able to sit down with plaintiffs -- and we  
12 offered that this morning. I'm not sure we've had a response  
13 yet, but again, we're willing to work cooperatively and reduce  
14 that six months even further. So that's the good news,  
15 Your Honor.

16 With regard to the still 1700 names, now looking at  
17 Cadre -- that's our automated system -- a search of the index  
18 has been completed. There were 140,000 responsive hits.

19 Now, what does that mean? That means that there's 140,000  
20 single pages, some of which are clustered into a hundred-page  
21 document, and some of which are single pages.

22 The agency believes that Mr. Hall is already in possession  
23 of a lot of these documents. They were previously produced  
24 under other circumstances, or we've already produced them.  
25 Again, if plaintiffs are willing to work with us, we can cut

1 down the number of responsive hits here as well.

2 I should also let the Court know that the reason we've  
3 gotten such a large number of hits is because the search was run  
4 quite broadly. So, for example, if the plaintiff provided us  
5 with a name of, say, "Adam Samuel," for example, the search  
6 would pull up "Adam Samuelsen" as well. So that's why we have  
7 such a large number of hits.

8 At any rate, we hope to finish with processing that  
9 information -- or those documents, rather. The CIA tells me  
10 it'll take at least a year. Again, we'll be able to cut that  
11 time a little shorter if we can work on limiting the types of  
12 records the plaintiffs are looking for.

13 Your Honor, finally, our search in the director's area for  
14 the congressional committee documents -- that's the second set,  
15 rather -- we hope to complete that within four months. We're  
16 still going through those documents. We have found that there  
17 are 46 documents, some of which are several hundred pages. But  
18 again, we'll be able to finish that within four months.

19 We discussed this morning also, at plaintiffs' suggestion,  
20 looking into rolling releases. With the archives, we'll be able  
21 to do that. With the archive records, rather, we'll be able to  
22 do that. I'm not so sure about the Cadre records, again,  
23 because what the CIA personnel have to do is to look at just a  
24 single piece of paper, a single document, a single page, and  
25 without context, without looking at the entire document, it's

1 hard to tell what's going on. So rolling releases will be more  
2 difficult, will be much more difficult for the Cadre documents.

3 THE COURT: All right. Mr. Lesar?

4 MR. LESAR: Good morning, Your Honor.

5 Well, we're pleased to hear the good news. I think that  
6 we're still concerned about several things. We don't understand,  
7 and there's been no details put forward with respect to how it  
8 was determined what records were responsive and what not. I  
9 think the immediate problem is to get releases made on a rolling  
10 basis.

11 At the hearing last December, the government suggested that  
12 the problem of duplicates and referrals would impede the process  
13 of rolling releases. We don't understand how that is a problem.  
14 Documents that may be duplicates can be set aside and considered  
15 at a later date, and those that are clearly within the scope of  
16 the request can be produced on a rolling basis.

17 We also have a question about the DOD was to have provided  
18 some records by the end of December, and we have not received  
19 them. But we've talked with Ms. Momeni about that --

20 THE COURT: They were referred from CIA?

21 MR. LESAR: Yes.

22 THE COURT: To DOD?

23 MR. LESAR: Yes. And I think we can probably work  
24 that problem out with her. So I think the main thing is to get  
25 some sort of schedule in writing so the parties can adhere to

1 it.

2 THE COURT: Mr. Clarke, did you want to add anything?

3 MR. CLARKE: Just briefly, Your Honor.

4 THE COURT: You've got separate clients, I take it.

5 MR. CLARKE: Yes, Your Honor. Just briefly,

6 Ms. Momeni said that she's not going to release records that  
7 have already been produced to Mr. Hall. I just want to make it  
8 clear that would be in this case. Mr. Hall has previous cases.

9 THE COURT: I don't know what -- is that what you  
10 meant? I'll give you a minute to consult if you want to.

11 MS. MOMENI: What the agency has advised me is that  
12 Mr. Hall is in possession of some of these documents. I don't  
13 know if we're not going to resend or re-release them. I think  
14 if they come up, they're going to be sent again.

15 Court's indulgence for a moment for me to double-check.

16 THE COURT: Okay.

17 (Counsel conferring.)

18 MS. MOMENI: That's correct. So I'm correct.

19 THE COURT: Tell me more about whether I can resolve  
20 this rolling production on the Cadre records.

21 MS. MOMENI: Your Honor, again, the agency's advised  
22 me that it's difficult for them to do rolling releases because  
23 of the nature of the database. The searchers will only be able  
24 to look at one page at a time. For example, looking at a single  
25 page that doesn't have anyone's name on it, they won't be able

1 to understand the larger context of whether that's releasable.

2 So it's in everyone's best interest for the plaintiffs to  
3 be a little patient; that way they will get a complete set of  
4 records. From what I understand, it's not just a question of  
5 duplicates; it's a question of making sure the records are  
6 complete as well.

7 THE COURT: I don't understand that. If his name's  
8 not on it, why would it be hit?

9 MS. MOMENI: So if you have a full document -- if you  
10 have a document that's 100 pages and one page doesn't have --

11 THE COURT: Oh, I see. His name is in the document.

12 MS. MOMENI: But not on every single page, yes.

13 THE COURT: But once you've completed that hundred  
14 pages, why couldn't you make whatever releases is going to be  
15 made out of that? Why do you have to wait a year?

16 MS. MOMENI: Well, again, there may be duplicates, or  
17 there may be other documents that need to be -- if they're  
18 classified, coordination needs to go on. So, again, from what  
19 I've been told, rolling productions would just be incredibly  
20 difficult. I can check with the CIA to see if there's any  
21 further explanation, if I haven't missed anything, Your Honor.

22 THE COURT: All right.

23 (Counsel conferring.)

24 MS. MOMENI: So, Your Honor, the agency representative  
25 also informed me that sometimes there are documents that identify

1 a separate person, a second person, and without having knowledge  
2 of the entire context, it's going to be difficult to make that  
3 connection. And for us to release one and not the other, it  
4 just would not be beneficial to the plaintiff.

5 Also, in terms of referrals, without having an  
6 understanding of the larger context, we may be referring  
7 duplicates and triplicates to other agencies, should that kind  
8 of a situation come up, and we don't know if it will, but that's  
9 an issue as well.

10 THE COURT: Well, I'm willing to come back in three  
11 months and get a report. If you've made substantial progress  
12 everywhere else, I might be able to see where we are then on  
13 that. I'm not sure I can live with that, but since you have  
14 made some progress, I'm willing to come back in June and see  
15 where we are then. Hopefully, you'll be halfway through the 36  
16 folders and mostly done the director's stuff.

17 Does the 19th of June at 9:30 look good?

18 MS. MOMENI: Yes, Your Honor.

19 THE COURT: That look okay for y'all?

20 MR. LESAR: Pardon? What date was that again?

21 THE COURT: June 19.

22 MR. LESAR: I think that will be all right with me,  
23 Your Honor.

24 MR. CLARKE: That's all right for me, Your Honor.  
25 Thank you.



1 MR. LESAR: I would like to ask one further thing of  
2 the Court. If we could require the CIA to make its report with  
3 a declaration, say 10 days prior to the date of the status call,  
4 that would be helpful so we can prepare for it.

5 THE COURT: That's fine.

6 MS. MOMENI: Yes, Your Honor.

7 THE COURT: All right. Anything else y'all want to  
8 raise today?

9 MS. MOMENI: Nothing from the agency, Your Honor.

10 MR. CLARKE: Nothing from Accuracy Media, Your Honor.

11 MR. LESAR: No, sir.

12 THE COURT: Okay. To the extent they can show you a  
13 sample folder and y'all can talk about the documents in a sample  
14 folder and what you're really interested in, maybe you can  
15 reduce some of that so that folders can be finished by June.  
16 I don't know what your interest is in some of those documents  
17 she's talking about. Thank you very much, Counsel.

18 (PROCEEDINGS ADJOURNED AT 9:52 a.m.)  
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CERTIFICATE

I, BRYAN A. WAYNE, Official Court Reporter, certify that the foregoing pages are a correct transcript from the record of proceedings in the above-entitled matter.

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BRYAN A. WAYNE

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