

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION**

JOHN EAKIN

Plaintiff,

v.

AMERICAN BATTLE MONUMENTS  
COMMISSION, et al.

Defendants.

Civ. A. No. SA:12-cv-1002-FB-HJB

**DECLARATION**

I, Mr. Kelly E. Fletcher, declare as follows:

I am the Chief of Staff of the Joint POW/MIA Accounting Command. In this role, I serve as the senior key advisor to the Commander and Deputy Commander of JPAC, ensuring programs and initiatives are executed with a focus on coordination, cooperation and integration of the accounting mission with broader Department of Defense and national policy interests. I am a native of Grand Island, Nebraska. Before accepting a position as a Department of Defense employee, I served in the U.S. Air Force as a pilot and Air Force Officer, retiring as a Colonel after more than 34 years of service. I received a Bachelor of Science degree in Business Administration from National College. I also received a Master of Science degree in Community Services from Michigan State University and a Master of Arts degree in Strategic Studies from Air University. I am a graduate of the Air Force Air War College and the Army Command and General Staff College.

I have reviewed the records relating to the disinterment of remains associated to common grave 717. Based on this review, I state the following:

1. Plaintiff has asked that unknown remains designated X-816, purported by Plaintiff to be remains of his cousin, PVT Arthur H. Kelder, be disinterred from a grave in the Manila American Cemetery and Memorial in the Philippines<sup>1</sup>, so that the remains could be identified as PVT Kelder. The Joint POW/MIA Command (JPAC) has reviewed Plaintiff's request to disinter and identify Unknown remains X-816 as PVT Kelder (hereinafter the Kelder disinterment request).
2. JPAC's mission is to conduct global search, recovery, and laboratory operations to identify unaccounted-for Americans.
3. On January 30, 2013, the commander of JPAC, Major General Kelly K. McKeague, U.S. Air Force, Commander, JPAC, sent a memorandum regarding the request and JPAC's review of the matter to the Deputy Assistant Secretary of Defense for Prisoner of War/Missing Personnel Affairs (DASD(POW/MPA)), who is also the Director of the Defense Prisoner of War/Missing Personnel Office (DPMO).
4. DPMO is responsible for policy, control, and oversight of the Department of Defense (DoD) accounting program (10 U.S.C. 1501(a)(1)(A)).
5. In his January 30, 2013 memorandum, General McKeague stated: "no definitive individual identifications can be established from the existing documentation. However, individual identifications may be possible if all of the remains from this incident were to be disinterred and sent to our Central Identification Laboratory for analysis." (Supplemental Record at 1). Major General McKeague further noted that it was for the Office of the Secretary

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<sup>1</sup> The Manila American Cemetery and Memorial in the Philippines is administered by the American Battle Monuments Commission.

of Defense or the Department of the Army to decide whether to “pursue this action” (Supplemental Record at 1).

6. As discussed below, during this period, DPMO was processing disinterment actions involving remains from unidentified graves using an informal process, i.e., using procedures that had not been formalized by law, regulation or other issuance. Under that informal process, JPAC recommendations regarding proposed disinterments of unidentified remains personnel from WWII and other pertinent wars and conflicts were submitted to DPMO. DPMO then reviewed and validated both the historical record and scientific analysis that had been conducted regarding the proposed disinterment. The Office of the Secretary of Army, which must consent to disinterments of unknown remains of military personnel who died in WWII and are interred in American Battle Monuments Commission cemeteries (and other disinterments of military personnel), had requested that DPMO review such proposed disinterments.

7. On April 25, 2014, after a thorough historical review and scientific analysis of the Kelder disinterment request, DPMO forwarded its review and recommendations regarding that request, along with other applicable documents, to the Assistant Secretary of the Army for Manpower and Reserve Affairs, who had been delegated responsibility by the Secretary of the Army to consent to disinterments of unidentified remains of military personnel who had died during WWII.

8. On 13 June 2014 the Deputy Assistant Secretary of the Army (Military Personnel), Anthony Stamilio, concurred with DPMO’s request to exhume Unknown remains from Manila American Memorial and Cemetery. Remains designated as X-812, X-814, X-815, X-816, X-818, X-820, X-821, X-822, X-823 and X-824 (ten in total) are to be exhumed for the purpose of

making identifications of multiple unresolved casualties. These remains are those associated to Cabanatuan common grave 717.

9. On June 25, 2014, 1220 EST, the Army Service Casualty Office began notifying the families associated with Cabanatuan common grave 717 unknowns about the Army disinterment decision and Mr. Douglas A. Kelder was so notified at that time. Mr. Douglas Kelder is the Primary Next of Kin (PNOK). 8th Army Mortuary office is the organization with primary responsibility for disinterments from the Manila American Memorial and Cemetery. JPAC requested that the 8th Army Mortuary office provide disinterment support. Preparations are currently being undertaken. JPAC expects the disinterments to begin on 1 August 2014 and finish by 14 August 2014.

10. On or about 14 August 2014, the disinterred remains are expected to arrive in Hawaii aboard a military aircraft at Joint Base Pearl Harbor-Hickam. The remains are moved to the JPAC Central Identification Laboratory (CIL) and accessioned by the evidence manager. The process of accessioning includes photographing the conditions of the remains, providing a unique accession number and a bar code. The remains are then transferred to acid free boxes and zip lock bags. A preliminary analysis will be done to determine the amount and type of material present. Next a laboratory manager will evaluate the evidence for the type of analysis that will be required. Examples of different types of analysis are dental, skeletal, or material evidence (non-human remains). Within 48 hours the evidence is assigned to the specialist in that field: dental evidence to the odontologist, skeletal evidence to a forensic anthropologist and material evidence to an archeologist. The forensic anthropologists are expected to look at the remains within 24 hours and make recommendations about the harvesting bone samples for DNA testing. Recommendations for bone sample harvesting are reviewed by CIL management. When the CIL

management approves the recommendations the CIL schedules the sample harvesting within 14 days. Bone samples are sent to the Armed Forces DNA Identification Laboratory (AFDIL).

11. AFDIL is located on Dover Air Force Base, Delaware. AFDIL provides DNA reference specimen collection, accession, and storage of United States military and other authorized personnel. The JPAC bone samples are accessioned by AFDIL. AFDIL processes the samples by cleaning and decontaminating them of modern DNA. AFDIL extracts DNA from the decontaminated sample. Next AFDIL sequences the DNA, produces a preliminary report showing the DNA sequence for each bone sample, and sends the report to JPAC. Separately AFDIL has sequenced the family reference samples (FRS). JPAC then provides AFDIL the information on what other DNA sample to compare it to (for example, the FRS). AFDIL prepares a report that compares the DNA sequences from the bone samples to FRS samples and the report will indicate which bones match the FRS. Priority cases take 90 to 120 days. Those AFDIL reports are sent to JPAC.

12. Based on those reports the CIL determines whether a second round of DNA bone sampling is required. Ongoing, but not directly related to harvesting bone samples, the dental and forensic anthropologists work independently to produce their respective reports on the evidence. The forensic anthropologist begins sorting out bones into individual persons. The dentist and forensic anthropologists write draft reports but await DNA results from AFDIL before finalizing their respective reports. Assuming there is no second round of bone sample harvesting the results of AFDIL reports are given to the forensic anthropologist and dentist. They combine the AFDIL information into their reports. A CIL manager will review all of the reports and make a recommendation for either more testing or make a recommendation to the Scientific Director that he consider making identification. The Scientific Director evaluates the

reports and evidence to see if it meets the threshold for identification. If not, it is returned to the lab for additional work. If it meets the threshold the Scientific Director signs the report of identification. The identification report and all supporting documents are sent to the Service Casualty Office (Department of the Army for PVT Kelder). The newly identified remains stay at JPAC pending instructions from the Service Casualty Office. The Service Casualty Office makes the disposition arrangements with family input and the remains are transferred Borthwick Mortuary (contract mortuary). Borthwick Mortuary sends the remains to the location/disposition directed by the Service Casualty Office.

13. The information described above that has not yet occurred is what JPAC expects to occur based on past experience. Because it is not possible to know the quality and amount of remains and material evidence until after laboratory accessions the evidence there may be changes to the time lines. Comingling of remains, particularly if the remains are of unknown and unexpected individuals, may slow down the identification process of all the remains.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on the 7 day of July, 2014 at the Defense POW/Missing Personnel Office.



KELLY E. FLETCHER  
Chief of Staff  
JPAC