

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN EAKIN,

Plaintiff,

v.

AMERICAN BATTLE MONUMENTS
COMMISSION, et al.,

Defendants.

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SA-12-CA-1002-FB (HJB)

ORDER

Before the Court is Plaintiff's *pro se* Motion for Leave to File Motions to Vacate Appointment of Counsel and to Compel Production. (Docket Entry 65.) Non-dispositive motions have been referred to the undersigned for ruling pursuant to 28 U.S.C. § 636(b). (Docket Entry 4.)

Plaintiff seeks to file a motion to vacate this Court's appointment of *pro bono* counsel in his case. He further seeks to file a motion to compel production in response to Plaintiff's outstanding discovery requests. (*See* Docket Entries 65-1, 65-2.) Meanwhile, on the same date Plaintiff's motion was filed, Defendants filed a Suggestion of Mootness and Motion to Stay Discovery Pending Decision on Mootness or Other Resolution. (Docket Entry 64.) The Suggestion and Motion indicates that the Secretary of the Army has approved the disinterment for identification of the ten sets of remains associated with Cabanatuan common grave 717, including the remains known as X-816, which are at issue in this case. Defendants state that the disinterments are scheduled to occur between August 1 and August 14, 2014. (*Id.* at 1.) They request that this case be dismissed as moot in light of these events, or alternatively that discovery be stayed pending the outcome of the internments. (*Id.* at 10.)

After carefully considering the papers filed by both parties, it is hereby **ORDERED** that Plaintiff's Motion for Leave to File Motions to Vacate Appointment of Counsel and to Compel Production (Docket Entry 65) is **GRANTED IN PART**. The Clerk of Court is directed to file Plaintiff's Motion to Vacate Appointment of *Pro Bono* Counsel (Docket Entry 65-1). Plaintiff's request to file the Motion to Compel (Docket Entry 65-2) is **DENIED WITHOUT PREJUDICE**, subject to reconsideration after the Court has ruled on the Motion to Vacate Appointment of Counsel.

It is **FURTHER ORDERED** that this case is set for a status hearing at **11:00 A.M.** on **July 16, 2014**, in Courtroom C on the 4th Floor of the John H. Wood, Jr., United States Courthouse, 655 E. César E. Chávez Boulevard, San Antonio, Texas, 78206.

It is **FURTHER ORDERED** that discovery in this case is **STAYED** pending the Court's ruling on the Motion to Vacate Appointment of Counsel.

SIGNED on July 9, 2014.



Henry J. Bemporad
United States Magistrate Judge