

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

JOHN EAKIN,

Plaintiff,

V.

AMERICAN BATTLE MONUMENTS
COMMISSION, MAX CLEVELAND,
in his Official Capacity as Secretary of
the American Battle Monuments
Commission; U.S. DEPARTMENT OF
DEFENSE, LEON E. PANETTA, in his
in his Official Capacity as Secretary of
Defense; W. MONTAGUE WINFIELD,
in his Official Capacity as Deputy
Assistant Secretary of Defense for POW/
Missing Personnel Affairs; and JOHNIE
E. WEBB, in his Official Capacity as
Deputy to the Commander for External
Relations and Legislative Affairs, Joint
POW/MIA Accounting Command,

Defendants.

CIVIL ACTION NO. SA-12-CA-1002-FB

ORDER OF STAY AND ADMINISTRATIVE CLOSURE

Before the Court is the status of the above-styled and numbered cause. The record reflects 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. (Docket no. 64). Defendants state that the disinterments are scheduled to occur between August 1 and August 14, 2014. *Id.* at 1. After disinterment, the remains will be sent to JPAC Central Identification Laboratory in Hawaii. *Id.* at 2. DNA samples will be taken and sent to the Armed Forces DNA Identification Laboratory for testing. *Id.* Defendants point out that “[t]he timeline for actual identification cannot be predicted, as it depends on a number of factors, including whether the presumptive association of the remains with common grave 717 is correct, whether (and/or to what

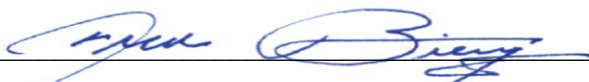
extent) remains are commingled, whether family DNA reference samples are available, and other factors.” *Id.* Because the disinterment and DNA testing should resolve the majority of issues in this case, and given the uncertainty of the timeline to complete this identification process, the Court enters these Orders:

IT IS ORDERED that this case is STAYED and ADMINISTRATIVELY CLOSED pending either side’s application for further relief within **thirty (30) days** of the conclusion of the disinterment and DNA testing 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. Motions pending with the Court, if any, are Dismissed Without Prejudice to reurging, if necessary, in the event that the stay is lifted and this case is placed back on the active docket at the conclusion of the identification process.

IT IS FURTHER ORDERED that defendants SHALL file an advisory **every thirty (30) days** from the date of this Order informing the Court of the status of these proceedings. Defendants are INSTRUCTED to use every available resource to complete the disinterment and DNA testing as quickly and as efficiently as possible.

It is so ORDERED.

SIGNED this 12th day of August, 2014.



FRED BIERY
CHIEF UNITED STATES DISTRICT JUDGE