

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JOHN EAKIN,

Plaintiff,

vs.

UNITED STATES DEPARTMENT  
OF DEFENSE,

Defendant.

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

Civil Action No. SA-16-CV-0972

**DEFENDANT’S MOTION TO STAY**

1. Plaintiff, John Eakin, filed a request with the Department of Defense (DoD) under the Freedom of Information Act (FOIA) for all World War II Individual Deceased Personnel Files (IDPFs) and/or X-Files, which exist in digital or electronic format, which is the basis for this FOIA litigation.
2. Plaintiff and DoD filed cross-motions for summary judgment in this matter, and the government sought, in the alternative, an *Open America* stay. This Court entered an order on those motions on August 2, 2017. [Doc. at 30].
3. On January 17, 2018, Plaintiff filed a motion seeking clarification of the Court’s August 2, 2017 order, and requesting the production of documents. [Doc. at 31].
4. On January 20, 2018, there was a lapse in appropriations for the federal government.
5. Undersigned counsel for the government is deemed non-excepted from the government shutdown in operations and is not able to further work on this matter. Additionally, the DoD personnel who work on FOIA matters are not available to work on the FOIA

request at issue and cannot discuss or assist in preparing a response to Plaintiff's most recent motion.

6. The government plans to file a response to Plaintiff's motion and objects to the facts presented therein.
7. The government requests a stay in this case until which time undersigned counsel and DoD personnel are permitted to work on this matter. Upon a restoration in government funding, counsel will move to re-open this matter and seek an additional time to respond to Plaintiff's motion.
8. Undersigned counsel called Mr. Eakin to inform him of the lapse in appropriations and the impact on this case, but was unable to reach him.

For the reasons cited herein, DoD respectfully requests that the Court Stay this matter.

DATED: January 22, 2018

Respectfully submitted,

JOHN F. BASH,  
United States Attorney

By: /s/ MARY F. KRUGER  
MARY F. KRUGER  
Assistant United States Attorney  
Georgia Bar No. 6282540  
601 N.W. Loop 410, Suite 600  
San Antonio, Texas 78216  
Tel: (210) 384-7100  
Fax: (210) 384-7312  
E-mail: Mary.Kruger@usdoj.gov

**ATTORNEYS FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was electronically filed via the Court's CM/ECF system on this 22nd day of January 2018, and was served via U.S. Mail as follows:

John J. Eakin  
9865 Tower View  
Helotes, Texas 78023  
[jeakin@airsafety.com](mailto:jeakin@airsafety.com)  
*PRO SE*

/s/ MARY F. KRUGER  
MARY F. KRUGER  
Assistant United States Attorney