

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN EAKIN

Plaintiff,

v.

UNITED STATES
DEPARTMENT OF DEFENSE

Defendant

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Civil Case No. 5:16-16-cv-0972-RCL

**DECLARATION OF JOHN EAKIN IN SUPPORT OF PLAINTIFF'S
MOTION FOR PARTIAL SUMMARY JUDGMENT**

I, John Eakin, declare as follows:

1. I am the Plaintiff in the above styled litigation.
2. In 2010 I filed a FOIA case in this Court styled Eakin v. U.S. Department of Defense, SA-10-cv-00784-FB-NSN. At issue in that case were documents of the same type and class as those requested in the current FOIA request.
3. In response to my 2010 FOIA request, Defendants refused to admit the existence of digital copies of the requested documents and provided an unreasonable reproduction cost based on reproduction from hard copy. This bogus estimate was apparently designed to discourage my request.
4. Additionally, Defendants claimed that full disclosure of the requested documents (including next-of-kin information) would constitute a clearly unwarranted invasion of personal privacy (FOIA Exemption 6). Defendants later reconsidered that issue and released the documents. Exh 1, SA-10-CA-784-FB-NSN document 25-1 at 20-21.

5. Approximately three weeks after entry of judgment for the Defendants on the issue of a fee waiver, I received the requested Individual Deceased Personnel Files and X-Files on a portable USB hard drive. This release, and two subsequent document releases, constituted an estimated 30,000 unique digital files in .PDF format and over 600 MB of data.

6. These files were used to support a Petition for Writ of Mandamus filed in this Court. SA-12-CA-1002-FB-HJB. This litigation was successful in that it resulted in the exhumation of graves in the Manila American Cemetery where my family member and associated deceased American Servicemembers were buried as Unknowns. Approximately two hundred additional missing American Servicemembers have subsequently been disinterred for identification.

7. My efforts to recover the remains of my family member were covered extensively in the press and was featured on the CBS Evening News, National Public Radio and many other print and electronic news media. I received so many inquiries that I used a website, BataanMissing.com, to share information with other families of missing American Servicemembers. These inquiries continue to this day. In many instances, we have been able to determine that many of the missing are actually buried as Unknowns and these families have begun the process of demanding the return of the remains of their family members for burial as they might direct.

8. The additional files requested in this current action are intended to provide information to families of other missing servicemembers in order that they might receive the closure my family received upon the identification of my Cousin, Pvt. Arthur H. "Bud" Kelder.

9. Burial of a family's dead is a basic human right and obligation and release of the requested documents is in the public interest.

10. Exhibit one is incorporated in support of this declaration. It consists of the first fifty (50) pages from a 7,292 page file of material redacted by Defendants. This file was included with other files produced in response to this Court's Order dated August 2, 2017 (ECF doc 30). These exemplar pages are typical of the embedded FOIA requests that were included with the X-Files previously provided to me as well as typical of the material Defendants now object to producing.

11. Exhibit two is incorporated in support of this declaration. It consists of twelve (12) pages that constitute the Vaughn Index produced by Defendants in response to this Court's Order dated August 2, 2017 (ECF doc 30).

I hereby certify under penalty of perjury that the foregoing is true and correct.

Executed this 17th day of June, 2019.

/s/ John Eakin
John Eakin, Plaintiff *pro se*
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