

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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No. SA-16-CV-972-RCL

STATUS REPORT

The United States Department of Defense, by and through its undersigned counsel, respectfully files the following Status Report regarding this matter.

1. Between October 1, 2017 and February 1, 2021, the government produced 192,037 IDPFs to Plaintiff. *See* ECF No. 86 at ¶ 5. Plaintiff states that he has received 193,345 A-L IDPFs in total, including files previously released by the government, as well as 20,000 additional X-files. *See* ECF No. 87-1 at ¶¶ 7–9.

2. Following confirmation by the Army Human Resources Command (AHRC) that it had reviewed all A-L IDPFs provided by the Defense POW/MIA Accounting Agency (DPAA), the government informed the Court that it believed it had produced “all currently available IDPFs for World War II service members with last names beginning with the letters A through L.” *See* ECF No. 86 at ¶¶ 4, 6. To the extent any gaps or deficiencies were identified, the government agreed to work with Plaintiff to address those issues. *See id.* at ¶ 6.¹

3. On February 2, 2021, Plaintiff informed the government that he could not reconcile the government’s numbers with his own records. At that time, Plaintiff specifically asserted that he had fewer “F,” “G,” “I,” and “J” files than anticipated.

¹ In response to this Court’s inquiry, DPAA reported that it still anticipates digitizing the remaining M-Z IDPFs by the end of April 2021.

4. On February 4, 2021, in response to Plaintiff's inquiry, the government produced a spreadsheet identifying (by file name and date of production) every IDPF produced in connection with this litigation. The government invited Plaintiff to identify with specificity any records that he believed were missing and agreed to investigate Plaintiff's generalized assertion about the "F," "G," "I," and "J" files.

5. On March 2, 2021, Plaintiff asked whether the government had made progress in its investigation. Plaintiff suggested the parties alert the court to a "material discrepancy" in the government's production.

6. On March 3, 2021, the government responded that it had segregated all "F," "G," "I," and "J" IDPFs digitized by DPAA, and planned to re-review and produce those files to Plaintiff. Although it disagreed that there was a "material discrepancy" in the production, the government agreed that it would be appropriate to file a joint advisory to the court describing the issues raised by Plaintiff and the government's efforts to address them.

7. On March 4, 2021, Plaintiff asked the government to produce "in the next few days" a list of existing IDPFs by last initial, along with the number, by initial, and expected delivery date of additional files to be produced. Plaintiff also requested that the government produce contracting documents related to a digitization contract executed after his original FOIA request.

8. On March 9, 2021, before the government had an opportunity to respond, Plaintiff filed an advisory with the Court. *See* ECF No. 87. That same day, the government produced copies of the contract documents requested by Plaintiff.

9. On March 24, 2021, the government produced 1,591 "I" IDPFs (totaling 19.56 GB) to Plaintiff. This replacement production contains all currently available "I" IDPFs scanned by DPAA contractors, including some or all of those previously produced to Plaintiff.

10. AHRC has nearly completed its re-review of all "J" IDPFs, and the government expects to make a replacement production of those files within the next few weeks. AHRC will then re-review the "F" and "G" IDPFs with the goal of expeditiously providing replacement productions to Plaintiff.

11. The government intends to provide further status reports upon the production of each set of replacement files.

Dated: March 25, 2021

Respectfully submitted,

ASHLEY C. HOFF
United States Attorney

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Department of Defense*

CERTIFICATE OF SERVICE

I hereby certify that on March 25, 2021, I caused the foregoing to be electronically filed via the Court's CM/ECF system, which will send notification to Plaintiff.

/s/ Thomas A. Parnham, Jr.
THOMAS A. PARNHAM, JR.