

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN EAKIN,

Plaintiff,

vs.

UNITED STATES DEPARTMENT OF
DEFENSE,

Defendant.

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No. SA-16-CV-972-RCL

DECLARATION OF MAJOR GENERAL THOMAS R. DREW

I, Thomas R. Drew, make the following declaration pursuant to 28 U.S.C. § 1746. If called to testify, I could competently testify to the following facts:

1. My name is Thomas R. Drew. I am over 18 years of age and competent to make this declaration. I have personal knowledge of all facts and statements contained herein.

2. I am a Major General in the United States Army and have served as a commissioned Army officer for the past 32 years. I enlisted in the Army in 1982 before commissioning as an Aviation officer in 1989. I have commanded at every level within the Army, from company, battalion, and brigade command, to my current assignment as the Commander, Army Human Resources Command (AHRC). AHRC provides human resources services to Soldiers, Veterans, Retirees and Army Families. We manage Soldier assignments, promotions, awards, records, benefits, and retirement services for the total Army force of approximately 1,000,000 Soldiers, including Active, National Guard, and Reserve components. AHRC is a command comprised of approximately 3650 uniformed service members, Department of the Army civilian employees, and supporting contractor personnel.

3. In September 2021, I was made aware of potential omissions in the number of Individual Deceased Personnel Files (IDPFs) of World War II (WWII) service members with last names beginning with E, H, and L that were provided to Plaintiff in the above captioned case. AHRC processed scanned IDPFs received from the Defense POW/MIA Accounting Agency (DPAA) for production to Plaintiff. At this point, due to AHRC's inability to specifically track all individual prior records that were received and processed by AHRC since 2016, I do not know where in the process these potential losses occurred. It is clear to me that a breakdown in processing happened in this case. I offer no excuses. I am committed to fixing the issues and providing oversight and accountability for AHRC's role in this case. Our processes have improved and will get better.

4. While I only recently took command of AHRC, I understand from speaking with my staff that AHRC contributed significant resources to producing IDPFs responsive to Plaintiff's Freedom of Information Act (FOIA) requests. Most recently, in order to meet the Court's February 2021 deadline, AHRC reassigned forty-four military personnel and civilian employees to conduct reviews and redactions of IDPFs, ultimately reviewing over 47,000 records in two months. An additional 410 hours of overtime work were authorized in the months immediately following the February deadline to review and produce additional IDPFs to revalidate certain letters. From March through June of 2021, AHRC's continued focus on this matter resulted in over 43,000 documents being produced for Plaintiff. This was part of a larger multi-year effort to produce these documents with DPAA.

5. Given the importance of the FOIA to maintaining trust between the Department of Defense (DoD) and the American public, as well as the significant history of litigation in this

case, I have ordered the following corrective measures, which I will oversee, to ensure AHRC is meeting its obligations.

6. First, I am ordering a complete review of AHRC's role in the original production of the A through L IDPFs to determine if there were any issues with AHRC's processes which impacted the delivery of these IDPFs to Plaintiff, and to make recommendations for process improvement. My suspense for receiving a briefing on this review is sixty calendar days from the date of this declaration.

7. Second, I am directing the establishment of a new team to oversee AHRC's role in records production in this case. This team will have AHRC command oversight. I have requested resourcing of six personnel from the Department of the Army to staff this team. At a minimum, that team will be assigned a lead individual for support and process management, specifically dedicated record reviewers who will solely focus on this case, and committed legal support. Additional AHRC resources above the minimum commitment will be made available to the team should the need arise. I am further aware that litigation oversight by the DoD and Army Litigation Divisions will involve regular reports, site visitations, and frequent interactions to ensure the AHRC portion of the process is meeting our legal obligations.

8. Third, AHRC will immediately begin creating a new process to ensure it:

- 1) maintains 100% accountability for all IDPFs it receives and reviews;
- 2) provides for rapid IDPF review; and
- 3) tracks the transmittal of records to Plaintiff via the Department of Justice.

I am mandating that all IDPFs received from DPAA be tracked by AHRC during the review process until they are provided to Plaintiff. This process will require that we are able to specifically audit when a file is received from DPAA, who performs work on the file, the nature of the work performed, and ultimate delivery of the file to the Department of Justice and

Plaintiff. I am directing the assigned team to develop and implement the details of this process based on my guidance.

9. Fourth, I am directing the AHRC team to work with DPAA to ensure ongoing communications, and when files are turned over by AHRC to the Department of Justice and Plaintiff, to report their delivery to DPAA. Between DPAA and AHRC, the team will maintain a master list that will validate the delivery of individual IDPFs to Plaintiff as compared to the scanned IDPFs on hand at DPAA. Identified gap records in DPAA's possession will be promptly reviewed when delivered to AHRC.

10. AHRC, in coordination with DPAA, will account for, redact, and produce any scanned IDPFs in letters E, H, and L, known to the government, that were not included in the original releases to Plaintiff.

11. AHRC, in coordination with DPAA, will account for any other IDPFs in the A through L scanned records, known to the government, that were not included in any prior release to Plaintiff. Identified records will be provided to Plaintiff.

12. AHRC will work with DPAA on a mutual effort to produce a list of known U.S. deaths in WWII, scanned IDPFs from WWII in the government's possession, and IDPFs from WWII tendered as part of this litigation in one easily referenced document. The list will be updated regularly until all IDPF releases are complete.

13. The process improvements described above will be employed for any other releases ordered in this litigation. After accounting for A through L records not yet provided to Plaintiff, AHRC will begin to redact all scanned WWII IDPFs in the DoD's possession for letters M through Z upon delivery of those files to AHRC from DPAA.

14. While I believe my oversight and the steps taken in this declaration will rapidly begin to resolve the possible flaws in earlier production efforts, it is not possible due to the nature of the records for AHRC to confirm with absolute certainty that it has produced all scanned IDPFs within a certain letter grouping until all scanned IDPFs have been individually delivered to and reviewed by AHRC. Nonetheless, these steps will position the government to make such a representation in the future following individual review of all records.

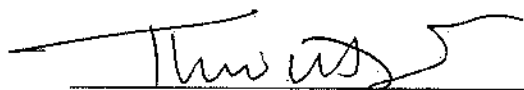
15. I have directed my command to employ the active duty and reserve forces and Department of the Army civilians under my command to meet the obligations in this declaration and to make this task a critical priority.

16. I will personally receive regular briefings on the development and implementation of all steps outlined in this declaration to ensure success. AHRC will work with DoD and Army Litigation Divisions to provide frequent updates to the Court on these matters via the Department of Justice.

17. The specific measures outlined here reflect an understanding of the gravity of this situation and a commitment to fixing any errors. AHRC is dedicated to complying with this Court's order and meeting its statutory obligations to the American public. I will ensure that this happens and that no further lapses in process occur.

PURSUANT TO 28 U.S.C. § 1746, I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED ON: September 22, 2021



Thomas R. Drew