

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN A. PATTERSON, JOHN BOYT, §
JANIS FORT, RUBY ALSBURY, §
RAYMOND BRUNTMYER, §
JUDY HENSLEY, and DOUGLAS KELDER, §

Plaintiffs, §

v. §

Civil Action No. SA-17-CV-467-XR

DEFENSE POW/MIA ACCOUNTING §
AGENCY; KELLY MCKEAGUE, §
in his official capacity as Director of the §
DPAA; U.S. DEPARTMENT OF DEFENSE; §
JAMES MATTIS, in his official capacity as §
Secretary of Defense; AMERICAN §
BATTLE MONUMENTS COMMISSION; §
and WILLIAM MATZ, in his §
official capacity as Secretary of the §
American Battle Monuments Commission, §

Defendants. §

**ORDER GRANTING MOTION TO COMPEL PRODUCTION OF REMAINS, OR, IN
THE ALTERNATIVE, FOR PHYSICAL EXAMINATION**

The Families¹ Motion to Compel Production of Remains, or, in the Alternative, for Physical Examination against the Government² was submitted on April 13, 2018. The Court has reviewed the papers submitted and considered the arguments of counsel as well as the authorities cited. Being so informed:

¹ John A. Patterson (“Patterson”), John Boyt (“Boyt”), Janis Fort (“Fort”), Ruby Alsbury (“Alsbury”), Raymond Bruntmyer (“Bruntmyer”), Judy Hensley (“Hensley”), and Douglas Kelder (“Kelder”) are referred herein collectively as the “Families.”

² Defense POW/MIA Accounting Agency (“DPAA”), Director of the DPAA Kelly McKeague, United States Department of Defense, Secretary of Defense James Mattis, American Battle Monuments Commission (“ABMC”), and Secretary of the ABMC William Matz are referred herein collectively as the “Government.”

IT IS ORDERED THAT:

1. The Motion is **GRANTED**;
2. The Government shall produce for examination and testing, including DNA testing, the following remains:
 - a. The remains designated as Manila #2 X-1130, Manila Maus X4685, Manila American Cemetery Grave J-7-20.
 - b. The remains designated as Manila #2 X-3629, Manila Maus X1298, Manila American Cemetery Grave N-15-19.
 - c. The remains designated as Leyte #1 X618, Manila Maus X2322, Manila American Cemetery Grave L-8-113.
 - d. Any remains recovered from Cabanatuan Grave 822 that are designated by the Government as “unknowns.”
 - e. Any remains recovered from Cabanatuan Grave 704 that are designated by the Government as “unknowns.”
 - f. Any remains recovered from Cabanatuan Grave 407 that are designated by the Government as “unknowns.”
 - g. Any remains recovered from Cabanatuan Grave 717 that are designated by the Government as “unknowns.”
 - h. Any remains recovered from Cabanatuan Grave 717 that are being held in storage at an identification laboratory by the Government or that have not been returned to their respective next-of-kin
3. The Government shall produce the remains described above for examination and testing within sixty (60) from the date of this Order. The remains described above must be

produced for examination and testing at a U.S. military base or facility located within 30 miles of San Antonio, Texas. The examinations and testing shall be completed within forty-five (45) days after all of the remains are produced.

4. Counsel and the parties are admonished that the failure to comply with the terms of this order may result in severe sanctions.

Signed this _____ day of _____, 2018.

HONORABLE XAVIER RODRIGUEZ
United States District Judge