

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JOHN A. PATTERSON, et al.,)	
)	
Plaintiffs,)	
)	
v.)	No. 5:17-CV-00467
)	
DEFENSE POW/MIA ACCOUNTING)	
AGENCY, et al.,)	
)	
Defendants.)	

**APPENDIX EXHIBITS
IN SUPPORT OF DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Federal Rule of Civil Procedure 56(c) and Local Rule CV-7(d)(1), and the Court's April 22, 2019 minute order, Defendants submit the following appendix exhibits in support of their Motion for Summary Judgment.

INDEX OF EXHIBITS

Declarations

- A. Declaration of John Hamilton, Director of Policy and Plans, DPAA (Apr. 19, 2019)
1. DoD Organization Structure (June 21, 2018) (excerpt)
 2. DoD Directive 5110.10, Defense POW/MIA Accounting Agency (Jan. 13, 2017)
 3. DoD Directive 2310.07, Past Conflict Personnel Accounting Program (Apr. 12, 2017)
 4. DPAA Administrative Instruction (AI) 2310.01, DPAA Disinterment Process (Feb. 10, 2017)
 5. DoD Directive 5124.08, Under Secretary of Defense for Personnel and Readiness (June 23, 2008)
 6. DoD Directive 1300.22, Mortuary Affairs Policy (Oct. 30, 2015)
 7. DoD Instruction 1300.18, DoD Personnel Casualty Matters, Policies, and Procedures (Aug. 14, 2009)
 8. DoD Instruction 5154.30, Armed Forces Medical Examiner System Operations (Dec. 21, 2017)
 9. Deputy Secretary of Defense, Memorandum, Disinterment of Unknowns from the Nat'l Memorial Cemetery of the Pacific (Apr. 14, 2015)
 10. DoD Directive-type Memorandum (DTM)-16-003, Policy Guidance for the Disinterment of Unidentified Human Remains (July 10, 2018)
 11. DoD Directive 5124.10, Assistant Secretary of Defense for Manpower and Reserve Affairs (Mar. 14, 2018)
 12. Commandant, U.S. Army Quartermaster School, Memorandum for Record (Jan. 22, 2014)
 13. Army Regulation 638-2, Army Mortuary Affairs Program (Nov. 28, 2016)
 14. CJCS, Joint Publication 4-0, Joint Logistics (Feb. 4, 2019)
- B. 3d Declaration of Gregory Kupsky, Historian, DPAA (Apr. 19, 2019)
1. Curriculum Vitae
 2. Eric Klinek, Manila American Cemetery and Memorial (Mar. 10, 2014)
 3. AGRS Map of Bataan
 4. Edward Steere & Thayer Boardman, OQMG, Final Disposition of World War II Dead, 1945-51 (1957) (excerpt)
 5. Heather Harris & Lisa Beckinbaugh, Historical Report, U.S. Casualties and Burials at Cabanatuan POW Camp #1 (May 2017)
 6. Cunanan Interrogation (Dec. 11, 1945)
 7. Hernandez Interrogation (May 21, 1946)
 8. Abucay Area Map
 9. Vogl Memorandum (Oct. 31, 1950)
 10. Col. Clarke Letter (Feb. 20, 1944)
 11. Col. Clarke Letter (Aug. 19, 1949)

12. Disinterment Report (Jan. 8, 1946)
13. Report of Internment (Feb. 13, 1946)
14. Nininger Letter to Cole (Feb. 5, 1946)
15. Nininger Letter (Sept. 3, 1946)
16. Imerman Letter (Oct. 10, 1949)
17. Raulston Letter (Nov. 5, 1949)
18. Francis Letter (Sept. 27, 1985)
19. AGRS Board Recommendation (Dec. 8, 1948)
20. OQMG Response (Feb. 17, 1949)
21. AGRS Board Recommendation (Apr. 26, 1949)
22. OQMG Response (Sept. 28, 1949)
23. OQMG Disapproval and Return for Further Investigation (Nov. 28, 1949)
24. AGRS Reconsideration Request (Mar. 7, 1950)
25. OQMG Response (Mar. 24, 1950)
26. AGRS Letter (June 1950)
27. OQMG Disapproval (Aug. 30, 1950)
28. AGRS Unidentifiable Recommendation for X-/1130 (Sept. 6, 1950)
29. AGRS Non-Recoverable Recommendation (Sept. 12, 1950)
30. OQMG Approves Unidentifiability for X-1130 (Sept. 22, 1950)
31. OQMG Approves Unidentifiability for Nininger (Sept. 26, 1950)
32. OQMG Resume of Record (Oct. 5, 1950)
33. Cox Memorandum (Nov. 20, 1950)
34. OQMG Memorandum (June 28, 1951)
35. OQMG Letter (July 17, 1968)
36. Caragay Statement (Dec. 28, 1946)
37. Sgt. Abraham Letter (June 22, 1981)
38. AGRS, Known Officer Dead and Burial Locations
39. Exhumation Memorandum (Aug. 7, 2018)
40. DPAA Recommendation re X-618 (Aug. 14, 2018)
41. Assistant Secretary of Defense Disinterment Decision re X-618 (Nov. 28, 2018)
42. Cruz Statement (July 14, 1947)
43. Four Statements Regarding Death of Brig. Gen. Fort
44. AGRS Board Recommendation (June 4, 1949)
45. OQMG Memorandum (Sept. 29, 1949)

C. 2d Declaration of Paul Emanovsky, Supervisory Forensic Anthropologist, DPAA (Apr. 18, 2019)

1. Curriculum Vitae
2. X-1130, Identification Data (Jan. 24, 1949)
3. X-1130, Identification Data (Sept. 8, 1950)
4. X-3629, Identification Data (Aug. 1, 1949)
5. COL Stewart Physicals (1924-1929)
6. DPAA Memorandum re X-618 (Aug. 7, 2018)
7. X-618, Identification Data (Mar. 4, 1950)
8. Brig. Gen. Fort Data (Feb. 21, 1946)

D. Declaration of Gregory Berg, Laboratory Manager, DPAA (Apr. 18, 2019)

1. Memorandum, Identification of CIL 2014-125-I-01 (Jan. 17, 2015)
2. Memorandum, Identification of CIL 2014-125-I-01 (May 21, 2015)

E. Declaration of Calvin Shiroma, Laboratory Manager, DPAA (Apr. 18, 2019)

1. Curriculum Vitae
2. X-1130 Report (Feb. 13, 1946)
3. X-1130 Report (Jan. 24, 1949)
4. X-1130 Report (Sept. 8, 1950)
5. OQMG Response (Feb. 17, 1949)
6. 1LT Nininger Dental Chart (July 1941)
7. X-3629 Chart (Jan. 7, 1947)
8. X-3629 Chart (Oct. 28, 1947)
9. X-3629 Report (Aug. 1, 1949)
10. COL Stewart Data (Mar. 10, 1941)
11. COL Stewart Data Summary (1939-1941)
12. X-618 Report (Aug. 19, 1947)
13. X-618 Report (Dec. 1, 1947)
14. X-618 Report (Mar. 4, 1950)
15. Brig. Gen. Fort Data (Feb. 21, 1946)

F. Declaration of Col. Philip Berran, Science Director, DPAA (Apr. 17, 2019)

G. 2d Declaration of Timothy McMahon, Director, DoD DNA Operations, AFMES (Apr. 18, 2019)

H. Declaration of Gregory Gardner, Branch Chief, Past Conflict Repatriation Branch, U.S. Army (Apr. 19, 2019)

1. Notice of Intent (May 26, 2015)
2. Disinterment Package for 1LT Cheaney (Mar. 8, 2019) (excerpts)

Additional Documents

I. ABMC, Manila American Cemetery and Memorial Brochure

J. ABMC, Policy 7.14, Disinterment from WWII Cemeteries (May 10, 2017)

K. Administrative Record for Disinterment of Cabanatuan Common Grave 704 (June 29, 2018) (excerpt)

L. Administrative Record for Disinterment of Cabanatuan Common Grave 822 (Aug. 6, 2018) (excerpt)

M. Administrative Record for Denial of Request to Disinter Unknown X-1130 Manila #2 (Dec. 1, 2015) (excerpt)

- N. Case Summary for David Hansen (Jan. 2018)
- O. Case Summary for Loren Stewart (Jan. 2018)
- P. Memorandum, Results of the 18-1PH Field Forensic Review (Oct. 31, 2017)

Plaintiffs' Communications And Discovery Responses

- Q. Plaintiff John Boyt's Disinterment Request (Nov. 7, 2017)
- R. Acceptance of Plaintiff Janis Fort's Disinterment Request (Dec. 20, 2017)
- S. Plaintiff John Boyt's Interrogatory Responses (Apr. 11, 2019)
- T. Plaintiff Janis Fort's Interrogatory Responses (Apr. 11, 2019)
- U. Plaintiff John Patterson's Interrogatory Responses (Apr. 11, 2019)
- V. Cabanatuan Plaintiffs' Interrogatory Responses (Apr. 11, 2019)

Dated: April 22, 2019

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of April, 2019, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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