

Vietnam POW Records Block Was a Bust for CIA

By KEVIN LESSMILLER

(CN) - Forced to divulge Vietnam War records on prisoners of war or soldiers missing in action, the CIA must now pay more than \$400,000 in attorneys' fees, a federal judge ruled.

Roger Hall, Accuracy in Media and Studies Solutions Results brought the challenge 11 years ago after the CIA rejected their request under the Freedom of Information Act. A federal judge in Washington issued two slam-dunk decisions for the record seekers over the years.

After ordering the CIA in 2009 to divulge all nonexempt records, to search its database for 1,700 names, and to explain its reasons for nondisclosure, the CIA attempted to look for just 31 of the files because it said searching for 1,700 names without additional identifying information would be unduly burdensome.

The court shot that maneuver down in 2012 and ordered the agency to pay fees on Tuesday.

U.S. District Judge Royce Lamberth wrote that he "vehemently" disagreed with the CIA's assertion that the requested records are not of public interest.

The agency's claim that a declassification project involving some of the requested records weakens the case for attorneys' fees also met with swift rebuke.

"The CIA is not entitled to drag its feet on a FOIA request until the records sought are publicly available, and then deny plaintiffs their fees because the documents are now publicly available," Lamberth wrote. "After fighting tooth and nail over every issue in this case for over a decade, arguing that the documents were already publicly available in an attempt to avoid paying attorneys' fees is sour grapes."

Finding that the challengers were "quite successful in this case," Lamberth said "that their counsel's time was reasonable spent in obtaining such a victory."

"Therefore, the court will not reduce the fees requested on the basis of limited success," the decision states.

Hall and SSR's attorney will recover \$294,000, while Accuracy in Motion's counsel is owed \$120,000, according to the ruling.

The 16-page opinion points to the CIA's bid for a \$75,000 award cap despite conceding that Hall, SSR and Accuracy in Media prevailed on some of their claims and are entitled to attorney fees.

Lamberth nevertheless found that the time calculations - showing 749 hours spent on the case by Hall and SSR's attorney, and 259 hours by Accuracy in Media's attorney - and related fee-award requests are in line with similar cases.

"News media status is just one of many issues that was litigated in this case, in addition to different exemption claims, collateral estoppel res judicata issues, and more, as well as several instances of obstructive conduct on the part of the CIA," Lamberth wrote.

"For these reasons, the court does not find that this award is disproportionate to those in other FOIA cases."