

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMERICAN CIVIL LIBERTIES UNION;
AMERICAN CIVIL LIBERTIES UNION
FOUNDATION,

Plaintiffs,

v.

DEPARTMENT OF DEFENSE; CENTRAL
INTELLIGENCE AGENCY; DEPARTMENT OF
STATE; DEPARTMENT OF JUSTICE,

Defendants.

09 Civ. 8071 (BSJ) (FM)

ECF Case

PLAINTIFFS' MOTION FOR PARTIAL SUMMARY JUDGMENT

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, plaintiffs in the above-captioned action respectfully move the Court to enter partial summary judgment in their favor on the claims discussed in the Memorandum in Support of Plaintiffs' Motion for Partial Summary Judgment and in Opposition to Defendants' Motion for Partial Summary Judgment that accompanies this motion.

This lawsuit concerns a Freedom of Information Act ("FOIA") request plaintiffs submitted on April 23, 2009, to the Defense Department, Central Intelligence Agency, Department of State, and Department of Justice seeking certain records about the detention of prisoners at the U.S. detention facility at Bagram Air Base in Afghanistan. This motion for partial summary judgment pertains to the Defense Department's withholding of certain information responsive to the FOIA request and the Central Intelligence Agency's refusal to process the FOIA request. There are no genuine issues of material fact in dispute. For the reasons stated in the accompanying Memorandum in Support of Plaintiffs' Motion for Partial Summary Judgment and in Opposition to

Defendants' Motion for Partial Summary Judgment, and supported by the accompanying
Declarations of Jonathan Hafetz and Melissa Goodman, plaintiffs are entitled to judgment
as a matter of law on these claims.

Respectfully submitted,

s/ Melissa Goodman

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March 10, 201

**STATEMENT REGARDING LATE FILING DUE TO ECF SERVICE
INTERRUPTION**

Pursuant to the Court's scheduling order dated January 22, 2010, plaintiffs' motion for partial summary judgment and plaintiffs' accompanying memorandum of law in support of its motion and in opposition to the government's motion for partial summary judgment were due on March 10, 2010. Plaintiffs were unable to file their motion, memorandum of law, and supporting declarations on March 10th, however, because the Court's Electronic Case Filing (ECF) system was unavailable due to a service interruption between mid-afternoon March 10th and the morning of March 11th. For this reason, and because the Court's rules did not permit plaintiffs to file paper copies of their submissions, plaintiffs have submitted their filings via ECF on the morning of March 11th, when ECF service resumed.

On March 10, 2010, upon learning of the ECF service interruption, plaintiffs timely informed counsel for the defendants of their inability to file their papers via ECF. Although plaintiffs were unable to file their papers via ECF, plaintiffs sent via email to counsel for defendants a PDF copy of their motion, memorandum of law, and supporting declarations on March 10, 2010.

s/ Melissa Goodman
Melissa Goodman (MG-7844)