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11 Plaintiff, Pro Se

12
 13 UNITED STATES DISTRICT COURT
 14 NORTHERN DISTRICT OF CALIFORNIA
 15 SAN FRANCISCO DIVISION

16 ANTHONY P.X. BOTHWELL,
 17 Plaintiff,
 18 v.
 19 CENTRAL INTELLIGENCE AGENCY,
 20 Defendant.
 21

Case No. C 13-05439 JSC

**JOINT STATUS REPORT AND
 [PROPOSED] ORDER**

22
 23 Pursuant to the Court’s Order of June 30, 2015, Plaintiff, Anthony P.X. Bothwell, and
 24 Defendant, the Central Intelligence Agency (“CIA” or “Agency”), respectfully submit this further joint
 25 status update to advise the Court as to whether any further proceedings remain necessary in this case
 26 arising under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended. The parties report
 27 as follows:
 28

1 1. This case involves challenges to the CIA’s responses to two FOIA requests that Plaintiff
2 submitted in 2009 seeking certain records pertaining to five individuals allegedly connected to the
3 assassinations of President John F. Kennedy and Robert F. Kennedy. Compl. ¶¶ 3-4.

4 2. On October 9, 2014, the Court issued an order granting in part and deferring in part the
5 CIA’s motion for summary judgment. ECF No. 34. The Court found that the CIA issued a proper
6 *Glomar* response in response to Plaintiff’s request for records concerning “Jean Souetre, a.k.a. Michel
7 Roux, a.k.a Michel Mertz” under Exemption 3, and granted summary judgment in favor of the CIA on
8 this issue. *Bothwell v. CIA*, No. 13-cv-05439-JSC, 2014 WL 5077186, at *1 (N.D. Cal. Oct. 9, 2014).
9 The Court otherwise deferred judgment on the adequacy of the CIA’s search for responsive records.

10 3. Following the parties’ submission of supplemental briefing and evidence on the CIA’s
11 renewed motion for summary judgment, the Court issued an Order on June 4, 2015, granting in part and
12 denying in part the CIA’s renewed motion. ECF No. 46. The Court found that the CIA’s search was
13 adequate, except for its search for documents generated in July 1976 regarding Johnny Roselli. *See id.*
14 at 16. The Court concluded that the Roselli documents fell within 50 U.S.C. § 3141(c), which required
15 the CIA to search operational files. *See id.*

16 4. In their joint status report of June 29, 2015, the parties agreed that the CIA would
17 complete a search of operational files that is reasonably calculated to uncover records responsive to
18 Plaintiff’s request for “[a]ll records within the possession, custody, or control of the CIA, generated in
19 July 1976 that relate to Johnny ROSELLI, a.k.a. John ROSELLI, a.k.a. Filippo SACCO,” and file a
20 declaration describing its search. ECF No. 47.

21 5. On July 27, 2015, the CIA filed the Third Supplemental Declaration of Martha M. Lutz,
22 Information Review Officer for the Litigation Information Review Office of the CIA, to describe its
23 supplemental search of all databases which might reasonably contain operational files relating to Roselli
24 generated in July 1976. ECF No. 49-1. The declaration specifically described three National
25 Clandestine Service databases that were searched. *See id.* ¶ 3.

26 6. The parties have now conferred on whether any further proceedings remain necessary in
27 this case. The parties are in disagreement over the reasonableness of the CIA’s search of archived CIA
28

1 paper records, as described in Paragraph 3 of Third Supplemental Declaration of Martha M. Lutz:

2 a. Plaintiff's position: Plaintiff takes the position that the CIA should either [1]
3 provide a supplemental declaration affirming that the electronic index it searched is one that lists all
4 paper documents generated in July 1976 related to the U.S. Senate Committee (the Church Committee)
5 before which Johnny Roselli (Roselli) testified, or [2] conduct a manual search of paper files for that one
6 single month for such records related to the Church Committee before which Roselli testified. Perhaps
7 in a box of records generated after the Church Committee report was issued.

8 b. CIA's position: As Paragraph 4 of Ms. Lutz's September 16, 2014 declaration
9 states, there is a CIA database that consists of compiled indexes of archived CIA paper records that are
10 no longer used for current office activities. If a search of these indexes suggests the existence of paper
11 files likely to contain records responsive to a particular FOIA request, CIA personnel can then retrieve
12 the archived paper files and review them for responsive individual paper documents. Here, as described
13 in Paragraph 3 of Third Supplemental Declaration of Martha M. Lutz, the CIA searched the indexes of
14 archived paper records through a simple keyword search using the name and aliases for Roselli.
15 Because the search of the index did not suggest the existence of any paper files pertaining to Roselli,
16 there would not have been any paper files that could reasonably have been retrieved and reviewed
17 further for responsive records generated in July 1976. The CIA believes its declarations have fully
18 explained the reasonableness of the Agency's search of the paper files. Although it believes a
19 supplemental declaration as requested in item 1 of Plaintiff's position would be duplicative, the CIA
20 indicated its willingness to provide a supplemental declaration further reiterating that "the compilation
21 of indexes which catalogue archived CIA paper records that it searched is one that would identify the
22 existence of any paper records files likely to contain records relating to Johnny Roselli."

23 c. Plaintiff's further response: Plaintiff still believes it would not be unreasonable to
24 do a manual search of paper records generated in July 1976 in relation to the Church Committee
25 assassinations investigation. Plaintiff does not believe it would be an excessive burden to flip through
26 one month of those physical files to see if Roselli's name pops up.

1 7. In light of this remaining disputed issue, the parties propose that they submit further
2 briefing on the reasonableness of the CIA's search of archived paper records for records relating to
3 Roselli, with the CIA to file its brief by September 9, 2015, Plaintiff to file his response by September
4 23, 2015, and the CIA to file its reply by September 30, 2015.

5 DATED: August 17, 2015

Respectfully submitted,

6 MELINDA HAAG
United States Attorney

7 /s/ Michelle Lo
8 MICHELLE LO
Assistant United States Attorney
9 Attorneys for the Central Intelligence
10 Agency

11 DATED: August 17, 2015

PLAINTIFF ANTHONY P.X. BOTHWELL

12 /s/ Anthony P.X. Bothwell
13 ANTHONY P.X. BOTHWELL
Pro Se

14 *I, Michelle Lo, attest that I have obtained concurrence in the filing of this document from Plaintiff
15 Anthony P.X. Bothwell.

16 /s/ Michelle Lo
17 Michelle Lo

18
19 Pursuant to the parties' joint status report, the parties' proposed schedule is approved. The
20 parties are to submit further briefing on the reasonableness of the CIA's search of archived paper records
21 for records relating to Roselli under the following schedule:

22 CIA's supplemental motion:	September 9, 2015
23 Plaintiff's response:	September 23, 2015
24 CIA's reply:	September 30, 2015
25 Hearing:	9 a.m., Thursday, October 22 ²⁹ 2015

26 IT IS SO ORDERED.

27 Dated: August 18, 2015

28 
Hon. Jacqueline Scott Corley
United States Magistrate Judge