

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
ASSOCIATED PRESS,

Plaintiff,

- v. -

UNITED STATES DEPARTMENT
OF DEFENSE,

Defendant.
-----X

USDC SDNY
DOCUMENT
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DOC #:
DATE FILED: 12-4-06

ECF CASE

06 Civ. 1939 (JSR)

STIPULATION AND ORDER

WHEREAS, plaintiff the Associated Press ("AP") brought this action under the Freedom of Information Act ("FOIA") seeking, among other things, photographs identifying individual detainees held at the U.S. Naval Base, Guantanamo Bay, Cuba (the "Photographs"), and height and weight information for those detainees (the "Height and Weight Information");

WHEREAS, defendant the United States Department of Defense ("DOD") moved for summary judgment with respect to its withholding of the Photographs under FOIA Exemptions 1 and 6, and the Height and Weight Information under FOIA Exemption 6;

WHEREAS, the Court, in a November 27, 2006 Opinion and Order (the "Order"), granted DOD's summary judgment motion as to the Photographs, denied its motion as to the Height and Weight Information, and directed DOD to provide the Height and Weight Information to AP by December 11, 2006;

WHEREAS, on November 30, 2006, DOD applied orally to the Court for a sixty (60) day stay of that portion of the Order directing DOD to provide the Height and Weight Information to AP, pending the Government's consideration of appeal;

WHEREAS, AP indicated it would not oppose the DOD request for a stay so long as

DOD proceeded to prepare the Height and Weight Information for release to AP in the event DOD does not appeal the Order;

WHEREAS, DOD's oral application was granted on the condition that DOD would proceed with the processing of the Height and Weight Information, and the Court directed the parties promptly to submit a written stipulation;

IT IS STIPULATED AND AGREED, by and between undersigned counsel for the parties, that:

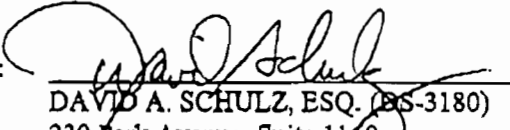
1. That portion of the Order directing DOD to provide the Height and Weight Information to AP is stayed until January 26, 2007, on the condition that DOD begin processing the Height and Weight Information notwithstanding entry of the stay.

2. In the event that DOD takes an appeal of the Order, it will take no action in the Court of Appeals to delay the disposition of its pending appeal in AP v. DOD, 05 Civ. 5468 (JSR).

Dated: December 1, 2006
New York, New York

LEVINE SULLIVAN KOCH
& SCHULZ, L.L.P.
Attorneys for Plaintiff

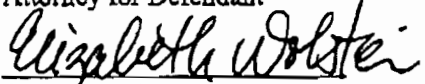
By:


DAVID A. SCHULZ, ESQ. (BS-3180)
230 Park Avenue, Suite 1160
New York, NY 10169
Telephone: (212) 850-6100
Facsimile: (212) 850-6299

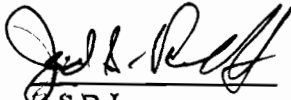
Dated: December 1, 2006
New York, New York

MICHAEL J. GARCIA
United States Attorney for the
Southern District of New York
Attorney for Defendant

By:


ELIZABETH WOLSTEIN (EW-5194)
Assistant United States Attorney
86 Chambers Street
New York, New York 10007
Telephone: (212) 637-2743
Facsimile: (212) 637-2686

SO ORDERED:


U.S.D.J.

12-3-06