

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

.....x
AMERICAN CIVIL LIBERTIES UNION,
CENTER FOR CONSTITUTIONAL RIGHTS,
PHYSICIANS FOR HUMAN RIGHTS,
VETERANS FOR COMMON SENSE AND
VETERANS FOR PEACE,

ECF CASE

Plaintiffs,

No. 04 Civ. 4151 (AKH)

v.

DEPARTMENT OF DEFENSE, AND ITS
COMPONENTS DEPARTMENT OF ARMY,
DEPARTMENT OF NAVY, DEPARTMENT
OF AIR FORCE, DEFENSE INTELLIGENCE
AGENCY; DEPARTMENT OF HOMELAND
SECURITY; DEPARTMENT OF JUSTICE,
AND ITS COMPONENTS CIVIL RIGHTS
DIVISION, CRIMINAL DIVISION, OFFICE
OF INFORMATION AND PRIVACY, OFFICE
OF INTELLIGENCE POLICY AND REVIEW,
FEDERAL BUREAU OF INVESTIGATION;
DEPARTMENT OF STATE; AND CENTRAL
INTELLIGENCE AGENCY,

Defendants.
.....x

SECOND AMENDED DECLARATION OF RICHARD B. MYERS

Richard B. Myers, pursuant to 28 U.S.C. sec. 1746, declares as follows:

1. I am the Chairman of the Joint Chiefs of Staff. I serve as the senior military advisor to the President of the United States, the Secretary of Defense, and the National Security Council. I am the highest ranking uniformed officer in the United States Armed Forces. In performing my duties, I routinely confer with and obtain advice from combatant commanders regarding the operational requirements of their commands; I evaluate and synthesize this information; I advise and make recommendations to the Secretary of Defense with respect to these requirements; and, as appropriate, I

communicate the combatant commands' requirements to other elements of the Department of Defense.

2. Through the exercise of my official duties and as a result of my personal knowledge, I am familiar with this civil action and with Plaintiffs' requests for information under the Freedom of Information Act. Further, I have reviewed the 87 photographic and video images that are identified in paragraph 6 of the Third Declaration of Philip J. McGuire (collectively referred to as the "responsive Darby Photos"). For the reasons set forth in this declaration, I have concluded that the official release of the images further identified below, even if redacted to obscure identifying information and, where applicable, the genitalia of those depicted, could reasonably be expected to:

- a. Endanger the lives and physical safety of the Soldiers, Sailors, Airmen, and Marines in the United States Armed Forces presently serving in Iraq and Afghanistan, as well as other U.S. officials, Coalition Forces allied with the United States, and contractors serving with these forces;
- b. Endanger the lives and physical safety of Iraqi civilians at large, and police and military personnel of the democratic Iraqi Transitional Government working in coordination with the United States and Coalition Forces in support of Operation IRAQI FREEDOM;
- c. Endanger the lives and physical safety of Afghan civilians at large, and police and military personnel of the Government of Afghanistan working in coordination with the United States and Coalition Forces operating in support of Operation ENDURING FREEDOM, NATO-led operations, and contractors serving with these forces;