

### **Devvy Kidd v Department of the Army**

This was a Freedom of Information Act (FOIA) request I made to get Timothy McVeigh's medical records.

If you read my 223 page wrap up on McVeigh (available on my CD), you will understand why I attempted to get his medical records.

In the end, the judge sided with the government and I decided in this case not to appeal.

Those who processed this FOIA are lying, deceitful individuals.

There is no honor in their paychecks or their actions – that includes those in the military.

My husband is a 27 year veteran. He retired as a full Colonel from the Army and I would be ashamed if he behaved like the military in this case.

I expect it from the civilian federal civil service employees and the U.S. Attorneys.

I know they're liars because I have a great deal of experience with FOIAs and dealing with these dishonorable people who care nothing for the law or the right of the people to know the truth, only their paychecks.

One day the truth about OKC will be made known to the American people, the same as we now know from hard documentation through a long series of FOIA court battles that FDR knew the Japanese were going to bomb Pearl Harbor and he deliberately allowed it to happen to drag America into the war in Europe.

Devvy Kidd  
March 2, 2005

## CERTIFICATE OF RELEASE OR DISCHARGE FROM ACTIVE DUTY

1. NAME (Last, First, Middle) <b>MCVEIGH TIMOTHY JAMES</b>		2. DEPARTMENT, COMPONENT AND BRANCH <b>ARMY/RA</b>		3. SOCIAL SECURITY <b>[REDACTED]</b>	
4.a. GRADE, RATE OR RANK <b>SGT</b>		4.b. PAY GRADE <b>E-5</b>		5. DATE OF BIRTH (YYMMDD) <b>680423</b>	
6. RESERVE OBLIG. TERM. (C) Year <b>90</b> Month <b>05</b> Day <b>01</b>					
7.a. PLACE OF ENTRY INTO ACTIVE DUTY <b>BUFFALO, NY</b>		7.b. HOME OF RECORD AT TIME OF ENTRY (City and state, or c) <b>6200 CUMMELL BLVD LOCKPORT, NY 14094</b>			
8.a. POST DETACHMENT AND MAJOR COMMAND <b>FORSCOM - FC</b>		8.b. STATION WHERE SEPARATED <b>PORT KNOTT, KANSAS</b>			
9. COMMAND TO WHICH TRANSFERRED <b>CSC 1st BN. 174th INF, 79 DELEWARE STREET, TONAWANDA, NY 14150</b>		10. SGLI COVERAGE Amount: \$ <b>100.00</b>			
11. PRIMARY SPECIALTY (List number, title and years and months in specialty. List additional specialty numbers and titles involving periods of one or more years.) <b>11520, FIGHTING VEHICLE INFANTRYMAN, 3 YRS AND 4 MOS//NOTHING FOLLOWS</b>		12. RECORD OF SERVICE		Year(s)	Month(s)
		a. Date Entered AO This Period		<b>88</b>	<b>05</b>
		b. Separation Date This Period		<b>91</b>	<b>12</b>
		c. Net Active Service This Period		<b>03</b>	<b>07</b>
		d. Total Prior Active Service		<b>00</b>	<b>00</b>
		e. Total Prior Inactive Service		<b>00</b>	<b>00</b>
		f. Foreign Service		<b>00</b>	<b>03</b>
		g. Sea Service		<b>00</b>	<b>00</b>
h. Effective Date of Pay Grade		<b>91</b>	<b>02</b>		
13. DECORATIONS, MEDALS, BADGES, CITATIONS AND CAMPAIGN RIBBONS AWARDED OR AUTHORIZED (All periods of service) <b>ARMY SERVICE RIBBON//NATIONAL DEFENSE SERVICE MEDAL//ARMY LAPEL BUTTON// SOUTHWEST ASIA SERVICE MEDAL W/2 BRONZE STARS//BRONZE STAR MEDAL//ARMY ACHIEVEMENT MEDAL //NOTHING FOLLOWS</b>					
14. MILITARY EDUCATION (Course title, number of weeks, and month and year completed) <b>PRIMARY LEADERSHIP DEVELOPMENT COURSE, 4 WEEKS, 1990//NOTHING FOLLOWS</b>					
15.a. MEMBER CONTRIBUTED TO POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM		Yes	No	15.b. HIGH SCHOOL GRADUATE OR EQUIVALENT	
			<input checked="" type="checkbox"/>	Yes	
			<input checked="" type="checkbox"/>	No	
16. DAYS ACCRUED LEAVE					
17. MEMBER WAS PROVIDED COMPLETE DENTAL EXAMINATION AND ALL APPROPRIATE DENTAL SERVICES AND TREATMENT WITHIN 90 DAYS PRIOR TO SEPARATION					
Yes					
18. REMARKS <b>BLOCK 6 INCLUDES PERIOD OF DEP: 880512-880523//SUBJECT TO ACTIVE DUTY RE AND/OR ANNUAL SCREENING// NOTHING FOLLOWS</b>					
19.a. MAILING ADDRESS AFTER SEPARATION (Include Zip Code) <b>[REDACTED]</b>					
19.b. NEAREST RELATIVE (Name and address - include Zip Code) <b>[REDACTED]</b>					
20. MEMBER REQUESTS COPY 5 BE SENT TO		DIR. OF VET AFFAIRS		22. OFFICIAL AUTHORIZED TO SIGN (Typed name, grade, title signature) <b>GARY A. WADSWORTH, GS7, CB, TRANS</b>	
21. SIGNATURE OF MEMBER BEING SEPARATED <b>[REDACTED]</b>					

RECORDED  
92 JAN 31 PM 12:38  
COUNTY  
CLERK'S OFFICE  
LOCKPORT, N.Y.

## SPECIAL ADDITIONAL INFORMATION (For use by authorized agencies only)

23. TYPE OF SEPARATION <b>RELIEF FROM ACTIVE DUTY</b>		24. CHARACTER OF SERVICE (Include upgrades) <b>HONORABLE</b>	
25. SEPARATION AUTHORITY <b>AR 635-200 PARA 16-8</b>		26. SEPARATION CODE <b>LCC</b>	
27. REENTRY CODE <b>2B</b>			
28. NARRATIVE REASON FOR SEPARATION <b>FOR THE CONVENIENCE OF THE GOVERNMENT - FY92 EARLY TRANSITION PROGRAM</b>			
29. DATES OF TIME LOST DURING THIS PERIOD <b>NONE//NOTHING FOLLOWS</b>		30. MEMBER REQUESTS CC <b>[REDACTED]</b>	



DEPARTMENT OF VETERANS AFFAIRS  
BUFFALO VARO  
111 WEST HURON STREET  
BUFFALO NEW YORK 14202

May 22, 2002

DEWY KIDD  
P O BOX 60543  
SACRAMENTO CA 95860


In Reply Refer To: 307/274/  
C  
KIDD, Dewy

Dear Mr. Kidd:

Enclosed please find a DD form 214 for one Timothy McVeigh. The items redacted related to information not releasable .

We regret any inconvenience that the delay in responding may have caused you.

Sincerely

  
James Rogers  
Service Center Msnsger

Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860

Certified Mail Receipt: 7001 2510 0000 2855 8617

May 28, 2002

Office of the Chief, Army Reserve  
ATTN: DAAR-ZXP (FOIA)  
1421 Jefferson Davis Highway, Suite 12300  
Arlington, VA 22202

Re: Timothy James McVeigh (Executed June 11, 2001)  
Social Security No. 129-58-4709

Sir/Madame:

This is a request under the **Freedom of Information Act** (5 U.S.C. §552) and the regulations thereunder. I am more than willing to pay any reasonable research and copies fees for responding to this request; however, if the costs thereof should exceed \$100, please inform me in advance of producing the requested documents. I am not a commercial requester and I seek the documents requested below for personal reasons.

Under this FOIA I am requesting the following:

1. Any document or form initiated by Timothy James McVeigh to separate from the Department of the Army when on active duty status.
2. Any document or form initiated by the Department of the Army to separate Timothy James McVeigh for the reasons stated on the attached DD-214, box 28.
3. Copies of all deployment records for the period May 24, 1988 through December 31 1991. These records should include where he was sent and duration of duty.
4. Any and all documents from Timothy James McVeigh's medical records that document the insertion of a micro-chip, a bio-chip or any other object foreign to the human body



that McVeigh received while in the U.S. Army. This would include documents for surgical implantation or any other method used.

5. Any and all documents in Timothy James McVeigh's medical records that document any visits, phone calls or correspondence dealing with a Dr. Louis Jolyn (Jolly) West.

**Very truly yours,**

**Devvy Kidd**

Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860  
916-928-0199 / e-mail: power@devvy.com

December 8, 2002

**Certified Mail Receipt No. 7001 0320 0003 8000 2211**

Commander  
Army Reserve Personnel Command  
Attn: ZRPC-ZCC-B  
1 Reserve Way  
St. Louis, MO 63132-5200

Re: Freedom of Information Act Request Saga

On **May 28, 2002**, I filed a FOIA (See enclosed).

On **July 24, 2002**, I received a letter (copy enclosed) from the Office of the Chief, Army Reserve. This letter states that they **passed my FOIA** on to the National Personnel Records Center on Page **Blvd.**, in St. Louis.

Next I receive a letter dated July 29, 2002 (see enclosed) from NPRC on Page **Ave** in St. Louis, MO stating that they have **passed my FOIA** on to you.

I feel I have waited long enough for this information. If I don't receive the documents I have requested within 20 calendar days after your agency signs for this letter, I will be left with no choice but to sue in Federal District Court.

Very truly yours,

Devvy Kidd

Encl: NPRC ltr dated 7.29.02  
ARSG ltrs dated 7.11.02 (2)  
Original FOIA request dated 5.28.02

Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860  
916-928-0199 / e-mail: power@devvy.com

Certified Mail Receipt: 7001 0360 0004 3146 9275

January 6, 2003

Commander  
U.S. Army Reserve Personnel Command  
Attn: ARPC-ZCC-A  
1 Reserve Way  
St. Louis, MO 63132-5200

### **FOIA Appeal**

Enclosed is the history of my original Freedom of Information Act request.

Last week I received a final response dated December 20, 2002; attached with this appeal. Ms. Farrow forwarded me a document I did not request and denied my original request citing personal privacy to any family members of Timothy James McVeigh.

Mr. McVeigh was executed June 11, 2001. I have a copy of the death certificate which contains his social security number and all other information contained in such a document.

**Dead people have no privacy rights.** My FOIA does **not** extend to any family member of Mr. McVeigh. The information I have requested deals with McVeigh's military service and **his** medical records, **not** his family's.

Therefore, I appeal the decision of Ms. Farrow to withhold the documents I have requested under my original FOIA and ask that my request be processed and the documents I seek released.

Very truly yours,

Devvy Kidd

business in the District of Columbia. Defendant Department of the Army has possession of the documents to which Plaintiff seeks access.

### **STATEMENT OF FACTS**

5. Plaintiff filed with Defendant Department of the Army on May 28, 2002, via certified mail, a FOIA request (See Exhibit 1) in the form of a letter to Defendant FOIA officer, requesting access to certain records under the FOIA. Access was requested for:

Any document or form initiated by Timothy James McVeigh to separate from the Department of the Army when on active duty status.

Any document or form initiated by the Department of the Army to separate Timothy James McVeigh for the reasons stated on the attached DD-214, box 28.

Copies of all deployment records for the period May 24, 1988 through December 31 1991. These records should include where he was sent and duration of duty.

Any and all documents from Timothy James McVeigh's medical records that document the insertion of a micro-chip, a bio-chip or any other object foreign to the human body that McVeigh received while in the U.S. Army. This would include documents for surgical implantation or any other method used.

Any and all documents in Timothy James McVeigh's medical records that document any visits, phone calls or correspondence dealing with a Dr. Louis Jolyn (Jolly) West.

6. Plaintiff received a letter from Defendant dated July 11, 2002 (See Exhibit 2)

7. Plaintiff received another letter from Defendant dated July 29, 2002 (See Exhibit 3).

8. On December 9, 2002, Plaintiff sent another letter to Defendant (See Exhibit 4).

9. Plaintiff then received another letter from Defendant dated December 20, 2002, (See Exhibit 5) which is non-responsive to the documents sought by Plaintiff.

10. Plaintiff filed an appeal via certified mail January 6, 2003 (See Exhibit 6). Defendant's representative signed for this appeal on January 8, 2003. It is now March 4,

IN THE UNITED STATES DISTRICT COURT **ORIGINAL**  
FOR THE NORTHERN DISTRICT OF CALIFORNIA **FILED**

FEB 5 2000

DEVVY KIDD,  
2133 Sherington Way  
Sacramento, California 95835

Plaintiff,

v.

Department of the Army  
U.S. Army Reserve  
Personnel Command  
1 Reserve Way  
St. Louis, MO 63132

Defendant.

CLERK U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

CIV.S-03-0225 DFL GGH-PS  
Case No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Plaintiff, Devvy Kidd, pro se, hereby files this complaint for compliance with the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* As grounds therefore, Plaintiff respectfully alleges as follows:

**JURISDICTION AND VENUE**

1. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1346 (a)(2) (United States as defendant), 5 U.S.C. § 552(a)(4)(b) (FOIA), and 5 U.S.C. § 552a(g)(5).
2. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

**PARTIES**

3. Plaintiff, Devvy Kidd, is a resident of the State of California, residing at 2133 Sherington Way, Sacramento, California 95835.
4. Defendant Department of the Army, is an agency and entity of the United States Government. Defendant Department of the Army, has its principle place of

2003 and Defendant has not responded to Plaintiff's appeal within the legal time allowed.

COUNT 1

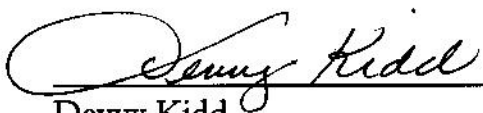
11. Plaintiff realleges paragraphs 1-13 as if fully set forth herein.

12. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i-ii), and 5 U.S.C. § 552 (a)(6)(C), Plaintiff shall be deemed to have exhausted her administrative remedies with respect to her FOIA request to Defendant Department of Army.

13. Pursuant to 5 U.S.C. § 552(a)(3), Plaintiff has a right of access to all of the documents requested in the FOIA request and Defendant has no legal basis for refusing to disclose all of these documents to Plaintiff, which has not occurred to date. The subject of this FOIA deals with neither privacy rights nor national security.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare that Defendant's refusal to disclose the documents requested by Plaintiff is unlawful; (2) order Defendant to make the requested documents available to Plaintiff; (3) award Plaintiff her costs and any applicable penalties under the law against Defendant in this action; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,



Devvy Kidd  
2133 Sherington Way  
Sacramento, California 95835  
916-928-0199

Pro se

Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860

Certified Mail Receipt: 7001 2510 0000 2855 8617

May 28, 2002

Office of the Chief, Army Reserve  
ATTN: DAAR-ZXP (FOIA)  
1421 Jefferson Davis Highway, Suite 12300  
Arlington, VA 22202

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Social Security No. 129-58-4709

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**Very truly yours,**

**Devy Kidd**





DEPARTMENT OF THE ARMY  
OFFICE OF THE CHIEF, ARMY RESERVE  
WASHINGTON, DC 20310-2400

REPLY TO  
ATTENTION OF

July 11, 2002

Chief, Army Reserve Staff Group

Ms. Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860

Dear Ms. Kidd:

This is in response to your Freedom of Information Act request dated May 28, 2002 for a copy of "Any document or form initiated by Timothy James McVeigh to separate from the Department of the Army when on active duty status. Any document or form initiated by the Department of the Army to separate Timothy James McVeigh for the reasons stated on the attached DD-214, box 28. Copies of all deployment records for the period May 24, 1988 through December 31, 1991. These records should include where he was sent and duration of duty. Any and all documents from Timothy James McVeigh's medical records that document the insertion of a micro-chip, a bio-chip or any other object foreign to the human body that McVeigh received in the U.S. Army. This would include documents for surgical implantation or any other method used. Any and all documents in Timothy James McVeigh's medical records that document any visits, phone calls or correspondence dealing with a Dr. Louis Jolyn (Jolly) West."

Your request has been forwarded to the National Personnel Records Center (NPRC), ATTN: Mrs. Virginia Barrett, 9700 Page Boulevard, St. Louis, Missouri 63132-5100 for a direct response to you. Upon discharge, separation or death from the United States Army, a soldier's record is transferred to the NPRC. The Army Reserve is not authorized to supply the requested documents. Enclosed is a copy of the transfer letter for your information. Should you have further questions about your request please contact NPRC, Mrs. Virginia Barrett, at (314) 538-4222. The NPRC also has a Website that may be useful and the address is <http://www.nara.gov/regional/mpr.html>.

I hope this information has been of assistance to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary M. Profit".

Gary M. Profit  
Colonel, U.S. Army  
Director, Chief, Army Reserve  
Staff Group


Enclosures

(1976). The problem for the Defendant is that this exemption cannot be used to protect any privacy of a dead man, as the dead simply have no privacy. The exemption under (b)(6) lapses upon the death of the individual whose records are sought under FOIA; see *Diamond v. FBI*, 532 F.Supp. 216, 227 (S.D.N.Y. 1981), affirmed 707 F.2d 75, 77 (2<sup>nd</sup> Cir. 1983); *Silets v. FBI*, 591 F.Supp. 490, 498 (N.D.Ill. 1984) ("Revealing the identities of deceased persons ... would not constitute an unwarranted invasion of personal privacy"); *Providence Journal Co. v. FBI*, 460 F.Supp. 762, 778, 793 (D.R.I. 1978), rev. on other grounds, 602 F.2d 1010 (1<sup>st</sup> Cir. 1979); and *United States v. Amalgamated Life. Ins. Co.*, 534 F.Supp. 676, 679 (S.D.N.Y. 1982). See also Restatement (Second) of Torts §652I.

#### CONCLUSION

For the foregoing reasons, summary judgment must be granted to Plaintiff Kidd.

Respectfully submitted this the 18th day of August, 2003.

  
Devvy Kidd  
8 South Cherry Grove Avenue  
Annapolis, Maryland 21401

Devy Kidd  
P.O. Box 60543  
Sacramento, California 95860  
916-928-0199 / e-mail: power@devvy.com

December 8, 2002

**Certified Mail Receipt No. 7001 0320 0003 8000 2211**

Commander  
Army Reserve Personnel Command  
Attn: ZRPC-ZCC-B  
1 Reserve Way  
St. Louis, MO 63132-5200

Re: Freedom of Information Act Request Saga

On **May 28, 2002**, I filed a FOIA (See enclosed).

On **July 24, 2002**, I received a letter (copy enclosed) from the Office of the Chief, Army Reserve. This letter states that they **passed my FOIA** on to the National Personnel Records Center on Page Blvd., in St. Louis.

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**Very truly yours,**

**Devy Kidd**

Encl: NPRC ltr dated 7.29.02  
ARSG ltrs dated 7.11.02 (2)  
Original FOIA request dated 5.28.02



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY RESERVE PERSONNEL COMMAND**  
1 RESERVE WAY  
ST. LOUIS MO 63132-5200



December 20, 2002

Special Inquiries Team

Ms. Devvy Kidd  
PO Box 60543  
Sacramento, CA 95860-0543

Dear Ms. Kidd:

This is in response to your request for copies of documents from the military personnel file and medical record of Timothy J. McVeigh. Your request was received in this office on December 13, 2002 and is being processed under the provisions of the Freedom of Information Act.

Enclosed is a sanitized copy of the discharge order that separated Mr. McVeigh from the U.S. Army Reserve. The social security number and address has been deleted on this order. Release of that information could result in an unwarranted invasion of personal privacy to any surviving family members. This information is being withheld in accordance with Title 5, U.S. Code, Section 552 (b)(6). Please be advised that there are no provisions under the Freedom of Information Act to provide explanations. The act pertains to existing records only.

This office responded to your previous request on August 9, 2002 and sent a copy of the enclosed order. The remaining documents that you have requested are not available in Mr. Mc Veigh's file maintained at this command.

If you consider my response to be a denial of your request, you may appeal by writing to the Commander, U.S. Army Reserve Personnel Command, Attention: ARPC-ZCC-A, 1 Reserve Way, St. Louis, MO 63132-5200, within 60 days of your receipt of this letter. Your appeal should state the basis of your disagreement. Fees allowable under the Freedom of Information Act are waived. For additional information or assistance, please contact the Special Inquiries Team at (314) 592-0446.

Sincerely,

  
Wanda Farrow  
Case Analyst

Enclosure

H3 F

DEPARTMENT OF THE ARMY  
U. S. ARMY RESERVE PERSONNEL CENTER  
9700 PAGE AVENUE  
ST. LOUIS, MO 63132-5200

ARPC-SFS-R  
ORDERS D-05-642653

14 MAY 96

MCVEIGH TIMOTHY JAMES  
[REDACTED]

SFS-R

[REDACTED] SGT 11H2  
USAR CONTROL GROUP (AT)

YOU ARE DISCHARGED FROM THE COMPONENT SHOWN.

AUTHORITY: AR 135-178  
EFFECTIVE DATE: 14 MAY 96  
COMPONENT: UNITED STATES ARMY RESERVE  
TYPE OF DISCHARGE: HONORABLE  
ADDITIONAL INSTRUCTIONS: IF RESERVE ID DD FORM 2A (RED) IS IN YOUR POSSESSION  
RETURN IT TO THIS HQS, ATTN: ARPC-PAS-EVC. IF YOU HAVE ANY QUESTIONS IN THE  
FUTURE ABOUT YOUR MILITARY RECORDS OR YOUR MILITARY SERVICE, ASK THE  
NATIONAL PERSONNEL RECORDS CENTER, 9700 PAGE BLVD ST LOUIS MISSOURI  
63132-5200. AS YOU NO LONGER HAVE ANY MILITARY STATUS, YOUR RECORDS ARE NO  
LONGER HELD BY THE ARMY. REMEMBER TO INCLUDE YOUR FULL NAME, SOCIAL SECURITY  
NUMBER AND ALL PREVIOUS SERVICE NUMBERS SO THAT YOUR RECORD CAN BE  
POSITIVELY IDENTIFIED. SFSR-10

"SUBJECT BEING DISCHARGED ALTHOUGH ASSIGNED TO THIS ORGANIZATION,  
IS NOT PRESENT FOR DUTY. DISCHARGE CERTIFICATE AND DISCHARGE ORDERS  
ARE BEING MAILED TO LAST KNOWN ADDRESS THIS DATE, 08 July 1996."

FORMAT: 500

\*\*\*\*\*  
\* ARPERCEN \*  
\* OFFICIAL \*  
\*\*\*\*\*

NORMAN S. BRINSLEY  
COL, SF  
COMMANDING

DISTRIBUTION: H2

PACKET: 15

Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860  
916-928-0199 / e-mail: power@devvy.com

Certified Mail Receipt: 7001 0360 0004 3146 9275

January 6, 2003

Commander  
U.S. Army Reserve Personnel Command  
Attn: ARPC-ZCC-A  
1 Reserve Way  
St. Louis, MO 63132-5200

### **FOIA Appeal**

Enclosed is the history of my original Freedom of Information Act request.

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**Dead people have no privacy rights.** My FOIA does not extend to any family member of Mr. McVeigh. The information I have requested deals with McVeigh's military service and his medical records, not his family's.

Therefore, I appeal the decision of Ms. Farrow to withhold the documents I have requested under my original FOIA and ask that my request be processed and the documents I seek released.

Very truly yours,

Devvy Kidd

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Commander*  
*U.S. Army Reserve*  
*Personnel Command*  
*Attn: ARPC-ZCC-A*  
*1 Reserve Way*  
*St. Louis, MO 63132-5200*

2. Article Number

(Transfer from service label)

7001 0360 0004 3146 9275

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-0835

**COMPLETE THIS SECTION ON DELIVERY**

- A. Signature ☒ *W. H. King* ☐ Agent ☐ Addressee
- B. Received by ☐ *Printed Name* ☐ Date of Delivery *Jan 18*
- D. Is delivery address different from item 1? ☐ Yes ☐ No  
 If YES, enter delivery address below:

3. Service Type

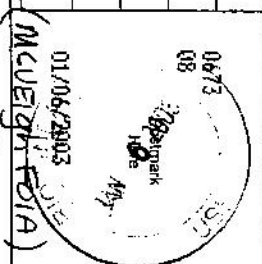
- ☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.

4. Restricted Delivery? (Extra Fee) ☐ Yes ☐ No

**U.S. Postal Service  
 CERTIFIED MAIL RECEIPT  
 (Domestic Mail Only; No Insurance Coverage Provided)**

SAINT LOUIS MO 63132

Postage	\$ 40.83
Certified Fee	\$ 2.30
Return Receipt Fee (Endorsement Required)	\$ 1.75
Restricted Delivery Fee (Endorsement Required)	\$ 0.00
Total Postage & Fees	\$ 44.88



7001 0360 0004 3146 9275

Sent To  
*Canada - US Army Reserve Personnel*  
*1 Reserve Way*  
*St Lou, MO 63132*

PS Form 3800, January 2001 See Reverse for Instructions

**SENDER: COMPLETE THIS SECTION**

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

*Commander*  
*Navy RESERVE*  
*Personnel Command*  
*Attn: ZRRP-ZCC-B*  
*1 RESERVE way*  
*ST. LOUIS, MO 63132-5200*

2. Article Number

(Transfer from service label)

7001 0320 0003 8000 2211

PS Form 3811, August 2001

Domestic Return Receipt

102595-02-M-0835

**COMPLETE THIS SECTION ON DELIVERY**

- A. Signature ☒ Agent ☐ Addressee  
*AP-8-*
- B. Received by (Printed Name) ☐ Date of Delivery  
*10-1-83*
- C. Is delivery address different from item 1? ☐ Yes ☐ No  
If YES, enter delivery address below:

3. Service Type

- ☒ Certified Mail ☐ Express Mail  
☐ Registered ☐ Return Receipt for Merchandise  
☐ Insured Mail ☐ C.O.D.  
4. Restricted Delivery? (Extra Fee) ☐ Yes

**U.S. Postal Service  
CERTIFIED MAIL RECEIPT**  
(Domestic Mail Only, No Insurance Coverage Provided)

SAINT LOUIS MO 63132

Postage	\$ 10.60
Certified Fee	\$2.30
Return Receipt Fee (Endorsement Required)	\$1.75
Restricted Delivery Fee (Endorsement Required)	\$0.00
Total Postage & Fees	\$ 14.65

(M288972002-Dixhs)

7001 0320 0003 8000 2211

Sent To  
*Cmdr - ARPCCommand*  
Street, Apt. No.  
or PO Box No.  
City, State, Zip  
*ST. LOU, MO 63132-5200*

PS Form 3800, January 2001

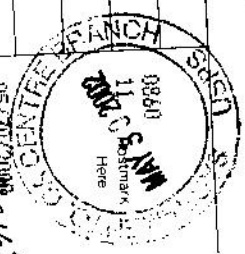
See Reverse for Instructions



**U.S. Postal Service**  
**CERTIFIED MAIL RECEIPT**  
 (Domestic Mail Only, No Insurance Coverage Provided)

ARLINGTON VA 22202

Postage	\$ 80.34
Certified Fee	\$2.10
Return Receipt Fee (Endorsement Required)	\$1.50
Restricted Delivery Fee (Endorsement Required)	\$0.00
<b>Total Postage &amp; Fees</b>	<b>\$ 83.94</b>



Sent To  
 Street, Apt. No.  
 or PO Box No. *1421 Jeff Davis Hwy Ste 12300*  
 City, State, ZIP+4 *Arlington, VA 22202*

7001 2510 0000 2855 8617

See Reverse for Instructions  
 PS Form 3800, January 2001

**FILED****February 5, 2003**CLERK, US DISTRICT COURT  
EASTERN DISTRICT OF  
CALIFORNIA

D Waggoner

DEPUTY CLERK

Cases in which all plaintiffs or defendants are proceeding in propria persona are referred to the magistrate judge for full pre-trial management. Local Rule 72-302(c)(21). All dispositive and non-dispositive motions and matters should be noticed before the magistrate judge.

**ORDER REQUIRING TIMELY SERVICE AND JOINT STATUS REPORT**

Case No.: CIV. S-03-225 DFL GGH -PS

Case Name: DEVVY KIDD v. US DEPT OF ARMY

This action has been assigned to District Judge David F. Levi and Magistrate Judge Gregory G. Hollows.

Pursuant to Fed. R. Civ. P. 16, IT IS ORDERED THAT:

1. Service of process shall be completed within one hundred twenty (120) days.
2. Plaintiffs shall serve a copy of this Order concurrently with service of process, and file with the Clerk a certificate of such service. Any party removing this action from state court shall immediately serve upon each of the other parties a copy of this Order, and file with the Clerk a certificate of such service.
3. Within 30 days after any defendant *answers*, the parties shall confer in person about the automatic disclosures required by Fed. R. Civ. P. 26. Thereafter, within 14 days, the parties shall submit a joint status report. The report should briefly describe the case and address:
  - (a) Progress in serving process;
  - (b) Possible joinder of additional parties;
  - (c) Expected or desired amendment of pleadings;
  - (d) Jurisdiction and venue;
  - (e) Anticipated motions and their scheduling;
  - (f) The report required by Rule 26 outlining the proposed discovery plan and its scheduling, including disclosure of expert witnesses;
  - (g) Cut-off dates for discovery and law and motion, and dates for pretrial conference and trial;
  - (h) Special procedures, if any;
  - (i) Estimated trial time;
  - (j) Modification of standard pretrial procedures due to the simplicity or complexity of the proceedings;

- (k) Whether the case is related to any other case, including bankruptcy;
- (l) Whether a settlement conference should be scheduled;
- (m) Any other matters that may add to the just and expeditious disposition of this matter.

4. Upon reviewing the joint status report, the Court may:

- (a) Issue a scheduling order; or
- (b) Set a status conference.

5. Failing to obey federal or local rules, or orders of this court, may result in dismissal of this action. Even though the court will construe pro se pleadings liberally, pro se litigants must comply with procedural rules.

6. The parties may consent to have this case before the assigned magistrate judge for all purposes. See 28 U.S.C. § 636(c). A consent form is attached. Any party who consents should complete the form and return it to the Clerk. Unless all parties have consented, no judge will be notified that a consent form has been filed.

DATE: February 5, 2003

GREGORY G. HOLLOWS  
UNITED STATES MAGISTRATE JUDGE

(11/02)  
ps-strpt.wpd

by: D Waggoner  
Deputy Clerk

## UNITED STATES DISTRICT COURT

NORTHERN

District of

CALIFORNIADEVVY KIDD, PLAINTIFF  
V.

## SUMMONS IN A CIVIL CASE

CASE NUMBER:

CIV.S-03-0225 DFL GGH-PS

UNITED STATES DEPARTMENT OF THE ARMY  
DEFENDANT

TO: (Name and address of Defendant)

DEPARTMENT OF THE ARMY  
U.S. ARMY RESERVE PERSONNEL COMMAND  
1 RESERVE WAY  
ST. LOUIS MO. 63132-5200

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

PRO SE:

DEVVY KIDD  
2133 SHERINGTON WAY  
SACRAMENTO, CA 95835

an answer to the complaint which is served on you with this summons, within 30 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

Jack L. Wagner, Clerk

FEB 5 2003

CLERK

DATE

  
(By) DEPUTY CLERK

Attachment 3

(CERT MAIL 7002 0460 0002 06975350)

Attorney Identification  
(include State Bar number)

Attorney(s) for \_\_\_\_\_

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA**

**DEVVY KIDD**

v.

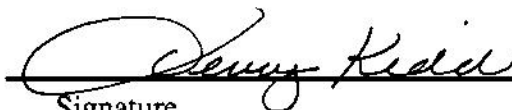
**NO. CIV. S-03-225 DFL GGH -PS**

**US DEPT OF ARMY**  
\_\_\_\_\_ )

**CONSENT TO PROCEED BEFORE  
UNITED STATES MAGISTRATE JUDGE**

In accordance with the provisions of Title 28 U.S.C. Section 636(c) DEVVY KIDD  
consents to have a United States Magistrate Judge conduct any and all further proceedings in this  
case, including trial and the entry of final judgment.

Dated: March 10, 2003

  
Signature

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

Devvy Kidd,  
Plaintiff  
vs.

Case No. CIV. S-03-0225-DFL GGH-PS

US Department of the Army  
St. Louis, MO 63132-5200

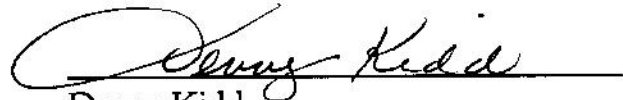
Defendant.

**PROOF OF SERVICE**

I, the undersigned, hereby certify that I served a true and correct copy of the attached documents: Rule 26(a) Conference and Timely Service and Status Report, by placing said copies in a postage paid envelope addressed to the person(s) listed below on April 23, 2003.

Certified mail receipt: 7002 2030 0000 2689 2919

Yoshinori H. T. Himel  
United States Attorney  
501 I Street  
Suite 10-100  
Sacramento, California 95814

A handwritten signature in cursive script, appearing to read "Devvy Kidd", is written over a horizontal line.

Devvy Kidd  
2133 Sherington Way  
Sacramento, California 95835  
916-928-0199

Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860  
916-928-0199 / e-mail: power@devvy.com

May 27, 2003

Mr. Yoshinori H.T. Himel  
Assistant U.S. Attorney  
U.S. Department of Justice  
Faxed to: 916-554-2900

Re: Kidd v. Department of Army, CIV.-S-03-0225-DFL/GGH-PS

Dear Mr. Himel:

I received the proposed 'Joint Status Report' you mailed to me dated May 21, 2003 with a request that I review and sign it.

Before I left for Washington, DC, I filed with the court two documents: Rule 26(a) Conference and Timely Service and Status Report. I sent you copies of these filings and they were signed for by someone in your office on April 25, 2003.

I feel I have fulfilled my obligation to the court. Additionally, I disagree with the content of your document.

On page 2 of your document you state that "Defendant has made its Rule 26 disclosures by letter dated Mary [typo] 21, 2003." I will be visiting the court house today to obtain a copy of this document.

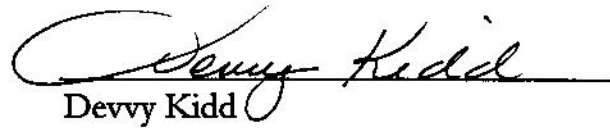
Very truly yours,

A handwritten signature in cursive script, appearing to read "Devvy Kidd", written in black ink.

Devvy Kidd

Department of the Army - Certified Mail Receipt 7002 2030 0000 2689 3077  
U.S. Army Reserve  
Personnel Command  
1 Reserve Way  
St. Louis, MO 63132



A handwritten signature in cursive script, reading "Devvy Kidd", written over a horizontal line.

Devvy Kidd  
2133 Sherington Way  
Sacramento, California 95835  
916-928-0199

Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860  
916-928-0199 / e-mail: power@devvy.com

March 5, 2003

Faxed to: 916-554-2900

Yoshinori H. T. Himel  
Asst. U.S. Attorney  
U.S. Department of Justice  
Eastern District of California  
Sacramento, California 95814


Re: Kidd v Dept of the Army, CIV-S-03-0225-DFL/GGH-PS

Dear Mr. Himel:

I returned last night from Boston and Washington, DC. I left on February 20, 2003. It is for this reason that I have not responded to your letter dated February 17, 2003 (post marked February 18, 2003) and your telephonic voice mail. Obviously, I just missed your letter; my husband doesn't read my incoming mail.

I don't know why the DD-214 wasn't in the filing, but I am faxing you a copy with this letter. It would have been a simple matter for you to call VA and get a copy from them, although I didn't have that luxury. I filed a FOIA to get this DD-214. Same old non response I get from every government agency. It took Judicial Watch in DC to file a lawsuit on my behalf and after 9 ½ months, VA finally coughed up one piece of paper.

I do not have any problem with a 30 day extension as you requested in your voice mail at 12:14 pm yesterday.

  
Devvy Kidd  
Plaintiff

Faxed - copy of McVeigh's DD-214

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FEB 5 2003

CLERK U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DEVVY KIDD,  
2133 Sherington Way  
Sacramento, California 95835

Plaintiff,

v.

Department of the Army  
U.S. Army Reserve  
Personnel Command  
1 Reserve Way  
St. Louis, MO 63132

Defendant.

CIV.S-03-0225 DFL GGH-PS  
Case No. \_\_\_\_\_

**COMPLAINT FOR DECLARATORY AND  
INJUNCTIVE RELIEF**

Plaintiff, Devvy Kidd, pro se, hereby files this complaint for compliance with the Freedom of Information Act, 5 U.S.C. § 552 *et seq.* As grounds therefore, Plaintiff respectfully alleges as follows:

**JURISDICTION AND VENUE**

1. This court has jurisdiction over this action pursuant to 28 U.S.C. § 1346 (a)(2) (United States as defendant), 5 U.S.C. § 552(a)(4)(b) (FOIA), and 5 U.S.C. § 552a(g)(5).

2. Venue is proper in this district pursuant to 5 U.S.C. § 552(a)(4)(B).

**PARTIES**

3. Plaintiff, Devvy Kidd, is a resident of the State of California, residing at 2133 Sherington Way, Sacramento, California 95835.

4. Defendant Department of the Army, is an agency and entity of the United States Government. Defendant Department of the Army, has its principle place of

business in the District of Columbia. Defendant Department of the Army has possession of the documents to which Plaintiff seeks access.

### STATEMENT OF FACTS

5. Plaintiff filed with Defendant Department of the Army on May 28, 2002, via certified mail, a FOIA request (See Exhibit 1) in the form of a letter to Defendant FOIA officer, requesting access to certain records under the FOIA. Access was requested for:

Any document or form initiated by Timothy James McVeigh to separate from the Department of the Army when on active duty status.

Any document or form initiated by the Department of the Army to separate Timothy James McVeigh for the reasons stated on the attached DD-214, box 28.

Copies of all deployment records for the period May 24, 1988 through December 31 1991. These records should include where he was sent and duration of duty.

Any and all documents from Timothy James McVeigh's medical records that document the insertion of a micro-chip, a bio-chip or any other object foreign to the human body that McVeigh received while in the U.S. Army. This would include documents for surgical implantation or any other method used.

Any and all documents in Timothy James McVeigh's medical records that document any visits, phone calls or correspondence dealing with a Dr. Louis Jolyn (Jolly) West.

6. Plaintiff received a letter from Defendant dated July 11, 2002 (See Exhibit 2)

7. Plaintiff received another letter from Defendant dated July 29, 2002 (See Exhibit 3).

8. On December 9, 2002, Plaintiff sent another letter to Defendant (See Exhibit 4).

9. Plaintiff then received another letter from Defendant dated December 20, 2002, (See Exhibit 5) which is non-responsive to the documents sought by Plaintiff.

10. Plaintiff filed an appeal via certified mail January 6, 2003 (See Exhibit 6). Defendant's representative signed for this appeal on January 8, 2003. It is now March 4,

2003 and Defendant has not responded to Plaintiff's appeal within the legal time allowed.

COUNT 1

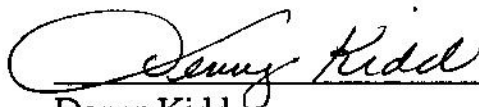
11. Plaintiff realleges paragraphs 1-13 as if fully set forth herein.

12. Pursuant to 5 U.S.C. § 552(a)(6)(A)(i-ii), and 5 U.S.C. § 552 (a)(6)(C), Plaintiff shall be deemed to have exhausted her administrative remedies with respect to her FOIA request to Defendant Department of Army.

13. Pursuant to 5 U.S.C. § 552(a)(3), Plaintiff has a right of access to all of the documents requested in the FOIA request and Defendant has no legal basis for refusing to disclose all of these documents to Plaintiff, which has not occurred to date. The subject of this FOIA deals with neither privacy rights nor national security.

WHEREFORE, Plaintiff respectfully requests that the Court: (1) declare that Defendant's refusal to disclose the documents requested by Plaintiff is unlawful; (2) order Defendant to make the requested documents available to Plaintiff; (3) award Plaintiff her costs and any applicable penalties under the law against Defendant in this action; and grant such other and further relief as the Court may deem just and proper.

Respectfully submitted,



Devvy Kidd  
2133 Sherington Way  
Sacramento, California 95835  
916-928-0199

Pro se

Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860  
916-928-0199 / e-mail: power@devvy.com

Certified Mail Receipt: 7001 0360 0004 3146 9275

January 6, 2003

Commander  
U.S. Army Reserve Personnel Command  
Attn: ARPC-ZCC-A  
1 Reserve Way  
St. Louis, MO 63132-5200

### **FOIA Appeal**

Enclosed is the history of my original Freedom of Information Act request.

Last week I received a final response dated December 20, 2002; attached with this appeal. Ms. Farrow forwarded me a document I did not request and denied my original request citing personal privacy to any family members of Timothy James McVeigh.

Mr. McVeigh was executed June 11, 2001. I have a copy of the death certificate which contains his social security number and all other information contained in such a document.

**Dead people have no privacy rights.** My FOIA does not extend to any family member of Mr. McVeigh. The information I have requested deals with McVeigh's military service and his medical records, not his family's.

Therefore, I appeal the decision of Ms. Farrow to withhold the documents I have requested under my original FOIA and ask that my request be processed and the documents I seek released.

Very truly yours,

Devvy Kidd

N3 F

DEPARTMENT OF THE ARMY  
U. S. ARMY RESERVE PERSONNEL CENTER  
9700 PAGE AVENUE  
ST. LOUIS, MO 63132-5200

ARPC-SFS-R  
ORDERS D-05-642663

14 MAY 96

MCVEIGH TIMOTHY JAMES  
[REDACTED]

SFS-R

[REDACTED] SGT 11H2  
USAR CONTROL GROUP (AT)

YOU ARE DISCHARGED FROM THE COMPONENT SHOWN.

AUTHORITY: AR 135-178  
EFFECTIVE DATE: 14 MAY 96  
COMPONENT: UNITED STATES ARMY RESERVE  
TYPE OF DISCHARGE: HONORABLE  
ADDITIONAL INSTRUCTIONS: IF RESERVE ID DD FORM 2A (RED) IS IN YOUR POSSESSION  
RETURN IT TO THIS HQS, ATTN: ARPC-PAS-EVC. IF YOU HAVE ANY QUESTIONS IN THE  
FUTURE ABOUT YOUR MILITARY RECORDS OR YOUR MILITARY SERVICE, ASK THE  
NATIONAL PERSONNEL RECORDS CENTER, 9700 PAGE BLVD ST LOUIS MISSOURI  
63132-5200. AS YOU NO LONGER HAVE ANY MILITARY STATUS, YOUR RECORDS ARE NO  
LONGER HELD BY THE ARMY. REMEMBER TO INCLUDE YOUR FULL NAME, SOCIAL SECURITY  
NUMBER AND ALL PREVIOUS SERVICE NUMBERS SO THAT YOUR RECORD CAN BE  
POSITIVELY IDENTIFIED. SFSR-10

"SUBJECT BEING DISCHARGED ALTHOUGH ASSIGNED TO THIS ORGANIZATION,  
IS NOT PRESENT FOR DUTY. DISCHARGE CERTIFICATE AND DISCHARGE ORDERS  
ARE BEING MAILED TO LAST KNOWN ADDRESS THIS DATE, 08 July 1996."

FORMAT: 500

\*\*\*\*\*  
\* ARPERCEN \*  
\* OFFICIAL \*  
\*\*\*\*\*

NORMAN S. BRINSLEY  
COL, SF  
COMMANDING

DISTRIBUTION: H2

PACKET: 15



**DEPARTMENT OF THE ARMY**  
**U.S. ARMY RESERVE PERSONNEL COMMAND**  
**1 RESERVE WAY**  
**ST. LOUIS MO 63132-5200**



December 20, 2002

Special Inquiries Team

Ms. Devvy Kidd  
PO Box 60543  
Sacramento, CA 95860-0543

Dear Ms. Kidd:

This is in response to your request for copies of documents from the military personnel file and medical record of Timothy J. McVeigh. Your request was received in this office on December 13, 2002 and is being processed under the provisions of the Freedom of Information Act.

Enclosed is a sanitized copy of the discharge order that separated Mr. McVeigh from the U.S. Army Reserve. The social security number and address has been deleted on this order. Release of that information could result in an unwarranted invasion of personal privacy to any surviving family members. This information is being withheld in accordance with Title 5, U.S. Code, Section 552 (b)(6). Please be advised that there are no provisions under the Freedom of Information Act to provide explanations. The act pertains to existing records only.

This office responded to your previous request on August 9, 2002 and sent a copy of the enclosed order. The remaining documents that you have requested are not available in Mr. Mc Veigh's file maintained at this command.

If you consider my response to be a denial of your request, you may appeal by writing to the Commander, U.S. Army Reserve Personnel Command, Attention: ARPC-ZCC-A, 1 Reserve Way, St. Louis, MO 63132-5200, within 60 days of your receipt of this letter. Your appeal should state the basis of your disagreement. Fees allowable under the Freedom of Information Act are waived. For additional information or assistance, please contact the Special Inquiries Team at (314) 592-0446.

Sincerely,

  
Wanda Farrow  
Case Analyst

Enclosure



Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860  
916-928-0199 / e-mail: power@devvy.com

December 8, 2002

**Certified Mail Receipt No. 7001 0320 0003 8000 2211**

Commander  
Army Reserve Personnel Command  
Attn: ZRPC-ZCC-B  
1 Reserve Way  
St. Louis, MO 63132-5200

Re: Freedom of Information Act Request Saga

On **May 28, 2002**, I filed a FOIA (See enclosed).

On **July 24, 2002**, I received a letter (copy enclosed) from the Office of the Chief, Army Reserve. This letter states that they **passed my FOIA** on to the National Personnel Records Center on Page **Blvd.**, in St. Louis.

Next I receive a letter dated July 29, 2002 (see enclosed) from NPRC on Page **Ave** in St. Louis, MO stating that they have **passed my FOIA** on to you.

I feel I have waited long enough for this information. If I don't receive the documents I have requested within 20 calendar days after your agency signs for this letter, I will be left with no choice but to sue in Federal District Court.

**Very truly yours,**

**Devvy Kidd**

Encl: NPRC ltr dated 7.29.02  
ARSG ltrs dated 7.11.02 (2)  
Original FOIA request dated 5.28.02



## National Personnel Records Center

Military Personnel Records 9700 Page Avenue St. Louis, Missouri 63132-5100

July 29, 2002

Devvy Kidd  
PO Box 60543  
Sacramento, CA 95860

**RE:           Veteran's Name: McVeigh, Timothy J.**  
**SSN/SN: \*\*\*Confidential\*\*\***  
**Case Reference Number: 2002-204-0963**

Thank you for contacting the National Personnel Records Center. The NPRC is the physical custodian of the military records of former members of the U.S. Armed Forces. The Department of the Army retains legal custody of the military record. Therefore, we are referring your inquiry to the Army Reserve Personnel Command (AR-PERSCOM), which has jurisdiction over this matter. We regret that we cannot be of direct assistance; however, you may expect a response from the office shown below.

We have made every effort to assist you within the constraints of our resources. If you have any questions or comments regarding this response, you can reach me by phone at (314) 538-2191 or by mail at the address shown in the letterhead above, **ATTN: NRPM3-A, Room 3315**. Ensure you include the Case Reference Number listed above. All new requests for information or documents, or requests that pertain to other veterans, must be made in writing to the address shown in the letterhead above. Our web site also includes pertinent phone numbers and a request form.

Sincerely,

Francis Snead  
Archives Technician

**Cc:   Commander**  
**Army Reserve Personnel Command**  
**ATTN: ARPC-ZCC-B**  
**1 Reserve Way**  
**St. Louis, MO 63132-5200**



DEPARTMENT OF THE ARMY  
OFFICE OF THE CHIEF, ARMY RESERVE  
WASHINGTON, DC 20310-2400

REPLY TO  
ATTENTION OF

July 11, 2002

Chief, Army Reserve Staff Group

Ms. Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860

Dear Ms. Kidd:

This is in response to your Freedom of Information Act request dated May 28, 2002 for a copy of "Any document or form initiated by Timothy James McVeigh to separate from the Department of the Army when on active duty status. Any document or form initiated by the Department of the Army to separate Timothy James McVeigh for the reasons stated on the attached DD-214, box 28. Copies of all deployment records for the period May 24, 1988 through December 31, 1991. These records should include where he was sent and duration of duty. Any and all documents from Timothy James McVeigh's medical records that document the insertion of a micro-chip, a bio-chip or any other object foreign to the human body that McVeigh received in the U.S. Army. This would include documents for surgical implantation or any other method used. Any and all documents in Timothy James McVeigh's medical records that document any visits, phone calls or correspondence dealing with a Dr. Louis Jolyn (Jolly) West."

Your request has been forwarded to the National Personnel Records Center (NPRC), ATTN: Mrs. Virginia Barrett, 9700 Page Boulevard, St. Louis, Missouri 63132-5100 for a direct response to you. Upon discharge, separation or death from the United States Army, a soldier's record is transferred to the NPRC. The Army Reserve is not authorized to supply the requested documents. Enclosed is a copy of the transfer letter for your information. Should you have further questions about your request please contact NPRC, Mrs. Virginia Barrett, at (314) 538-4222. The NPRC also has a Website that may be useful and the address is <http://www.nara.gov/regional/mpr.html>.

I hope this information has been of assistance to you.

Sincerely,

A handwritten signature in black ink, appearing to read "Gary M. Profit".

Gary M. Profit  
Colonel, U.S. Army  
Director, Chief, Army Reserve  
Staff Group

Enclosures

Devvy Kidd  
P.O. Box 60543  
Sacramento, California 95860

Certified Mail Receipt: 7001 2510 0000 2855 8617

May 28, 2002

Office of the Chief, Army Reserve  
ATTN: DAAR-ZXP (FOIA)  
1421 Jefferson Davis Highway, Suite 12300  
Arlington, VA 22202

Re: Timothy James McVeigh (Executed June 11, 2001)  
Social Security No. 129-58-4709

Sir/Madame:

This is a request under the **Freedom of Information Act** (5 U.S.C. §552) and the regulations thereunder. I am more than willing to pay any reasonable research and copies fees for responding to this request; however, if the costs thereof should exceed \$100, please inform me in advance of producing the requested documents. I am not a commercial requester and I seek the documents requested below for personal reasons.

Under this FOIA I am requesting the following:

1. Any document or form initiated by Timothy James McVeigh to separate from the Department of the Army when on active duty status.
2. Any document or form initiated by the Department of the Army to separate Timothy James McVeigh for the reasons stated on the attached DD-214, box 28.
3. Copies of all deployment records for the period May 24, 1988 through December 31 1991. These records should include where he was sent and duration of duty.
4. Any and all documents from Timothy James McVeigh's medical records that document the insertion of a micro-chip, a bio-chip or any other object foreign to the human body

that McVeigh received while in the U.S. Army. This would include documents for surgical implantation or any other method used.

5. Any and all documents in Timothy James McVeigh's medical records that document any visits, phone calls or correspondence dealing with a Dr. Louis Jolyn (Jolly) West.

**Very truly yours,**

**Devvy Kidd**



REPLY TO  
ATTENTION OF

DEPARTMENT OF THE ARMY  
U.S. ARMY RESERVE PERSONNEL COMMAND  
1 RESERVE WAY  
ST. LOUIS MO 63132-5200

June 24, 2003



Customer Contact Office

Colonel & Mrs. John B. Kidd  
P.O. Box 60543  
Sacramento, CA 95860

Dear Colonel Kidd:

In order to answer your enclosed request on Mr. Devvy Kidd we will need the following information. Please return your original request with the:

- a. Social Security Number and/or Service Number
- b. Complete middle name
- c. Date of birth.

Sincerely,

Elizabeth Hamilton  
Chief, Inquiry Management Team

Enclosure

**ORIGINAL  
FILED**

**JUN 16 2003**

**CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA**

BY

DEPUTY CLERK

McGREGOR W. SCOTT  
United States Attorney  
YOSHINORI H. T. HIMEL #66194  
Assistant U. S. Attorney  
501 I Street, Suite 10-100  
Sacramento, California 95814  
Telephone: (916) 554-2760

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF CALIFORNIA

DEVVY KIDD,

Plaintiff,

v.

DEPARTMENT OF THE ARMY,

Defendant.

CIV. S-03-0225-DFL/GGH-PS

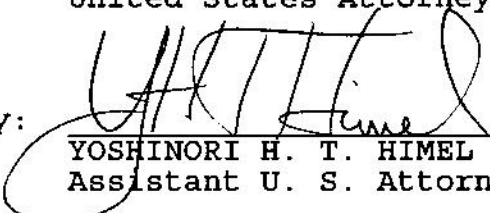
**DEFENDANT'S STATEMENT OF NO  
OPPOSITION TO PLAINTIFF'S  
REQUEST TO TRANSFER CASE**

Defendant takes no position on the plaintiff's Request to  
Transfer Case, filed June 10, 2003.

Dated: June 16, 2003

McGREGOR W. SCOTT  
United States Attorney

By:

  
YOSHINORI H. T. HIMEL  
Assistant U. S. Attorney

1  
2 **CERTIFICATE OF SERVICE BY MAIL**

3  
4 The undersigned hereby certifies that she is an employee in the  
5 Office of the United States Attorney for the Eastern District of  
6 California and is a person of such age and discretion to be  
7 competent to serve papers.

8 That on June 16, 2003, she served a copy of:


9 **DEFENDANT'S STATEMENT OF NO OPPOSITION TO**  
10 **PLAINTIFF'S REQUEST TO TRANSFER CASE**

11 by placing said copy in an envelope addressed to the persons  
12 hereinafter named, at the places and addresses shown below, which  
13 are the last known addresses, and mailing said envelope and contents  
14 in the U.S. Mail in Sacramento, California.

15 Addressees:

16 Ms. Devvy Kidd  
17 2133 Sherington Way  
18 Sacramento, CA 95835

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PAMELA BEAUVAIS



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

DEVVY KIDD,

Plaintiff,

v.

DEPARTMENT OF THE ARMY,  
U.S. ARMY RESERVE, PERSONNEL  
COMMAND,

Defendant.

Case No. CIV. 03-1436 (HHK)

**DECLARATION OF DEVVY KIDD**

State of Maryland           )  
County of Anne Arundell   )

I, Devvy Kidd, declare under the penalties of perjury as follows:

My name is Devvy Kidd and I am an American citizen. I am the Plaintiff in this case and I have personal knowledge of the facts set forth below. At the time that I made the Freedom of Information Act ("FOIA") request which is the subject of this litigation, I was living in Sacramento, California and that is where I first filed this suit. Since then, I have moved to the below address in Annapolis, Maryland and I requested that this case be transferred from Sacramento to this court.

I have had an interest in studying all events regarding the convicted Oklahoma City

Bomber, Timothy James McVeigh. I closely followed his trial and even read the trial transcript when it was later made available on the Internet. I have written articles about McVeigh and his trial. I know that Timothy James McVeigh was executed in Terre Haute, Indiana, on June 11, 2002. I desire to obtain little known information about McVeigh because I believe that there are as yet facts regarding him which are unknown to the public. Specifically I refer to Mr. McVeigh's own admission that he had a bio chip which was implanted into his body by the Department of the Army while in service.

I filed with the Defendant Department of the Army on May 28, 2002, via certified mail, a FOIA request (Exhibit 1 attached hereto) in the form of a letter to the Defendant's FOIA officer, requesting access to certain records under the FOIA. Access was requested for:

"Any document or form initiated by Timothy James McVeigh to separate from the Department of the Army when on active duty status.

"Any document or form initiated by the Department of the Army to separate Timothy James McVeigh for the reasons stated on the attached DD-214, Box 28.

"Copies of all deployment records for the period May 24, 1988 through December 31, 1999. These records should include where he was sent and duration of duty.

"Any and all documents from Timothy James McVeigh's medical records that document the insertion of a micro-chip, a bio-chip or any other foreign object to the human body that McVeigh received while in the U.S. Army. This would include documents for surgical implantation or any other method used.

"Any and all documents in Timothy James McVeigh's medical records that document any visits, phone calls or correspondence dealing with a Dr. Louis Jolyn (Jolly) West."

I received a letter from the Defendant dated July 11, 2002 (Exhibit 2 attached hereto) informing me that my request was being forwarded to a different location. I also received

another letter from the Defendant dated July 29, 2002 (Exhibit 3 attached hereto) informing me that my request was again being forwarded to another location. On December 8, 2002 via certified mail, I sent a new letter to the Army Reserve Personnel Command (Exhibit 4 attached hereto) documenting the "run around" in passing my FOIA request from one place to another.

On December 20, 2002, I received another letter from the Defendant (Exhibit 5 attached hereto) in which the Defendant provided me with a "sanitized" discharge order redacting the deceased Timothy McVeigh's social security number and address. I had already provided the Defendant with McVeigh's death certificate which contained McVeigh's social security number and his address at a federal penitentiary in Terra Haute, Indiana. The document provided to me by the Defendant was non-responsive to the documents and records which I sought. I filed an appeal via certified mail on January 6, 2003 (Exhibit 6 attached hereto). The Defendant's representative signed for this appeal on January 8, 2003. As of February 4, 2003, the Defendant had not responded to my appeal, so I filed a Complaint for Declaratory and Injunctive Relief (see the complaint in this case, Exhibit 7 attached hereto). Defendant requested a 30-day extension to file an answer which was granted by Plaintiff on March 5, 2003 (See Exhibit 8).

Plaintiff filed a Timely Service and Status Report on April 24, 2003 (See Exhibit 9).

Plaintiff filed a Rule 26(a) Conference document on April 24, 2003 (See Exhibit 10).

Plaintiff filed a Request to Transfer Case on June 11, 2003 (See Exhibit 11).

Plaintiff received notice dated June 16, 2003 that Defendant had no opposition to Plaintiffs Request to Transfer Case. Plaintiff received a June 19, 2003 notification that this case was now transferred to the United States District Court for the District of Columbia (See Exhibit 12).

Plaintiff received a notice dated June 27, 2003 (See Exhibit 13) from Judge Kennedy's court regarding requirements for counsel for all parties to enter their appearance in accordance with Local Civil Rule 83.6. Plaintiff is pro se and therefore has not submitted any response.

Sometime during the early part of July 2003 (Plaintiff was transition from moving and mail was sent to former residence), Defendant sent Plaintiff a copy of her Request to transfer case, along with a letter addressed to Plaintiff's husband requesting "Mr. Devvy Kidd's" social security and/or service number, complete middle name and date of birth. Plaintiff's husband, John, is a retired Army Colonel. Devvy Kidd is the wife of John. It defies any logic to connect the Request for Transfer on a civil case with the cover letter received (See Exhibit 14).

As a member of the public, I believe that I am entitled to obtain the records I sought regarding Timothy James McVeigh, an individual who is dead. The Defendant has asserted as a defense to this suit an exemption from disclosure based upon 5 U.S.C. §552(b) (6). However, such exemption does not apply to protect the personal privacy of one who is dead.

I, Devvy Kidd, declare under penalty of perjury, pursuant to 28 U.S.C. §1746, that the foregoing facts are true and correct.

---

Devvy Kidd  
8 South Cherry Grove Avenue  
Annapolis, Maryland 21401

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

DEVVY KIDD,

Plaintiff,

v.

DEPARTMENT OF THE ARMY,  
U.S. ARMY RESERVE, PERSONNEL  
COMMAND,

Defendants.

Case No. CIV. 03-1436 (HHK)

**PLAINTIFF'S BRIEF IN SUPPORT OF  
HER MOTION FOR SUMMARY JUDGMENT**

This brief supports Plaintiff Devvy Kidd's motion for summary judgment.

This is a simple case involving uncomplicated facts. Plaintiff Kidd sought production via FOIA of certain documents clearly possessed by the Defendant Department of the Army regarding its former soldier, Oklahoma City Bomber Timothy McVeigh. This suit was prompted because the Defendant claimed an exemption from disclosure based upon 5 U.S.C. §552(b) (6), which provides that "personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy" may be exempted from disclosure.

This "personal privacy" exemption was not intended to create a per se exemption allowing privacy to shield disclosures. See *Dept. of the Air Force v. Rose*, 425 U.S. 352



## National Personnel Records Center

Military Personnel Records 9700 Page Avenue St. Louis, Missouri 63132-5100

July 29, 2002

Devvy Kidd  
PO Box 60543  
Sacramento, CA 95860

RE: **Veteran's Name: McVeigh, Timothy J.**  
**SSN/SN: \*\*\*Confidential\*\*\***  
**Case Reference Number: 2002-204-0963**

Thank you for contacting the National Personnel Records Center. The NPRC is the physical custodian of the military records of former members of the U.S. Armed Forces. The Department of the Army retains legal custody of the military record. Therefore, we are referring your inquiry to the Army Reserve Personnel Command (AR-PERSCOM), which has jurisdiction over this matter. We regret that we cannot be of direct assistance; however, you may expect a response from the office shown below.

We have made every effort to assist you within the constraints of our resources. If you have any questions or comments regarding this response, you can reach me by phone at (314) 538-2191 or by mail at the address shown in the letterhead above, **ATTN: NRPM3-A, Room 3315**. Ensure you include the Case Reference Number listed above. All new requests for information or documents, or requests that pertain to other veterans, must be made in writing to the address shown in the letterhead above. Our web site also includes pertinent phone numbers and a request form.

Sincerely,

Francis Snead  
Archives Technician

Cc: **Commander**  
**Army Reserve Personnel Command**  
**ATTN: ARPC-ZCC-B**  
**1 Reserve Way**  
**St. Louis, MO 63132-5200**

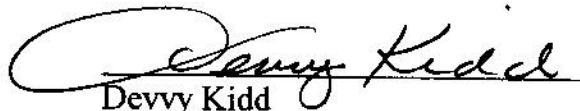
### **CERTIFICATE OF SERVICE**

I hereby certify that I have this date served a copy of the forgoing motion, declaration and brief for summary judgment upon the below named counsel for the Defendant United States Department of the Army by depositing the same in the United States mail, certified, postage prepaid, in an envelope addressed to him at his correct mailing address:

Certified mail receipt: 7003 0500 0000 4353 1401

Claes H. Lewenhaupt  
Special Assistant United States Attorney  
Judiciary Center Building  
555 4<sup>th</sup> St., N.W. Room 10-452  
Washington, D.C. 20530  
(202) 353-9895

Dated this the 18th day of August, 2003.

A handwritten signature in cursive script, appearing to read "Devvy Kidd", written over a horizontal line.

Devvy Kidd  
8 S. Cherry Grove Ave  
Annapolis, MD 21401



**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

DEVVY KIDD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CIV. 03-1436 (HHK)
	)	
DEPARTMENT OF THE ARMY,	)	
U.S. ARMY RESERVE, PERSONNEL	)	
COMMAND,	)	
	)	
Defendant.	)	

**MOTION FOR SUMMARY JUDGMENT  
WITH SUPPORTING DECLARATION AND BRIEF**

Comes now the Plaintiff, Devvy Kidd, presently acting pro se, pursuant to Rule 56, F.R.Civ.P., and hereby moves this Honorable Court for summary judgment in her favor on the grounds that there are no material factual disputes present in this case and that she is entitled to judgment in her favor as a matter of law. In support hereof, Plaintiff Kidd shows as follows:

1. This is an action under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, to compel the production of records concerning Timothy James McVeigh, deceased, from the Defendant.

2. The Defendant United States Department of the Army, U.S. Army Reserve, Personnel Command, has wrongfully withheld documents the production of which has been sought by Plaintiff Kidd.

3. Based upon the attached declaration of Plaintiff Devvy Kidd, its supporting exhibits, as well as the following brief, Plaintiff Kidd is entitled to judgment in her favor requiring the defendant to produce the requested documents.

4. There are no genuine issues of material fact present in this case and Plaintiff Kidd is entitled to a judgment as a matter of law.

Wherefore, the premises considered, Plaintiff Kidd moves this court for summary judgment in her favor.

Respectfully submitted this the 18th day of August, 2003.

A handwritten signature in cursive script, appearing to read "Devvy Kidd", written in black ink.

Devvy Kidd  
8 South Cherry Grove Avenue  
Annapolis, Maryland 21401

Devvy Kidd  
8 S. Cherry Grove Ave  
Annapolis, MD 21401  
1.410.626.1615

Certified Mail Receipt: 7003 0500 0000 4359 2495

August 18, 2003

Clerk's Office  
U.S. District Court  
333 Constitution Avenue, NW  
Washington, DC 20001

**RECEIVED**  
AUG 19 2003  
NANCY MAYER WHITTINGTON, CLERK  
U.S. DISTRICT COURT

Attn: Greg Hughes

Dear Mr. Hughes:

Enclosed are five conformed sets of :

Motion for Summary Judgement with Supporting Declaration and Brief.

This filing is for my lawsuit which was transferred from the United States District Court for the Eastern Area of California to the United States District Court for the District of Columbia. See Order attached.

The case in California was numbered CIV S-03-225 DFL GGH PS

The new number assigned for District of Columbia is: 03-1436

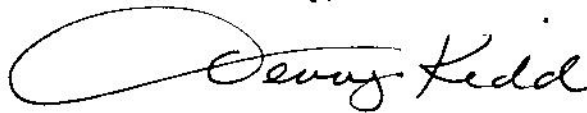
Please stamp all five copies "Filed.". One original and one copy are for the court.

I need three back: one to serve on the defendant and two for my files.

My new home address here in Annapolis is above, along with my new phone number.

Thanking you in advance.

Sincerely,



Devvy Kidd

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**FILED**

JUN 19 2003

CLERK, U.S. DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

DEPUTY CLERK

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

DEVVY KIDD,

Plaintiff,

No. CIV S-03-225 DFL GGH PS

vs.

DEPARTMENT OF THE ARMY,

Defendant.

ORDER

Under the FOIA venue statute, 5 U.S.C. 552(a)(4)(B), venue is always proper in the District of Columbia. Accordingly, pursuant to the request of the parties, this case is transferred to the United States District Court for the District of Columbia.

DATED: June 18, 2003.

  
GREGORY G. HOLLOWES  
U. S. MAGISTRATE JUDGE

GGH055  
kidd tm.wpd

United States District Court  
for the  
Eastern District of California  
June 19, 2003

\* \* CERTIFICATE OF SERVICE \* \*

2:03-cv-00225

Kidd

v.

US Dept of the Army

---

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Eastern District of California.

That on June 19, 2003, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office, or, pursuant to prior authorization by counsel, via facsimile.

Devvy Kidd  
2133 Sherington Way  
Sacramento, CA 95835

HV/DFL

VC/GGH

Yoshinori H T Himel  
United States Attorney  
501 I Street  
Suite 10-100  
Sacramento, CA 95814

\*TERMINATED DEADLINES\*

Jack L. Wagner, Clerk

BY:

  
Deputy Clerk

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

DEVVY KIDD

v.

Civil Action No. **03 1436**

**JUN 27 2003**

DEPARTMENT OF THE ARMY

The above entitled action, transferred from the U.S. District Court for the EASTERN  
DISTRICT OF CALIFORNIA, has been received and filed. It was  
assigned to Judge **KENNEDY, JR. J. HHK**. Any subsequent pleadings filed must contain both our  
civil action number and the initials of the judge assigned this action.

To assist the Clerk's Office in properly recording all counsel of record and to ensure that  
each counsel entered is authorized to practice before this Court pursuant to Local Civil Rule  
83.8, counsel for all parties must enter their appearance in accordance with our Local Civil Rule  
83.6. Timely compliance with this requirement will enable the Clerk's Office to ensure prompt  
delivery of notices and orders.

NANCY MAYER-WHITTINGTON, CLERK

By M. H. H. H.  
Deputy Clerk

cc: DEVVY KIDD  
JOS. HANCOCK HAMEL

**United States District Court  
For the District of Columbia**

Devvy Kidd  
8 S Cherry Grove Ave  
Annapolis, Maryland 21401

Plaintiff

v.

Department of the Army  
U. S. Army Reserve  
Personnel Command  
1 Reserve Way  
St. Louis, MO 63132

Defendant

Case No. CIV. 03-1436 HHK

**Reply to Defendant's Motion to Dismiss, or  
Alternatively, Cross Motion for Summary  
Judgment and Opposition to Plaintiff's  
Motion for Summary Judgment**

Plaintiff filed her Declaration in Support of a Motion for Summary Judgment and Supporting Brief to the court on August 19, 2003.

Defendant continues to ignore most of Plaintiff's original FOIA request:

1. Any document or form **initiated by Timothy James McVeigh** to separate from the Department of the Army when on active duty status.

Defendant's response to this was to send Plaintiff a copy of McVeigh's DD 214 which Plaintiff did not request. This document is not initiated by the individual separating, but by the Department of the Army.

Timothy James McVeigh had to initiate a request to detach from active duty and this is the document Plaintiff seeks, not the DD 214. Somewhere in the Defendant's personnel files for Timothy James McVeigh will be his request to detach.

2. Any document or form initiated by the Department of the Army to separate Timothy James McVeigh for the reasons stated on his attached DD 214, Box 28.

Plaintiff already had the DD 214 which was obtained as a result of another lawsuit filed on behalf of Plaintiff by Judicial Watch in Washington, DC. Box 28 of this DD 214 is titled 'Narrative Reason for Separation.' Response for this box is: For the convenience of the government -- FY 92 Early Transition Program.

Somewhere in the files of Defendant is the paperwork justifying this action re Box 28 and that is the documentation Plaintiff seeks.

3. Copies of all deployment records for the period May 24, 1988 through December 31, 1991. These records should include where he [McVeigh] was sent and duration of duty.

Defendant has completely ignored this request in the original FOIA.

4. Any and all documents from Timothy James McVeigh's medical records that document the insertion of a micro-chip, a bio-chip or any other object foreign to the human body that McVeigh received while in the U.S. Army. This would include documents for surgical implantation or any other method used.

Defendant's response to this part of the original FOIA request is unacceptable to Plaintiff.

5. Any and all documents in Timothy James McVeigh's medical records that document any visits, phone calls or correspondence dealing with a Dr. Louis Jolyn (Jolly) West.

Defendant's response to this part of the original FOIA request has been ignored

#### **Custodian of Records**

Plaintiff received a letter from Defendant dated July 11, 2002 [attached] in which Defendant states:



"Your request has been forwarded to the National Personnel Records Center (NPRC), ATTN: Mrs. Virginia Barrett, 9700 Page Boulevard, St. Louis, Missouri 63132-5100 for a direct response to you. Upon discharge, separation or death from the United States Army, a soldier's record is transferred to the NPRC. The Army Reserve is not authorized to supply the requested documents."

Plaintiff then receives a new letter dated July 29, 2002 [attached] from the National Personnel Records in St. Louis informing her that:

"The NPRC is the physical custodian of the military records of former members of the U.S. Armed Forces. The Department of the Army retains legal custody of the military record. Therefore, we are referring your inquiry to the Army Reserve Personnel Command (AR-PERSCOM), which has jurisdiction over this matter."

One letter from Defendant states that the MPRC at 9700 Page Blvd, St. Louis, MO., has requested documents, but then that agency located at 9700 Page Ave, St. Louis, MO doesn't really have them, they are held by PERSCOM and are transferring the request.

At this point, a sanitized copy of McVeigh's discharge paper was sent by Wanda Farrow, Case Analyst at U.S. Reserve Personnel Command.

Defendant's Motion to Dismiss, or Alternatively, Cross Motion for Summary Judgment and Opposition to Plaintiff's Motion for Summary Judgment, approximately page 5 states:

"In this case, the Army, through AR-PERSCOM, properly provided plaintiff the only responsive document in its possession, McVeigh's discharge order... There are no other documents within the agency's possession responsive to Plaintiff's

FOIA request.”

And:

“To the extent that such documents exist, they currently reside outside the control of the Department of the Army and AR-PERSCOM. Thus, plaintiff cannot show that the Army improperly withheld agency records in its possession and this court should dismiss plaintiff’s action on subject matter jurisdiction grounds and/or for failure to state a claim upon which relief may be granted.”

### **Conclusion**

Defendant is making the claim that the Department of the Army has only two documents in its possession relating to Timothy James McVeigh, a soldier, who served almost four years of active duty.

In the Declaration of Eric Voelz [Defendant’s Exhibit 3], attached to Defendant’s Motion to Dismiss, etc., page 2, Mr. Voelz states that the file containing records pertaining to McVeigh contained only two documents: the discharge order and a DD Form 2366, Veteran’s Educational Assistance Act of 1984.

Plaintiff’s husband is a retired U.S. Army brigadier Colonel and the notion that the Department of the Army has only two pieces of paper in its files for a soldier who served four years is laughable at best. Medical records alone for a four year service duration would constitute more than two pieces of paper. Where are those records? Where are his deployment records? McVeigh served in the first Gulf War and tried out for Special Forces.

Defendant claims that “should the documents requested by Plaintiff exist,” they are currently outside the control of the Department of the Army and AR-PERSCOM. Yet,

the Army's own correspondence [attached] states that the NPRC is the physical custodian of military records for former members of the Armed Forces and AR-PERSCOM has legal jurisdiction.

Why would Defendant make such a statement? Because a Mr. Eric Voelz informed Defendant that he *believes* the personnel file of McVeigh is in the possession of the Federal Bureau of Investigation, in Oklahoma City, Oklahoma?

The Department of the Army just doesn't give up any soldier's records and if in this case they did, there would be a paper trail as to who requested them, when and where they went. It's called protocol.

How does Mr. Voelz know whether or not the subject record was ever in NARA's possession if the file had been looted? What information/documentation led Mr. Voelz to believe that McVeigh's complete military files are in the possession of the FBI in Oklahoma City?

Plaintiff has a problem with this entire scenario and reference is made to page 2 of Defendant's Statement of Material Facts to Which There is No Genuine Dispute, specifically items I, J, K and L.

Under Item J, it states:

"Under customary practice, a closed record is transferred to NARA. On or about **July 1997**, defendant, Department of the Army, pursuant to normal procedures, **delivered the personnel file containing records pertaining to McVeigh** to the National Archives and Records Center ("NARA"). On or about **June 2001**, the McVeigh file was transferred to the **NARA** records vault."

What this says is that McVeigh's personnel file was deposited with NARA by

Defendant "On or about July 1997," which is rather difficult to pin down since July has 31 days.

There is no mention of the file being transferred to any other agency, yet in the next sentence in Item J, it reads: "On or about June 2001, the McVeigh file was transferred to the NARA records vault." [June has 30 days] The key word here being vault. If the Defendant first delivered McVeigh's records to NARA in the month of July 1997, where were they stored? They apparently weren't put into NARA's vault until almost five years later.

How is it McVeigh's personnel file was delivered to the same location twice, but there is no explanation given as to how this was accomplished and by whom?

Timothy James McVeigh was honorably discharged in **1991**. According to Defendant, the Army, specifically the National Personnel Records Center (NPRC) had physical possession of McVeigh's record and Army Reserve Personnel Command (AR-PERSCOM) has legal jurisdiction over those records.

Yet, according to Defendant's 'Statement of Material Facts to Which There is No Genuine Dispute,' page 3, Item J, McVeigh's personnel files weren't transferred to NARA until **1997** where mysteriously, they were transferred back to NARA in June **2001** with no record of ever being released into someone or some agency's custody? And, now for the most amazing part of this story: On page 2 of the Declaration of Eric Voelz, item 7, which reads:

"While the subject record was never in NARA's possession, I have developed information that leads me to believe the record is in the possession....."

McVeigh's record was never in NARA's possession? How can that be? In Mr.

Voelz' sworn statement, **same page**, item 4, Voelz states: "The file contained records pertaining to Mr. Timothy McVeigh. The file was delivered into the vault [NARA's vault] on or about June 19, 2001.

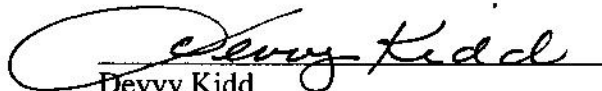
Defendant's own sworn submission as covered above, says that NARA took possession of the files on two different dates in two different years.

For the record, jury selection for McVeigh's trial began September 29, 1997. McVeigh was executed on June 11, 2001. These dates are very close to the delivery of McVeigh's personnel file to NARA, twice.

Therefore, Plaintiff requests the court grant her motion for summary judgment as Defendant has provided a convoluted response that does not determine one way or another if anyone seems to know where the documents are or where they might have been.

All Plaintiff has been provided is speculation by Mr. Eric Voelz that the personnel file of Timothy James McVeigh may be in the possession of the FBI.

I, Devvy Kidd, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the foregoing facts are true and correct.

  
Devvy Kidd  
8 S. Cherry Grove Ave  
Annapolis, MD 21401

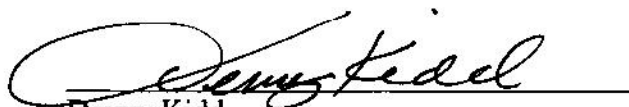
### CERTIFICATE OF SERVICE

I hereby certify that I have this date served a copy of the foregoing **Reply to Defendant's Motion to Dismiss, or Alternatively, Cross Motion for Summary Judgment and Opposition to Plaintiff's Motion for Summary Judgment** upon the below named counsel for the Defendant United States Department of the Army by depositing the same in the United States mail; certified, postage prepaid, in an envelope addressed to him at his correct mailing address:

Certified mail receipt: 7003 1010 0003 8274 7968

Claes H. Lewenhaupt  
Special Assistant United States Attorney  
Judiciary Center Building  
555 4<sup>th</sup> St., N.W. Room 10-452  
Washington, DC 20530

Dated this 26th day of September 2003

A handwritten signature in cursive script, appearing to read "Devvy Kidd", written over a horizontal line.

Devvy Kidd  
8 S. Cherry Grove Ave  
Annapolis, MD 20401