

# Homecoming II

September 15, 1985



## FORMER GREEN BERETS FILE SUIT FOR POWS

US Army Major Mark Smith (ret), a returned Vietnam POW, and US Army First Sgt. Melvin McIntire on (currently on active duty with US Army 7th Special Forces Group, Fort Bragg), on Sept 4 filed a class-action suit on behalf of living American Prisoners of the Vietnam War. The suit demands that the defendants, Ronald Reagan, Caspar Weinberger, George Shultz, Gen. James Williams (Director of DIA) and each of their respective predecessors and successors, be required to comply with United States Code, Title 22, Section 1732 (which they allegedly have not) which states:

"Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress."

According to the suit, "this statute places a clear duty on the Defendants to:

- (1) Inquire into the question of whether members of Plaintiffs' class deprivation of liberty was unjust;
- (2) demand of such foreign government reasons for Plaintiffs' fellow class members' imprisonment;
- (3) determine whether the imprisonment is in violation of the "rights of American citizenship";
- (4) demand the release of plaintiffs' fellow class members;
- (5) if the release demanded is unreasonably delayed or refused, use such means, not amounting to acts of war, as Defendants may think necessary and proper to obtain or effectuate the release; and
- (6) communicate the relevant facts and proceedings to the Congress.

Evidentiary enclosures and affidavits filed with the suit are powerful, revealing, and compelling.

Enclosure #1: An intelligence report (the first ever filed regarding POWs left behind in Vietnam after Operation Homecoming) gathered on 16 April,

1973. An agent or agents of a friendly foreign intelligence agency report that during their attendance of a Viet Cong strategy meeting they heard a discussion of the planned use of U.S. POWs who were still being detained as hostages. "All efforts were to be concentrated on a general attack; should that attack fail, the POWs could be used as a bargaining tool at future peace talks."

Enclosure #2: The transcript (partial) of the Dec. 2, 1980 meeting of the House Subcommittee on Asian and Pacific Affairs. Quoting Chairman Lester L. Wolff..."One of my only misgivings in leaving this post, involuntarily, is the fact that I am concerned about our future relations with Vietnam, Laos, and Cambodia...there may be a move to seek an accomodation with those who continue to display an attitude of complete unconcern for the fate of our missing in action." Further quoting Mr. Wolff in his questioning of Admiral Jones and Admiral Tuttle, "With all questions of live sighting that have occurred, I know this has been almost a 'no, no' for the Congress. Since I am leaving now, I can voice some questions that have been on my mind for some time. Do you believe that there are any live Americans still being held in Vietnam?"

(THE CHAIRMAN OF THE HOUSE SUBCOMMITTEE ON ASIAN AND PACIFIC AFFAIRS TELLS US THAT HE HAS BEEN AFRAID TO ASK IF DIA BELIEVES THERE ARE LIVE AMERICAN POWs!!! NOW THAT HE IS LEAVING CONGRESS, HE HAS THE COURAGE TO ASK THIS APPARENTLY EMBARRASSING QUESTION!!!)

Enclosure #3: Transcript (partial) of the June 25, 1981 Subcommittee on Asian and Pacific Affairs. Quoting General Tighe (DIA Director) "My personal conviction and stated assurance is that there is at least one American being held against his will in Indochina." Quoting Congressman Dornan (Chairman of the House POW/MIA Task Force), "Is it not generally accepted in the intelligence community in the State Department that prisoners have been held back from every single conflict involving Communist parties of any ethnic background since 1917?...If you do not know, I will tick them off one by one. There are no exceptions." Gen. Tighe: "As far as I know, that is absolutely correct." Mr. Dornan: "German prisoners from Stalingrad; Raoul Wallenberg; French prisoners after the Dien Bien Phu experience; Albania, Czechoslovakia, Poland; political prisoners and combat prisoners from every single Communist conflict since 1917.....So, whatever the rationale would be in a Communist country, we do not have to try and understand it, it is there by circumstantial evidence."

Enclosure #4: Transcript (partial) of Asian and Pacific Affairs Subcommittee, August 8, 1984. Discussion between Mr. Solarz, Subcommittee Chairman, and General James Williams (Director of DIA) regarding confirming polygraphs of 5 separate sources of eyewitness accounts of live American prisoners after 1975. Mr. Solarz: "So it's sightings of people after we were told everybody who was living had been returned?" Gen Williams: "Those five sightings--those five cases indicate that the individual told us what he believed was the truth."

Enclosure #5: Congressman Bill Hendon's address to the House of Representatives in which he points out that Gen. Tighe said on ABC's "World News Tonight" that he believed that 50-60 U.S. prisoners of war are still alive in communist prisons in Southeast Asia.

EXHIBIT: The sworn statement of Lieutenant Colonel Robert Howard, Congressional Medal of Honor recipient and presently commanding officer of U.S. Army VII Corps Special Troops Batt., Stuttgart, West Germany. LtCol Howard states that in Sept., 1983 he was assigned to Special Forces Detachment-Korea (SFD-K). He was in operational control of SFD-K, and had daily contact with SFD-K commander. During his first few months with SFD-K he learned of the success that this organization had had in gathering intelligence reports dealing with live American prisoners of war in Southeast Asia. By Jan. 1, 1984 he was convinced that "we had live Americans in captivity in Laos and possibly North and South Vietnam". In this month, he attended a meeting in Lop Buri, Thailand, the purpose of which was to meet with the Commanding General of Thai Special Forces Command, and other senior Thai military officials. Also present at the meeting were USAF LtCol Paul Mather, Army Col. Alpern (Military Attache, Bangkok, Thailand) as well as Smith and McIntire (the Plaintiffs in the federal lawsuit).

"It was on this occasion that I witnessed the compromise of a source of information by LTC Mather and Col. Alpern concerning the working relationship which had been developed between SFD-K and these senior Thai military officers. Specifically, LTC Mather and Col. Alpern openly revealed this relationship and that the Thai General had been providing information concerning living American prisoners. The significance of this compromise was that it was a blatant security violation by a senior U.S. military officer and it was an effort to undermine the successful intelligence gathering activity of SFD-K on the subject of living Americans in South East Asia."

Upon returning to Korea, he briefed his superiors concerning information he had obtained in Thailand about live POWs, and states, "My impression was that there was no interest and I was shocked because I felt we had a moral obligation to responsibly pursue this matter. Shortly after this I was accused of participating in unauthorized cross-border operations--something which was absolutely untrue." In May, 1984, he was transferred to Germany.

He summarizes: "I am personally convinced that there are in fact live Americans in captivity and that there is an ongoing effort by Defense Intelligence Agency to ignore such reports. I feel that a responsible estimate is that these Americans number in excess of one hundred."

EXHIBIT: The sworn statement of US Army Major (ret) Mark Smith (returned POW, holder of the Distinguished Service Cross, the Silver Star, and nine Bronze Stars). In 1981, while with SFD-K and carrying out an assignment to gather intelligence on Thai Special Forces, he was approached by a Thai General officer who told him that the live POW information possessed by LtCol "Bo" Gritz supported or corroborated information Thai intelligence had obtained. "I initially told this [Thai] officer that I did not believe that there were any living American [prisoners] in Southeast Asia and he brought in his staff and the senior intelligence officer gave me a complete briefing on suspected or known locations of United States Prisoners of War....all in Laos.....I decided that there probably was some truth to the reports. I was asked if I had a channel of communication which would by-pass US Embassy Bangkok, CINCPAC and JCRC back to Washington, D.C.....that they had information that they would provide to me as long as they could be guaranteed that their sources

would not be compromised." Seeking a secure avenue through which the information could be provided, he was assured by DIA that the sources could be closely guarded, and for the next three years he followed the general instructions of DIA to obtain additional information about prisoners of war. He went to Thailand approximately every 60-90 days and established an intelligence network among Lao, Free Vietnamese, and within the Thai military (all with the knowledge and sanction of DIA representatives in Korea). Contacts in the Thai military, the Lao resistance, the Pathet Lao, the Free Vietnamese, gun smugglers, gold smugglers, drug smugglers and anyone else who could provide information were utilized. "By the early part of 1982 I, and others, were convinced that there were American prisoners of war which were being held against their will. I came to this conclusion by cross-checking the reports of approximately 50 different agents, the majority of whom had no knowledge of each other and corroborated the information by cross matching." In April 1984 he recieved the "code word" from a general officer in Thailand that there were three American prisoners of war available to be taken out of Laos in May, 1984. He passed the information to 501st Military Intelligence Group and to CIA in Seoul, South Korea, and specifically to a US Army Major General (whom Smith has thus far declined to identify). The General told Smith, "this is too hot for me to handle big guy". Smith asked him ... "if you as a Major General can't handle it, what am I supposed to do with it?" Smith further states, "I was told that if I was smart, what I would do was to put the briefing through the shredder and forget the entire issue. I demanded authorization to go to Washington, D.C. to see another General in the office of the Deputy Chief of Staff for Operations, United States Army. I was given a direct order not to have any more contact with that officer in Washington, D.C." Immediately, "all SFD-K operations in Thailand or to Southeast Asia were declared unauthorized and [were] terminated"..... "I was told that if I wanted to become a LtCol in the United States Army that I should forget about the POW/MIA information which had been reported to intelligence channels for the past three years."

In September 1984, Major Smith was reassigned to 5th Special Forces Group, Fort Bragg. Three weeks after his arrival, he says he received "retirement orders giving me a retirement date of 1 February 1985".

**EXHIBIT:** The sworn statement of US Army First Sergeant Melvin C. McIntire. Presently on active duty with US Army 7th Special Forces Group, Fort Bragg. From February 1982 to August 1984 he was assigned to SFD-K. As a part of his duties "I was assigned to a compartment which had a mission to identify, locate, and possibly rescue American Prisoners of War, known to be held in Laos, Cambodia, and Vietnam." Sgt. McIntire was regularly sent to Southeast Asia (approximately every 2-3 months for about 10 days each trip) to renew contacts with individuals with whom he had made acquaintance during previous tours in Indochina, and to establish new sources of information. (He speaks 2 dialects of Thai, some Laotian and two dialects of Korean, as well as reading and writing Korean.) In mid-1982 .. "I began to receive information from a variety of sources which indicated the existence of live American(s) [prisoners] in Southeast Asia...I continued to gather more information and to compare information from various sources in order to provide corrotoration for individual reports without cross-fertilization.

"I dealt with these sources personally and they ranged from drug

smugglers [and] gold smugglers to the highest level of a foreign military power. Based upon my dealings with these individuals I had no reason to doubt their honesty in these matters. They never asked me for money or payment in return for this information.....In some cases I knew some of these sources for many years. In some cases as long as 10 years....These sources with whom I was dealing told me that they did not trust the Defense Intelligence Agency nor the Central Intelligence Agency in matters relating to American prisoners of war and missing in action. They also complained of corruption in the Refugee Program and the Joint Casualty Resolution Center in Bangkok. I learned of approximately 200 living Americans in Laos who were prisoners of war through these sources."

His sources informed him in 1983 that it was possible to extract American prisoners from Laos. When he relayed this to his superiors, he was told to seek additional information. In Jan.'84 a source or sources reported that two American POWs were going to be brought out in May of 1984. He told the source(s) that he would try to arrange pickup so the Americans could be taken to the U.S. when they were brought out of Laos. The source(s) agreed to await further instructions.

"After returning to Korea to report this information, I was personally debriefed by members of the 501st Military Intelligence Group. This information was reported to them at which time SFD-K was prevented from leaving the Republic of Korea or taking any future trips to Thailand. I was personally curtailed in my overseas tour in Korea and in August of 1984 I was sent back to the United States six months early....I was prevented from further contacts with my sources and my commander was told to destroy written intelligence reports which related to the information we had gathered concerning American POWs in Southeast Asia. Furthermore, on my return to the United States, I was told that the intelligence reports which we had presented had in fact been destroyed."

"The conclusion which I reach based upon my personal experiences in Southeast Asia and in intelligence gathering on the issue of living Americans in Southeast Asia is that no one in the United States Government that I have been able to talk to is interested with this subject. All information provided was summarily explained away or discredited by the Defense Intelligence Agency."

EXHIBIT: The sworn statement of Anne Hart, with whose case you are familiar. The information provided in Anne's affidavit focuses on the misinformation or lack of information that has been provided to her about her husband LtCol Tom Hart. Anne says, "Based upon approximately 12 1/2 years of attempting to resolve this problem I have concluded that information pertaining to my husband and this incident has been withheld from me by U.S. Government representatives and that the U.S. Government has not done everything possible to resolve the POW/MIA issue." Forensic Anthropologist Michael Charney (who examined the 7 small fragments of bone "positively identified" by the USG as the mortal remains of Tom Hart) includes his declaration, which concludes that it is scientifically impossible to identify the bones as any individual.

EXHIBIT: The sworn statement of Robert Garwood, in which he details information that he has about living American prisoners in Vietnam. "During my 14 years as a Prisoner of War in Vietnam I saw and heard of [from his Vietnamese guards] living American Prisoners of War." He

concludes, "As a result of the above observations and other information and experiences I have had while in Vietnam during my fourteen years of captivity I am personally convinced that American Prisoners of War remain in Vietnam."

For the first time, active duty military personnel who have or have had intelligence gathering responsibilities on the living POW issue have publicly charged that DIA is involved in a concerted effort to suppress information about live POWs!!

The courage displayed by these people is almost unbelievable. Howard and McIntyre can and may be court-martialed for secrecy act violations for revealing some of the information contained in their affidavits and in the suit. We have been told that they filed suit ONLY after every other avenue was closed to them. But they could remain quiet no longer, because they are convinced that if they don't speak out, the live POWs will be buried by our government.

Associated Press in North Carolina wrote the story of this amazing action but AP in New York did not put it on the wire!! Can you believe that AP New York actually thought this story uninteresting to the American people, or unimportant?

This story should be receiving some greater attention by the national media by the time this newsletter reaches you. Many of our friends have pulled out all the stops to get the story to all media contacts they have. It is our understanding that it will be covered by a major network news show, and others.

#### POWS IN VIETNAM ARE NOT THE FIRST FORGOTTEN

Americans United For H.E.L.P. (a coalition of POW/MIA advocacy groups in which we are a proud member) will host Veterans Day activities in Washington D.C. that will be some of the most meaningful and dramatic in the country. The theme of the week will be emphasis that Americans have been taken captive throughout this century and held as prisoners of war. For many of these captives, freedom was possible only by their own devices. For many, there is still hope of life and freedom. It is the objective of H.E.L.P. to never waver in our responsibility to all freedom-loving people and our dedication to prisoners of war who still remain captive. As long as there is even ONE, we must stand our vigil as Americans United in the Humanitarian Effort to Liberate POWs.

All individuals and organizations interested in the POW/MIA issue are invited to attend this event November 8-11, 1985 in Washington D.C. The program is intended to show America how many of us are firmly dedicated to the freedom of all prisoners of war. It is a weekend of honor for those who have survived as well as those who perished in defense of our freedom.

November 4-8 will be a concentrated lobbying effort by those who are able to come early. Saturday, November 9 will be Awareness Watch at the Vietnam Veteran's Memorial, and end in the evening with a candlelight ceremony. Sunday, November 10 is the parade, ending at the Capitol steps with a "Display of Unity" rally. Washington D.C. events for Veteran's Day are Monday November 11.

In addition to some "surprise" speakers, some very special people will be on hand to speak at the candlelight ceremony and rally.

John Noble, was a prisoner of war during WWII. He was living in Germany with his American parents when his family was captured. John spent 9 1/2 years as a slave in a coal mine, interned by the Nazis. John's father was released, and after years of inquiries through State Department, John was released through the efforts of President Eisenhower after he himself initiated the information his family needed to PROVE he was a prisoner!

Steve Kiba was a prisoner of war in Korea, and released nearly two years after the others. He was officially "presumed dead", but released by a fluke. He diligently pursued the freedom of other POWs for nearly 20 years before our government finally listened to him. Consequently, two CIA agents imprisoned in China with Steve were released after over 20 years in communist prisons! Steve's report of seeing a fellow crewmember alive shortly before his own release has fallen on deaf ears.

Robert Garwood was a prisoner of the Vietnamese for 14 years. Bobby has stated since his return in 1979 that he is not the last American prisoner in Vietnam. His claim has been published, broadcast, written and aired, yet is being ignored by our government. Although Bobby was "tracked" during his incarceration, nothing was done to secure his release. Only after a note he was able to secretly hand to a Scandinavian businessman attracted world attention, was he diplomatically freed.

All three men were prisoners of communist governments. All three know what it is to be trapped, alone and forgotten by their own country. Come and hear their stories. Come and show your commitment to those who are still fighting wars that are over for the rest of us.

For more information, write H.E.L.P.,  
Or call

#### HANOI DELEGATION

An American delegation consisting of Ann Mills Griffiths (Executive Director of the League of Families of POW/MIAs) and Col. Richard Childress (National Security Council staff member) traveled to Hanoi in late September for regularly scheduled discussion on the POW/MIA issue.

Some items of interest with regard to this particular trip came to light in reviewing the press coverage of the event:

1. The talks were originally to be held between Assistant Secretary of State Paul Wolfowitz, Assistant Secretary of Defense Richard Armitage and Vietnamese Foreign Minister Nguyen Co Thach. Mr. Thach, unfortunately, was busy in Moscow, and could not attend. The meeting was "downgraded" at the last minute because "Mr. Childress (who was in charge of the arrangements for the trip) failed to learn of Mr. Thach's travel plans, even though his schedule was known before the U.S. delegation first was announced August 16." (Kansas City Times, 27 Aug 1985)
2. The "downgraded" delegation, consisting of Ann Mills Griffiths and Col. Richard Childress, and lower-ranking State and Defense officials met with Vietnamese Deputy Foreign Minister Hoang Dich Son. Both parties

presented plans for the resolution of the POW/MIA issue in two years. Childress brought up the possibility of the U.S. financing searches for missing soldiers (New York Times, 29 Aug 1985), and Vietnam indicated that it would accept the financing, but not accept U.S. participation in the actual search. "We can do it our way," Hoang Bich Son (Vice Foreign Minister) stated. (USA Today, 29 Aug 1985.) Furthermore, Vietnam attached conditions to its 2-year plan, including a resumption of trade. Vice Foreign Minister, Hoang Bich Son said, "If the U.S. wants to cooperate with us they can find many remains." (Washington Times, 29 Aug 1985)

3. "Although the missing are generally believed to be dead, American officials are expected to discuss reports by Vietnamese refugees that some are still alive in Vietnam." (Kansas City Star, 28 Aug 1985) The Vietnamese "disclosed that they have investigated at least three reports of "live sightings" of Americans recently, but found that the persons involved were not Americans." (Des Moines Register, 31 Aug 1985)

The best description we can find of this delegation was given by a State Department official who declined to be identified (Kansas City Times, 27 Aug 1985). "The Vietnamese are probably trying to figure out how we could be so incompetent," he said.

Childress offered small change for "searches" when the Vietnamese clearly want the millions which would result from lifting the trade bans against Vietnam. This is in direct contradiction of the stated insistence of both governments that this is a humanitarian issue, apart from all other diplomatic considerations.

And, most importantly, LIVE POWS WERE NOT THE PRIORITY ITEM IN THESE DISCUSSIONS! The Vietnamese have investigated "at least three" sighting reports. We have nearly 4000! If we continue to ask for remains, then all we will get is remains. The Vietnamese, who know full well that there are Americans in their country, and desperately need financial aid may soon drop a live POW in by parachute onto the doorstep of the State Department. They cannot have been more explicit and tantalizing! When are we going to address the LIVE POW issue?

#### HOUSE CONCURRENT RESOLUTION 129

HCR 129 now has 70 co-sponsors. For those unfamiliar with the bill, it would establish an independent commission to review the current data on live POWs, and make recommendation to Congress for suitable action to secure the release of them, should they be found. Please write for additional details, and a complete list of co-sponsors. Most importantly don't forget to write your congressman, if you haven't already; and again if he/she hasn't co-sponsored.

#### SONS AND DAUGHTERS OF POWS

Sons and Daughters of POWs is presently reorganizing and are seeking membership applications from all children of missing men in Southeast Asia. The group has asked our help in distributing their newsletter until they are able to develop their own. If you are a POW son or daughter and would like to receive the Sons and Daughters newsletter, please let us know.

The group has several activities planned in coming months, including a National Awareness Campaign to be held the end of September in Washington D.C. The campaign will center around support for an independent commission to resolve the POW/MIA question.

Additional information may be obtained by writing Homecoming II, or direct to Sons and Daughters of POWs, , Washington, D.C. 20006.

### A JOURNEY TO REMEMBER

Michael J. Martin and Tim Holiday, two very talented songwriters and performers (who also happen to be Vietnam Veterans) are planning a march from Dallas, Texas to the Alamo in San Antonio, Texas in mid-October to Veterans Day in November.

The two will be joined by Bill Callahan, who walked from Florida to New York City, and will meet Martin and Holiday in San Antonio.

These exceptional men are raising funds for the Texas Vietnam Veteran's memorial, and are asking for sponsors. They will march 300 miles on behalf of Vietnam Veterans, both those who served and those who are serving still. Homecoming II is very proud to have donated its POW/MIA flag to be carried along the way.

Texas has about the same amount of men missing in Vietnam as were killed at the Alamo. Martin and Holiday invite all Lovers of Freedom to join them. Please write Michael J. Martin , for details, or call .



### WAIT FOR ME

Written by Konstantin Simonov, and contributed by Sons and Daughters of POWs.

Wait for me, and I'll return, only wait very hard.  
Wait, when you are filled with sorrow as you watch the yellow rain;  
Wait, when the winds sweep the snowdrifts,  
Wait in the sweltering heat,  
Wait when others have stopped waiting, forgetting their yesterdays.  
Wait even when from afar, no letters come to you,  
Wait even when others are tired of waiting...  
Wait even when my mother and son think I am no more,  
And when friends sit around the fire, drinking to my memory.  
Wait, and do not hurry to drink to my memory, too;  
Wait, for I'll return, defying every death.  
And let those who did not wait say that I was lucky;  
They will never understand that in the midst of death,  
You, with your waiting, saved me.  
Only you and I will know how I survived:  
It's because you waited, as no one else did.

Richard R. Smith

All Veterans Gave Some  
Some Veterans Gave All.  
WAKE UP AMERICA  
They Aren't All Home Yet!



HOME COMING II PROJECT



THE REPORTER, LEBANON, INDIANA, WEDNESDAY, SEPTEMBER 4, 1985

# Green Berets file suit forcing POW action

FAYETTEVILLE, N.C. (UPI) — Two former members of a Green Beret intelligence unit filed suit today to force President Reagan to obey federal law and demand the release of any prisoners of war still held in Southeast Asia.

Attorney Mark Waple filed the class action suit in U.S. District Court for retired Maj. Mark Smith, Sgt. Melvin McIntire of Fort Bragg and all live American POWs.

The two soldiers, who say they were members of an Army intelligence-gathering unit, charge they were ordered to squelch information they received about soldiers still imprisoned in Southeast Asia.

The suit is against Reagan, Defense

Secretary Caspar Weinberger, Secretary of State George Shultz and Gen. James A. Williams of the Army Intelligence Agency. It accuses them, and anyone who held their jobs during and after American involvement in Southeast Asia, of breaking the U.S. Code, which protects captured soldiers.

The suit says the federal officials failed to demand to know why POWs in Vietnam, Cambodia and Laos were being "unjustly deprived of their liberty." They also did not find out if the three countries have a good reason for holding the POWs or if the imprisonment is "wrongful and in violation of the rights of American citizens," the suit says.

The suit also accuses them of not taking any action to have the soldiers released.

Military officials either "intentionally or negligently" failed to tell the president that POWs were still in Southeast Asia, the suit says.

More importantly, military leaders used spy methods "designed and intended to disprove, discredit or ignore factual information" proving live POWs exist, the suit says.

In the suit, Smith and McIntire say they were assigned to the Army Special Forces in Seoul, Korea, 1981-84. They say they found credible evidence to prove POWs exist, but their supervisors told them to forget it.