

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

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ANTHONY SHAFFER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 1:10-cv-02119 (RMC)
	)	
DEFENSE INTELLIGENCE AGENCY, <i>et</i>	)	
<i>al.</i> ,	)	
	)	
Defendants.	)	

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Exhibit E to Defendants' Second Motion for Summary Judgment

**Unclassified Declaration of David G. Leatherwood  
(Defense Intelligence Agency)  
("Unclassified DIA Decl.")**

UNCLASSIFIED DIA DECLARATION

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

_____ )		
ANTHONY SHAFFER,	)	
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Plaintiff,	)	
	)	Civil Action No.10-2119
v.	)	
	)	
DEFENSE INTELLIGENCE AGENCY,	)	
<i>et al.</i> ,	)	
	)	
Defendants.	)	
_____ )		

UNCLASSIFIED DECLARATION OF  
DAVID G. LEATHERWOOD,  
DIRECTOR FOR OPERATIONS  
(UNCLASSIFIED DIA DECLARATION)

1. (U) I, David G. Leatherwood, declare under penalty of perjury that the following is true and correct:
2. (U) I am the Director for Operations, Directorate for Operations (D/O), a principal element of the Defense Intelligence Agency (DIA). I am a career Department of Defense civilian intelligence officer and have served in a variety of intelligence assignments for more than 30 years.
3. (U) DIA is a combat support agency that is responsible for satisfying military and military-related intelligence requirements of the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the combatant commands, other Department of Defense ("DoD") components, and as appropriate non-DoD agencies of the federal government. DIA provides the military intelligence contribution to national foreign intelligence and counterintelligence.

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4. (U) Having worked in U.S. intelligence for over 30 years, I can identify classified material related to this topic. I am responsible for complying with Executive Branch and departmental policies for classifying and safeguarding national security information. I exercise Original Classification Authority (OCA) under the provisions of Section 1.1 of Executive Order 13526. The Director, Defense Intelligence Agency has delegated this authority to me in DIA Instruction 5240.004, Information Security Policy. Original classification is the initial decision that an item of information could be expected to cause damage to the national security if subjected to unauthorized disclosure, and that the interests of the national security are best served by applying the safeguards of the Information Security Program to protect it.
5. (U) The statements made herein are based upon my personal knowledge, upon information made available to me in my official capacity, and upon determinations made by me in accordance therewith.
6. a. (U) In the course of my official duties at DIA, I have supervised the effort to review Mr. Shaffer's manuscript, "Operation Dark Heart," and have also become personally familiar with the issues concerning the manuscript that are the subject of this lawsuit. I understand that the Plaintiff now seeks to publish a revised version of his book without redacting information previously identified by the Government to be classified. The manuscript has been carefully reviewed by DIA, a review in which my staff directly participated. The review's purpose was to identify classified information in the manuscript.

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6. b. (U) During the review of the manuscript that occurred in October-January 2013, my staff was able to agree with Mr. Shaffer on substituted language for seventy (73) passages that were redacted in the 2010 review of the manuscript. I understand that Mr. Shaffer either does not recall those passages, or wishes to dispute those passages. The classified declaration that has been prepared therefore identifies the basis for continued classification of those passages.

6. c. (U) During the review of the manuscript that occurred in October-January 2013, approximately two hundred (200) passages that were redacted in 2010 were identified as no longer being classified. The classified declaration that has been prepared identifies those passages and explains the reasons why those passages are no longer classified.

7. (U) I have personally examined the Shaffer manuscript. Based on my professional training and experience, I have determined that the manuscript contains passages (ranging from one word, to a few words, up to a few sentences) which contain classified national security information. I have confined my review of Mr. Shaffer's manuscript to identifying those passages which contain national security information related to the roles and mission of DIA. I am aware that other agencies have interests in other passages of the manuscript which contain national security information of interest to their particular agency.

8. (U) Based on my professional training and experience, it is my opinion that public release of certain passages of Mr. Shaffer's manuscript would cause serious damage to the national security of the United States by revealing classified national security information. In this Declaration, I will describe the regulatory basis for classifying national security information. In a classified declaration submitted with this declaration,

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I will describe some reasons why sources, methods and foreign intelligence activities of the United States require protection under the national security information classification system, and I will provide specific source information, intelligence methodology and intelligence activities that Mr. Shaffer included in his manuscript, as well as the reasons for classifying each piece of information to preserve its integrity. This additional information will be provided in a classified declaration because to disclose it on the public record could expose the classified information and could itself damage national security for the same reason that publication of Plaintiff's manuscript poses such concerns.

Basis for Classification

9. (U) The basis for classification of national security information is found in Executive Order (EO) 13526. Section 1.4 of EO 13526 authorizes Original Classification Authorities (OCA) to classify information owned, produced or controlled by the United States government if it falls within one of the following eight classification categories specified in Section 1.4 of EO 13526:
  - (a) military plans, weapons systems, or operations;
  - (b) foreign government information;
  - (c) intelligence activities (including covert action), intelligence sources or methods, or cryptology;
  - (d) foreign relations or foreign activities of the United States, including confidential sources;
  - (e) scientific, technological, or economic matters relating to the national security;
  - (f) United States Government programs for safeguarding nuclear materials or facilities;

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(g) vulnerabilities or capabilities of systems, installations, infrastructures, projects, plans, or protection services relating to the national security; or

(h) the development, production, or use of weapons of mass destruction, military plans, weapons systems, or operations.

10. (U) Under Section 1.2 of EO 13526, information covered by one or more of these classification categories may be classified at one of three classification levels - Top Secret (TS), Secret (S) or Confidential (C) - depending on the degree of harm that would result from the unauthorized disclosure of such information. Information is classified at the Confidential level if unauthorized disclosure would reasonably be expected to cause damage to national security. Information is classified at the Secret level if its release would cause damage to the national interest. Classification at the Top Secret, or Top Secret/Secret Compartmentalized Information ("SCI") level is maintained if its release would cause great harm to the national interest.
11. (U) The manuscript passages described in my classified declaration have all been classified at the SECRET/NOFORN or SECRET level.
12. (U) The information redacted from the Shaffer manuscript at the request of DIA is information that is owned by the United States government and protected by DIA. All of the information described in DIA's classified declaration remains classified. Other information previously redacted at DIA's request has subsequently been determined to no longer be classified and the Government has separately identified that information to the Plaintiff in writing, at the conclusion of the review conducted in October-December 2012.

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SUMMARY

13. (U) In summary, it is my judgment that certain passages of Mr. Shaffer's manuscript are properly classified in accordance with E.O. 13526, and would cause serious damage to the national security of the United States if disclosed in a revised edition of "Operation Dark Heart." Also, public release of the government's reasons why a specific passage in Mr. Shaffer's manuscript is classified (when linked to a specific passage) would cause serious damage to the national security of the United States. For that reason, further detail about specific passages is provided in a classified declaration submitted *in camera* and *ex parte* herewith.

I certify under penalty of perjury that the foregoing is true and correct to the best of my information, knowledge and belief.

Executed this 24th day of April 2013.



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David G. Leatherwood  
Director for Operations  
Defense Intelligence Agency