

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

UNITED STATES OF AMERICA

vs.

ZACARIAS MOUSSAOUI,

Defendant.

COURTROOM TELEVISION
NETWORK LLC

Movant-Intervenor.

Criminal No. 1:01cr455

PM

**COURTROOM TELEVISION NETWORK LLC'S MOTION
FOR LEAVE TO RECORD AND TELECAST PRETRIAL
AND TRIAL PROCEEDINGS**

Comes now Movant-Intervenor Courtroom Television Network LLC ("Court TV") and, for its motion for leave to record and telecast pretrial and trial proceedings in the captioned matter, respectfully states:

1. This is a criminal prosecution instituted by the United States against Zacarias Moussaoui. Defendant is charged with conspiracy to commit acts of terrorism, to commit aircraft piracy, to destroy aircraft, to use airplanes as weapons of mass destruction, to murder government employees, and to destroy property, all in connection with the terrorist attacks on America on September 11, 2001. He is scheduled to be arraigned on those charges on January 2, 2002.

2. The events of September 11, which form the basis of the charges against Moussaoui, have generated intense public interest and concern – not just in the United States, but also throughout the world. In recognition of the need for access to and observation of the first trial arising from these unprecedented events by a much wider audience than can sit in the public gallery of the courtroom, the United States Senate approved on December 20, 2001, by unanimous consent, Senate Bill 1858, a measure introduced by Virginia’s Senator George Allen, which will require the closed circuit television broadcasting of the trial proceedings in this case to certain cities for specified audiences.

3. The right of access to judicial proceedings is guaranteed by the First Amendment. Absent compelling and clearly articulated reasons for closing such proceedings, criminal trials are open to all. Here, there can be no dispute that the extraordinary nature of the proceedings and the events that led to them call for public observation and scrutiny.

4. But the right of access must be more than merely theoretical. Space constraints and time constraints preclude the vast majority of Americans from physically attending and observing trials. In this case, it will simply be impossible to accommodate in the courtroom all the persons who wish to view the trial. However, through television, the means exist for all Americans to exercise their constitutional right to observe this trial.

5. Moreover, given the international importance of this case, and questions that are sure to be raised concerning its fairness and the evidence presented against the defendant, a public trial that can be observed by all those who wish to view it is the strongest argument in favor of our democratic system of government.

6. A *per se* ban on all cameras in the courtroom, as appears to be required by Rule 53 of the Federal Rules of Criminal Procedure and Local Rule 83.3 of the United States District

Court for the Eastern District of Virginia, is unconstitutional. There is simply no principled constitutional distinction between permitting a sketch artist or a reporter to record pretrial and trial proceedings on paper while denying the same right to record, albeit electronically, to Court TV and to the public it serves. Given the technological advances in camera, sound, and lighting equipment, there is no evidence that the telecasting of this trial will disrupt the proceedings or interfere with the solemnity of the courtroom. There will be extensive coverage of this trial, with or without cameras in the courtroom. Any concerns raised by media coverage can be addressed by procedural orders regulating the conduct of trial proceedings without violating the constitutional presumption in favor of televised access.

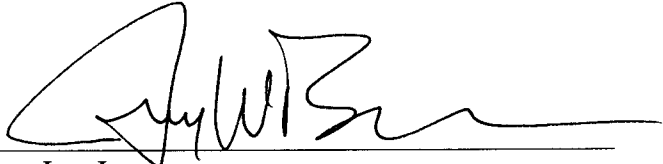
WHEREFORE, for the foregoing reasons and those set forth more fully in the accompanying memorandum of law, Court TV respectfully requests that the Court enter an order, a proposed form of which is attached, granting its motion to record and telecast pretrial and trial proceedings in this case.¹

¹ Pursuant to Local Rule 7(D), counsel for Court TV has conferred with counsel for the United States and for the defendant in an attempt to secure their consent to this motion or to narrow the area of disagreement. Counsel for the United States has indicated that the United States opposes this motion. Counsel for the defendant has taken the subject of this motion under advisement.

Dated: December 21, 2001

Respectfully submitted,

LEVINE SULLIVAN & KOCH, L.L.P.

By: 

Lee Levine

Jay Ward Brown, Va. Bar No. 34355

Cameron A. Stracher

1050 Seventeenth Street, N.W., Suite 800

Washington, D.C. 20036

(202) 508-1100

Facsimile (202) 861-9888

ATTORNEYS FOR MOVANT- INTERVENOR
COURTROOM TELEVISION NETWORK LLC

CERTIFICATE OF SERVICE

I hereby certify that, on this 21st day of December 2001, I served true and correct copies of the foregoing Courtroom Television Network LLC's Motion for Leave to Record and Telecast Pretrial and Trial Proceedings by hand-delivery or courier for next-business-day delivery, as indicated below, upon counsel for the parties as follows:

By Hand Delivery

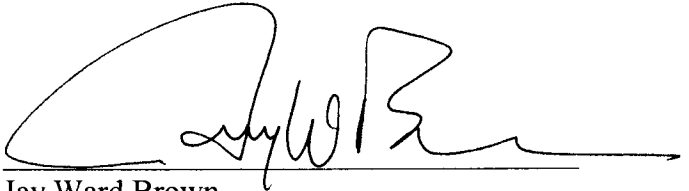
Frank W. Dunham, Jr.
Office of the Federal Public Defender
410 Courthouse Square
Alexandria, Virginia 22314

Robert A. Spencer
United States Attorney's Office
2100 Jamieson Avenue
Alexandria, Virginia 22314-5794

By Federal Express

Edward B. MacMahon
107 East Washington Street
Middleburg, Virginia 20118

Gerald Thomas Zerkin
Office of the Public Defender
One Capital Square, Suite 1100
830 East Main Street
Richmond, Virginia 23219


Jay Ward Brown