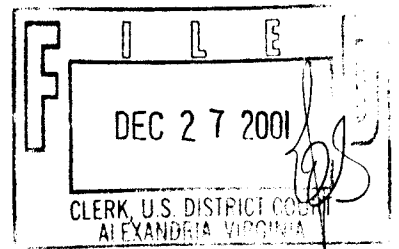


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION



UNITED STATES OF AMERICA)
)
 v.) Criminal No. 01-455-A
)
 ZACARIAS MOUSSAOUI)
 a/k/a "Shaqil,")
 a/k/a "Abu Khalid)
 al Sahrawi,")
)
 Defendant.)

ORDER

Before the Court is the parties' Joint Motion to Certify Case as "Complex" and to Set Forth Schedule Regarding Death Penalty Notice.

In the first half of their motion, the parties argue that the Speedy Trial Act's time limits for setting criminal trials should not apply to this prosecution, which involves four counts exposing the defendant to the possibility of the death penalty for activities alleged to have been part of the September 11, 2001 terrorist attacks in New York and at the Pentagon. We find that the allegations in the indictment fully support the conclusion that this case is both unusual and highly complex due to the international scope of the evidence, the potential for the death penalty, and the probability that information subject to the Classified Information Procedures Act ("CIPA"), 18 U.S.C. App. 3 §§ 1-16 (2001), is involved. Given the complex nature of this case, the seventy day time limit between arraignment and

trial, which is normally required by the Speedy Trial Act, will not permit either the government or the defense sufficient time to prepare adequately for either pretrial motions or trial. See 18 U.S.C. § 3161(h)(8)(B)(ii). Therefore, the parties Joint Motion to Certify Case as "Complex" is GRANTED, and it is hereby

ORDERED that the trial date will be more than seventy days after arraignment. However, the parties' request that a trial date not be set at the arraignment is DENIED, and it is hereby

ORDERED that the parties be prepared to discuss at the arraignment proposed dates for motions hearings, any CIPA hearings and the trial.

In the second half of their motion, the parties seek time to pursue Department of Justice procedures for addressing whether the prosecution will actually seek the death penalty. They also request that no mental health testing of defendant occur until after the government files its Notice of Intent to seek the death penalty.

Regardless of whether the death penalty is a possible penalty, the defendant faces a possible life sentence if convicted of any of the counts in the indictment. Therefore, there is no good reason to delay the development of any mental health issues until the government decides whether it will seek the death penalty in this case.

For these reasons, the parties Joint Motion to Set Forth

Schedule Regarding Death Penalty Notice is DENIED as to the delay in mental health testing but GRANTED as to the proposed schedule for the government's decision whether to seek the death penalty, and it is hereby

ORDERED that any written submissions by defendant to the Department of Justice concerning the applicability of the death penalty be made no later than March 1, 2002, with any oral presentation made no later than March 15, 2002. If appropriate, the government must file its position as to whether it intends to seek the death penalty by March 29, 2002, and any oral argument of this issue will be held on Thursday, April 4, 2002 at 9:00am in Courtroom 700.¹

The Clerk is directed to forward copies of this Order to counsel of record and the United States Marshal Service.

Entered this 27th day of December, 2001.

/S/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia

¹ To minimize the impact of this case on the regular business of the court, unless otherwise ordered, all proceedings involving this case will take place in Courtroom 700.