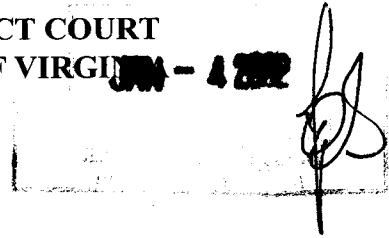


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA - 4282
Alexandria Division



UNITED STATES OF AMERICA)
)
)
vs.)
)
ZACARIAS MOUSSAOUI,)
)
Defendant.)
)
)
)

Criminal No. 01-455-A

**DEFENDANT'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT
COURTROOM TELEVISION'S MOTION FOR LEAVE TO RECORD AND
TELECAST PRETRIAL AND TRIAL PROCEEDINGS**

COMES NOW Zacarias Moussaoui, by counsel, and for his Memorandum of Points and Authorities in Support of Courtroom Television's Motion for Leave to Record and Telecast Pretrial and Trial Proceedings, states as follows:

Mr. Moussaoui does not object, in principle, to the relief sought by Courtroom Television. Mr. Moussaoui, however, does not consent to the motion to the extent that Courtroom Television seeks to televise any of the pre-trial proceedings in this matter. Mr. Moussaoui does consent to the relief sought by Courtroom Television insofar as it relates to televising the trial proceedings but that consent is dependent upon whether the jury in this case is sequestered. This consent is also contingent upon Courtroom Television providing a live feed of the trial proceedings to all interested broadcasters worldwide. These positions will be explained briefly below.

Mr. Moussaoui recognizes that the American criminal justice system will be on display for the entire world as the trial of this action proceeds. Televising the trial as

suggested above will insure that the entire world is able to watch the proceedings and will add an additional layer of protection to see that these proceedings are fairly conducted.

That belief, however, is not absolute. The defendant objects to televising pre-trial proceedings of the case. We believe that picking a jury in this case will be an extremely difficult if not impossible process. If potential jurors are able to watch all of the pre-trial proceedings in this case they may become exposed to information that will not be admissible at trial. For example, if statements made by any person are suppressed after a suppression hearing that was televised, the purpose of the court's suppression order would be undermined. This analysis applies to numerous other issues that are necessarily raised pre-trial that may or may not become relevant or admissible at trial.

Finally, if the court does not order that the jury in this case be sequestered, the defendant does not consent to televising the trial for replay by the media.¹ There is a risk that a non-sequestered jury might, despite the order of the Court, see testimony that has already been given in court and thus give undue weight to the replayed testimony. They may also be exposed to proceedings that take place out of the presence of the jury thus undermining the confidence of any bench conference or exposing to the jury matters raised at a motion's hearing that was not to be considered by the jury as it deliberates. This does not mean that the defendant does not consent to the televising of the trial in the event that the jury is not sequestered. The defendant only asks that the court restrict the use of the tape of the trial during the pendency of the trial.

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In this regard, the motion before the Court is premature as there has been no decision as to whether to sequester the jury.

ZACARIAS MOUSSAOUI
By Counsel



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 4th day of January, 2002, a true copy of the foregoing Defendant's Memorandum of Points and Authorities in Support Courtroom Television's Motion for Leave to Record and Telecast Pretrial and Trial Proceedings was hand delivered to Robert Spencer, Assistant United States Attorney, Eastern District of VA, 2100 Jamison Avenue, Alexandria, VA 22314 and a copy of the same was sent via facsimile transmission and mailed, U.S. First-Class Mail, postage prepaid to Jay Ward Brown, Esquire, 1050 Seventeenth St., N.W., Suite 800, Washington, D.C. 20036, Attorneys for Movant-Intervenor Courtroom Television Network, LLC.



Edward B. MacMahon, Jr.

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