

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

Alexandria Division

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|--------------------------|---|-----------------------|
| _____ |) | |
| UNITED STATES OF AMERICA |) | |
| |) | |
| v |) | Criminal No. 01-455-A |
| |) | |
| ZACARIAS MOUSSAOUI, |) | |
| Defendant |) | |
| _____ |) | |

NOTICE OF INTENT TO SEEK A SENTENCE OF DEATH

The United States of America hereby notifies the Court and the defendant, ZACARIAS MOUSSAOUI, and his counsel, that in the event of the defendant's conviction on any of Counts One, Two, Three, or Four of the Indictment, wherein the defendant is charged respectively with Conspiracy to Commit Acts of Terrorism Transcending National Boundaries in violation of Title 18, United States Code, Sections 2332b(a)(2) & (c), Conspiracy to Commit Aircraft Piracy in violation of Title 49, United States Code, Sections 46502(a)(1)(A) and (a)(2)(B), Conspiracy to Destroy Aircraft in violation of Title 18, United States Code, Sections 32(a)(7) and 34, and Conspiracy to Use Weapons of Mass Destruction in violation of Title 18, United States Code, Section 2332a(a), the Government will seek the sentence of death, in that the circumstances of the offenses are such that a sentence of death is justified.

I. Statutory Threshold Findings Enumerated in 18 U.S.C. § 3591(a)(2)(C) & (D):

The Government will seek to prove the following threshold findings as the basis for imposition of the death penalty in relation to Counts One, Two, Three, and Four of the Indictment:

1. The defendant, ZACARIAS MOUSSAOUI, intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and the victims died as a direct result of the act. Section 3591(a)(2)(C).

2. The defendant, ZACARIAS MOUSSAOUI, intentionally and specifically engaged in an act of violence, knowing that the act created a grave risk of death to a person, other than one of the participants in the offense, such that participation in the act constituted a reckless disregard for human life and the victims died as a direct result of the act. Section 3591(a)(2)(D).

II. Statutory Aggravating Factors Enumerated under 18 U.S.C. § 3592(c)(1) through (16):

The Government will seek to prove the following statutory aggravating factors as the basis for imposition of the death penalty in relation to Counts One, Two, Three, and Four of the Indictment:

1. In committing the offenses described in Counts One, Two, Three, and Four, defendant ZACARIAS MOUSSAOUI knowingly created a grave risk of death to one or more persons in addition to the victims of the offense. Section 3592(c)(5).

2. The defendant, ZACARIAS MOUSSAOUI, committed the offenses described in Counts One, Two, Three, and Four in an especially heinous, cruel, and depraved manner in that

they involved torture and serious physical abuse to the victims. Section 3592(c)(6).

3. The defendant, ZACARIAS MOUSSAOUI, committed the offenses described in Counts One, Two, Three, and Four after substantial planning and premeditation to cause the death of a person and commit an act of terrorism. Section 3592(c)(9).

III. Other Non-Statutory Aggravating Factors Identified under 18 U.S.C. § 3593(a) and (c):

The Government will seek to prove the following non-statutory aggravating factors as the basis for imposition of the death penalty in relation to Counts One, Two, Three, and Four of the Indictment:

1. On or about February 23, 2001, defendant, ZACARIAS MOUSSAOUI, a French citizen, entered the United States, where he then enjoyed the educational opportunities available in a free society, for the purpose of gaining specialized knowledge in flying an aircraft in order to kill as many American citizens as possible.

2. The actions of defendant, ZACARIAS MOUSSAOUI, resulted in the deaths of approximately 3,000 people from more than 15 countries (the largest loss of life resulting from a criminal act in the history of the United States of America).

3. The actions of defendant, ZACARIAS MOUSSAOUI, resulted in serious physical and emotional injuries, including maiming, disfigurement, and permanent disability, to numerous victims who survived the offense.

4. As demonstrated by the victims' personal characteristics as individual human beings and the impact of their deaths upon their families, friends, and co-workers, the defendant, ZACARIAS MOUSSAOUI, caused injury, harm, and loss to the victims, their families, their

friends, and their co-workers.

5. The actions of defendant, ZACARIAS MOUSSAOUI, were intended to cause, and in fact did cause, tremendous disruption to the function of the City of New York and its economy as evinced by the following:

- a. The deaths of 343 members of the New York City Fire Department, including the majority of its upper management, and the loss of approximately 92 pieces of fire-fighting apparatus including fire engines, ladder companies, ambulances and other rescue vehicles;
- b. The deaths of 37 Port Authority officers, the deaths of 38 Port Authority civilian employees, the destruction of the headquarters of the Port Authority, and the loss of approximately 114 Port Authority vehicles;
- c. The deaths of 23 New York City police officers and the loss of numerous vehicles used by the New York Police Department to fight crime;
- d. The deaths of 3 New York state court officers;
- e. The death of 1 Special Agent of the Federal Bureau of Investigation (FBI);
- f. The death of 1 Master Special Officer of the United States Secret Service, the destruction of the New York field office for the United States Secret Service, the loss of 184 vehicles used by the United States Secret Service, including 7 armored limousines, the loss of all of the weapons stored in the New York field office for the United States Secret Service, the destruction of communication equipment used by the New York field office for the United States Secret Service, and the destruction of evidence stored in the New York field office for the United States

Secret Service, which was to be used in criminal prosecutions;

- g. The destruction of the United States Customs building, which housed all components of the United States Customs Service in New York City, the destruction of the laboratory utilized by the United States Customs Service in its northeast region, the loss of 50 vehicles used by the United States Customs Service to fight crime, the loss of the majority of the weapons stored in the New York field office for the United States Customs Service, the destruction of communication equipment used by the New York field office for the United States Customs Service, and the destruction of evidence stored in the New York field office for the United States Customs Service, which was to be used in criminal prosecutions;
- h. The destruction of the offices of the New York field division of the Bureau of Alcohol, Tobacco and Firearms (ATF), the loss of 15 vehicles used by the ATF to fight crime, the destruction of the regional firearms center used to examine all firearms collected as evidence by the ATF as well as approximately 400 firearms which had been seized as evidence in criminal prosecutions, and the destruction of approximately 100 weapons used by ATF Special Agents to fight crime;
- i. The destruction of the offices of the New York field division of the Internal Revenue Service, the loss of 7 vehicles used by the Internal Revenue Service to fight crime, and the destruction of evidence stored in the New York field office of the Internal Revenue Service;
- j. The destruction of the offices of the New York field division of the Office of

Inspector General (Office of Investigation) for the Department of Housing and Urban Development (HUD), the loss of 5 vehicles used by HUD, the destruction of approximately 46 weapons used by HUD to fight crime, and the destruction of evidence stored in the New York field office of HUD, which was to be used in criminal prosecutions;

k. The destruction of the Office of Emergency Operations Center, which was designed to coordinate the response to large-scale emergencies in the City of New York;

l. The disruption of service on train and subway lines, including the E line, subway lines 1 and 9, and the Port Authority Trans-Hudson (PATH) lines;

m. The closure of parks, playgrounds, and schools in lower Manhattan;

n. The displacement of businesses located in the World Trade Center and the economic harm to each of the businesses;

o. The disruption of telephone service in Manhattan;

p. The destruction of approximately 12 million square feet of office space;

q. Property loss costing several billion dollars;

r. The temporary closure of the New York Stock Exchange (NYSE) and the New York Mercantile Exchange (NYMEX);

s. The temporary closure of state and federal courthouses in Manhattan; and,

t. The delay of the meeting of the United Nations General Assembly and a special meeting of the United Nations called to address UNICEF issues.

6. The actions of defendant, ZACARIAS MOUSSAOUI, were intended to cause, and in

fact did cause, tremendous disruption to the function of the Pentagon as evinced by the following:

- a. The destruction of the Naval Command Center and the loss of the majority of its staff;
- b. The destruction of the Naval Intelligence Plot and the loss of the majority of its staff;

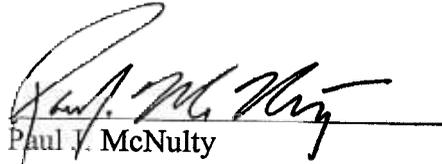
The destruction of the Army Resource Management Center and the loss of the majority of its staff;

- d. The destruction of approximately 400,000 square feet and the damage of over 1 million square feet of office space;
- e. The destruction of a portion of the Pentagon, which had just been renovated at the cost of more than \$250 million; and,
- f. The destruction of computers, other technological equipment, furniture, and safes specifically designed for use by the Pentagon because of its unique role as the center of military operations for the United States of America.

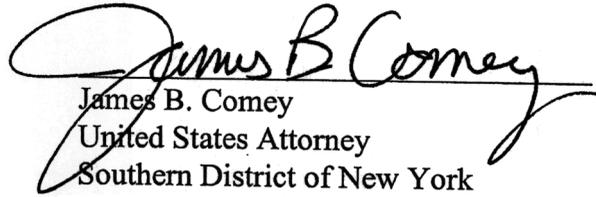
7. The defendant, ZACARIAS MOUSSAOUI, has demonstrated a lack of remorse for his criminal conduct.

The Government further gives notice that in support of imposition of the death penalty it intends to rely upon all the evidence admitted by the Court at the guilt phase of the trial and the offenses of conviction as described in the Indictment as they relate to the background and character of the defendant, ZACARIAS MOUSSAOUI, his moral culpability, and the nature and circumstances of the offenses charged in the Indictment.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Paul J. McNulty", written over a horizontal line.

Paul J. McNulty
United States Attorney
Eastern District of Virginia

A handwritten signature in black ink, appearing to read "James B. Comey", written over a horizontal line.

James B. Comey
United States Attorney
Southern District of New York

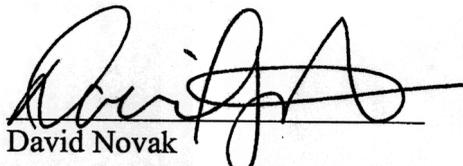
Certificate of Service

The undersigned hereby certifies that on the 28th day of March, 2002, a copy of the Government's Notice was faxed and mailed to the following attorneys for the defendant:

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