

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

In response to the Court's direction, counsel for the United States and counsel for the defendant have each submitted the names and credentials for three mental health experts they have recommended to perform the competency evaluation of the defendant. Having reviewed the proposals and determined that he is available and prepared to work within the time period envisioned by the Court, it is hereby

ORDERED that, pursuant to 18 U.S.C. §§ 3006A and 4241(a), Dr. Raymond Patterson¹ be and is appointed to perform a forensic competency evaluation of Zacarias Moussaoui to assist the Court in determining whether the defendant is competent to make the decision to waive counsel, or whether the decision is the product of a mental disease or defect rendering the decision involuntary or without a knowing appreciation of its consequences, see

¹Of the six proposed mental health experts, Dr. Patterson appears to have the most experience with multi-cultural issues in the forensic psychiatry field. We find this experience makes him particularly valuable to this case.

Godinez v. Moran, 509 U.S. 389, 399-401 (1993); and it is further

ORDERED that, although Dr. Patterson may interview any of the attorneys working on this case, his findings and final report are to be initially shared only with the Court, which will determine whether the report, in whole or in part, may be disclosed to counsel for the United States. Defendant and his counsel of record, or the "conflicts counsel," if one is appointed, will be given the entire report after the Court has reviewed it; and it is further

ORDERED that the final report must be filed UNDER SEAL within thirty (30) days of the date of this Order, unless Dr. Patterson requests an extension of the deadline.

Counsel for the defendant have filed a Motion to Set Guidelines to be Used in Determining Defendant's Competency to Knowingly and Voluntarily Exercise Sixth Amendment Rights ("Motion to Set Guidelines"), to which the United States has filed a response.² The Motion requests that the mental health professional be given time to interview defense counsel, to review unspecified evidence in the Government's possession, including Brady material and an unspecified classified document, and to review any information gathered by defense counsel during the course of their investigation. In addition, the Motion to Set Guidelines asks the Court to preclude the prosecutors "from

² The defendant has filed a reply to the United States' response.

taking advantage of the situation by making contact with the defendant until the competency determination has been made." This request is based on counsels' belief that the defendant has asked the prosecutors for a meeting to discuss classified information. Lastly, counsel ask the Court for the appointment of "conflicts counsel" to assist defendant until resolution of the waiver of counsel issue.

To the extent that the Motion to Set Guidelines asks the Court to establish specific guidelines for the mental health evaluation, it is DENIED. The proposed guidelines unnecessarily restrict the discretion of Dr. Patterson and will cause undue delay. The Court leaves to Dr. Patterson the decisions as to whom he wishes to interview other than the defendant and what documents he needs to review. The Clerk will provide Dr. Patterson forthwith with a copy of the Indictment, the transcript of the April 22, 2002 hearing, the 25 pages from which the defendant read during that hearing, and the pleading containing defendant's opposition to the mental health evaluation. Dr. Patterson may also request copies of any other documents he believes are relevant to the evaluation.

As for the Government's communications with the defendant, because appointed counsel are still defendant's counsel of record, the Motion to Set Guidelines is GRANTED, and it is hereby ORDERED that neither counsel for the United States nor any

person working for or on behalf of the prosecution may have any contact with the defendant unless at least one of defendant's counsel is also present, or the Court has granted leave for such contact.

To the extent that the Motion to Set Guidelines requests the appointment of "conflicts counsel," the Motion is taken under advisement.

The Clerk is directed to forward copies of this Order to the defendant, counsel of record, Dr. Raymond Patterson, the United States Marshal, and the Court Security Officer.

Entered this 26th day of April, 2002.

/s/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia