

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

Defense counsel have filed a Motion for Access by Defendant to Classified and Sensitive Discovery and for Relief from Special Administrative Measures Concerning Confinement in which they argue that if Mr. Moussaoui is permitted to represent himself he will be unable to have a fair trial because the Special Administrative Measures governing his pretrial detention and other limitations on access to discovery will make it impossible for the defendant to represent himself. In particular, counsel allege that "a substantial amount of mitigation evidence is classified." (Memorandum at 6). They also suggest that there may be classified exculpatory material to which defendant would have a right of access under Brady v. Maryland, 373 U.S. 83 (1963).

Counsel have not, however, given the Court any specific examples of such materials. From our own ex parte, in camera review of the documents submitted as part of the Government's

C.I.P.A. Section Four filing, we have not seen any mitigation or exculpatory evidence. Therefore, it is hereby

ORDERED that by 4:00pm on Wednesday, June 12, 2002, defense counsel provide to the Court, under seal and through the Court Security Officer, examples of the classified materials at issue and an explanation of why they believe these materials constitute either mitigation or Brady evidence. The United States may file its response to this filing by 11:00am on Thursday, June 13, 2002. Because the materials at issue are classified, the defendant may not receive copies of these pleadings.

The Clerk is directed to forward copies of this Order to counsel of record, the defendant, and the Court Security Officer.

Entered this 11th day of June, 2002.

/s/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia