

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

Standby counsel have filed under seal a Motion to Release Information from Classified Documents to Defense Expert in which they seek the release of two classified documents to Dr. William Stejskal, who is continuing to evaluate the defendant's mental competency. The United States has opposed the motion arguing that the requested disclosure is not relevant to the case because the issue of the defendant's competency to waive counsel and represent himself has been resolved. The United States also argues that because the information sought is historical, it is not relevant to an analysis of the defendant's current mental state.

We find the United States' arguments unpersuasive. The competence of a defendant must be considered by a court whenever the issue is properly raised. Standby counsel have focused on the extremely inconsistent positions of the defendant, including his insisting on entering a nolo contendere plea to the charges

while vigorously maintaining no involvement in the alleged conspiracy, as potentially supporting a reconsideration of our decision to allow the defendant to represent himself.

Given the gravity of the charges in this prosecution, we will err on the side of caution and grant standby counsel's motion with the following limitation: the United States may redact the names of all speakers in the first document and the sources of information in both documents. With these redactions, any classification issues should be resolved. Lastly, the same information must be given to Dr. Raymond Patterson, the court-appointed psychiatrist, who may also need to revise his report in light of this information if the issue of the defendant's competency to represent himself is renewed.

For these reasons, standby counsel's Motion to Release Information from Classified Documents to Defense Expert is GRANTED; and it is hereby

ORDERED that once Dr. Stejskal and Dr. Patterson have signed the Confidentiality Order already in place in this case, the United States tender to the doctors further redacted versions of the two documents at issue.

The Clerk is directed to forward copies of this Order to the defendant, pro se; counsel for the United States; standby defense counsel; the Court Security Officer; Dr. William Stejskal; and

Dr. Raymond Patterson.

Entered this 8th day of July, 2002.

/s/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia