

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 its Motion for Protective Order Regarding Cockpit Voice Recorders Pursuant to 49 U.S.C. § 1154 ("Motion for Protective Order"), the United States indicates that it intends to play certain cockpit voice recordings in this trial as "evidence of the events that occurred on Flight 93." Because public disclosure of such recordings, even if used in court proceedings, is strictly limited, the United States requests that the Court issue a protective order sealing any tapes and transcripts in which the contents of the recordings are revealed.

Gannett Satellite Information Network, Inc. ("Gannett") has filed a Motion to Intervene for the Limited Purpose of Opposing the Government's Motion for Protective Order Regarding Cockpit Voice Recorders ("Motion to Intervene"). Although media organizations such as Gannett have a right to be heard on issues involving public access to trial evidence,¹ Gannett's motion is

¹ See, e.g., In Re Washington Post Co., 807 F.2d 383, 390 (4th Cir. 1986); In re Knight Publishing Co., 743 F.2d 231, 234 (4th Cir. 1984).

premature because the Court has not yet determined whether the cockpit recordings are relevant to an issue in dispute.

Moreover, even if the recordings are found to be relevant, the Court must also determine whether their probative value outweighs their prejudicial impact. For these reasons, we DEFER ruling on either motion; and it is hereby

ORDERED that the United States immediately provide the Court with a copy of the cockpit voice recordings at issue (as well as any transcripts if such have been prepared) for an in camera review. If we determine that this evidence is admissible, we will then consider the merits of the United States' Motion for Protective Order and Gannett's Motion to Intervene.

The Clerk is directed to forward copies of this Order to the defendant, pro se; counsel for the United States; standby defense counsel; and counsel for Gannett.

Entered this 20th day of August, 2002.

/s/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia