

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,)

Proposed CIPA Schedule

As ordered by the Court, the United States has conferred with standby counsel and jointly submit the proposed schedule for CIPA deadlines and a hearing as set forth below.

As a preliminary matter, we note that government and standby counsel continue to confer on resolving potential CIPA issues relating to classified material. Specifically, counsel continue to attempt to reduce (e.g., by declassification) the number of classified documents at issue in CIPA designations. Thus, by proposing a CIPA schedule with due dates and hearing in the summer, we hope to permit counsel to continue to work out issues relating to the use of certain material at trial, and thus reduce the number of CIPA issues that the Court must decide.

Further, we have proposed a CIPA schedule that provides dates that are likely to occur after the Fourth Circuit rules on the issues now on appeal. Among other reasons for this proposed schedule is that the Government believes that the Court may not have jurisdiction over some pre-trial matters involving CIPA during the pendency of the appeal to the Fourth Circuit. See Griggs v. Provident Consumer Discount Co., 459 U.S. 56, 58 (1982) ("The filing of a notice of appeal is an event of jurisdictional significance--it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal"); United States v. Christy, 3 F.3d 765, 767 (4th Cir. 1993) (same, quoting Griggs); United States v. Montgomery, 262 F.3d 233, (4th Cir. 2001) (dual jurisdiction permissible for interlocutory

appeal raising frivolous double jeopardy claim). This appears to be a somewhat complex question in the case of an interlocutory appeal, however, and the Government is researching the issue. If the Government concludes that the law divests the Court of such jurisdiction while the appeal is pending, we will shortly file a pleading setting out that position.

Proposed CIPA Schedule

May 22, 2003	Updated Govt status report on declassification of existing defense § 5 designations
May 29, 2003	Updated defense § 5 filings due
June 12, 2003	Govt § 5 response due
July 3, 2003	Govt § 6 filing due
July 24, 2003	Defense § 6 response due
July 31, 2003	Govt § 6 reply due
August 14, 2003	CIPA hearing

Respectfully submitted,

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Certificate of Service

I certify that on the 20th day of February 2003, a copy of the foregoing Proposed CIPA Schedule was provided to defendant Zacarias Moussaoui through the U.S. Marshals Service and faxed and mailed to the following::

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