

FILED

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

2003 MAR -6 A 10:54  
CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

UNITED STATES OF AMERICA )  
 )  
 v. ) **UNDER SEAL**  
 )  
 ) Criminal No. 01-455-A  
 )  
 ZACARIAS MOUSSAOUI )

GOVERNMENT'S POSITION ON DEFENDANT'S  
REQUEST TO INTERVIEW MR. NDIAYE BEFORE DEPOSITION

In accordance with the Court's Order, the United States posits that it does not oppose the defendant's request to interview El Hadi Ndiaye before Ndiaye's March 11, 2003, deposition provided that: (1) Mr. Ndiaye consents to such an interview; and (2) the FBI monitor any such interview.

In short, the United States is willing to relax the Special Administrative Measures under which the defendant is held to allow such an interview, but we recognize that Mr. Ndiaye may not choose to subject himself to being interviewed by the defendant. Mr. Ndiaye, of course, has every right to refuse such an interview, and he ought to be advised of that right and asked whether he wishes to be interviewed by the defendant.

Further, the Government is willing to relax the SAM to permit a pre-deposition interview only on the condition that any such communication between the defendant and Mr. Ndiaye be monitored by the FBI and that the FBI be allowed to terminate the interview should any inappropriate communication occur. The defendant consents to such monitoring. See "STOP THE MANIPULATION OF BROTHER EL HADI - Motion to access the witness Brother El hadi before his testimony on the 11 March 03 and be provide with a French interpreter during his

testimony" (filed March 4, 2003) at 2 ("I clearly state that I have no objection if FBI or Marshal are present during the meeting.").

Respectfully submitted,

Paul J. McNulty  
United States Attorney

By:

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Robert A. Spencer  
Kenneth M. Karas  
David J. Novak  
Assistant United States Attorneys

Certificate of Service

I certify that on the 6<sup>th</sup> day of March, 2003, a copy of the foregoing pleading was provided to the defendant via delivery to the U.S. Marshals Service and to the counsel listed below:

Edward B. MacMahon, Jr., Esquire  
107 East Washington Street  
P.O. Box 903  
Middleburg, Virginia 20118  
(540) 687-3902  
fax: (540) 687-6366

Frank W. Dunham, Jr., Esquire  
Public Defender's Office  
Eastern District of Virginia  
1650 King Street  
Alexandria, Virginia 22314  
(703) 600-0808  
Fax: (703) 600-0880

Alan H. Yamamoto, Esquire  
108 N. Alfred Street  
Alexandria, Virginia 22314  
(703) 684-4700  
fax: (703) 684-9700

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Robert A. Spencer  
Assistant United States Attorney