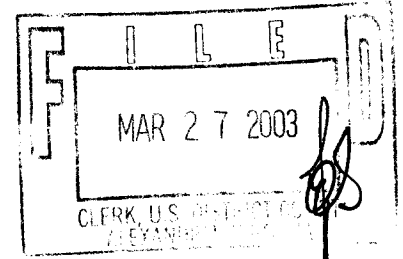


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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA



Alexandria Division

UNITED STATES OF AMERICA )  
 )  
 v. )  
 )  
 ZACARIAS MOUSSAOUI )

~~UNDER SEAL~~ - Unsealed 5/30/03  
Criminal No. 01-455-A

GOVERNMENT'S RESPONSE TO DEFENDANT'S  
MOTION TO PRODUCE STATEMENTS OF MOHAMMED

In response to defendant's "emergency motion to force Ashcroft and the FBI to produce Mohammed statement that Zacarias Moussaoui was not part of the Daring 9/11 Mujahid operations," the United States posits that issues relating to the defendant's demand for access to Khalid Sheikh Mohammed have been stayed by the Court pending the current appeal to the Fourth Circuit.

On March 4, 2003, the defendant moved for access to Khalid Sheikh Mohammed. On March 10, 2003, the Court stayed the resolution of that motion, pending the appeal now before the Fourth Circuit. On March 25, 2003, the defendant moved for the production of allegedly exculpatory statements by Mr. Mohammed.

We are aware of our obligations under *Brady v. Maryland* and its progeny. We have complied with these obligations and we will continue to do so. We are also mindful of the Court's ruling staying the issue of the defendant's demands for access to Khalid Sheikh Mohammed. Any such *Brady* material will be produced at the appropriate time.<sup>1</sup>

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<sup>1</sup> In fact, standby counsel, in a letter dated March 18, 2003, requested any *Brady* material from Khalid Sheikh Mohammed. We responded by letter, dated March 21, 2003, noting that this issue had been stayed and that we would comply with our *Brady* obligations. A copy of these letters is attached to this pleading.

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Moreover, defendant's suggestion that any statements of Mr. Mohammed "are needed immediately to demonstrate to the Court of Appeal that the government lie . . ." (Motion at 2) is misplaced. What Mr. Mohammed may have stated since his capture is not relevant for the appeal now pending. As the Court recognized in its Order dated March 14, 2003, denying the Government's motion to supplement the record on appeal, any statements received by the Government since the Court's decision of January 31, 2003, have no bearing on the issues now on appeal.

Accordingly, defendant's motion should be denied at this time.

Respectfully submitted,

Paul J. McNulty  
United States Attorney

By:

181  
Robert A. Spencer  
Kenneth M. Karas  
David J. Novak  
Assistant United States Attorneys

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Certificate of Service

I certify that on the 27th day of March, 2003, a copy of the foregoing pleading was provided to standby counsel by delivering a copy to the standby counsel SCIF at 401 Courthouse Square, Alexandria, Virginia 22314.

181  
Robert A. Spencer  
Assistant United States Attorney

**FEDERAL PUBLIC DEFENDER**  
**EASTERN DISTRICT OF VIRGINIA**  
**1650 King Street, Suite 500**  
**Alexandria, Virginia 22314**  
(703) 600-0880 (Facsimile)  
(703) 600-0808 (Direct Dial)

*Frank W. Dunham, Jr.*  
*Federal Public Defender*

March 18, 2003

AUSA David Novak  
U.S. Attorney's Office  
210 Jamieson Avenue  
Alexandria, VA 22314

Re: *U.S. v. Zacarias Moussaoui*

Dear Dave:

Enclosed please find a CBS News article, "Is Moussaoui Small Fry?"

In light of the above, we respectfully request that any *Brady* information emanating from intelligence debriefings of Khalid Sheikh Mohammed containing information related to Mr. Moussaoui be provided to the defense.

Very truly yours,



Frank W. Dunham, Jr.  
Federal Public Defender

cc: AUSA Robert Spencer  
AUSA Kenneth Karas  
Edward B. MacMahon, Jr.  
Alan H. Yamamoto



U.S. Department of Justice

United States Attorney

Eastern District of Virginia

2100 Jamieson Avenue  
Alexandria, Virginia 22314

March 21, 2003

Frank Dunham  
Federal Public Defender  
1650 King Street, Suite 500  
Alexandria, Virginia 22314

Re: U.S. v. Zacarias Moussaoui; Crim. No. 01-455-A

Dear Mr. Dunham:

We write in response to your letter dated March 18, 2003 in which you seek production of any Brady information emanating from intelligence debriefings of Khalid Sheikh Mohammed. We are well aware of our Brady responsibilities; however, Judge Brinkema has stayed these proceedings as it relates to Mr. Mohammed. See 3/10/03 Opinion at 6 fn. 6 (docket no. 785). Therefore, if any Brady materials exists, it will be produced at the appropriate time.

Respectfully submitted,

Paul J. McNulty  
United States Attorney

By:

181  
Robert A. Spencer  
Kenneth M. Karas  
David J. Novak  
Assistant U.S. Attorneys

cc: Alan H. Yamamoto  
Edward B. MacMahon, Jr.