

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

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

Criminal No. 01-455-A

**MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION
FOR COPY OF SUBSTITUTION**

The defendant has filed a motion, "20TH HIJACKER WANTED [REDACTED] SUBSTITUTION FOR DIRTY JOKE," docket no. 1086, which we construe as a renewed motion to see the government's most recently proposed substitutions for the deposition testimony of the witnesses addressed by the Court's August 29, 2003 orders.

For reasons we have fully set forth before (see Standby Counsel's Response and Objection to the Government's Submission of Proposed Substitutions, docket no. 875; Motion by Standby Counsel to Compel Production to the Pro Se Defendant of the Government's Motion for Substitutions and the Government's Proposed Substitutions for the Testimony of [Redacted], docket no. 1039; and Motion by Standby Counsel for Sanctions and Other Relief, docket no. 1061), we support the defendant's claim for access to these substitutions. We do so because of the defendant's *pro se* status and the government's expressed intent to make these substitutions an issue on appeal.¹

¹ We note that although the Court denied both Mr. Moussaoui and standby counsel's previous motions for access to the substitutes (docket nos. 1039 and 1051, denied by order in docket number 1043 and 1052) as moot based on its denial of the substitutions, the government's position in its Fourth Circuit Notice of Appeal makes the substance of the substitutions relevant to Mr. Moussaoui, as a *pro se* defendant, beyond this Court's ruling on the substitutions.

In its "Statement of the Issues" attached to its Notice of Appeal, the government has announced its intention to argue on the appeal that "the government's proposed substitutions provide defendant with substantially the same ability to make his defense as would the depositions ordered by the Court." The defendant, who is *pro se* in the district court, should certainly be allowed to see these most recently proposed substitutions so that he can make his position known as to them on appeal.

We note that when the Fourth Circuit remanded the government's earlier appeal of the Court's January 31, 2003 order, it directed that the substitutions then at issue be made available to the defendant. There is no reason to treat these more recently proposed substitutions differently.

ZACARIAS MOUSSAOUI

/s/

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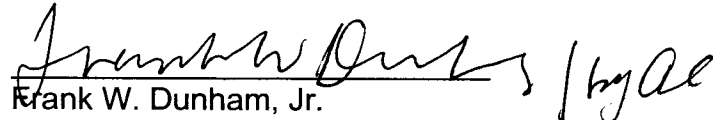
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing MEMORANDUM IN SUPPORT OF DEFENDANT'S MOTION FOR COPY OF SUBSTITUTION was served upon AUSA Robert A. Spencer, AUSA David Novak and AUSA Kenneth Karas, U.S. Attorney's Office, 2100 Jamieson Avenue, Alexandria, VA 22314, by placing a copy BY HAND in the box designated for the United States Attorney's Office in the Clerk's Office of the U.S. District Court for the Eastern District of Virginia and UPON APPROVAL FROM THE COURT SECURITY OFFICER via first class mail to Zacarias Moussaoui, c/o Alexandria Detention Center, 2001 Mill Road, Alexandria, VA 22314 this 16th day of October, 2003.


Frank W. Dunham, Jr.