

FILED

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

2003 DEC -4 P 10:25  
CLERK US DISTRICT COURT  
ALEXANDRIA, VIRGINIA

UNITED STATES )  
 )  
 v. ) Crim. No. 01-455-A  
 )  
 ZACARIAS MOUSSAOUI )

GOVERNMENT’S RESPONSE TO MOTION FOR  
PROTECTION OF DEFENDANT’S PAPERS

The United States does not oppose defense counsel’s proposal to have documents that the defendant sends to the Court submitted to the Court Security Officer to be reviewed for classified material, but the United States opposes the suggestion that Mr. Moussaoui’s writings to the Court not be supplied to the Government. In short, the Government should receive a copy of anything the defendant sends to the Court. Continued written communications with the Court are neither privileged attorney-client communications nor *ex parte* filings and should be provided to Government counsel after classification review.

Accordingly, the United States proposes that further writings from the defendant to the Court should (1) be submitted to the Court Security Officer for classification review, and then (2) be subject to the same procedures under the Special Administrative Measures as any other mail from Mr. Moussaoui, namely, be reviewed by a walled-off FBI team and then, assuming such mail contains no privileged communications (which it should not if addressed to the Court), be turned over to counsel for the Government and the defense. There is no authority for the defendant to enjoy presumptive *ex parte* communication with the Court.<sup>1</sup> And, of course, if the

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<sup>1</sup> In fact, the Court has issued an order instructing the defendant how to file an *ex parte* pleading: “If a pleading contains information about defense strategy not intended for the Government’s review, he should write ‘Ex Parte’ and ‘UNDER SEAL’ on the pleading and on the envelope.” Order, April 26, 2002, at 3 (footnotes omitted).

defendant intends to communicate with his counsel, he should address such communication to them instead of to the Court.

Respectfully submitted,

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Certificate of Service

I certify that on December 4, 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:

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