

FILED

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

2004 JUL 21 P 1055

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

UNDER SEAL CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA
Criminal No. 01-455-A
Judge Leonie M. Brinkema

**DEFENDANT'S MOTION TO PRESERVE AND OBTAIN VIDEOTAPES, REPORTS
AND MEMORANDA OF JUNE 10, 2004**

The Defendant, Zacarias Moussaoui, by and through his counsel and pursuant to the Court's Order of June 18, 2004 (dkt. no. 1174),¹ advises the Court that the videotape which was obtained by the Marshal's Office and is the subject of the Order, may be needed as evidence and asks the Court to order that the tape be retained in the Court's file, under seal,² and made a part of the record.³

Further, after having viewed the videotape and communicated with Mr. Moussaoui on the matter, Defendant further moves for an order directing the Alexandria Sheriff's Office and the United States Marshal's Service to produce to the Court and make available to counsel of record any reports or memoranda regarding the events

¹ This order authorized the filing of the instant pleading. Cf. Order at 2 (filed Nov. 5, 2003, dkt. no. 1111) (staying "all further action in this case at the district court level").

² A Motion to Seal is attached hereto pursuant to Local Criminal Rule 49(E).

³ The undersigned has been informed that the videotape the Marshal obtained is a copy of the original (master) tapes that are still in the possession of the Sheriff's Office. Defense counsel have not viewed these original tapes which record twelve or twenty-four hours of material and are changed regularly. In order to ensure that the record is complete and to ensure the authenticity of the copy in the Marshal's possession, Defendant requests that the original (master) videotapes also be placed in the Court's file, under seal, and that these original tapes be made available for viewing by counsel of record and/or members of their respective teams.

depicted on the tape of Defendant's extraction from his jail cell and transport to Court on June 10, 2004. (Defense counsel have confirmed with Captain Mitchell of the Alexandria Sheriff's Office that such reports and/or memoranda have been prepared by deputy sheriffs but will only be produced pursuant to a court order.) A proposed order is attached for the Court's convenience.

Respectfully submitted,

ZACARIAS MOUSSAOUI
By Counsel

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CERTIFICATE OF SERVICE⁴

I HEREBY CERTIFY that on this 21st day of July 2004, a true copy of the foregoing motion and proposed order was served upon AUSA Robert A. Spencer, AUSA David J. Novak and AUSA David Raskin, 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 by FACSIMILE upon same to 703-299-3982 (AUSA Spencer), 804-771-2316 (AUSA Novak) and 212-637-0097 (AUSA Raskin).

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Alan H. Yamamoto

⁴ Pursuant to the Court's order of October 3, 2002 (dkt. no. 594), the instant pleading was presented to the CSO for a classification review before filing. That review determined that the pleading is not classified. A copy of this pleading was not provided to Mr. Moussaoui until after completion of the classification review.