

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

UNITED STATES OF AMERICA	)	
	)	
v.	)	1:01cr455 (LMB)
	)	
ZACARIAS MOUSSAOUI	)	
a/k/a "Shaqil,"	)	
a/k/a "Abu Khalid	)	
al Sahrawi,"	)	
	)	
Defendant.	)	

ORDER

Before the Court is the Government's Motion for Reconsideration of the Court's Order Dated July 23, 2004, Regarding Mental Health Evidence (Motion to Reconsider), in which the government asks to the Court to reconsider the portion of its July 23, 2004 Order that denied the government's request that the Court limit any contact between mental health professionals and the defendant. The government requests that the Court now rule that no mental health expert from either side may have access to the defendant until the Court resolves the Government's Supplemental Motion Regarding Mental Health Evidence, which is currently stayed. For the following reasons, the government's Motion to Reconsider will be DENIED.

The government argues that it will be prejudiced if the defendant's mental health expert has access to the defendant before the Court enforces Rule 12.2 of the Federal Rules of Criminal Procedure because mental health tests will be skewed by a "practice effect" if given twice. However, as defendant notes in his

Opposition, the "practice effect" relates primarily to neuropsychological testing, such as intelligence or memory tests. The defense states that it has no present intention of having neuropsychological tests performed, and if it ever does, it will not do so until the Court rules on the Government's Supplemental Motion Regarding Mental Health Evidence. The government will not be prejudiced by clinical interviews or other observations of the defendant by a defense mental health expert, because there is no "practice effect" related to such contact. Moreover, the cooperation of the defendant in any mental health examination is questionable, and an actual trial date is at this point speculative, as it will not be set until the mandate is returned. For the foregoing reasons, the Court finds no reason to reconsider its decision not to limit contact between mental health professionals and the defendant. Accordingly, it is hereby

ORDERED that the government's Motion to Reconsider be and is DENIED.

The Clerk is directed to forward copies of this Order to counsel of record.

Entered this 3<sup>rd</sup> day of August, 2004.

\_\_\_\_\_/s/\_\_\_\_\_  
Leonie M. Brinkema  
United States District Judge

Alexandria, Virginia