

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

Defendant Zacarias Moussaoui, by counsel, moves this Court to amend the list of defense counsel who are approved by the Court to have access to classified documents and information by adding Assistant Federal Public Defender Jeremy C. Kamens, and in support thereof, respectfully states as follows:

2. On September 13, 2004, the Court of Appeals issued an amended Opinion and Order, the full text of which is classified, addressing several issues that have been the subject of a government interlocutory appeal. On September 27, 2004, Mr. Moussaoui filed with the Court of Appeals a Petition for Panel Rehearing or Rehearing En Banc.

Should the Court of Appeals deny that Petition, we will file on Mr. Moussaoui's behalf, and at his direction, a petition for writ of certiorari in the United States Supreme Court.

Assistant Federal Public Defender Jeremy C. Kamens, who has experience in Supreme Court litigation, will be asked to assist with work on any such petition. Mr. Kamens already has a Top Secret security clearance from his work in the case of *Hamdi v. Rumsfeld*, 124 S. Ct. 2633 (2004). He will, however, need an additional SCI (Sensitive Compartmented Information) clearance to have access to the classified documents and information in the Moussaoui case.

3. Accordingly, it is hereby requested that Mr. Kamens be added to the list of defense attorneys set forth in paragraph 12 of the Order subject to compliance with the other terms and conditions of the Order. Pursuant to paragraph 11(b) of the Order, attached is an original signed Memorandum of Understanding in which Mr. Kamens agrees to comply with the terms of the Order.

4. The government has informed defense counsel that it does not have an objection to this motion. A proposed order is attached.

Respectfully submitted,

ZACARIAS MOUSSAOUI
By Counsel

/S/
Frank W. Dunham, Jr.
Federal Public Defender
Eastern District of Virginia
1650 King Street, Suite 500
Alexandria, Virginia 22314
703-600-0800

CERTIFICATE OF SERVICE¹

I hereby certify that on this 1st day of October, 2004, a true copy of the foregoing pleading 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 212-637-0099 (AUSA Raskin).

_____/S/
Kenneth P. Troccoli, Esq.

¹ 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.

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

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

**ORDER TO AMEND ACCESS OF DEFENSE ATTORNEYS TO CLASSIFIED
NATIONAL SECURITY INFORMATION**

Upon consideration of defendant's written Motion to Amend Access of Defense Attorneys to Classified National Security Information, and it appearing that the government has no objection to this motion, that the appropriate Memorandum of Understanding has been executed and filed with the Court, and for good cause shown, it is hereby

ORDERED that paragraph 12 of the Protective Order of January 22, 2002 (the "Protective Order") is modified to reflect that Assistant Federal Public Defender Jeremy C. Kamens is approved to have access to classified documents and information pursuant to the Protective Order, subject to compliance with all terms and conditions of that Order; and

FURTHER ORDERED that the Clerk of this Court furnish a copy of this Order forthwith to counsel for the defendant, counsel for the government, and Court Security Officer Christine E. Gunning.

ENTERED this ____ day of October, 2004.

Honorable Leonie M. Brinkema
United States District Judge