

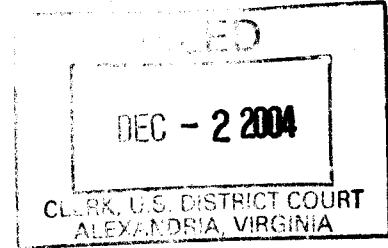
IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

Filed with court security officer
in Camera and under seal

by Cradell
DATE 12-2-04

UNITED STATES OF AMERICA,)
)
v.)
)
ZACARIAS MOUSSAOUI,)
a/k/a "Shaqil")
a/k/a "Abu Khalid)
al Sahrawi,")
)
Defendant.)

No. 1:01cr455



ORDER

Before the Court is the Government's Motion to Set Trial Date, to which defendant has filed an objection. The Court agrees with defendant that the Government's Motion to Set Trial Date is premature, in that defendant plans to file a petition for a writ of certiorari with the United States Supreme Court. Given the significant constitutional issues implicated by the decision of the Fourth Circuit in United States v. Moussaoui, 382 F.3d 453 (4th Cir. Sept. 13, 2004), and the strong dissent of Judge Gregory, the Supreme Court may decide to grant defendant a writ of certiorari.

Until the Supreme Court has ruled on the petition, and on defendant's appeal if the petition is granted, this case will remain stayed to conserve limited resources of the judiciary and to minimize disclosure of classified information. Once the stay of this prosecution is lifted, the Court will require a complete reevaluation of the numerous orders issued under Section 4 of the Classified Information Procedures Act (CIPA), 18 U.S.C. App. 3, as

those orders relate to the witnesses at issue in defendant's appeal, and will require more specific affirmations from the appropriate governmental authorities as to the conditions under which statements of those witnesses were made and memorialized. Such intense work should not be started until the appellate process is final. For these reasons, the Government's Motion to Set Trial Date is DENIED WITHOUT PREJUDICE and it is hereby

ORDERED that the Order staying this case entered on November 5, 2003, (Docket #1111) remains in full force and effect.

This decision renders moot the Government's Motion and Incorporated Memorandum Regarding Mental Health Evidence (Docket #93) and its Supplemental Motion and Incorporated Memorandum Regarding Mental Health Evidence (Docket #1776), which are hereby STAYED until further order of the Court.

The Clerk is directed to forward copies of this Order to counsel for the United States; standby defense counsel; and the Court Security Officer, who is directed to submit this Order for classification review so that an unclassified version can be provided to the pro se defendant and made available in the public file.

Entered this 2nd day of December, 2004.

/S/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia.