

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

UNITED STATES OF AMERICA)
)
) Crim. No. 01-455-A
) Hon. Leonie M. Brinkema
)
ZACARIAS MOUSSAOUI)

MOTION TO TEMPORARILY UNSEAL MATERIALS

Defendant Zacarias Moussaoui, by counsel, moves this Court to temporarily unseal materials sealed by the Court on October 7, 2002 and July 22, 2004. Defendant represents the following in support of this motion.

1. By Orders dated October 7, 2002 and July 22, 2004 (docket nos. 598 and 1183, respectively) (the “Sealing Orders”),¹ the Court sealed certain photographs and videotapes (the “sealed materials”).

2. Defense counsel, their mitigation specialist, and their outside mental health experts need to view the sealed materials as part of their preparation for defendant’s trial and/or potential sentencing. This viewing can take place in the Clerk’s Office or in the Office of the United States Marshal if the Clerk does not have the equipment necessary to view the videotapes. Once the viewing is completed, the sealed materials can be re-sealed by the Clerk.

3. The government has informed the undersigned that it does not object to this motion.

Accordingly, it is respectfully requested that this motion be granted, and that the sealed materials be temporarily unsealed to permit defense counsel, their mitigation specialist, and their outside mental health experts to view them in the Clerk’s Office or

¹ A copy of these Orders is attached for the Court’s convenience.

in the Office of the United States Marshal if the Clerk's Office does not have the necessary equipment to allow for viewing. A proposed Order is attached.

Respectfully submitted,

ZACARIAS MOUSSAOUI
By Counsel

/S/

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

CERTIFICATE OF SERVICE²

I hereby certify that on this 11th day of April, 2005, 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

² 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.) Criminal No. 01-455-A
)
 ZACARIAS MOUSSAOUI)
 a/k/a "Shaqil,")
 a/k/a "Abu Khalid)
 al Sahrawi,")
)
 Defendant.)

ORDER

Before the Court is standby counsel's Motion to Photograph Defendant's Cell and Adjoining Workroom (Docket #582), which is unopposed by the United States. Because we find standby counsel's request to be reasonable, the motion is GRANTED; and it is hereby

ORDERED that standby counsel arrange with the United States Marshals Service and officials at the Alexandria City Adult Detention Center for a convenient time to photograph and videotape Mr. Moussaoui's cell and adjoining workroom; and it is further

ORDERED that, to preserve the security and integrity of the detention facility, standby counsel may not photograph or videotape any doorways or locks, or any persons (including the defendant); and it is further

ORDERED that neither the pro se defendant nor standby counsel may retain the originals or any copies of the photographs or videotapes; instead, all originals and copies (including but

not limited to negatives and digital files) must be filed under seal with the Clerk of Court, who will release them to the defendant or standby counsel only by order of the Court.

The Clerk is directed to forward copies of this Order to the defendant, pro se; counsel for the United States; standby defense counsel; and the United States Marshal.

Entered this 7th day of October, 2002.

/s/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia

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 defendant's Motion to Seal Pursuant to Local Criminal Rule 49(E) (Motion to Seal), in which he asks the Court for an order sealing both an attached Motion to Preserve and Obtain Videotapes, Reports, and Memoranda of June 10, 2004 (Motion to Preserve) and the videotapes, reports, and memoranda referenced in the Motion to Preserve.

The public interest in this case justifies keeping sealed pleadings to a minimum. Finding that the Court's Order of June 10, 2004, is not under seal, and that the defendant's Motion to Preserve reveals neither sealed information nor information that would prejudice any party if disclosed prior to trial, defendant's Motion to Seal, to the extent it requests that the Motion to Preserve be sealed, is DENIED, and it is hereby

ORDERED that defendant's Motion to Preserve be filed in the

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public file.¹

To the extent defendant's Motion to Seal also requests that the videotapes, reports, and memoranda that are the subject of the Motion to Preserve be filed under seal with the Court and maintained under seal, the Motion to Seal is GRANTED. Similar materials previously have been sealed because public disclosure could jeopardize the safety and security of the detention center where the defendant is incarcerated. Moreover, premature public disclosure of potential evidence could jeopardize the parties' right to a fair trial. For these reasons, it is hereby

ORDERED that the United States Marshal for the Eastern District of Virginia file with the Clerk of Court under seal the original videotape² at issue as well as copies of any and all reports and memoranda regarding the events depicted in the videotape, whether created by staff at the Alexandria Adult Detention Center or the United States Marshals Service, and it is further

ORDERED that the United States Marshal supply to counsel of record copies of these reports and memoranda. Counsel must treat these materials and their contents as sealed until further order of the Court.

¹Along with the Motion to Preserve, defendant has filed a Non-Confidential Memorandum. Obviously, that memorandum is a public filing.

²The Court is aware of only one videotape and has therefore not ordered that videotapes be filed.

The Clerk is directed to forward copies of this Order to
counsel of record and the United States Marshal.

Entered this 22nd day of July, 2004.

_____/s/_____
Leonie M. Brinkema
United States District Judge

Alexandria, Virginia