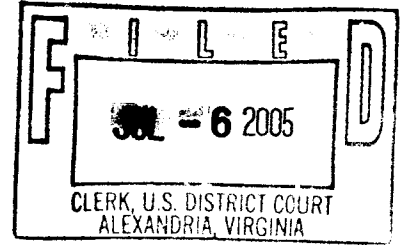


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division



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

Criminal No. 01-455-A
Hon. Leonie M. Brinkema

SEALING ORDER

This matter having come before the Court on the Defendant's Motion to Seal pursuant to Local Criminal Rule 49(E) and for good cause shown, the Court finds:

1. The defendant seeks to file a certain document ex parte and under seal, namely, Defendant's Ex Parte Motion.

2. Sealing of this document is necessary in order to preserve defendant's right to a fair trial and so as not to reveal to the public or the prosecution confidential attorney work product, including possible theories of the defense, potential avenues of investigation, legal matters to be pursued, and general defense strategies.

3. The Court has considered procedures other than sealing, but none would suffice to protect the information subject to sealing.

4. The Court has the inherent power to seal materials submitted to it. *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978) ("Every court has supervisory power over its own records and files, and access has been denied where court files might have become a vehicle for improper purposes."); *In re Knight Publ'g Co.*, 743 F.2d 231, 235 (4th Cir. 1984) ("The trial court has supervisory power over its own records and may, in its discretion, seal documents if the public's right of access is outweighed by competing interests."); *United States v. Moussaoui*, 65 Fed. Appx. 881, 886, 2003 WL 21076836 (4th Cir. No. 03-4162) (same) (unpublished opinion); *see also*

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In re Eye Care Physicians of America, 100 F.3d 514, 519 (7th Cir. 1996); *Times Mirror Co. v. United States*, 873 F.2d 1210, 1221 (9th Cir. 1989); *In re Search Warrant for Secretarial Area Outside Office of Gunn*, 855 F.2d 569, 574 (8th Cir. 1988); *United States v. Wuagneux*, 683 F.2d 1343, 1351 n.6 (11th Cir. 1982); *Arizona v. Manypenny*, 672 F.2d 761, 765 (9th Cir. 1982); *United States v. Hubbard*, 650 F.2d 293, 315-16 (D.C. Cir. 1980); *Shea v. Gabriel*, 520 F.2d 879, 882 (1st Cir. 1975); *In re Braughton*, 520 F.2d 765, 766 (9th Cir. 1975).

5. The defendant requests that the pertinent material be sealed until the penalty phase trial commences.

For the foregoing reasons it is hereby:

ORDERED that the defendant's Motion to Seal is granted, and it is

FURTHER ORDERED that the document filed ex parte under seal will remain under seal until the penalty phase trial commences, at which time it shall be automatically unsealed.

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

/s/

Leonie M. Brinkema
United States District Judge

Entered: 7/6/05