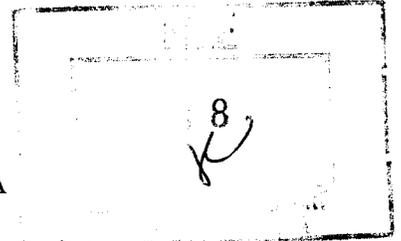


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA



Alexandria Division

UNITED STATES OF AMERICA)
)
 v.) Criminal No. 01-455-A
)
 Zacarias Moussaoui,)
 Defendant)
 _____)

JOINT MOTION TO CERTIFY CASE AS “COMPLEX” AND
TO SET FORTH SCHEDULE REGARDING DEATH PENALTY NOTICE

The United States and the defendant jointly request that this case be certified as
“complex” for purposes of the speedy trial act. In support, the parties state the following:

1. The grand jury has indicted defendant Zacarias Moussaoui for the following offenses:

- Count One: Conspiracy to Commit Acts of Terrorism Transcending National Boundaries in violation of 18 U.S.C. §§ 2332b(a)(2) & (c);
- Count Two: Conspiracy to Commit Aircraft Piracy in violation of 49 U.S.C. §§ 46502(a)(1)(A) and (a)(2)(B);
- Count Three: Conspiracy to Destroy Aircraft in violation of 18 U.S.C. §§ 32(a)(7) & 34;
- Count Four: Conspiracy to Use Weapons of Mass Destruction in violation of 18 U.S.C. § 2332a(a);
- Count Five: Conspiracy to Murder United States Employees in violation of 18 U.S.C. §§ 1114 & 1117;
- Count Six: Conspiracy to Destroy Property in violation of 18 U.S.C. §§ 844(f), (i), & (n).

The defendant faces the death penalty if convicted of Counts One, Two, Three, or Four.

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2. Arraignment in this case is scheduled for January 2, 2002. Because this will be the defendant's first appearance in this district, the 70-day limit imposed by the Speedy Trial Act is March 13, 2002.

3. The parties jointly request the Court to certify this case as "complex" for purposes of the Speedy Trial Act, 18 U.S.C. § 3161(h)(8)(B)(ii).¹ See United States v. Reavis, 48 F.3d 763, 771 (4th Cir. 1995); United States v. Tinsley, 800 F.2d 448, 450 (4th Cir. 1986). To describe this case as unique would be a gross understatement. The indictment alleges that the defendant was a member of the terrorist organization known as al Qaeda and that he participated in the events culminating in the attacks on September 11, 2001. Over 3,000 people died during these attacks – the greatest loss of life in the history of the United States resulting from a criminal act. The indictment alleges events that span the globe and the parties will likely introduce evidence from several different countries in several different languages. Some of the evidence will involve application of the Classified Information Procedures Act. Added to all of this is the possibility that the defendant may face the death penalty. For these reasons, the Court should certify the case as "complex" in order that trial may occur beyond the 70-day deadline imposed by the Speedy Trial Act.

4. If the Court certifies this case as "complex," the parties respectfully recommend that the Court then continue the case until any date in April of 2002 to allow the parties to follow the

¹Section 3161(h)(8)(B)(ii) enables the Court to schedule the trial of this case beyond the 70 days time limits of the Speedy Trial Act when "...the case is so unusual or so complex, due to the number of defendants, the nature of the prosecution, or the existence of novel questions of fact or law, that it is unreasonable to expect adequate preparation for pretrial proceedings or for the trial itself within the time limits established by this section."

procedures adopted by the Department of Justice regarding capital cases. See U.S.A.M. § 9-10.000 et seq. Specifically, the parties request the Court to endorse the attached proposed order setting forth the following schedule regarding the death penalty protocol. The defendant, if he so chooses, shall make his submission to the Department of Justice not later than March 1, 2002.² The defendant's oral presentation to the Department of Justice shall occur not later March 15, 2002. The Government shall then file a document with the Court not later than March 29, 2002 addressing whether the Government intends to seek a sentence of death. If the Court follows this schedule, in April 2002, the trial date could be set with the knowledge as to whether the defendant will face the death penalty.

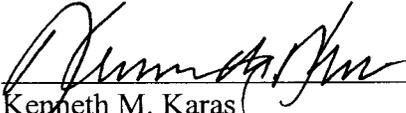
5. The parties agree that no mental health testing of the defendant should occur until after the Government files its notice as to whether it intends to seek a sentence of death. See United States v. Beckford, 962 F. Supp. 767 (E.D. Va. 1997). Therefore, the parties respectfully request the Court to further order that no mental health testing of the defendant should occur until after the Government files its notice as to whether it intends to seek a sentence of death.

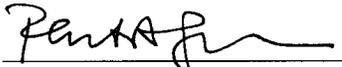
²The defendant believes that he needs 60 days to prepare a meaningful submission to the Department of Justice since the majority of his life was spent outside of the United States. The Government agrees with the defendant's assessment.

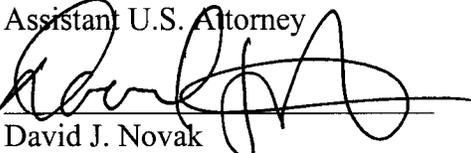
Respectfully submitted,

UNITED STATES OF AMERICA

PAUL J. McNULTY
UNITED STATES ATTORNEY

By: 
Kenneth M. Karas
Special Assistant U.S. Attorney

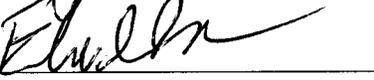
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Assistant Public Defender

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