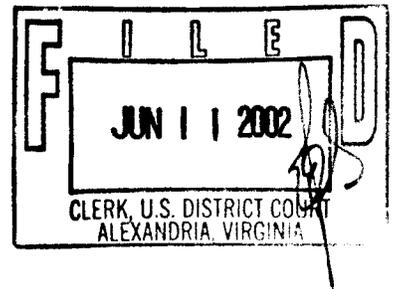


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA



Alexandria Division

UNITED STATES OF AMERICA)
)
 v.) Cr. No. 01-455-A
)
 ZACARIAS MOUSSAOUI)
 a/k/a "Shaqil,")
 a/k/a "Abu Khalid)
 al Sahrawi,")
)
 Defendant.)

**PROTECTIVE ORDER FOR SENSITIVE
AVIATION SECURITY INFORMATION**

This matter having come before the Court on the Government's application pursuant to Rule 16(d)(1) of the Federal Rules of Criminal Procedure for a protective order prohibiting the disclosure to defendant of Sensitive Security Information ("SSI") regarding aviation, and after consideration of the Government's application, this Court finds, pursuant to Rule 16(d)(1), Fed.R.Crim.P., that:

Among the Particularly Sensitive Discovery Materials the Government proposes to disclose in discovery are certain materials within the category of Sensitive Security Information as defined by statute, 49 U.S.C. § 40119(b), and regulation, 49 C.F.R. part 1520, that are responsive to some of defense counsel's discovery requests.

Unauthorized disclosure of these SSI materials would be detrimental to the safety of passengers in air transportation, and in particular, that disclosure of these materials to defendant in this case could unacceptably increase the risk to the traveling public, in that certain of these documents contain information on security counter-measures which might assist a potential

176

hijacker or terrorist in circumventing aviation security procedures intended to protect the traveling public. There remains the risk that, despite the security measures presently in place, if defendant were allowed access to these materials, they could be disseminated to others intent on attacking civil aviation.

The Court further finds that the information sought to be protected is either not discoverable under *Brady v. Maryland*, 373 U.S. 83 (1963), and Rule 16 of the Federal Rules of Criminal Procedure, or such discovery value is substantially satisfied by production to defense counsel and any loss in discovery value is outweighed by the potential danger to the air traveling public and national security that might ensue after disclosure. Accordingly,

IT IS HEREBY ORDERED that defense counsel may not disclose any material provided in discovery that is designated Sensitive Security Information (or SSI) to defendant in any form, whether oral or written, or any portion or summary thereof, nor may defense counsel discuss SSI with defendant.

IT IS HEREBY FURTHER ORDERED THAT the provisions of this Court's Protective Order for Unclassified but Sensitive Material, entered February 5, 2002, applicable to Particularly Sensitive Discovery Material apply as well to material designated SSI.

IT IS HEREBY FURTHER ORDERED THAT any papers filed with the Court involving, discussing, attaching, including or referring to the contents of, any SSI material shall be filed under seal and shall not be served on defendant.

IT IS HEREBY FURTHER ORDERED THAT defense counsel must give advance notice to the government and the Court of any intention to use SSI material at trial or in any hearing or other proceeding, such notice to be given sufficiently in advance of any such contemplated use as

to permit sealed briefing and *in camera* argument without the presence of the defendant on the admissibility or use of any such information and such security measures as may be necessary, and shall not use or disclose any SSI material at trial or in any hearing or other proceeding absent further order of the Court.

/s/

Leonie M. Brinkema
United States District Judge

SO ORDERED this ¹²11 day of June, 2002.