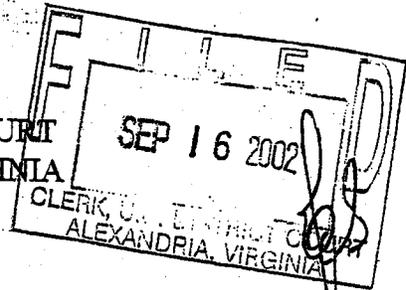


IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division



UNITED STATES OF AMERICA

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)
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UNDER SEAL

v.

Crim. No. 01-455-A

ZACARIAS MOUSSAOUI

Hon. Leonie M. Brinkema

GOVERNMENT'S RESPONSE TO STANDBY COUNSEL'S MOTION TO UNSEAL

The United States responds to standby counsel's motion to unseal [REDACTED]

[REDACTED] and to unseal correspondence related to the inadvertent disclosure of classified

information [REDACTED] For the reasons set forth herein and the

Government's Letter to the Court dated September 11, 2002, the motion should be denied.

REDACTED

REDACTED

REDACTED

REDACTED

Filings Regarding Classified Information

Seeking to publicize “embarrassment” of the Government, standby counsel also suggest that “all” of the filings “regarding the government’s delivery of classified information to Mr. Moussaoui” should be unsealed. The simple answer is that the Government sealed these filings,

not to avoid embarrassment, but to protect the existence of the information that was discussed in the erroneously produced reports. In particular, the letters set out the documents that were inadvertently turned over to the defendant and they spell out in detail why the information is sensitive and the possible danger if the information were to be realized by the defendant and forwarded. For example, in the Government's letters dated August 22 and 24 and September 5 (the first of the two September 5 letters), the Government lists the documents at issue and specifies the nature of the potential consequences if the documents are not recovered.

Thus, standby counsel's accusation that the letters were sealed to spare the Government embarrassment over its mistake is cynical and misleading. The letters plainly include information that should not be part of the public record. Indeed, it was the sensitive nature of the information discussed in the letters that led the Government to seek the Court's permission to

retrieve the documents from Moussaoui. Accordingly, standby counsel's zeal to embarrass the Government does not, by itself, justify the requested relief.⁴

Respectfully Submitted,

Paul J. McNulty
United States Attorney

By:

181
Robert A. Spencer
Kenneth M. Karas
David J. Novak
Assistant United States Attorneys

⁴ In its discussion of this issue, counsel repeat the claim that they are being unfairly denied the opportunity to publicly comment on documents and information related to this case. This is a curious claim given counsel's rather frequent public comments to the press about the weakness in the Government's case, and some of the rulings issued by the Court, something the members of the prosecution team have never done.

CERTIFICATE OF SERVICE

I certify that on September 16, 2002, a copy of the foregoing Government's Response was sent by hand delivery, via the United States Marshal's Service to:

Zacarias Moussaoui
Alexandria Detention Center
2001 Mill Road
Alexandria, Virginia 22314

I further certify that on the same day a copy of the same attached pleading was sent by facsimile and regular mail to:

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181
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