

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

FILED

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

UNDER SEAL

Criminal No. 01-455-1

2003 FEB 21 P 4 38

CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

**EMERGENCY MOTION AND NOTICE FOR
VIDEOTAPED RULE 15 DEPOSITION OF EL HADI NDIAYE¹**

Comes now standby counsel and moves the Court for an emergency order permitting the videotaped Rule 15 deposition of El Hadi Ndiaye.

This deposition must take place pursuant to Rule 15 as standby counsel have been informed that Mr. Ndiaye intends to leave the United States imminently and seek permanent employment in either Senegal or Kuwait. Mr. Ndiaye was under subpoena for the now defunct trial date of June 30, 2003. Mr. Ndiaye does not have employment in the United States and has no desire to remain here.

Mr. Ndiaye has relevant admissible information for both the guilt and penalty phases of the trial. Mr. Ndiaye was the Imam at the mosque Mr. Moussaoui attended in Norman, Oklahoma. In addition, standby counsel provide the attached proffer regarding relevance and materiality to the Court *ex parte* and under seal as Attachment A.

This deposition shall take place at the Alexandria Detention Center, 2001 Mill Road, Alexandria, Virginia 22314 on March 12, 2003 at 10:00 a.m., or at a date, place and time as the Court may direct.

¹ Pursuant to the Court's August 22, 2002 order, a copy of this motion was provided to Mr. Moussaoui for his review before the motion was filed.

The witness, El Hadi Ndiaye, resides at 1428 Jami Drive, Norman, Oklahoma,
73071.

Respectfully submitted,

STANDBY COUNSEL

181
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Emergency Motion for Rule 15 deposition of El Hadi Ndiaye was served upon AUSA Robert A. Spencer, AUSA David Novak and AUSA Kenneth Karas, U.S. Attorney's Office, 2100 Jamieson Avenue, Alexandria, Virginia 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, Captain Veronica Mitchell, c/o Alexandria Detention Center, 2001 Mill Road, Alexandria, Virginia 22314, El Hadi Ndiaye, 1429 Jami Drive, Norman, Oklahoma 73071 and, UPON APPROVAL FROM THE COURT SECURITY OFFICER, via first class mail to Zacarias Moussaoui, c/o Alexandria Detention Center, 2001 Mill Road, Alexandria, Virginia 22314 this 21st day of February 2003.

181
Anne M. Chapman