

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

UNITED STATES,)
)
 v.) Crim. No. 01-455-A
)
ZACARIAS MOUSSAOUI)

JOINT MOTION TO ABROGATE CURRENT CIPA SCHEDULE

Government and standby counsel respectfully request that the Court abrogate the CIPA hearing scheduled for July 7, 2003.

1. On February 24, 2003, the Court set a hearing for July 7, 2003, to resolve issues concerning the use, relevance, and admissibility of classified information in this case pursuant to the Classified Information Procedures Act (“CIPA”), 18 U.S.C. App. 3, and the Court ordered counsel to agree to a briefing schedule that would provide the Court with full briefing on CIPA issues by June 30, 2003. Counsel proposed such a schedule by letter dated March 25, 2003.

2. On April 14, 2003, the Fourth Circuit ordered this case remanded so that the Court could consider proposed substitutions for the classified information ordered disclosed. In issuing the remand, the Fourth Circuit set a briefing schedule and continued the oral argument on the interlocutory appeal to June 3, 2003.

3. On May 23, 2003, in accordance with the schedule agreed on by counsel, the Government filed its updated status report on declassification. On May 30, 2003, standby counsel submitted an updated CIPA § 5 filing. Standby counsel’s most recent § 5 designations include certain classified summaries of intelligence information directly related to the subject of the Government’s pending interlocutory appeal and to other pertinent classified information.

4. On June 3, 2003, the Fourth Circuit heard oral argument on the pending

interlocutory appeal in this case. There is no indication when a decision will be issued.

5. Given the current posture of this case, it would be inefficient and difficult to litigate pending CIPA issues before the Fourth Circuit decides the pending Government interlocutory appeal.

6. Finally, cleared paralegals in the Defender's Office are temporarily needed in two other capital cases, one currently on trial in this Division and another soon to begin in Charlottesville. The absence of these cleared paralegals, while only temporary, creates a current problem for the defense in preparing classified pleadings and organizing classified documents.

Accordingly, the Government and standby counsel respectfully request that the Court remove the July 7 CIPA hearing and the antecedent filing schedule from the Court's calendar. We propose setting a CIPA litigation schedule after the Fourth Circuit rules on the pending appeal.

Respectfully submitted,

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Certificate of Service

I certify that on June 6, 2003, a copy of the foregoing pleading was provided to the defendant via delivery to the U.S. Marshals Service and to the counsel listed below:

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