

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

<b>UNITED STATES OF AMERICA</b>	:	
	:	<b>Case No. 22-cr-392 (DLF)</b>
<b>v.</b>	:	
	:	
<b>ABU AGILA MOHAMMAD</b>	:	
<b>MAS'UD KHEIR AL-MARIMI</b>	:	
	:	
	:	
<b>Defendant.</b>	:	

**GOVERNMENT'S NOTICE OF FILING OF DOCUMENTS RELATED TO**  
**UNITED STATES v. MOUSSAOUI**

The United States of America, by and through its attorney, the United States Attorney for the District of Columbia, provides the following notice, with attachments, to the Court pursuant to its Minute Order dated February 16, 2024, directing the government to file copies of orders entered by the Eastern District of Virginia that relate to the implementation of the Supplemental Appropriations Act for Further Recovery From and Response to Terrorist Attacks on the United States, Pub. L. No. 107-206, 116 Stat. 832 (2002).

Attached hereto are copies of three orders entered by the Eastern District of Virginia in *United States v. Moussaoui*, No. 01-455-A: (1) Dkt. 786, filed March 11, 2003; (2) Dkt. 1389, filed November 22, 2005; and (3) Dkt. 1638, filed March 1, 2006. The docket reflects a fourth order, Dkt. 1460, which is listed as *ex parte* and under seal. From the description in the public docket, a screenshot of which is below, it appears that Dkt. 1460 dealt with factual determinations regarding whether individuals qualified as victims as that term was defined by Pub. L. No. 107-206.<sup>1</sup> As of filing, the undersigned counsel have been unable to obtain a copy of that order.

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<sup>1</sup> The government in the *Moussaoui* case was directed to file any motions regarding whether

1460	01/18/2006	Ex Parte and Under Seal ORDER granting 1439 Ex Parte and Under Seal MOTION by USA as to Zacarias Moussaoui for Determination of Eligibility to View Trial Proceedings via Closed Circuit Broadcast (CCTV); granting 1454 Ex Parte and Under Seal SUPPLEMENTAL MOTION by USA as to Zacarias Moussaoui for Determination of Eligibility to View Trial Proceedings via Closed Circuit Broadcast (CCTV); granting 1455 Ex Parte and Under Seal SECOND SUPPLEMENTAL MOTION by USA as to Zacarias Moussaoui for Determination of Eligibility to View Trial Proceedings via Closed Circuit Broadcast (CCTV). Signed by Judge Leonie M. Brinkema on 1/18/06. (karn, ) (Entered: 01/18/2006)
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The Court's Minute Order additionally directed the government to file "a detailed description of the processes and procedures that were utilized in the Moussaoui case to afford closed-circuit television access to victims." Attached hereto are copies of an Application to View Closed Circuit Broadcast of Moussaoui Trial and a letter, which were sent to potential victims. The government will also file under seal, concurrently with this notice, a copy of a separate letter sent to victims in the *Moussaoui* case who received approval to access the viewing locations. That letter provides written instructions to the victims for how to obtain a credential to attend the viewing location.

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individuals were eligible to view the proceedings *ex parte* and under seal. *See* Attachment 2, *Moussaoui* Dkt. 1389, at 2.

Undersigned counsel diligently endeavored to locate the orders, policies, and procedures that are responsive to the Court's request and have included or referred to all such documents in this response that it has been able to locate.

Respectfully submitted,

MATTHEW M. GRAVES  
UNITED STATES ATTORNEY  
D.C. Bar No. 481052

/s/ Erik M. Kenerson

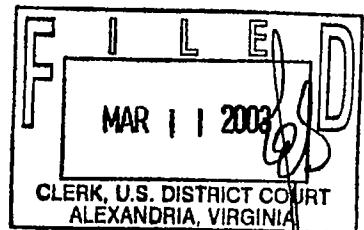
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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

UNITED STATES OF AMERICA      )  
                                     )  
                                     v.      )      Criminal No. 01-455-A  
                                     )      The Honorable Leonie M. Brinkema  
ZACARIAS MOUSSAOUI,      )  
                                     )  
                                     Defendant.      )

ORDER

Pursuant to Section 203 of Public Law 107-206, which requires this Court to order closed circuit televising of the trial proceedings in this case for viewing by September 11 victims, and upon consideration of the United States' Motion for an Order Prescribing Procedures for Determining Eligibility of Persons Requesting to View the Closed Circuit Broadcast of the Trial Proceedings, and good cause having been shown, it is hereby ORDERED that:

1. The Victim Witness Unit of the United States Attorney's Office for the Eastern District of Virginia shall mail notices to those persons whose names and addresses are in the victim database maintained for the Moussaoui case, advising them of the passing of Section 203 of Public Law 107-206 (hereinafter "the CCTV statute") and of the eligibility requirements for viewing the closed circuit broadcast of the Moussaoui trial. The mailed notice shall include the "APPLICATION TO VIEW CLOSED CIRCUIT BROADCAST OF MOUSSAOUI TRIAL," attached hereto. The mailed notice shall advise the recipient that if there is an interest in viewing the closed circuit broadcast, the application must be completed and mailed to

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the Victim Witness Unit and postmarked by June 20, 2003. The mailed notice shall also include an envelope, with prepaid postage, addressed to the Victim Witness Unit, United States Attorney's Office, 2100 Jamieson Avenue, Alexandria, Virginia, 22314.

2. Upon receiving a completed application, the Victim Witness Unit shall review the application to determine whether the application on its face meets the criteria for eligibility. If the Victim Witness Unit believes the applicant is ineligible to view the trial, it shall transmit the application to the Court for a judicial determination of eligibility. All transmittals of applications to the Court shall be made by the Victim Witness Unit as an under seal ex parte submission.

3. If the Victim Witness Unit determines that the applicant meets the statutory definition of victim based on the assertions contained in the application, it shall make reasonable efforts to verify the information provided in the application. Generally, if the applicant is in the victim database and the contents of the application satisfy the victim definition in the CCTV statute, the Victim Witness Unit shall deem the applicant eligible to view the closed circuit broadcast. The only exception to this general rule is an applicant who claims a relationship to a deceased or physically injured victim of a significance similar to that of a spouse, legal guardian, parent, child, or sibling. The Victim Witness Unit shall transmit to the Court for its consideration any application asserting a relationship of "similar significance." However, before submitting the application to the Court in an under

seal ex parte filing, the Victim Witness Unit shall make reasonable efforts to verify the applicant's relationship to the physically injured or deceased victim.

4. If the Victim Witness Unit determines that the applicant has asserted sufficient facts to meet the definition of victim under the CCTV statute, but the applicant is not in the victim database, the Victim Witness Unit shall make reasonable efforts to verify the information contained in the application. If the Victim Witness Unit verifies information provided by an applicant who meets the statutory definition of victim (other than having a relationship of "similar significance" to a deceased or injured victim), the Victim Witness Unit shall determine that the applicant is eligible to view the closed circuit broadcast.

5. For any applicant who is not in the victim database and whose information the Victim Witness Unit is unable to verify, the Victim Witness Unit shall forward the application to the Court for a judicial determination of eligibility. Such submission shall be made under seal and ex parte.

6. Upon determining that an applicant is eligible to view the closed circuit broadcast pursuant to the procedures described above, the Victim Witness Unit shall notify the applicant in writing that the applicant has been approved to view the closed circuit broadcast of the Moussaoui trial.

7. The Victim Witness Unit shall also notify an applicant whose application was submitted to the Court as to whether the Court approved the application or rejected it.

8. The names and addresses of individuals who submit applications to view the closed circuit broadcast shall not be made public nor disclosed to the defendant or his counsel.

/S/

Leonie M. Brinkema  
United States District Judge

Date: 3/11/03  
Alexandria, Virginia

**APPLICATION TO VIEW CLOSED CIRCUIT BROADCAST OF MOUSSAOUI TRIAL**

1. Name of applicant: \_\_\_\_\_ (Please Print)  
 Address: \_\_\_\_\_  
 \_\_\_\_\_

Telephone: (Work) ( ) (Home) ( ) (Cell) ( )

2. To assist the Court in determining your eligibility, please check the appropriate box if you:

are the spouse, legal guardian, parent, child, brother, or sister of, or have a relationship of similar significance to, an individual who died from direct physical harm sustained at the scene of the September 11, 2001 terrorist acts when they occurred or immediately thereafter.

**Go to Part A.**

were present at the scene of the September 11, 2001 terrorist acts when they occurred, or immediately thereafter, and suffered direct physical harm as a result of the terrorist acts.

**Go to Part B.**

are the spouse, legal guardian, parent, child, brother, or sister of, or have a relationship of similar significance to, an individual who

(1) suffered direct physical harm at the scene of the September 11, 2001 terrorist acts when they occurred or immediately thereafter, and

(2) is under 18 years of age, incompetent, incapacitated, has a serious injury, or disability that requires assistance of another for mobility.

**Go to Part C.**

**Part A (Related to Deceased Victim)**

Please provide the full name of the person who was killed. \_\_\_\_\_

Your relationship to the deceased victim:

<input type="checkbox"/> spouse	<input type="checkbox"/> child
<input type="checkbox"/> legal guardian	<input type="checkbox"/> brother
<input type="checkbox"/> parent	<input type="checkbox"/> sister
<input type="checkbox"/> other of similar significance	

If you marked other, please describe your relationship to the deceased victim and explain why it is a relationship of similar significance to another relationship listed above.

\_\_\_\_\_

\_\_\_\_\_

**Part B (Physically Injured Victim)**

Where were you when you sustained your physical injury? \_\_\_\_\_

Where were you employed when you sustained your physical injury? \_\_\_\_\_

Briefly describe your physical injury. \_\_\_\_\_

\_\_\_\_\_

**Part C (Related to Physically Injured Victim)**

Please provide the full name of the person who was physically injured. \_\_\_\_\_

Check which box(es) applies to the physically injured person:

<input type="checkbox"/> is under 18 years of age	<input type="checkbox"/> is incompetent
<input type="checkbox"/> is incapacitated	<input type="checkbox"/> has a serious injury
<input type="checkbox"/> has a disability that requires assistance of another for mobility	

Where was the injured person when he/she sustained physical injury? \_\_\_\_\_

Where was the injured person employed when he/she sustained physical injury? \_\_\_\_\_

Briefly describe the physical injury. \_\_\_\_\_

Your relationship to the physically injured victim:

<input type="checkbox"/> spouse	<input type="checkbox"/> child
<input type="checkbox"/> legal guardian	<input type="checkbox"/> brother
<input type="checkbox"/> parent	<input type="checkbox"/> sister
<input type="checkbox"/> other of similar significance	

If you marked other, please describe your relationship to the physically injured victim and explain why it is a relationship of similar significance to another relationship listed above.

\_\_\_\_\_

\_\_\_\_\_

**3. CCTV Sites You Plan On Attending**

CCTV Sites	How often you would like to attend (rarely, occasionally, frequently, daily)

**4. Special accommodations**

Do you need any special accommodations (e.g., wheelchair access, closed captioning, sign language interpretation, etc.)?

If so, please specify. \_\_\_\_\_

**5. Verification**

I verify that the above-information is true to the best of my knowledge and belief.

_____	_____
Signature	Date

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

UNITED STATES OF AMERICA )  
 )  
 v. ) 1:01cr455 (LMB)  
 )  
 ZACARIAS MOUSSAOUI )  
 a/k/a "Shaqil," )  
 a/k/a "Abu Khalid )  
 al Sahrawi," )  
 )  
 Defendant. )

ORDER

Pursuant to Section 203 of Public Law 107-206, which requires this Court to order closed circuit televising of the trial proceedings in this case for viewing by September 11 victims, and upon consideration of the location of victims who have responded to the Order of March 11, 2003, (Docket #786), the Court has determined that sites at the federal courthouses in Manhattan and Long Island, New York; Newark, New Jersey; Philadelphia, Pennsylvania; and Boston, Massachusetts, along with additional courtroom space in Alexandria, Virginia, will reasonably accommodate the majority of victims who have expressed interest in viewing these proceedings.

Given the amount of time that has passed since victims registered with the Victim Witness Unit of the United States Attorney's Office for the Eastern District of Virginia ("Victim Witness Unit"), it is hereby

ORDERED that the Victim Witness Unit confirm with all victims who have previously applied to view the proceedings that they remain interested in viewing the proceedings and that their contact information remains current, and it is further

ORDERED that after confirming the continued interest of any

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applicant, the Victim Witness Unit transmit to the Court ex parte and under seal any applications for which the Court needs to determine eligibility, as described in paragraphs 2,3, and 5 of the Order of March 11, 2003.

Given the need to arrange for credentials for each applicant who is approved, all submissions for an eligibility determination must reach the Court no later than January 17, 2006.

The Court defers to the Victim Witness Unit whether to re-open the entire application process; however, if it chooses to accept additional applications, it must perform the same eligibility screening described in the Order of March 11, 2003, and comply with the January 17, 2006, deadline.

In all other respects the Order of March 11, 2003, remains in full force and effect.

To avoid any miscommunication of information to the victims, it is hereby

ORDERED that the Victim Witness Unit forward to the Court a copy of any general instructions or information it provides to the victims as a group. Unless specifically approved by the Court, no information disseminated by the Victim Witness Unit about trial schedules or procedures in any respect binds the Court.

The Clerk is directed to forward copies of this Order to counsel of record.

Entered this 22nd day of November, 2005.

/s/  
Leonie M. Brinkema  
United States District Judge

Alexandria, Virginia

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

UNITED STATES OF AMERICA )  
 )  
 v. ) 1:01cr455 (LMB)  
 )  
 ZACARIAS MOUSSAOUI )  
 a/k/a "Shaqil," )  
 a/k/a "Abu Khalid )  
 al Sahrawi," )  
 )  
 Defendant. )

TRIAL CONDUCT ORDER # 2 (CCTV Locations)

To minimize any confusion about the CCTV proceedings, and maximize the security of attendees and the integrity of the proceedings, it is hereby

ORDERED that all CCTV sites will be deemed extensions of courtroom 700, in the Albert V. Bryan United States Courthouse in Alexandria, Virginia. The proceedings in courtroom 700 will dictate the schedule of all CCTV sites,<sup>1</sup> and the rules of conduct that apply to courtroom 700 will apply to all CCTV courtrooms. In particular, no talking, eating, drinking, chewing gum, or other distracting behavior will be permitted,<sup>2</sup> and it is further

ORDERED that under no circumstances may anyone in the CCTV courtrooms, including any attendees, technical specialists, or

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<sup>1</sup> If CCTV sites are closed due to weather or other conditions, the trial proceedings in courtroom 700 will nevertheless be held. Similarly, the trial will not be delayed if technical problems interfere with the signals to CCTV sites.

<sup>2</sup> The presiding judicial official may adjust these rules concerning eating and drinking to accommodate any medical needs of attendees.

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medical personnel bring into the courtroom any weapons or electronic devices of any kind, including but not limited to, cellular telephones, Palm Pilots, Blackberry or other e-mail devices, pagers, cameras, tape recorders, and laptop computers, nor may anyone record or transmit, or attempt to record or transmit, the CCTV proceedings in any manner.<sup>3</sup> Violation of this Order will result in the prohibited item being seized and not returned until the end of the day. A repeat violation will result in revocation of the attendee's credentials.

Only those persons who have been found eligible to attend the CCTV proceedings under the provisions of Section 203 of Public Law 107-206 and who present authorized credentials may enter the CCTV courtrooms. If an authorized attendee loses his or her credentials, replacement must be obtained before that person may be admitted into the CCTV courtroom.<sup>4</sup> The only exceptions to this requirement for credentials are for a

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<sup>3</sup> Excepted from this Order are any weapons or communication devices needed by the United States Marshals Service personnel to maintain order and security or communication devices needed by technical experts. However, any use of communication devices by security personnel or technical experts must be limited solely to sending or receiving information needed to perform their authorized duties and may not be used to record or broadcast the CCTV proceedings. Moreover, to the extent any of the CCTV courtrooms are equipped with video or audio surveillance systems, those systems must be disabled before the CCTV proceedings begin.

<sup>4</sup> Replacement credentials can be obtained using the procedures established by the Victim/Witness Unit of the United States Attorney's Office for the Eastern District of Virginia. Credentials are not transferable. Anyone who attempts to copy, alter, or otherwise misuse a credential is subject to sanctions.

technical specialist, who upon a request from the presiding judicial official, needs to enter the courtroom to address any technical problems with the equipment or the transmission, or for any emergency medical personnel summoned by either the presiding judicial official or court security personnel to assist an attendee who is unable to leave the courtroom, and it is further

ORDERED that at least two deputy United States Marshals or court security officers be stationed in each CCTV courtroom while those courtrooms are open, and it is further

ORDERED that all persons attending the proceedings must pass through security each time they enter the courtroom.

To minimize congestion at the courtroom doors, and ensure the comfort of attendees, it is hereby

ORDERED that members of the media must comply with the local court's rules concerning interviewing witnesses in or around the courthouse. However, to avoid interfering with ingress or egress from the CCTV courtrooms, no member of the media or general public may interview, or attempt to interview, attendees in the immediate area surrounding the CCTV courtrooms. Moreover, the media must respect the request of any attendee to not be interviewed. Any attendee may obtain assistance from the security personnel if his or her wishes to be left alone are not respected.

Although final jury selection is scheduled to begin at 10:00 a.m. on Monday, March 6, 2006, the CCTV transmission will not begin until opening statements, which are scheduled to start at

2:00 p.m. Seating in the CCTV courtrooms should begin at least one hour before opening statements begin. Opening statements are expected to last until approximately 3:30 p.m. After the afternoon break, the government will call its first witness. Exhibits shown to the jury during opening statements, as well as during the trial, will not usually be seen in the CCTV courtrooms.<sup>5</sup>

The trial is scheduled to be held on Mondays through Thursdays from 9:30 a.m. to 5:30 p.m., with a mid-morning break of twenty minutes at approximately 11:00 a.m., a mid-afternoon break of twenty minutes at approximately 3:30 p.m. and a one hour lunch recess from 12:30 to 1:30 p.m. Every effort will be made to keep to this schedule. As much as possible, advance notice of changes to the schedule will be announced in open court, posted on the court's website,

(www.vaed.uscourts.gov/notablecases/moussaoui/index.html) and will also be available by calling the toll-free information line (866-556-8421), which is dedicated exclusively to information about this case.

Seating in the CCTV courtrooms will begin at least one hour before the beginning of each day's trial proceedings. The CCTV sites will remain open while the jury deliberates. Jury

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<sup>5</sup> The camera in courtroom 700 is in a fixed position, that provides a clear view of the lectern from which attorneys speak, counsel, the defendant, the witness, and the court. The jury is not visible. The technology in place does not provide for close-ups.

deliberation will be held Monday through Friday, with the time period subject to change depending on the jury's wishes. Because questions by the jury must be answered immediately, no advance notice will be provided for court proceedings addressing those questions. However, to ensure that those following the trial have a reasonable opportunity to view the verdict being returned in open court, the Court will provide notice on its website and toll-free information line that a verdict has been reached approximately one hour before the verdict is returned in open court.

The Clerk is directed to forward copies of this Order to counsel of record and the United States Marshals Service.

Entered this 1<sup>st</sup> day of March, 2006.

/s/

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Leonie M. Brinkema  
United States District Judge

Alexandria, Virginia

**APPLICATION TO VIEW CLOSED CIRCUIT BROADCAST OF MOUSSAOUI TRIAL**

1. **Name of applicant:** \_\_\_\_\_ (Please Print)  
**Address:** \_\_\_\_\_  
\_\_\_\_\_

**Telephone:** (Work) ( ) (Home) ( ) (Cell) ( )

2. **To assist the Court in determining your eligibility, please check the appropriate box if you:**

are the spouse, legal guardian, parent, child, brother, or sister of, or have a relationship of similar significance to, an individual who died from direct physical harm sustained at the scene of the September 11, 2001 terrorist acts when they occurred or immediately thereafter.  
**Go to Part A.**

were present at the scene of the September 11, 2001 terrorist acts when they occurred, or immediately thereafter, and suffered direct physical harm as a result of the terrorist acts.

**Go to Part B.**

are the spouse, legal guardian, parent, child, brother, or sister of, or have a relationship of similar significance to, an individual who

(1) suffered direct physical harm at the scene of the September 11, 2001 terrorist acts when they occurred or immediately thereafter, and

(2) is under 18 years of age, incompetent, incapacitated, has a serious injury, or disability that requires assistance of another for mobility.

**Go to Part C.**

**Part A (Related to Deceased Victim)**

Please provide the full name of the person who was killed. \_\_\_\_\_

Your relationship to the deceased victim:

<input type="checkbox"/> spouse	<input type="checkbox"/> child
<input type="checkbox"/> legal guardian	<input type="checkbox"/> brother
<input type="checkbox"/> parent	<input type="checkbox"/> sister

other of similar significance

If you marked other, please describe your relationship to the deceased victim and explain why it is a relationship of similar significance to another relationship listed above.

\_\_\_\_\_

\_\_\_\_\_

**Part B (Physically Injured Victim)**

Where were you when you sustained your physical injury? \_\_\_\_\_

Where were you employed when you sustained your physical injury? \_\_\_\_\_

Briefly describe your physical injury. \_\_\_\_\_

\_\_\_\_\_

**Part C (Related to Physically Injured Victim)**

Please provide the full name of the person who was physically injured. \_\_\_\_\_

Check which box(es) applies to the physically injured person:

<input type="checkbox"/> is under 18 years of age	<input type="checkbox"/> is incompetent
<input type="checkbox"/> is incapacitated	<input type="checkbox"/> has a serious injury
<input type="checkbox"/> has a disability that requires assistance of another for mobility	

Where was the injured person when he/she sustained physical injury? \_\_\_\_\_

Where was the injured person employed when he/she sustained physical injury? \_\_\_\_\_

Briefly describe the physical injury. \_\_\_\_\_

Your relationship to the physically injured victim:

<input type="checkbox"/> spouse	<input type="checkbox"/> child
<input type="checkbox"/> legal guardian	<input type="checkbox"/> brother
<input type="checkbox"/> parent	<input type="checkbox"/> sister
<input type="checkbox"/> other of similar significance	

If you marked other, please describe your relationship to the physically injured victim and explain why it is a relationship of similar significance to another relationship listed above.

\_\_\_\_\_

\_\_\_\_\_

**3. CCTV Sites You Plan On Attending**

CCTV Sites	How often you would like to attend (rarely, occasionally, frequently, daily)

**4. Special accommodations**

Do you need any special accommodations (e.g., wheelchair access, closed captioning, sign language interpretation, etc.)?

If so, please specify. \_\_\_\_\_

**5. Verification**

I verify that the above-information is true to the best of my knowledge and belief.

Signature		Date	
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**U.S. Department of Justice**  
**United States Attorney**  
**Eastern District of Virginia**

PAUL J. McNULTY  
UNITED STATES ATTORNEY

2100 Jamieson Avenue  
Alexandria, Virginia 22314

703/299-3700  
FAX: 703/299-3980

December 7, 2005

Re: *United States v. Zacarias Moussaoui*  
Criminal No. 01-00455-A

We write to inform you that on November 14, 2005, Judge Brinkema, with the agreement of counsel for both the defendant and the Government, continued the beginning of the penalty phase of *United States v. Zacarias Moussaoui* by one month. Jury selection will now begin on February 6, 2006, and should conclude on March 6, 2006. Opening statements and the introduction of evidence will follow immediately thereafter. We enclose a copy of Judge Brinkema's November 14, 2005, Order.

There will be no trial on guilt or innocence because the defendant already entered a plea of guilty to all of the charges on April 22, 2005. Because the defendant pled guilty without a plea agreement with the Government, the penalty phase will determine whether the defendant should receive life imprisonment or the death penalty as his sentence.

The penalty phase will be conducted under the Federal Death Penalty Act (FDPA). Under the FDPA, the jury will first determine whether the defendant is eligible for a sentence of death and, if so, then whether he should receive a death sentence. To be eligible for a death sentence under the FDPA, the Government must prove three requirements: (1) that the defendant was at least 18 years of age at the time of the September 11th attacks (he was 33-years-old and this is not disputed); (2) a threshold finding about the defendant's intent and actions regarding the September 11th attacks; and (3) at least one statutory aggravating factor.

On November 14, 2005, Judge Brinkema entered an Order (which is also enclosed) dividing the penalty phase into two parts. During the first part, the jury will determine whether the Government has established the threshold finding about the defendant's intent and actions regarding the September 11th attacks. Specifically, during the first part of the penalty phase, the Government will need to prove that Moussaoui intentionally participated in an act, contemplating that the life of a person would be taken or intending that lethal force would be used in connection with a person, other than one of the participants in the offense, and that victims on September 11th died as a direct result of the act. We have informed Judge Brinkema and the defendant that we will rely on the defendant's lies at the time of his arrest on August 16, 2001, as the requisite "act" that caused the deaths on September 11. The first part of the penalty phase, therefore, will essentially focus on whether the Government could have stopped the September 11th attacks had Moussaoui told the truth, instead of lying, at the time of his arrest. If, and only if, the jury unanimously finds that the Government has proven this threshold factor beyond a reasonable doubt, the penalty phase will move to the second part.

During the second part of the penalty phase, the Government will need to prove at least one statutory aggravating factor. An aggravating factor is a reason that a defendant should be sentenced to death. A statutory aggravating factor is such a reason that is listed in the FDPA. In this case, the Government has identified three statutory aggravating factors as a basis for the imposition of a sentence of death upon Moussaoui:

1. In committing the offenses described in Counts One, Two, Three, and Four, defendant ZACARIAS MOUSSAOUI knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.
2. The defendant, ZACARIAS MOUSSAOUI, committed the offenses described in Counts One, Two, Three, and Four in an especially heinous, cruel, and depraved manner in that they involved torture and serious physical abuse to the victims.
3. The defendant, ZACARIAS MOUSSAOUI, committed the offenses described in Counts One, Two, Three, and Four after substantial planning and premeditation to cause the death of a person and commit an act of terrorism.

The jury need only find one of the above three statutory aggravating factors to render Moussaoui eligible for a death sentence; however, as with the threshold factor, the jury must be unanimous in their findings regarding the statutory aggravating factors.

During the second part of the penalty phase, the Government may also prove non-statutory aggravating factors -- reasons why the defendant should be executed that are not set forth in the FDPA. The most prominent non-statutory aggravating factor in this case is "victim impact" evidence -- how the September 11th attacks effected the lives of those who were injured and the lives of those who lost their loved ones on that day. As we have told you in the past, we have selected approximately 40 victim stories to serve as an example of all of those murdered or injured on September 11, 2001. Be assured that, even if your loved one's story will not be specifically told during the penalty phase, all of the victims will be identified and remembered during the penalty phase in some form.

Additionally, during the second part of the penalty phase, the defendant will be given an opportunity to present evidence in "mitigation" -- reasons why he should not be executed. After the conclusion of the second part of the penalty phase, the jury will then determine whether the defendant should be sentenced to death or to life imprisonment.

Judge Brinkema continued the case for one month due to logistical issues regarding this exceptionally complex case, including logistical issues for the implementation of closed circuit televising (CCTV) of the trial for viewing by September 11th victims. You will recall from our previous correspondence that Judge Brinkema initially designated CCTV sites in federal courthouses in the District of Columbia, Manhattan, Long Island and Newark, New Jersey, as the only locations where victims may view the trial. At our request and as a result of numerous requests by victims' families and others on their behalf, Judge Brinkema reconsidered the CCTV sites and by Order dated November 22, 2005, three additional sites have been added, one deleted. The revised designated CCTV sites now include federal courthouses in Boston and Philadelphia in addition to Alexandria, Manhattan, Long Island, and Newark. Because of a CCTV specific courtroom in Alexandria, Virginia, there will not be a separate site in the District of Columbia. A copy of the November 22 Order is also enclosed.

Only those statutorily eligible to view the CCTV broadcast will be allowed at the viewing sites. Many of you have already submitted an application to view the CCTV. Judge Brinkema has ordered us to determine whether those who have already applied to view the CCTV broadcast still intend to view the trial via the CCTV broadcast. Therefore, in the very near future, we will contact those of you who have already submitted applications to determine whether you still intend to view the trial via the CCTV broadcast. If you indicate that you still intend to do so, you will receive additional instructions as to the process to view the CCTV broadcast.

Many of you who have not applied to view the CCTV broadcast have told us that you would apply to view the CCTV broadcast if additional sites were added. For this reason, Judge Brinkema has given us the option to re-open the application process to view the CCTV broadcast as long as the process is concluded in a timely basis. Therefore, for those of you who have not previously applied to view the CCTV broadcast but would now like to do so, we have enclosed an application. If you would now like to view the CCTV broadcast at any of the sites but did not previously apply, you must complete the application and mail it back in the enclosed envelope to the following address **before January 4, 2006**:

Victim/Witness Unit  
United States Attorney's Office  
Eastern District of Virginia  
2100 Jamieson Avenue  
Alexandria, Virginia 22314

**The application must be received by our office before January 4, 2006.** Once we receive the application, we will verify your eligibility to view the CCTV transmission.

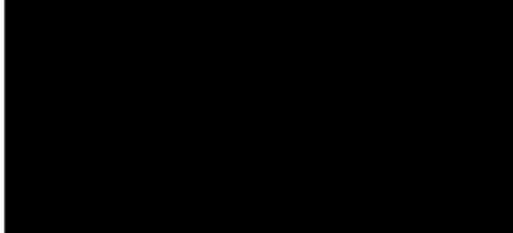
By statute, the CCTV courtrooms cannot be opened to the general public and the CCTV statute specifies who may view the transmission. Therefore, **failure to submit an application by January 4, 2006, will preclude you from entering a CCTV courtroom. If you elect to submit a CCTV application, it is imperative that we receive your application by January 4, 2006.** Submitting an application does not commit you to attending any part of the CCTV transmission. **If you have already submitted an application, you do not need to submit another CCTV application.**

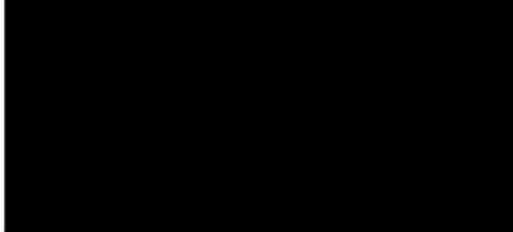
Once the additional applications are received and verified as proper for admission, applicants (including those applications received in 2003) will be notified of approval or non-approval and the procedure to obtain the proper credentials to enter a CCTV site and other pertinent logistical information (e.g., specific address, days and hours court will be in session, etc.). We would like to emphasize that the CCTV sites are considered by Judge Brinkema as extensions of her courtroom and she will control all aspects of the events at each of the CCTV sites. Accordingly, the Court Security Officers and United States Marshals Service will receive definitive guidance from Judge Brinkema about everything associated with admission to the courtroom and the decorum while in the courtroom. We will provide you with this information once we have been advised of these "housekeeping" matters. Having six CCTV sites is unprecedented in the history of our country. We are confident, however, that the process will be efficient, professional, and respectful of our country's system of justice.

Thank you for your continued patience and support as we continue in our quest for justice in this very important prosecution.

Sincerely,

Paul J. McNulty  
United States Attorney

By: 

By: 

By: 

Enclosures