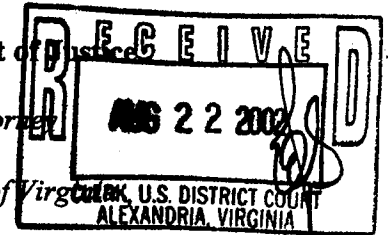




U.S. Department of Justice

United States Attorney

Eastern District of Virginia



2100 Jamieson Avenue  
Alexandria, Virginia 22314

August 22, 2002

Under Seal

Hon. Leonie M. Brinkema  
United States District Judge  
401 Courthouse Square  
Alexandria, VA 22314

Re: U.S. v. Zacarias Moussaoui; Crim. No. 01-455-A

Dear Judge Brinkema:

We write to address the issue whether defendant Moussaoui's pleadings should generally be publicly disseminated. The United States believes that the defendant is writing pleadings for the purpose of either (1) sending messages to conspirators or sympathizers, or (2) making public political statements. Therefore, and as more fully set forth below, we now submit that the continuous stream of pleadings not be presumptively publicly disseminated.

First, on July 18, 2002, the Court warned the defendant that the deadline for filing motions in this case had passed and that writing further motions, except those with a Constitutional basis, could result in him having his right to represent himself revoked. The defendant appeared to respect this warning for some time, before he thereafter began again to file several handwritten motions a day.

Second, the Special Administrative Measures under which the defendant is held properly limit his ability to communicate with the outside world. The rationale behind the SAM is to limit the ability of a defendant in a terrorist case to communicate with conspirators or sympathizers to provide information useful to them or to incite or encourage activity harmful to the United States. For the same reasons, the SAM also prohibit a defendant's communication to the press. Here, however, because the defendant is representing himself, he now enjoys nearly unfettered ability to communicate with the world. Thus, the purpose of the SAM is gutted.

Indeed, Moussaoui's pleadings may include coded messages to his confederates. That federal law enforcement cannot break the code and cannot determine definitively that the pleadings include coded messages should not mean that Moussaoui is permitted to publish his pleadings. In other words, the burden should not be on the Government to prove that a pleading contains a coded message before the pleading is sealed. This is particularly so where the

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statements in a pleading bear no relation to an issue properly raised by the pleading.

Most of the prose contained in the defendant's recent pleadings has nothing whatever to do with what he seeks in each particular pleading.

## REDACTED

The defendant would suffer no prejudice if these pleadings were maintained as sealed pleadings and not disseminated to the public. And, any motion filed by the defendant that had a legitimate purpose could be publicly disseminated. Of course, the Government has no issue with pleadings filed by Mr. Moussaoui acting in his role as a pro se defendant. The defendant, however, has no right to abuse his status to file so-called pleadings that may be harmful to the public. *See United States v. Abdel Rahman*, 189 F.3d 88, 117 (2d Cir. 1999) ("Notwithstanding that political speech and religious exercise are among the activities most jealously guarded by the First Amendment, one is not immunized from prosecution for such speech-based offenses merely because one commits them through the medium of political speech or religious preaching.").

Further, many of the defendant's recent pleadings relate to discovery. Demands for discovery can be addressed by letter which, we believe, would not be in the public file.

Accordingly, we respectfully request that the Court warn the defendant, on penalty of having his right to represent himself revoked, to cease filing motions, or at least to confine his pleadings to prose relevant to the issue addressed in the pleading. In addition, we respectfully

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request that the defendant's pleading be presumptively sealed until the Court or the Government agree that they be released to the public.<sup>1</sup>

Respectfully submitted,

Paul J. McNulty  
United States Attorney

By: \_\_\_\_\_ /S/  
Robert A. Spencer  
Kenneth M. Karas  
David J. Novak  
Assistant U.S. Attorneys

cc: Frank W. Dunham, Jr.  
Alan H. Yamamoto  
Edward B. MacMahon, Jr.  
Zacarias Moussaoui

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<sup>1</sup> The Government has already requested that specific portions of docket number 406 be redacted. Otherwise, that pleading may be released. We request that docket numbers 412, 422, 423, 424, 425, 434, 435, 440, 441, and 446 remain sealed in accordance with this letter. Docket number 446 ("The Silence of the Lambs") is a clear example of a pleading that has no purpose other than a call to arms from the defendant to his fanatic sympathizers. Irrespective of whether the Court grants the general request in this letter, we request that docket number 446 not be unsealed.