

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

UNITED STATES OF AMERICA)
)
 v.) Criminal No. 01-455-A
)
 ZACARIAS MOUSSAOUI)
 a/k/a "Shaqil,")
 a/k/a "Abu Khalid)
 al Sahrawi,")
)
 Defendant.)

ORDER

On September 12, 2002, the defendant, pro se, filed a motion (Docket #498) seeking a six-month continuance of the trial date because of both the overwhelming quantity of discovery materials in this case and the disruption to his trial preparation caused by the search of his cell area for inadvertently disclosed classified materials. Citing the same reasons, standby defense counsel support the defendant's request for an extensive continuance (Docket #540).

The United States joins in the defendant's request for a six-month continuance, and suggests that the process for selecting a jury be continued to May 27, 2003, with the first day of trial rescheduled to June 24, 2003. The United States also requests that all other deadlines, including the time within which it must respond to certain pending discovery motions, be continued.

Although this is the second continuance sought in this case, the Court finds that all parties have demonstrated compelling

reasons justifying an extensive continuance of pretrial and trial proceedings, which outweigh the interests of the public and the defendant in a speedy trial. In particular, the pleadings establish that a failure to grant a continuance could result in a miscarriage of justice, and would not allow the parties a sufficient opportunity to adequately prepare for trial. See 18 U.S.C. § 3161(h)(8)(A) and (B)(i)-(ii). For these reasons, the defendant's motion for a continuance (Docket #498) is GRANTED; and it is hereby

ORDERED that, except for the hearing scheduled for Wednesday, October 2, 2002 to address issues involving the Classified Information Procedures Act, 18 U.S.C. App. 3, all scheduled motions deadlines, pretrial hearing dates and the trial date be and are VACATED; and it is further

ORDERED that the trial of this case be and is continued to Monday, June 30, 2003, with the jury selection process to begin on Tuesday, May 27, 2003; and it is further

ORDERED that the parties advise the Court of the status of pending discovery issues and propose a revised schedule for the resolution of any remaining pretrial matters by Monday, December 2, 2002.

In their Response in support of the defendant's motion for a continuance (Docket #540), standby counsel also request that the Court reconsider its previous denial of the defendant's pro se

motion to be moved to a larger cell. See motion docketed as #434 and Order of August 22, 2002 docketed as #447. In light of the lengthy delay of the trial date, we find the defendant's continued pretrial confinement to a small, windowless cell to be both inhumane and an unreasonable barrier to his ability to work with the materials produced to him. Accordingly, the defendant's Motion to Get a Bigger Cave (Docket #434) is GRANTED; and it is hereby

ORDERED that, as soon as practicable, the United States Marshal arrange for the defendant and his discovery materials to be moved to larger cells; and it is further

ORDERED that consistent with our Order of September 26, 2002, which unsealed all pleadings concerning the United States' inadvertent production of classified materials to the defendant, standby counsel's Response (Docket #540) be and is unsealed.

The Clerk is directed to forward copies of this Order to the defendant, pro se; counsel for the United States; standby defense counsel; the Court Security Officer; and the United States Marshal.

Entered this 30th day of September, 2002.

/s/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia