

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

For the reasons stated on the record during a sealed hearing, the Government's Motion for Protective Order Regarding Cockpit Voice Recorders Pursuant to 49 U.S.C. § 1154 (Docket #399) and related motions (Docket #'s 553 and 588) are GRANTED to the extent that the government may introduce into evidence the transcripts and Cockpit Voice Recorder ("CVR") for Flight 93, and play the CVR for the jury.

In these motions the government also requested, pursuant to 49 U.S.C. § 1154(a)(4), that the Court seal the transcripts and CVR after their admission into evidence and prohibit any public dissemination of these materials. However, in oral argument the government admits that the policy reasons for sealing such materials, that is, "to protect the National Traffic Safety Board ("NTSB") against premature public speculation regarding the cause of any airline crash so it may conduct a full and fair

investigation'"¹ is not implicated in this sentencing proceeding.

The Court also recognizes that the recent decision of the Fourth Circuit, In Re: Associated Press, No. 06-1301 (4th Cir. Mar. 22, 2006), supports public access to the evidence in this proceeding. However, the Court is also mindful that family members of the flight crew or passengers on Flight 93 may object to the voices of their loved ones being publicly revealed in this manner. Accordingly, it is hereby

ORDERED that unless the Court receives a written objection from a family member of one of the Flight 93 victims by 5:00 p.m. Tuesday, April 11, 2006, the evidence will be made publicly available by 10:00 a.m. of the business day following the admission of these materials into evidence.

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

Entered this 5th day of April, 2006.

/s/

Leonie M. Brinkema
United States District Judge

Alexandria, Virginia

¹ McCoy v. Southwest Airlines Co., 208 F.R.D. 617, 2002 WL 1400955 (C.D. Ca June 19, 2004) (quoting Senate Report No. 101-450, 1990 U.S.C.C.A.N. 6376, 6381).