

After new details on FBI cover-up before 9/11

Zaccarias Moussaoui case goes to the jury

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A death-penalty jury began deliberations Wednesday in the case of Zaccarias Moussaoui, only two days after Moussaoui took the witness stand, over the objections of his own lawyers, and boasted that he had been assigned by Osama bin Laden to pilot a fifth jet during the terrorist attacks of September 11, 2001.

Contradicting all his previous statements about his role in Al Qaeda, Moussaoui repeatedly agreed with suggestions by a federal prosecutor that he had been a major figure in the 9/11 conspiracy, and that after his arrest in early August 2001, he had lied to federal agents with the conscious intention of ensuring that the suicide-hijacking plan went forward successfully.

The death penalty trial was ordered by Federal District Judge Leonie Brinkema after she accepted Moussaoui's guilty plea last year, despite pleas by his attorneys that the prisoner was mentally incompetent. The judge and the prosecutors had accepted each new self-condemning statement by Moussaoui without any effort to square the multiple contradictions between them, and without acknowledging that they are in effect enabling him to commit suicide using the processes of the federal courts.

Moussaoui's statement on Monday, March 27, was particularly outlandish. He claimed to have been selected as the pilot of a fifth plane to be hijacked as part of 9/11, despite the fact that, unlike the pilots of the other four jets, he had not been able to complete the necessary training. He also said that one of the four-man team assigned to help him carry out the hijacking was Richard Reid, the British citizen of Jamaican birth who was arrested in December 2001 while attempting to detonate a shoe-bomb aboard a transatlantic flight. Reid's involvement in 9/11 is highly unlikely, since he was never in the United States at any time during the preparation of the hijackings.

His defense attorneys sought to rebut Moussaoui's confession by reading long extracts of statements from Khaled Sheikh Mohammed and other top Al Qaeda operatives now being held in US custody at undisclosed CIA prisons. All of these statements, obtained in response to questions submitted by the defense, agreed that Moussaoui was viewed as unstable and unsuitable for a leading role in a complex terrorist operation.

According to Mohammed's statement, Moussaoui was scheduled to be used in a second wave of hijackings some time after 9/11, which would use Islamic fundamentalists who were either non-Arabs or citizens of European and North American countries. Moussaoui is a French citizen of Moroccan extraction.

The trial's closing arguments featured claims both that

Moussaoui's testimony was deranged and unbelievable—and that he should be accepted as a credible witness—with defense attorneys arguing the former position and the prosecution the latter.

In an effort to make the defendant's self-indictment on the stand less bizarre, the prosecution called as a rebuttal witness an FBI agent, James M. Fitzgerald, who testified that Moussaoui had offered to become a government witness, against himself, at a private meeting in early February, in exchange for better conditions in prison before he was put to death. Moussaoui abandoned the negotiations when he learned that he had an absolute right to testify—and incriminate himself—and did not need the prosecution's consent.

The prosecution case is especially cynical because the claimed legal basis for the death penalty is that Moussaoui lied to the FBI in August 2001 and thus contributed to the death toll in the terrorist attacks one month later.

In their opening arguments to the death-penalty jury, the prosecutors cited Moussaoui's confession of April 2005, and declared that if he had made such a declaration to FBI agents when he was arrested in August 2001, the US government could have prevented the 9/11 hijackings. But in their closing arguments, the prosecution cited Moussaoui's March 27 statements, which are completely at odds with the 2005 confession.

Last year, for instance, he denied knowing much of the 9/11 plot. On Monday, however, he claimed to have known in advance that two planes would hit the twin towers of the World Trade Center, and said he had met 17 of the 19 hijackers at Al Qaeda training facilities in Afghanistan.

If Moussaoui's current claims are true, executing him, as the prosecution demands, makes little sense from the standpoint of counterterrorism. Anyone that high up in Al Qaeda—especially one who has until now stoutly denied such a role—must have more information to provide.

That is the purported reason that the CIA is holding figures such as Khaled Sheikh Mohammed and Ramzi bin Al-Shidh. These men, allegedly far more culpable than Moussaoui for the deaths of nearly 3,000 people on 9/11, do not face either trial or execution because they are supposedly still valuable as intelligence sources. The real reason they face indefinite, probably lifetime, detention, but no prosecution, is that they have been repeatedly tortured and their statements made under torture cannot be used in an American court.

Whatever the personal fate of Moussaoui, his trial has added to

the mountain of evidence that the US government had ample opportunity to stop the 9/11 attacks but, for reasons not yet investigated, chose not to do so. A series of witnesses who testified March 21-23 provided new details on the response of officials at FBI headquarters to the arrest of Moussaoui in Minneapolis in early August 2001.

The FBI agent who was handling the case in Minnesota, Harry Samit, had been with the bureau for only two years, but Moussaoui's personality and conduct were so provocative that even this relatively inexperienced agent quickly understood that this was not a routine immigration case. He peppered FBI headquarters with requests and suggestions, convinced his Minnesota field supervisor to back him up, and even drafted a 25-page memorandum to the FBI counterterrorism center in Washington seeking to alert them to the danger of Islamic fundamentalist hijackers. At one point, the field supervisor, in a telephone conversation with FBI headquarters, made the prescient suggestion that Moussaoui might be planning to fly a hijacked jet into the World Trade Center.

Now-retired FBI counterterrorism supervisor Michael Rolince was called as a prosecution witness to bolster the claim that if Moussaoui had confessed his Al Qaeda role when arrested, the government could have prevented the 9/11 attacks. But his cross-examination by defense attorney Edward MacMahon was disastrous for the case against Moussaoui.

At one point, Rolince admitted that he had not even read the long memo from agent Samit detailing his suspicions about Moussaoui, sent to his office on August 18, 2001, nearly four weeks before the terrorist attacks on the World Trade Center and Pentagon. Rolince testified that he had two conversations in the hallway, each about 20 seconds long, concerning Moussaoui. Both times he spoke with David Frasca, a lower-level supervisor who was in direct contact with the Minneapolis office, and who was resisting Samit's pressure for a search warrant to open Moussaoui's computer and for other investigative steps.

While Rolince was the highest-ranking FBI counterterrorism official at the time, he testified that he had never seen an April 2001 intelligence briefing routed to him, warning that Osama bin Laden was planning terror attacks in conjunction with Islamic fundamentalists fighting in Chechnya. The FBI knew Moussaoui had links to the Chechnya rebels at the time of his arrest, but this supposedly did not raise his profile in the eyes of FBI headquarters.

Another FBI headquarters official, Michael Maltbie, actually removed information about Moussaoui's Chechen connection from an application for a search warrant, which was not filed until after September 11. In response to this trial revelation, Republican Senator Charles Grassley sent a letter to FBI Director Robert Mueller asking him to explain why Maltbie has subsequently been promoted.

Another witness, Robert Cammaroto, of the Transportation Security Administration, detailed the measures that the US government could have taken if it had learned that Al Qaeda operatives were planning to hijack airliners and use them as flying bombs. Asked if screening procedures could have been implemented to find short-bladed knives like the box-cutters used

on 9/11, he replied, "We most certainly could have. That would have been a simple procedure."

But on cross-examination, Cammaroto confirmed the seemingly unaccountable reluctance of the FBI and the Federal Aviation Administration to take even the most obvious security precautions, given the flood of warnings that were being received during the summer of 2001 about an impending Al Qaeda attack on US air transport. The CIA alone issued three such alerts during June 2001. Despite these warnings, the FAA was not on high alert.

Cammaroto gave one example of a serious security response to hijacking threats. According to one press account, "he offered new details on how the Federal Aviation Administration beefed up security when, in 1995, it was learned that Muslim extremists were plotting to blow up a dozen U.S. airliners over the Pacific Ocean." This Philippines-based plot, the so-called Bojinka affair, was devised by Khaled Sheikh Mohammed and later abandoned, although it incorporates some elements of the later 9/11 plot.

When it learned of Bojinka, after the arrest of one participant in Manila, the FAA alerted the airlines, sent bomb-sniffing dogs to assist the Philippine authorities, and stepped up passenger searches and other security measures. "As our intelligence improved, we were able to refine and refine and refine until we got closer to the mark," Cammaroto said, and in the end, there were no successful attacks. The contrast between the effective response in 1995-1996 and the dithering and indifference before 9/11 underscores the suspicion that what took place in the summer of 2001 was not simply negligence, but a deliberate stand-down of security vigilance.

Another witness added to this suspicion: Margaret Chevette, former manager of the Arizona flight school where hijack pilot Hani Hanjour trained for four months. Ms. Chevette testified that Hanjour had few skills and so little English that she reported her concerns to the FAA. An FAA official, however, merely suggested that she get Hanjour an English interpreter, although that contradicts FAA regulations that require enough English-language facility to conduct international air traffic communications, which are usually in English.

The final prosecution witness was Aaron Zebley, one of the two principal FBI case agents for Moussaoui. He testified that routine cross-checking of bank accounts, phone calls and Western Union money transfers between the United States, Germany and the United Arab Emirates would have led the FBI from Moussaoui to 11 of the 19 hijackers.

This astonishing revelation only underscores the significance of the decision by FBI headquarters officials to stall the Moussaoui investigation, even in the face of increasingly vocal protests from the Minneapolis office.



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