

The Moussaoui verdict deals blow to Bush administration's 9/11 coverup

By [Patrick Martin](#)

Theme: [Terrorism](#)

Global Research, May 09, 2006

[World Socialist Web Site](#) 5 May 2006

The decision by an Alexandria, Virginia jury to sentence Zaccarias Moussaoui to life imprisonment, sparing him a death sentence, is a humane and intelligent action and a rebuff to the Bush administration. In issuing its verdict, the jury rejected the government's demand for a death sentence and, by implication, its attempt to use the Moussaoui case to cover up both its inaction before 9/11 and its inexplicable refusal to put any of the principal figures in the 9/11 conspiracy on trial.

By all accounts, the 12 jurors made a painstaking review of the evidence in the case, poring through their notes on the testimony as they filled out a complex 42-page form assessing the aggravating and mitigating factors argued by the prosecution and defense. Moussaoui pled guilty a year ago to participating in the conspiracy that led up to the 9/11 attacks, and the trial was confined to the choice between two penalties—life imprisonment without parole or death.

The principal hurdle for the prosecution was the fact that Moussaoui was arrested in August 2001 on immigration charges, when his bizarre behavior after enrolling at a Minnesota flight school brought him to the attention of local FBI agents. He was sitting in jail during the 9/11 attacks, and obviously played no direct role in the worst terrorist attacks in US history, in which nearly 3,000 innocent people were murdered.

The Justice Department, in seeking the death penalty, argued that Moussaoui's silence about the Al Qaeda plot, and his false claims that he was merely interested in learning how to fly large airplanes, had prevented the federal government from taking measures, such as intensified airport security, that would have forestalled the suicide hijackings. This was a tenuous argument, one that, as Judge Leonie Brinkema pointed out, came close to challenging Moussaoui's Fifth Amendment right to remain silent after his arrest.

But after the jury seemingly accepted the prosecution's argument, issuing an initial decision last month that Moussaoui was eligible for the death penalty, most courtroom observers declared that a death sentence was a foregone conclusion. Having determined that Moussaoui's silence gave him a share of the responsibility for the deaths on September 11, 2001, the jury would necessarily impose the maximum sentence.

Instead, however, as they reviewed the evidence, some of the jurors effectively reversed their earlier finding. Three jurors cited an additional mitigating factor on their form—one not argued by the defense because it had already supposedly been decided—declaring that Moussaoui should not be executed because he actually knew very little of the 9/11 conspiracy.

While the jurors remain anonymous and it is not yet possible to determine their precise line of reasoning, some general considerations are clear. Nine of the 12 jurors found that Moussaoui's upbringing and history of violent abuse by his father were mitigating factors. Three found that Moussaoui's experience of racial discrimination in France as he was growing up was another mitigating factor. Although the jurors rejected claims by Moussaoui's attorneys that he is a paranoid schizophrenic, they heard videotaped depositions from two of Moussaoui's sisters, who suffer from that mental illness and are confined to French asylums.

The jurors were undoubtedly affected by the extraordinary testimony of two dozen family members of 9/11 victims who agreed to appear as defense witnesses. Although they were not permitted to state an opinion about the appropriate penalty for Moussaoui while on the stand, their appearance clearly conveyed opposition to the government's demand for a death sentence and undermined its claim that only the execution of Moussaoui could provide "closure" for the 9/11 families. Outside the courtroom, many of these 9/11 relatives declared their opposition to capital punishment and to making Moussaoui an Al Qaeda martyr.

Among both the family members and the jurors, the growing public rejection of the death penalty has made itself felt. Although the Bush administration chose to bring the case in conservative Virginia, in a city near the Pentagon, rather than in more liberal New York, the jury pool in Alexandria has not been reliably pro-death. By one account, federal juries in Alexandria have declined to impose the death penalty in all six cases brought in that district since 1998.

The jurors heard diametrically conflicting expert witnesses on Moussaoui's sanity, but the defendant's own performance certainly raised doubts about his mental capacity, both at the time of the 9/11 attacks and today. His repellent gloating over the deaths of innocent people and his baiting of his own lawyers—one of them Jewish—were combined with grandiose and clearly false declarations of his own central role in Al Qaeda.

The most bizarre statement came when he took the stand and, under oath, declared that he was to have been the pilot of a fifth hijacked airplane, accompanied by the failed shoe-bomber Richard Reid and other Al Qaeda supporters. Aside from the fact that Reid was not in the US in the summer of 2001 and had no known relation to the 9/11 plot, he also made Moussaoui the beneficiary of his will, an act which makes little sense if the two were to take part in the same suicide hijacking. Even the FBI conceded that there was no evidence to support Moussaoui's claims.

As well, there were depositions from those the CIA has named as the two leaders of the 9/11 plot now held in secret US prisons overseas, Khalid Sheikh Mohammed and Ramzi Binalshidh, both of whom testified that Moussaoui was considered too unstable and unreliable even to be a suicide hijacker, and had been relegated to a secondary role, if even that.

This raises another aspect of the Moussaoui case, one that is of utmost political importance, whatever role it may have played in the jury's deliberations. Why was the bit player Moussaoui on trial, and not those identified as the planners and organizers of the 9/11 attacks who are in US custody? Binalshidh was captured in September 2002, Mohammed six months later. Anything they may have known at the time about Al Qaeda's operations has

been extracted from them—certainly they can know nothing today of contemporaneous intelligence value. Yet they remain, perhaps indefinitely, in the custody of the CIA, facing no tribunal for their crimes.

There are two likely reasons why Mohammed and Binalshidh have not been brought to trial. The first is that they have been tortured so systematically that they are physically or mentally unfit to participate. The second is that if accorded the opportunity of a public trial, with competent legal counsel, they might well reveal embarrassing facts about the longstanding connections between Al Qaeda and American intelligence agencies.

It was, after all, the CIA which created Al Qaeda through its recruitment of Islamic fundamentalists, including bin Laden, to participate in the anti-Soviet guerrilla war in Afghanistan in the 1980s. Moussaoui is too young and too inexperienced to have personal knowledge of these connections, but not so Mohammed and Binalshidh, two of bin Laden's closest lieutenants.

There is reason to believe, moreover, that these connections did not suddenly cease after bin Laden's declaration of war on the United States in 1996. There have been unconfirmed reports of CIA-bin Laden contacts as late as the summer of 2001. And the European media has reported US government surveillance of Mohammed Atta throughout the period that the 9/11 attacks were being organized.

The fundamental unanswered question about 9/11 is how much the Bush administration and the US intelligence services knew of the plans for terrorist attacks, and at what level the decision was made not to interfere with these preparations, in order to obtain a suitable pretext for US military intervention in Central Asia and the Middle East.

The jury verdict of life imprisonment for Moussaoui provoked bitter and frustrated comments from Bush himself, former New York mayor Rudolph Giuliani, and such media outlets as the *Wall Street Journal* and the *New York Daily News*.

Bush declared, in a typical non sequitur, "The end of this trial represents the end of this case, but not an end to the fight against terror." He said that the jury had spared Moussaoui's life even though that "is something that he evidently wasn't willing to do for innocent American citizens." Apparently, the president regretted the jury's decision to act in a more enlightened fashion than the Al Qaeda terrorist.

The *Wall Street Journal* published an op-ed column by former Reagan speechwriter Peggy Noonan, headlined, "They Should Have Killed Him," as though the jury should have strung Moussaoui up in the courtroom personally. In an accompanying editorial, the *Journal* declared that the verdict demonstrated the danger of routing terrorism cases through the court system, instead of the summary military proceedings sought by the Bush administration for those imprisoned at Guantánamo Bay—none of whom has been tried, more than four years after the concentration camp opened.

The most irate comment came from the tabloid *Daily News*, which denounced the jury for considering mitigating factors like violent abuse in childhood. "The thought that U.S. jurors are capable of such muddled thinking is horrifying," the *News* opined. "Any role in 9/11, any foreknowledge of the attacks, any aid and comfort given Al Qaeda is grounds for death."

If the ultimate crime is being forewarned about 9/11 and then taking no action, then former

CIA Director George Tenet, a raft of FBI supervisors, as well as Bush, Cheney and Condoleezza Rice should all be facing criminal investigations and indictments. It was on August 6, 2001 that Rice presented Bush a CIA memo warning of Al Qaeda plans to hijack airliners inside the United States, with the possibility they could be used in suicide attacks. The vast machinery of the federal government ground on without taking a single action to forestall the attacks.

In sharp contrast to the hysteria and cover-up from the White House and the media, many relatives of 9/11 victims have reacted to the Moussaoui case by calling once again for a more serious effort to uncover the truth about the terrorist attacks and punish their perpetrators.

Rosemary Dillard, whose husband died at the Pentagon on September 11, told a press conference that she respected the jury's decisions. "We showed the world what we do to terrorists," she said. "We'll show them respect no matter how much disrespect they show us. It makes us a finer society."

Such attitudes, expressed by relatives of the victims and acted upon by the Virginia jury members, demonstrate that no matter how much the media, not to mention the government, has attempted to debase popular consciousness, they have not been able to stamp out democratic sentiments and humanity in the American people.

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