

Attachment A

COUNT I

On or about the 12th day of December, 1975, near Wanblee, and elsewhere, in Indian Country, in the District of South Dakota, the defendant, John Graham, a/k/a John Boy Patton, an Indian, willfully, deliberately, and maliciously, with premeditation and malice aforethought, did unlawfully kill and aid and abet the unlawful killing of Annie Mae Aquash, a/k/a Annie Mae Pictou, an Indian or other person, by shooting her with a firearm, in violation of 18 U.S.C. §§ 1111, 1153, and 2.

COUNT II

On or about the 12th day of December, 1975, near Wanblee, and elsewhere, in Indian Country, in the District of South Dakota, the defendant, John Graham, a/k/a John Boy Patton, willfully, deliberately, and maliciously, with premeditation and malice aforethought, did unlawfully kill and aid and abet in the unlawful killing of Annie Mae Aquash, a/k/a Annie Mae Pictou, an Indian, by shooting her with a firearm, in violation of 18 U.S.C. §§ 1111, 1152, and 2.

COUNT III

On or about the 12th day of December, 1975, near Wanblee, and elsewhere, in Indian Country, in the District of South Dakota, the defendant, John Graham, a/k/a John Boy Patton, did unlawfully kill and aid and abet an Indian, to-wit: Fritz Arlo Looking Cloud, Theda Rose Clarke, and Richard Marshall, in the unlawful killing of Annie Mae Aquash, a/k/a Annie Mae Pictou, an Indian or other person, by shooting her with a firearm, in violation of 18 U.S.C. §§ 1111, 1153 and 2.

AFFIDAVIT

STATE OF SOUTH DAKOTA)
) ss.
COUNTY OF PENNINGTON)

I, Michael L. McRoden, having been sworn, do hereby state and depose as follows:

1. That I am a Special Agent with the Federal Bureau of Investigation (FBI) and have been so employed for the past 21 years. I am assigned to the Rapid City, South Dakota, FBI office. My duties include, but are not limited to, the investigation of homicides occurring on the Pine Ridge Indian Reservation. I am a graduate of the FBI Academy and since then have attended numerous training sessions regarding the techniques used in investigating homicides.

2. That as part of my duties I have reviewed the case file which includes, among other things, witness statements and physical evidence regarding the murder of Anna Mae Aquash on or about December 12, 1975. This includes, but is not limited to, the following statements:

a. Arlo Looking Cloud's statement to Bureau of Indian Affairs Investigator Robert Ecoffey on March 27, 2003, and to others, wherein he states that in Denver, at Troy Lynn Yellow Wood's residence, Annie Mae Aquash, a/k/a Annie Mae Pictou, a/k/a Anna Mae Aquash, a/k/a Anna Mae Pictou, was abducted. Her hands were tied by Defendant John Graham, a/k/a John Boy Patton, and she was removed against her will and taken to Rapid City by Arlo Looking Cloud, John Graham and Theda Clarke. That Aquash continued to be held against her will by Graham and other aiders and abettors in Rapid City and ultimately taken against her will to the Rosebud and Pine Ridge Indian Reservations. That Graham ultimately killed Aquash by shooting her

in the back of the head as she prayed. Her body was found on February 24, 1976.

- b. Defendant Graham's interview with cooperating witness on February 11, 2001, wherein Graham admits presence with Aquash and other aiders and abettors at the time and locations including Yellow Wood's in Denver, Bills Means' on Rosebud Indian Reservation and Pine Ridge;
- c. Defendant Graham's interview by Anna Maria Tremonti of November 8, 2002, wherein Graham admitted driving Aquash from Denver to Pine Ridge during the time in question;
- d. Frank Dillon's interview by Detective Abe Alonzo on May 20, 1998, wherein Dillon states that Graham admitted to him that Graham raped and shot Aquash;
- e. Defendant Graham's further statements to cooperating witness on February 11, 2001, and to Investigator Ecoffey on April 21, 1994, wherein Graham admitted making statements to Al Gates regarding Graham's involvement with the death of Aquash;
- f. Theda Clarke's statements to another cooperating witness of July 25, 2000, wherein in the context of discussing Aquash as an informant Theda made the following statement: "Yeah, that's why we did it and it wasn't ever going to happen again.";
- g. Richard Marshall's statements to cooperating witness wherein the context of discussing the murder weapon and a note requesting to get ride of this "baggage," he confirmed: "Back in the day, when you was asked to do

something, somebody asked you for something, you didn't ask too many questions.”;

- h. That numerous witnesses, including Looking Cloud and Clarke, have confirmed that Aquash was murdered based upon the belief that she was a government informant.

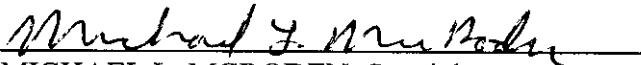
3. That Defendant Graham has publicly stated his status as a Southern Tutchone Indian and his actions include affiliation with and acceptance by, among others, the Oglala Sioux Tribe which include practicing both spiritually and ceremonially with Indian medicine men and their assistants, participating in sun dance rituals, and is otherwise a recognized Indian. To the extent it is determined that Graham is not an Indian, the evidence in this case demonstrates that Graham aided and abetted, among other Indians, Looking Cloud, Clarke and Marshall, in the unlawful premeditated killing of Aquash.

4. Furthermore, Aquash is a member of the Mi'kmaq tribe and her actions include affiliation with and acceptance by, among others, the Oglala Sioux Tribe which include practicing both spiritually and ceremonially with Indian medicine men and their assistants, participating in sun dance rituals and is otherwise a recognized Indian.

5. That based upon among other matters, the belief and accusations that Aquash was an informant, Graham and other aiders and abettors willfully, deliberately, and maliciously, with premeditation and malice aforethought, unlawfully killed Aquash.

6. That on or about February 24, 1976, Aquash's body was found by Roger Amiotte on his ranch on Indian trust land located within the exterior boundaries of the Pine Ridge Indian Reservation. This location has been reaffirmed by Looking Cloud as to where Graham shot Aquash in the back of the head while she was praying.

Dated: 10-3-08


MICHAEL L. MCRODEN, Special Agent
Federal Bureau of Investigation

SUBSCRIBED and SWORN to before me
this 1st day of October, 2008.

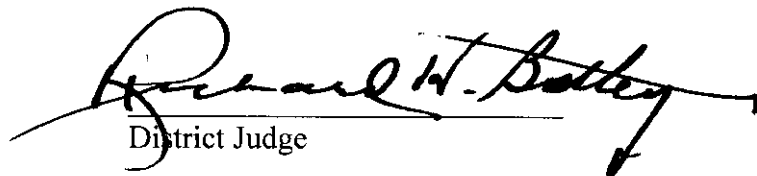

District Judge

ORDER

Based on the foregoing, it is hereby found that probable cause exists for the issuance of a
warrant for the arrest of the above-named offenders, and it is hereby

ORDERED, that such warrants be issued.

Dated this 30 day of October, 2008.


District Judge