

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

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UNITED STATES OF AMERICA,

CR08-50079

Plaintiff,

v.

**RESPONSE TO DEFENDANT  
GRAHAM'S ADMINISTRATIVE  
MOTIONS**

JOHN GRAHAM aka JOHN BOY  
PATTON, and VINE RICHARD  
MARSHALL aka RICHARD VINE  
MARSHALL aka DICK MARSHALL,

Defendants.

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COMES NOW the United States of America, by and through United States Attorney Marty J. Jackley and Assistant US Attorney Robert A. Mandel and files its Response to Defendant Graham's Administrative Motions:

**I. Motion for Cellular Phone Access**

The United States does not object to Defendant's attorney's request for cellular phone access. Defendant's request seems consistent with the Court's Standing Order of September 24, 2008 (¶4) allowance of cellular devices.

**II. Motion to Exclude the Government and Any Law Enforcement  
Officers from Communication with Defense Witnesses**

The United States respectfully objects to Defendant Graham's request. First, this Motion constitutes an inappropriate attempt to exert ownership over particular witnesses and their testimony. It is anticipated that several witnesses may receive trial subpoenas from both the United States and defense in this matter. Second, Defendant Graham

does not have the right to silence witnesses. Whether or not a witness wishes to speak to law enforcement authorities is the witness' individual right. Third, in the event a witness feels intimidated or threatened by anyone, they have the right to notify either the Court or the United States Attorney and to have the matter appropriately addressed. Accordingly, the United States respectfully requests Defendant Graham's Motion be denied.

**III. Request Permission for Parties Other than Defense  
Counsel to be Seated at Defense Table**

The United States does not object to Attorney Robert Van Norman being seated at defense counsel's table as a member in good standing of both our state and federal bar associations. The United States recognizes the long-standing practice requirement in the Western Division that only parties and members in good standing of the bar association may be seated at counsel's table. However, the United States will defer to the Court and does not take opposition to defense counsel's request with respect to his assistant.

Date: October 28, 2008

MARTY J. JACKLEY  
United States Attorney



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PO Box 2638  
Sioux Falls, SD 57101-2638  
605.357.2330

## CERTIFICATE OF SERVICE

The undersigned hereby certifies on October 28, 2008, a true and correct copy of the foregoing was served upon the following person(s), by placing the same in the service indicated, addressed as follows:

John R. Murphy

- U.S. Mail, postage prepaid
- Hand Delivery
- Facsimile at
- Federal Express
- Electronic Case Filing



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Marty J. Jackley  
United States Attorney

This document has been filed electronically.