


UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

FILED

APR 08 2009

  
CLERK

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UNITED STATES OF AMERICA,

CR08-50079

Plaintiff,

v.

**UNITED STATES' MOTION  
FOR *IN CAMERA* REVIEW OF  
WITNESS MATERIALS**

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 AUSA Robert A. Mandel and respectfully submits its Motion for *In Camera* Review of Witness Materials.

On April 2, 2009, Defendant John Graham made a written discovery request specifically identifying potential Witness A. Attached for *in camera* review is the information pertaining to that specific and identified Witness A. See Attachment A. Defendant Graham asserts that Witness A's information may be discoverable as exculpatory or impeachment evidence in relation to Witness B. Witness B's information was previously submitted to the Court during closed hearings and is resubmitted for reference as Attachment B.

Attachment B has previously been disclosed to both Defendants Marshall and Graham.

The United States has compared Attachments A and B and does not believe Witness A's information is discoverable as either exculpatory or impeachment evidence. Based upon the very nature of Witness A's statements and responses, said Witness A information does not constitute evidence favorable to either Defendant Graham or Marshall. Brady v. Maryland, 373 U.S. 83 (1963); Fed. R. Evid. 16(a).

Based upon unique circumstances of this information and the specific claims made by Defendant Graham, the United States is providing the Court the information of Witness A for an *in camera* review, and an ultimate determination that Attachment A is not discoverable. In the alternative, to the extent the Court orders disclosure, the United States respectfully requests these matters be subject to a specific order of strict confidentiality.

Date: April 8, 2009

MARTY J. JACKLEY  
United States Attorney



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Sioux Falls, SD 57101-2638  
605.357.2330

## CERTIFICATE OF SERVICE

The undersigned hereby certifies on April 8, 2009, 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  
Dana Hanna

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

  
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Marty J. Jackley