United States District Court

District of South Dakota

Office of the Clerk
Room 128, Federal Building
400 S. Phillips Ave.
Sioux Falls, SD 57104-6851

Joseph Haas
Clerk of Court

Telephone
(605) 330-6600

May 1, 2009

AMENDED TRANSMITTAL OF NOTICE OF APPEAL IN A CRIMINAL CASE
(Prepare a separate Transmittal Form for each defendant.)

1. **Case Number & Title:** CR08-50079-01 & 02 USA v. John Graham, a/k/a John Boy Patton & Vine Richard Marshall, a/k/a Richard Vine Marshall, a/ka/ Dick Marshall

2. **Defendant/Appellee:** John Graham, a/k/a John Boy Patton

   Is Defendant incarcerated?: yes, Pennington County Jail

3. **Date Notice of Appeal filed:** 04/30/2009

4. **Document being appealed and document number:** #304 Order granting motion to dismiss Count 3 of Indictment; denying motion to dismiss all counts

5. **Sentence imposed:** n/a case has not gone to trial yet

   Charges: Counts 1& 3 - 18 USC 1111, 1153 & 2 First Degree Murder & Aid & Abet
   Count 2 - 18 USC 1111, 1152 & 2 First Degree Murder & Aid & Abet

6. **Co-Defendant(s):** Vine Richard Marshall

   Co-Defendant Case Nos.: CR08-50079-02

   Have any Co-Defendants filed a Notice of Appeal?: no

7. **Date of Plea/Verdict:** n/a - case set for trial 5/12/2009

8. **Date Transcript ordered:** n/a

9. **Court Reporter:** n/a

10. **Assistant U.S. Attorney:**

Marty Jackley	Robert Mandel
United States Attorney	Asst. U.S. Attorney
PO Box 2638	PO Box 2638
Sioux Falls, SD 57101-2638	Sioux Falls, SD

57101-2638

11. **Defense Counsel:** John Richard Murphy
328 E. New York St., Suite 1
Rapid City, SD 57701
(605) 342-2909

Was Defense Counsel appointed/retained?: appointed

Is there any reason why Defense Counsel should not be appointed on appeal? no

12. **Has the filing fee been paid?:** n/a - Government appealed

13. **Is there a pending motion for IFP:** n/a - Government appealed

14. **Are there any other pending motions?** yes

If yes, list pending motions and document numbers:
#92 - Motion for Joinder to Defendant Marshall's Motion for pretrial hearing and motion in limine
#166 - Motion for Order to Supplement Record
#270 - Motion to Compel Disclosure of Leniency Agreements
#313 - Sealed Motion to Compel Un-Redacted Grand Jury Transcript
#319 - Motion for In-camera review re: Exhibit A to USA's Response Opposing Defendant Graham's Motion in Limine re: Grand Jury Testimony
(These are the pending motions related to defendant Graham. There are other pending motions related to co-defendant Marshall.)

15. **Additional comments:** This case is set to begin for trial May 12, 2009 and is a highly publicized case being watched closely by the press. This defendant was previously charged in CR03-50020, USA v. Fritz Arlo Looking Cloud & John J. Graham. Charges against defendant Graham were dismissed and the Government filed a notice of appeal in that case on 10/31/2008. That appeal has not yet been mandated. Your case number is 08-3580.

JOSEPH A. HAAS, CLERK

BY: *____/s/ Jackie Meisenheimer_____*
Jackie Meisenheimer
Deputy Clerk