

UNITED STATES DISTRICT COURT  
DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

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UNITED STATES OF AMERICA,

CR08-50079

Plaintiff,

v.

**JOINT MOTION/STIPULATION  
TO CONTINUE**

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, through its attorneys, Marty J. Jackley, United States Attorney, and Dana Hanna, counsel for the above-captioned defendant, Vine Richard Marshall aka Dick Marshall, to jointly move for, and stipulate to, a continuance of the above-entitled matter now set for trial May 12, 2009, for a period of sixty days.

Pending before the Eighth Circuit Court of Appeals is the United States' appeal of this Court's Order dismissing the 2003 Indictment against Defendant John Graham. A Notice of Appeal of this Court's decision dismissing Count III of the Indictment against Defendant Graham in the 2008 Indictment was filed by the United States on April 30, 2009. It is the United States' intent to move the appellate court to consolidate the two appeals and have the appeal be immediately determined based upon the arguments and authorities that have been submitted.

Under all of the circumstances, the United States and Defendant Marshall hereby jointly move for, and stipulate to, a continuance of the trial of the above-entitled matter for a period of sixty days in the interest of avoiding piecemeal litigation. Thereafter, if necessary, the parties request the right to revisit the severance issue and hereby preserve all respective arguments with respect thereto.

The parties stipulate that the period of continuance is excludable for speedy trial purposes pursuant to 18 U.S.C. §§ 3161(h)(7)(A) (ends of justice outweigh the best interests of the public and the defendant in a speedy trial).

Dated this 5th day of May 2009.

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MARTY J. JACKLEY  
United States Attorney

*/s/ Dana L. Hanna*  

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DANA HANNA  
Attorney for Defendant Marshall

**CERTIFICATE OF SERVICE**

I hereby certify that I have served a true and correct copy of Defendant Marshall's foregoing Joint Motion/Stipulation to Continue upon the other parties in this case via the electronic mail addresses listed below:

Marty Jackley, United States Attorney  
kim.nelson@usdoj.gov

Robert Mandel, Assistant United States Attorney  
robert.mandel@usdoj.gov

John Murphy, Attorney for Defendant Graham  
jmurphysd@hotmail.com

Dated this 5th day of May, 2009.

*/s/ Dana L. Hanna*

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Dana L. Hanna