

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

JUDGE: Lawrence L. Piersol
CASE NO. CR08-50079

REPORTER: Carolyn Harkins
DATE: May 5, 2009

CASE

United States of America,

Plaintiff,

vs.

John Graham a/k/a John Boy Patton,
and Vine Richard Marshall, a/k/a Richard
Vine Marshall, a/k/a Dick Marshall,

Defendant.

COUNSEL

Marty Jackley
Robert Mandel

John Murphy

TIME:

1:07 Enter MOTIONS HEARING before the Hon. Lawrence L. Piersol, United States District Judge, presiding.

Enter ORDER granting the motion to seal document Memorandum In Support of Motion to Quash and Attached Affidavits by Theda Clark, document #340.

Court makes statement as to the motions to sever re: status of the proceedings, status of defendant Marshall and the victim being American Indians, government's notices of appeal and consolidations of those appeals as to all counts, joint motion and stipulation for continuance of defendant Marshall and the government, and requests further argument by counsel.

Mr. Murphy makes statement on behalf defendant Graham, and is ready to go to trial on May 12 on whatever counts remain.

Mr. Jackley makes statement on behalf government.

Mr. Hanna makes statement on behalf defendant Marshall and requests a continuance of 60 days.

Court informs counsel there will not be an order for severance at this time, and the Court will grant a continuance as requested by defendant Marshall and the government but not limited to 60 days. If the Eighth Circuit Court of Appeals rules in less than 60 days, the Court will set a new trial date; but as soon as the Eighth Circuit rules, the Court will set a trial date.

Mr. Jackley makes additional statement as to these issues.

Mr. Hanna makes additional statement.

Court inquires about arguing the motions in limine today.

Mr. Hanna requests arguing the motion in limine #2 at this hearing.

Court will allow argument as to motion in limine #2.

Mr. Hanna makes statement on behalf defendant Marshall.

Mr. Jackley makes statement on behalf government.

Mr. Hanna makes additional statement on behalf defendant Marshall.

Mr. Jackley offers transcript of taped statement.

Mr. Hanna makes statement as to the tape and the transcript.

Exhibits will be received in this manner:

Exhibit #1 - tape provided by Mr. Hanna

Exhibit #2 - transcript of taped statement provided by government

Exhibit #2A - Handwritten notes - Chapman provided by government

Exhibit #3 - Mr. Hanna will provide to the Court an enhanced copy of the tape (exhibit #1), which will be marked as exhibit #3

Mr. Hanna makes statement as to Chapman's handwritten notes.

Court inquires of counsel if Mr. Chapman had a tape recorder on the table when he did the interview or was he wired.

Mr. Hanna makes statement on behalf Marshall.

2:37 In recess.

2:52 Motions Hearing resumes.

Mr. Jackley provides a handwritten statement to the Court.

Mr. Hanna makes statement as to handwritten statement on behalf Marshall.

Mr. Jackley makes statement as to handwritten statement on behalf government.

Court inquires if there is anything further to submit as to motion in limine #2.

Nothing further by counsel.

Mr. Jackley makes statement as to whether Mr. Chapman was wired and informs the Court he may have had a hidden tape recorder.

Court inquires further.

Mr. Jackley makes additional statement.

Mr. Jackley makes statement as to statement of Mr. Goings/Means, and will provide a redacted copy of the transcript to Court and counsel.

Mr. Jackley offers another handwritten note of Mr. Chapman from an interview with Mr. Marshall.

Court will receive this exhibit and it is marked exhibit #4.

Mr. Hanna makes statement on behalf defendant Marshall.

As to Motion in Limine #1, the Court will not rule on that motion at this time, but will have a separate hearing where Mr. Chapman will be required to testify.

Mr. Murphy makes statement as to Motion in Limine #1, and also requests a hearing on behalf Graham.

Mr. Hanna makes additional statement.

3:13

Court adjourned.

BH
Courtroom Deputy

