

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
WESTERN DIVISION

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,  
Defendants.

Case No. 08-50079

DEFENDANT MARSHALL'S  
OPPOSITION TO GOVERNMENT  
MOTION TO SEAL MOTION  
[DOCUMENT 427]

The government has made a motion to seal the defendant's motion to dismiss the indictment and his memorandum of law [document 427]. As grounds for the motion, the government states that sealing is necessary to protect witnesses and to compel defense counsel's compliance with Rule 6(e) of the Federal Rules of Criminal Procedure. Defendant Marshall opposes the government's motion to seal on the following grounds: first, it has long been an acknowledged fact by the government that Fritz Arlo Looking Cloud is a cooperating government witness in the case against Richard Marshall. Secondly, Rules 6(e)(2)(A) of the Federal Rules of Criminal Procedure provides: "No obligation of secrecy may be imposed on any person except in accordance with Rule 6(e)(2)(B)". Rule 6(e)(2)(B) does not impose an obligation of secrecy on defense counsel. Therefore, reference to or a quotation from testimony given by a witness in the grand jury in a motion filed by defense counsel is not a violation of Rule 6(e)'s grand jury secrecy requirements. There is no basis in law for sealing the motion or memorandum.

WHEREFORE, the government's motion to seal should be denied.

Dated this 11<sup>th</sup> day of August, 2009.

(Signature block on next page)

RICHARD MARSHALL, Defendant

BY: /s/ Dana L. Hanna

Dana L. Hanna  
Attorney for Defendant Marshall  
PO Box 3080  
Rapid City, SD 57709  
(605) 791-1832  
dhanna@midconetwork.com

**CERTIFICATE OF SERVICE**

I hereby certify that I a true and correct copy of the foregoing Opposition to Government Motion to Seal Motion was electronically served 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 11<sup>th</sup> day of August, 2009.

/s/ Dana L. Hanna

Dana L. Hanna