UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

FILED
AUG 25 2009
CLERK

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UNITED STATES OF AMERICA,	*	CR 08-50079
Plaintiff,	*	
vs.	*	ORDER
JOHN GRAHAM, a/k/a/ John Boy Patton, VINE RICHARD MARSHALL, a/k/a Richard Vine Marshall, a/k/a Dick Marshall,	*	
Defendant.	*	

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Pending before the Court are motions filed by both Defendants requesting leave to file further motions after the motion deadline. (Docs. 352 and 353.)

In the Order setting dates issued on October 6, 2008, the Court explained that it will consider a motion filed by a party after the motion deadline "if the party can show good cause as to why the motion was late filed." (Doc. 27.) Defendant Marshall filed a Motion for Continuance on January 12, 2009, doc. 143, and that motion was granted on January 22, 2009, doc. 167. A new scheduling order was issued which extended the motion deadline to March 23, 2009, with a trial date of May 12, 2009. (Doc. 187.) Extending the motion deadline allowed the parties an adequate opportunity to file any further motions, and numerous motions were filed prior to the March 23 deadline. On April 29 and April 30, 2009, this Court issued rulings on most of the pending motions, including an Order dismissing Count III of the Indictment against Defendant Graham, doc. 304.

The government immediately filed a Notice of Appeal from the order dismissing Count III. After a hearing with the parties in Rapid City on May 5, 2009, the Court granted the parties' joint motion to continue the trial scheduled for May 12, 2009 pending the Eighth Circuit's ruling on the

appeal, at which time the Court would set a new date for trial. (Doc. 348.) The Eighth Circuit's ruling was received on July 28, 2009, and on July 30, 2009, the Court issued an Order scheduling the trial for October 6, 2009. (Doc. 422.) The motion deadline was not extended.

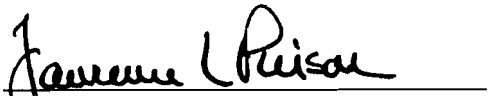
The pending motions to file late motions were filed on May 11, 2009, after the trial was continued pending the Eighth Circuit's ruling. Subsequently, late motions were filed by Defendants without a showing of good cause why the motions could not have been filed prior to the March 23 motion deadline. Accordingly,

IT IS ORDERED:

1. That Defendants' Motions for leave to file further motions, docs. 352 and 353, are denied without prejudice to their right to show good cause for each motion that was filed after the motion deadline of March 23, 2009. The showing must be made on or before Tuesday, September 1, 2009.

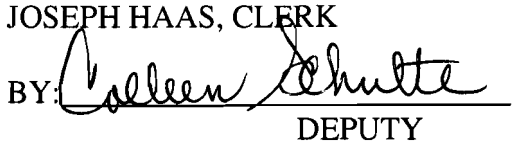
Dated this 25th day of August, 2009.

BY THE COURT:



Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: 
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