

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

UNITED STATES OF AMERICA,)	CRIM. NO. 08-50079-01
Plaintiff,)	
)	DEFENDANT GRAHAM'S
vs.)	RESPONSE TO ORDER
)	
JOHN GRAHAM, a/k/a)	
JOHN BOY PATTON and)	
VINE RICHARD MARSHALL, a/k/a))	
RICHARD VINE MARSHALL, a/k/a))	
DICK MARSHALL,)	
Defendants.)	

On August 25, 2009, this Court ordered that John Graham show good cause why motions he filed after the motions filing deadline (March 23, 2009) should be considered by the Court. Graham respectfully responds that his review of the file shows that all of his pending motions were filed in a timely manner and he has not violated the Court's filing deadline. In support of this assertion, Graham submits the following:

1. Graham has filed numerous motions in limine since March 23, 2009. However, those motions were timely filed as they were submitted prior to August 21, 2009, the deadline for filing motions in limine under the Court's Order for Trial, File Doc. 422.
2. Graham filed a Motion to Supplement Record on April 6, 2009. File Doc.

245. This motion was filed in response to the Court's Order dated April 2, 2009, File Doc. 223, asking him to submit in this file exhibits previously filed in United States v. Graham, File No. 03-50020. That motion was granted by the Court on the same date it was filed, File Doc. 248, and no further action needs to be taken in regard thereto.

3. Graham filed a Motion to Compel Disclosure of Leniency Agreements on April 21, 2009. File. Doc. 270. This motion was made six (6) days after Graham learned for the first time that the Theda Nelson had been appointed counsel and that the government was seeking her cooperation in its prosecution against Graham. This was a significant change of events because, up until this time, the government had represented that Nelson was unavailable as a witness due to her incompetency. The government responded that it had not entered into any leniency agreements with Nelson, and the Court issued an order denying as moot the motion. File Doc. 343. No further action is necessary in regard to this motion.

4. Graham filed his Motion for Severance of Counts and Objections to Stay of Proceedings on May 1, 2009. File Doc. 328. This motion was made the day after the government filed its Notice of Appeal, File Doc. 323. This motion was made moot by the Court's decision to continue the trial until after the

government's appeal was resolved. File Doc. 348.

5. The only other motions filed by Graham after March 23, 2009, were motions to seal. These related to motions for subpoenas or related to the filing of exhibits that were submitted in support of motions in limine. All of those matters were filed in a timely manner.

Dated August 26, 2009.

/s/ John R. Murphy

John R. Murphy
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Rapid City, SD 57701
(605) 342-2909

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he served a true and correct copy of the foregoing document upon the person(s) herein next designated, on the date shown below by placing the same in the service indicated, addressed as follows:

MARTY J. JACKLEY

- U.S. Mail, postage prepaid
- Hand Delivery
- Federal Express
- Facsimile at
- Electronic Case Filing

ROBERT A. MANDEL

- U.S. Mail, postage prepaid
- Hand Delivery
- Federal Express
- Facsimile at
- Electronic Case Filing

DANA HANNA

- U.S. Mail, postage prepaid
- Hand Delivery
- Federal Express
- Facsimile at
- Electronic Case Filing

Dated August 26, 2009.

/s/ John R. Murphy

John R. Murphy