

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

UNITED STATES OF AMERICA	)	CRIM. NO. 08-50079-01
Plaintiff,	)	
	)	
vs.	)	DEFENDANT GRAHAM'S
	)	OBJECTION TO UNITED
JOHN GRAHAM, a/k/a	)	STATES' MOTION FOR
JOHN BOY PATTON and	)	CONTINUANCE
VINE RICHARD MARSHALL, a/k/a)	)	
RICHARD VINE MARSHALL, a/k/a)	)	
DICK MARSHALL	)	
Defendant.	)	

Defendant, John Graham, through his attorney, John R. Murphy, objects to the government's motion for a continuance. Doc. 449. Defendant Graham asks that his case proceed to trial on October 6, 2009 as previously ordered by the Court. Doc. 422. A continuance of the trial would deprive Mr. Graham of his constitutional right to a speedy trial, his statutory right under the Speedy Trial Act, and would not serve any legitimate purpose.

Mr. Graham has been in continuous custody for this alleged crime for 27 months. Much of the delay in bringing this case to trial has been caused by the government. The government has protracted the appellate process by seeking extensions of time to file and brief matters related to its interlocutory appeal. The government is now trying to further protract the appellate process by seeking

extensions of time to consider seeking rehearing of the appeal. The government knows the chance of obtaining a rehearing is minimal and the chance of prevailing if rehearing is granted is even less. The government wasn't able to persuade a single judge on the Court of Appeals to accept its interpretation of 18 U.S.C. 1153 and the government has not cited to any authority of development that is likely to cause the Court of Appeals to vacate its previous decision and reverse the District Court. It is counsel's belief that the government has no realistic expectation of obtaining further review of this matter, but instead is using the prospect of further appellate review as a pretext for further delaying this case. Mr. Graham is ready to proceed. He has subpoenaed over 20 witnesses. Many of the witnesses are old, in poor health, or have been hard to locate. Further delay only increases the chance that witnesses will lose their memories, die, or relocate. For these reasons, the government motion should be denied.

Dated September 9, 2009.

/s/ John R. Murphy  
John R. Murphy  
328 East New York Street, Suite 1  
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:

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Dated September 9, 2009.

/s/ John R. Murphy  
John R. Murphy