

UNITED STATES DISTRICT COURT
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.

CR 08-50079

UNITED STATES' RESPONSE TO
DEFENDANT MARSHALL'S
MOTION TO EXTEND
MOTIONS DEADLINE

COMES NOW the United States of America, through its attorneys, United States Attorney Brendan V. Johnson, and Assistant United States Attorney Robert A. Mandel, and respectfully responds to Defendant Marshall's Motion to Extend Motions Deadline and states as follows:

1. The United States filed the Indictment against Defendant Marshall on August 20, 2008, and he made his initial appearance on August 26, 2008. The United States provided Defendant Marshall with virtually all discovery in this case on October 6, 2008.

2. The Order of the District Court filed on February 27, 2009, setting a deadline for the filing of motions did not prohibit the filing of motions after the date of March 23, 2009, but rather indicated that for any motions filed after that date, there would have to be a showing of good cause by counsel as to why the motions were filed late. There was no question that if the Defendant can

show good cause for the filing of a late motion, the Court would allow Defendant to do so.

3. Defendant claims to have first discovered evidence regarding the Denver police department dating back to May of 2009. At the outset, the United States feels it is important to clarify that there was no “joint federal-local investigation” in this case. Regardless of the truth or falsity of that accusation, Defendant was not precluded from seeking to file a motion in that regard.

4. By the same token, Defendant claims there was a “joint federal-state presentation to the grand jury” in this case. In reality, no Assistant United States Attorney was in any way involved in the state grand jury nor was any prosecutor from the state of South Dakota involved in the federal grand jury in this case. The United States has never seen the transcript from the state grand jury and would resist any discovery motions in that regard.

Accordingly, the United States resists Defendant’s Motion to Extend Motions Deadline in this action.

Respectfully submitted this 1st day of December, 2009.

/s/ Robert A. Mandel

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CERTIFICATE OF SERVICE

I hereby certify that on the 1st day of December, 2009, I served by electronic transmission, a true and correct copy of the foregoing Government's Response to Defendant Marshall's Motion to Extend Motions Deadline on:

Dana Hanna
Attorney at Law

John Murphy
Attorney at law

/s/ Robert A. Mandel

Robert A. Mandel