

UNITED STATES DISTRICT COURT

DISTRICT OF SOUTH DAKOTA

WESTERN DIVISION

**UNITED STATES OF AMERICA,**

)

**CR. 08-50079**

)

**Plaintiff,**

)

)

**vs.**

)

**MOTION TO QUASH SUBPOENA  
OF THEDA CLARKE**

)

**JOHN GRAHAM, A/K/A JOHN BOY**

)

**PATTON, AND VINE RICHARD**

)

**MARSHALL, A/K/A RICHARD VINE**

)

**MARSHALL, A/K/A DICK MARSHALL,**

)

)

**Defendants.**

)

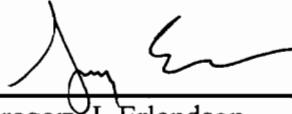
Theda Clarke, by and through her attorney of record, Gregory Erlandson, respectfully moves this Court, pursuant to Federal Rules of Evidence 403, 601 and 602, to enter an Order quashing the subpoena of Theda Clark in the trial of the above-referenced matter.

This Motion is made and filed based upon: 1) the official court file; 2) the accompanying legal memorandum; 3) the affidavits of Gregory Erlandson and Debra Powell, R.N., filed contemporaneously herewith; and the affidavits of Dr. Jerry L. McLain, M.D. and Jaynelle Hinnegan, R.N., which were filed with the Court in April of 2009.

The undersigned respectfully requests an expedited ruling on this Motion since he has a trial scheduled to commence in the 7<sup>th</sup> Judicial Circuit, State of South Dakota, on February 17, 2010, which would conflict with the trial of the above-captioned matter.

Dated this 22<sup>nd</sup> day of January, 2010.

BANGS, McCULLEN, BUTLER,  
FOYE & SIMMONS, L.L.P.

By:   
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**CERTIFICATE OF SERVICE**

I certify that on the 22<sup>nd</sup> day of January, 2010, I caused to be served, by e-mail and first class, United States Mail, postage prepaid, a true and correct copy of the foregoing document to:

**Robert Mandel, Esq.**  
United States Courthouse  
515 Ninth Street  
Rapid City, SD 57701  
[Robert.Mandel@usdoj.gov](mailto:Robert.Mandel@usdoj.gov)


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*Attorney for Defendant Marshall*

  
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Gregory J. Erlandson