


UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

FILED
APR 08 2009

CLERK

UNITED STATES OF AMERICA,

CR08-50079

Plaintiff,

v.

**UNITED STATES' MOTION
FOR *IN CAMERA* REVIEW OF
MEDICAL RECORD MATERIALS**

JOHN GRAHAM aka JOHN BOY
PATTON, and VINE RICHARD
MARSHALL aka RICHARD VINE
MARSHALL aka DICK
MARSHALL,

Defendants.

COMES NOW the United States of America, by and through United States Attorney Marty J. Jackley and AUSA Robert A. Mandel and respectfully submits its Motion for *In Camera* Review of Witness Medical Records.

On April 2, 2009, Defendant John Graham made a written discovery request in relation to this witness. The United States anticipates subpoenaing this witness for trial in the above-entitled case. To the extent this witness would become unavailable by either exercising the witness' Fifth Amendment privilege against self-incrimination, or by way of medical-related issues, the United States has previously identified

the non-testimonial statements against interest it intends to introduce. Based upon the foregoing, the United States considers this evidence to be discoverable under Brady v. Maryland, 373 U.S. 83 (1963). See generally, United States v. Skorniak, 59 F.3d 750, 755-56 (8th Cir. 1995) (placing significance when records are in government's possession).

To the extent the Court deems these medical records discoverable, based upon patient privacy issues¹ the United States is respectfully requesting an order to disclose to include any limitations on such a disclosure to Defendants Graham and Marshall.

Date: April 8, 2009

MARTY J. JACKLEY
United States Attorney



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CERTIFICATE OF SERVICE

The undersigned hereby certifies on April 8, 2009, a true and correct copy of the foregoing was served upon the following person(s), by placing the same in the service indicated, addressed as follows:

¹The United States recognizes an individual's right to privacy in avoiding disclosure of medical records, as well as the federal policy of protecting the privacy of a patient's medical records. See generally, Whalen v. Roe, 429 U.S. 589, 599-600 nn.23 & 24 (1977).

John R. Murphy
Dana Hanna

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Marty J. Jackley