

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

UNITED STATES OF AMERICA,)	CR. 03-50020-02
)	
Plaintiff,)	
)	ORDER DENYING
vs.)	DEFENDANT'S MOTION TO
)	COMPEL GOVERNMENT TO
JOHN GRAHAM, aka)	DISCLOSE LENIENCY
JOHN BOY PATTON,)	AGREEMENTS
)	
Defendant.)	

Defendant John Graham filed a motion seeking an order compelling the government to disclose the existence of any leniency or immunity agreements between the government and Theda Clarke, also known as Theda Nelson. [Docket 270]. The government has designated Ms. Clarke as a witness in its case against both Mr. Graham and his co-defendant Richard Marshall.

The government filed a response indicating that it has entered into no agreements with Ms. Clarke regarding her testimony and has not made any offers to Ms. Clarke regarding immunity or non-prosecution in return for her testimony. Docket 315. Accordingly, good cause appearing, it is hereby

ORDERED that Mr. Graham's motion to compel [270] is denied. It is further

ORDERED that, should the government enter into any such agreements with Ms. Clarke between now and the time of Mr. Graham's trial, the government is ordered to provide copies of any documents memorializing that agreement to Mr. Graham and his counsel.

NOTICE OF RIGHT TO APPEAL

Pursuant to 28 U.S.C. § 636(b)(1)(A), any party may seek reconsideration of this order before the district court upon a showing that the order is clearly erroneous or contrary to law. The parties have ten (10) days after service of this order to file written objections pursuant to 28 U.S.C. § 636(b)(1), unless an extension of time for good cause is obtained. See Fed. R. Crim. P. 58(g)(2). Failure to file timely objections will result in the waiver of the right to appeal questions of fact. Objections must be timely and specific in order to require review by the district court.

Dated May 6, 2009.

BY THE COURT:

/s/ Veronica L. Duffy

VERONICA L. DUFFY
UNITED STATES MAGISTRATE JUDGE