

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.)	
)	MOTION FOR LEAVE TO
JOHN GRAHAM, a/k/a)	FILE NOTICE PAST
JOHN BOY PATTON and)	FILING DEADLINE
VINE RICHARD MARSHALL, a/k/a))	
RICHARD VINE MARSHALL, a/k/a))	
DICK MARSHALL,)	
Defendants.)	

Defendant Graham moves this Court to allow him to file a notice of intent to admit hearsay evidence at trial under Federal Rule Evidence 804(b)(4). On January 27, 2010, the government provided to defense counsel additional extensive discovery. This discovery includes evidence pertinent to a key issue before the Court, whether Anna Mae Aquash is an Indian as that term is defined under 18 U.S.C. § 1152. Because of the recency of the disclosure of this evidence and its relevance to an issue before the Court, Mr. Graham asks that the Court

accept as timely filed his Notice of Intent to Admit Hearsay, filed contemporaneously with this motion.

Dated January 27, 2010.

/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:

ROBERT A. MANDEL

- U.S. Mail, postage prepaid
- Hand Delivery
- Federal Express
- Facsimile at
- Electronic Case Filing

DANA HANNA

- U.S. Mail, postage prepaid
- Hand Delivery
- Federal Express
- Facsimile at
- Electronic Case Filing

Dated January 27, 2010.

/s/ John R. Murphy
John R. Murphy