

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

FILED

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UNITED STATES OF AMERICA,

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CR 08-50079-02

Plaintiff,

vs.

ORDER

VINE RICHARD MARSHALL,
a/k/a Richard Vine Marshall,
a/k/a Dick Marshall,

Defendants.

Pending before the Court is the United States' Motion for Reconsideration of Order for Subpoena Duces Tecum. (Doc. 719.) In support of the Motion for Reconsideration, the government has filed a Declaration of Serle L. Chapman, (Doc. 719-2.) Defendant Vine Richard Marshall's Motion for Subpoena Duces Tecum, doc. 678, was granted as to Serle Chapman. The Order granting the Motion for Subpoena Duces Tecum, doc. 707, directed the Clerk to prepare a subpoena requiring Mr. Chapman to produce the following documents:

- (1) A copy or the original of the manuscript of BLOOD, SWEAT AND TEARS: INSIDE THE AMERICAN INDIAN MOVEMENT by Serle Chapman.
- (2) Copies or originals of the book proposal written by Serle Chapman to Mountain Press Publishing Co., along with all accompanying writings and documents, including cover letter, table of contents or outline, sample of manuscript, and list of sources.
- (3) Copies or originals of all correspondence to the publisher from Serle Chapman, including both regular mail and e-mail, concerning the writing, research, and publication of BLOOD, SWEAT AND TEARS: INSIDE THE AMERICAN INDIAN MOVEMENT by Serle Chapman © 2001 (ISBN 0-9528607-6-7), including all correspondence relating to the writer's decision to withdraw or postpone publication of the book.

(Doc. 707.) In his Declaration, Mr. Chapman disclaims the existence of any documents that fall

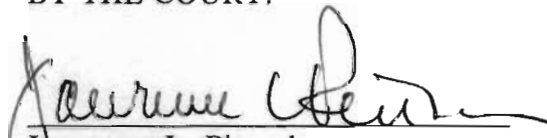
within the ambit of the Subpoena. The Court cannot require production of documents that do not exist. Accordingly,

IT IS ORDERED:

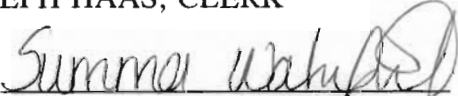
1. That the United States' Motion for Reconsideration of Order for Subpoena Duces Tecum, doc. 719, is granted.
2. That, upon reconsideration, Defendant Vine Richard Marshall's Motion for Subpoena Duces Tecum, doc. 678, is denied.
3. That the Subpoena [Duces Tecum] prepared by the Clerk for Serle Chapman is quashed, and it shall not be served on him.

Dated this 1st day of April, 2010.

BY THE COURT:


Lawrence L. Piersol
United States District Judge

ATTEST:
JOSEPH HAAS, CLERK

BY: 
DEPUTY