

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA  
Criminal No. 08-364 (RHK/AJB)

UNITED STATES OF AMERICA,            )  
  )  
                                  Plaintiff,    ) GOVERNMENT'S RESPONSE  
  ) TO DEFENDANT'S OBJECTIONS  
v.   )  
  )  
  )  
THOMAS JOSEPH PETTERS,             )  
  )  
                                  Defendant.    )  
  )

The United States of America, by and through its attorneys Frank J. Magill, United States Attorney for the District of Minnesota, and Joseph T. Dixon, III and John R. Marti, Assistant United States Attorneys, submits its response to the defendant's objections to Magistrate Judge Boylan's order.

On March 26, 2009, Magistrate Judge Boylan issued an order on the parties' pretrial motions. The order granted the defendant's pretrial motions in certain respects and denied them in other respects.

In response, the defense filed objections, excoriating the magistrate judge as unprincipled for endorsing "an oozing bog -- formless, inert, mushy and ultimately a sink hole where long-held principles are ignored." Objections at 3.

Defense counsel complains the magistrate judge's order does not provide them with sufficiently immediate disclosures. The complaint is quite striking, given that the defendant has not

produced one page in discovery notwithstanding the extraordinary time already billed to the case by the defense team. To the contrary, the defense has demonstrated disregard and, indeed, contempt, for their own obligations and the judicial orders:

- The March 26 Order required the defendant to provide reciprocal discovery. In a letter dated April 2, 2009, defense counsel refused to comply.
- The March 26, 2009 Order granted defendant's motion for disclosure of expert discovery 60 days prior to trial, but made the disclosure reciprocal (in accordance with Rule 16). In a letter dated March 30, 2009, defense counsel refused to comply.
- Prior to the March 18 hearing, the government objected to defense counsel's public assertions that a named individual was a participant in the Witness Security Program, because such an allegation itself - whether true or untrue - subjects the individual and his family to danger. The magistrate judge permitted defense counsel to make their argument, but expressly directed them not to identify any individual in argument. (Excerpt from Transcript of Motions Hearing, 3/18/2009, attached hereto). Ignoring Magistrate Judge Boylan's order, defense counsel have again repeated their assertion identifying the individual as purportedly in the program.

The defense, once again, demands that the Court grant the defendant and his counsel special treatment beyond that provided every other defendant. When Magistrate Judge Boylan did not acquiesce to their every demand, their response, predictably, was to lash out. The litigation tactic only serves to impede the fair administration of justice. We ask that objections be denied, and the Court reaffirm the defendant's and his counsel's obligation to abide by court orders.

Dated: April 6, 2009

Respectfully submitted,

FRANK J. MAGILL, JR.  
United States Attorney

*s/ John R. Marti*

BY:  
JOSEPH T. DIXON, III  
JOHN R. MARTI  
TIMOTHY C. RANK  
Assistant U.S. Attorneys