

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

UNITED STATES OF AMERICA,

Plaintiff / Appellee

vs.

Criminal Action No. 2:05cr26

AMANDA J. NICHOLS,

Defendant / Appellant

RESPONSE TO MOTION TO DISMISS THE APPEAL

COMES NOW Defendant, Amanda J. Nichols, in response to the United State's Motion to Dismiss the Appeal, and states that she disputes the Government's claim that she has failed to pursue her appeal.

As indicated by the docket of the above matter, Defendant Nichols filed her Reply Brief in the above matter on November 30, 2006 (Doc # 29).

There has been no ruling by the court since that date, and defendant asserts that her due process rights would be violated by dismissal of her appeal when this matter has been pending ruling by the Court.

Respectfully Submitted,

Amanda J. Nichols, Defendant/Appellant

By: /s/ Patrick S. Cassidy
Of Counsel

Patrick S. Cassidy (W.Va. Bar No. 671)
Email: pcassidy@cmcvlaw.com
Timothy F. Cogan (W.Va. Bar No. 764)
Email: tfc@cmcvlaw.com
CASSIDY, MYERS,
COGAN & VOEGELIN, L.C.
The First State Capitol
1413 Eoff Street
Wheeling, WV 26003-3582
Phone: (304) 232-8100
Fax: (304) 232-8352

CERTIFICATE OF SERVICE

I hereby certify that on **February 3, 2010**, I electronically filed the foregoing **RESPONSE TO MOTION TO DISMISS THE APPEAL** with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participant:

STEPHEN D WARNER ESQ
ASSISTANT US ATTORNEY
300 3RD ST STE 327
ELKINS WV 26241
Steve.warner@usdoj.gov

By: /s/ Patrick S. Cassidy
Of Counsel