

IN THE
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,	)	C.A. Nos. 10-50219, 10-50264
	)	D.C. No. CR 07-689-GW
Plaintiff-Appellee/Cross-	)	(Central Dist. Cal.)
Appellant,)	
	)	GOVERNMENT'S
v.	)	UNOPPOSED MOTION FOR
	)	EXTENSION OF TIME TO
CHARLES C. LYNCH,	)	FILE SECOND BRIEF ON
	)	CROSS-APPEAL;
Defendant-Appellant/Cross-	)	DECLARATION OF DAVID
Appellee.	)	KOWAL

Plaintiff-Appellee United States of America, by and through its counsel of record, hereby moves this Court for an extension of the time within which the government must file its shortened second cross-appeal brief in the above-captioned matter. The government's shortened second brief on cross-appeal currently is due on January 30, 2014. The government requests an additional 45-day extension of time to and including March 14, 2014. Defendant does not oppose this request.

The motion is made pursuant to Federal Rules of Appellate Procedure 26(b) and 27 and Ninth Circuit Rule 31-2.2(b) and is based on the files and records in this case and the attached declaration of David Kowal.

Defendant is not in custody.

No court reporter is in default with regard to any designated transcript.

DATED: January 21, 2014

Respectfully submitted,

ANDRÉ BIROTTE JR.
United States Attorney

ROBERT E. DUGDALE
Assistant United States Attorney
Chief, Criminal Division

/s/ David Kowal

DAVID KOWAL
Assistant United States Attorney
Organized Crime Drug
Enforcement Task Force Section

Attorneys for Plaintiff-Appellee
UNITED STATES OF AMERICA

DECLARATION OF DAVID KOWAL

I, David Kowal, hereby declare and state as follows:

1. I, David Kowal, am an Assistant United States Attorney in the Central District of California and a member of my office's Organized Crime Drug Enforcement Task Force Section.

2. I am responsible for preparing the government's second cross-appeal brief in *United States v. Lynch*, C.A. Nos. 10-50219, 10-50264. After lengthy period of extensions granted to both parties, on November 1, 2013 the government filed its second cross-appeal brief (the government's "original brief") and excerpts of record along with a motion to file an oversized brief. The government's original brief was approximately 42,360 words, 190 pages, excluding tables. On December 31, 2013, this Court issued an order (the "Order") granting in part the government's motion to file an oversized brief, ordering that the government file within 30 days (that is, by January 30, 2014) a shortened second cross-appeal brief not to exceed 28,000 words.

3. I need additional time to shorten the government's second cross-appeal brief for the following reasons:

a. Soon after I filed the government's original brief in this matter, my office assigned me to serve as the lead attorney for a new wiretap case investigating a criminal group suspected to be involved in a murder, narcotics and weapons trafficking, and other crimes. That matter has required significant daily work and attention, and was fully

active and busy when this Court issued the Order regarding the government's second cross-appeal brief. Soon after the Court's Order, I asked my supervisors to re-assign this new criminal investigation so I could work on the second cross-appeal brief. In part because the Court's Order was issued on December 31, 2013, when many members of my office were in the midst of holiday leave, the investigation could not be reassigned until a few days ago. Moreover, although reassigned, because the investigation remains very active, my involvement has necessarily been diminishing gradually in order make the transition efficient. I have other on-going responsibilities that cannot be re-assigned, including working on a highly-complex appellate matter (United States v. Yepiz et. al., CA Nos. 07-50051, 50062-63, 50067, 50070, 50098, 50133, 50142, 50264) that will require attention while I work on reducing the size of the government's second cross-appeal brief.

b. The job of revising the original brief to meet the requirements of the Order will be complicated and lengthy. The case is a complex one in which the government's original brief, responding to an oversized brief filed by defendant, had more than 45 discrete argument sections as well as a summary of a complex factual and procedural history and an extensive appellate record filed by defendant (16 volumes) and the government (4 additional volumes). Before filing the original brief, my office had already spent substantial time and effort editing and reducing the length of the brief. The Order requires

that the brief be further reduced by more than a third, approximately 35%. Based on my experience with the original brief, I expect that such substantial reductions to an already intensively edited document cannot be accomplished by simple or cursory editing, but rather will require major structure revisions and fundamental re-writing of large portions of a brief that took many months to complete. It will also require a substantial time commitment from my appellate section which will need additional time to efficiently assign resources to assist me with the project. In addition, I know from preparing the original brief that any revised brief in this matter will require significant time preparing and editing the various tables, a process which previously took many days even once the main body of the brief was substantially complete.

c. My office and I have continued to exercise diligence in this matter notwithstanding the extension requested herein.

4. On January 20, 2014, I emailed counsel for defendant, Deputy Federal Defender Alexandra Yates, regarding the requested extension. She responded that she does not object to the extension.

5. Defendant is not in custody.

6. No court reporter is in default with regard to any designated transcript.

I declare under penalty of perjury that the foregoing is true and correct.

EXECUTED this 21st day of January, 2014, in Los Angeles, California.

/s/ David Kowal

DAVID KOWAL
Assistant United States Attorney

9th Circuit Case Number(s) 10-50219, 10-50264

NOTE: To secure your input, you should print the filled-in form to PDF (File > Print > PDF Printer/Creator).

CERTIFICATE OF SERVICE

When All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system

on (date) .

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

Signature (use "s/" format)

CERTIFICATE OF SERVICE

When Not All Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system

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Participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants:

Signature (use "s/" format)