

CA NOS. 10-50219, 10-50264
IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

UNITED STATES OF AMERICA,

Plaintiff-Appellee/Cross-Appellant,

v.

CHARLES C. LYNCH,

Defendant-Appellant/Cross-Appellee.

DC NO. CR 07-689-GW

**MOTION FOR LEAVE TO FILE MOTION IN EXCESS OF TWENTY
PAGES**

APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE
CENTRAL DISTRICT OF CALIFORNIA

HONORABLE GEORGE H. WU
United States District Judge

HILARY POTASHNER
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Defendant-Appellant/Cross-Appellee Charles C. Lynch, by and through counsel of record Deputy Federal Public Defender Alexandra W. Yates, applies to this Court under Ninth Circuit Rule 32-2 for leave to file the concurrently lodged “Motion To Enforce Section 538 of the Consolidated and Further Continuing Appropriations Act, 2015, or in the Alternative for a Limited Remand” in excess of twenty pages.

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This motion is based upon the attached Declaration of Counsel, all files and records in this case, and any other information that may be properly brought to the attention of this Court in connection with the consideration of this motion.

Respectfully submitted,

HILARY POTASHNER
Acting Federal Public Defender

DATED: February 24, 2015

By /s/ Alexandra W. Yates
ALEXANDRA W. YATES
Deputy Federal Public Defender

Attorneys for Defendant-Appellant/
Cross-Appellee

DECLARATION OF ALEXANDRA W. YATES

I declare under penalty of perjury that, to the best of my knowledge, the following is true:

I am a Deputy Federal Public Defender in the Central District of California. I represent Defendant-Appellant Charles C. Lynch in this appeal. Mr. Lynch is on bond pending appeal.

Concurrently with this procedural motion, I am lodging a substantive motion titled, “Motion To Enforce Section 538 of the Consolidated and Further Continuing Appropriations Act, 2015, or in the Alternative for a Limited Remand.” The concurrently lodged motion is two pages long, and the attached “Memorandum of Points and Authorities” is twenty-six pages long. Federal Rule of Appellate Procedure 27(d)(2) sets forth a twenty-page limit for motions.

I am mindful that “the court looks with disfavor on motions to exceed the applicable page . . . limitations” and that “such motions will be granted only upon a showing of diligence and substantial need.” Ninth Cir. R. 32-2. Moreover, I understand that the Court and my clients are best served when I make my arguments clearly and concisely.

The motion raises an issue of first impression in this or any other court of appeals. Indeed, it raises a novel issue of exceptional importance—whether the Department of Justice may continue to expend funds prosecuting medical

marijuana cases in federal court, in light of Congress's very recent statutory directive to the contrary. I have made my arguments on this point—which invoke statutory and constitutional law—as succinctly as possible. I have spent several weeks editing this motion, with an eye toward cutting any unnecessary text. In doing so, I have reduced its size considerably. I do not believe that I can shorten it further without diminishing its value to the Court.

As set forth in the concurrently lodged motion, it is Mr. Lynch's position that opposing counsel would violate federal statutory and constitutional law if they were to expend any resources on this case. I therefore have not contacted opposing counsel to ascertain their position on this motion.

For the foregoing reasons, I respectfully request the Court's leave to file the concurrently lodged motion that exceeds twenty pages.

Executed in Los Angeles, California.

DATED: February 24, 2015

/s Alexandra W. Yates

ALEXANDRA W. YATES

CERTIFICATE OF SERVICE

I hereby certify that on February 24, 2015, I electronically filed the foregoing **MOTION FOR LEAVE TO FILE MOTION IN EXCESS OF TWENTY PAGES** with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system.

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.

Lorena Macias
LORENA MACIAS