

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 REPLY IN EXCESS OF TEN PAGES

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

HONORABLE GEORGE H. WU
United States District Judge

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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 Defendant-Appellant's *McIntosh* Reply, lodged concurrently, in excess of ten pages. This motion is based upon the attached declaration of counsel, all files and records in this case, and any other information the Court may request.

Respectfully submitted,

HILARY POTASHNER
Federal Public Defender

DATED: April 24, 2017

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

DECLARATION OF ALEXANDRA W. YATES

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

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

Along with this motion, I am filing Defendant-Appellant's *McIntosh* Reply, which responds to the government's Opposition to Defendant's Motion for Remand Under Fed. R. App. P. 12.1. (Dkt. 142-1.) The government's oversize opposition is fifty-six pages long. My reply is just over thirty pages long.

Circuit Rule 27-1(1)(d) requires a party to seek permission from the Court when a reply to a response to a motion exceeds ten pages.

I am mindful that the "Court looks with disfavor on motions to exceed the applicable page . . . limits," and that I must show "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 government raised a host of procedural issues in its oversize opposition, to which I must respond in the first instance. I have made my arguments on these matters—and also on the substantive issues raised—as succinctly as possible. I have edited out other, weaker arguments that I could have made. I do not believe that I can shorten the document further without diminishing its value to the Court.

As I explain in the motion and reply, 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 a reply in excess of ten pages.

Executed on April 24, 2017, in Los Angeles, California.

/s Alexandra W. Yates
ALEXANDRA W. YATES

CERTIFICATE OF SERVICE

I hereby certify that on April 24, 2017, I electronically filed the foregoing **MOTION FOR LEAVE TO FILE REPLY IN EXCESS OF TEN 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