

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

UNITED STATES OF AMERICA,

Plaintiff-Appellee,

v.

CHARLES C. LYNCH,

Defendant-Appellant.

DC NO. CR 07-689-GW

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**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE  
APPELLANT'S THIRD CROSS-APPEAL BRIEF**

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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 Charles C. Lynch, by and through counsel of record Deputy Federal Public Defender Alexandra W. Yates, applies to this Court under Ninth Circuit Rule 31-2.2 for a six-month extension of time to file the third cross-appeal brief in this case, to November 12, 2014. The third cross-appeal brief is currently due May 12, 2014. This is the first request for an extension of time to file the third cross-appeal brief.

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,

SEAN K. KENNEDY  
Federal Public Defender

DATED: May 5, 2014

By /s/ Alexandra W. Yates  
ALEXANDRA W. YATES  
Deputy Federal Public Defender  
Attorney for Defendant-Appellant

## **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 Charles C. Lynch in this appeal and cross-appeal. Mr. Lynch is on bond pending appeal.

The third cross-appeal brief is due on May 12, 2014. I have not previously requested an extension of time to file the third cross-appeal brief. In an effort to avoid serial motions, I am seeking a six-month extension of time, to November 12, 2014, to file the third cross-appeal brief.

On July 3, 2012, Mr. Lynch filed his first-cross appeal brief and accompanying sixteen volumes of excerpts of record. The brief is eighty pages long and raises eight separate challenges to Mr. Lynch's conviction and sentence, most of which have multiple sub-issues. Shortly thereafter, two amici curiae filed supporting briefs.

The government's second cross-appeal brief was initially due on August 27, 2012. On November 1, 2013, the government lodged an oversized brief, which this Court rejected. The government also filed 1,046 pages of supplemental excerpts of record. On March 14, 2014, the government filed a revised oversized brief, which this Court accepted on April 11, 2014. The government's brief is 149 pages long. The brief raises two new cross-appeal issues, and the responses to

many of Mr. Lynch's claims raise issues that Mr. Lynch will need to address in the first instance in his third cross-appeal brief.

To prepare the third cross-appeal brief, I will need to review and refamiliarize myself with these voluminous filings. This will be a particularly lengthy task given the time that has passed since the filing of the first cross-appeal brief in July 2012. Realistically, I will not be able to begin intensive work on this project until September, for the following reasons.

In addition to the standard caseload of direct appeal and habeas cases that I carry as a Deputy Federal Public Defender in our office's appellate unit, I will be spending a significant amount of time in the next few months on our office's clemency work. In January, the Obama administration announced its plans to grant executive clemency to defendants who meet certain criteria. The administration asked the defense bar to help identify qualified defendants and prepare clemency petitions on their behalf. In an effort to respond to this initiative, our office formed a three-person Clemency Team, of which I am a member. The other two members are our office's Chief Trial Deputy and a Trial Supervisor. The three of us are responsible for sorting through several hundred potential candidates, identifying the most promising, and organizing the preparation of petitions. Over the course of the past three months, I have spent close to one-third of my working hours on this project, which must be prioritized because of its time-sensitive

nature. I expect the Clemency Team work to continue at this pace for the foreseeable future.

With my remaining time, apart from Mr. Lynch's case, I am scheduled to prepare and file four opening briefs, five reply briefs, a petition for certiorari, and several less substantial filings by September. I am also the "appellate buddy," supervising other attorneys on the filing of their initial briefing, in two habeas cases. Some of these cases are expedited. One is a consolidated appeal where the opening brief was ninety-four pages and raised fifteen separate issues; I anticipate that it will take several weeks to prepare the reply brief in that case. I expect to be assigned additional cases at regular intervals, each of which will require an initial review upon assignment. Finally, I will be out of the office on a prepaid vacation from June 20 through June 27.

Given my current workload and my work on our office's Clemency Team, I believe a realistic timeframe for beginning intensive work on the third cross-appeal brief is some time in September. In light of the extensive record and briefing in these cross appeals, I believe that a realistic filing date is November 12, 2014—six months from the current due date.

Today, I contacted Assistant United States Attorneys David Kowal and Jean-Claude Andre, to ask their position on this motion. Mr. Andre informed me that the government has no objection to my request.

The court reporters are not in default with regard to any designated transcripts.

Executed on May 5, 2014, in Los Angeles, California.

/s/ Alexandra W. Yates  
ALEXANDRA W. YATES

**CERTIFICATE OF SERVICE**

I hereby certify that on May 5, 2014, I electronically filed the foregoing **UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE APPELLANT'S THIRD CROSS-APPEAL BRIEF** 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.

DATED: May 5, 2014

/s Lorena Macias  
LORENA MACIAS



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**United States Court of Appeals for the Ninth Circuit**

**Notice of Docket Activity**

The following transaction was entered on 05/05/2014 at 1:38:08 PM PDT and filed on 05/05/2014

**Case Name:** USA v. Charles Lynch

**Case Number:** [10-50219](#)

**Document(s):** [Document\(s\)](#)

**Docket Text:**

Filed (ECF) Appellant Charles C. Lynch in 10-50219 Unopposed Motion to extend time to file Third Brief on Cross-Appeal brief until 11/12/2014. Date of service: 05/05/2014. [9083127] [10-50219, 10-50264] (AWY)

**Notice will be electronically mailed to:**

Mr. David P. Kowal, Assistant U.S. Attorney  
Mr. Joseph David Elford  
Mr. Jean-Claude Andre, Assistant U.S. Attorney  
Alexandra Wallace Yates, Federal Public Defender  
Rasha Gerges Shields, Assistant U.S. Attorney  
Professor Jenny Elizabeth Carroll

The following document(s) are associated with this transaction:

**Document Description:** Mtn for Extension of Time to file appellant's third cross appeal brief

**Original Filename:** Lynch EOT Third Brief.pdf

**Electronic Document Stamp:**

[STAMP acecfStamp\_ID=1106763461 [Date=05/05/2014] [FileNumber=9083127-0]

[55bec926a8a1f6e12254b6c39e211b0338e46fd31aba175a9a678a509e5ca3230c5bd724f2246ec29e229c367d52ca322ceca714237e]