

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

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**MOTION FOR EXTENSION OF TIME TO FILE APPELLANT'S REPLY  
TO OPPOSITION TO REQUEST FOR *MCINTOSH* RELIEF**

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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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ALEXANDRA W. YATES  
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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 31-2.2 for an eighteen-day extension of time to file his reply to the government's opposition to his request for *McIntosh* relief, to April 21, 2017. 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 3, 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.

On March 3, 2017, I lodged a twenty-seven-page pleading notifying this Court of an indicative ruling by the district court, pursuant to Federal Rule of Procedure 12.1, and seeking a remand or relief. The request is based on this Court's decision in *United States v. McIntosh*, 833 F.3d 1163 (9th Cir. 2016), which held that a congressional appropriations rider prohibits the Department of Justice from spending funds on a criminal prosecution if the defendant's conduct was authorized by state medical marijuana laws.

On March 23, following an extension of time, the government lodged a fifty-six-page opposition, and filed a request to file an oversize pleading. This Court has not acted on the government's request, but assuming the government's opposition is accepted, my reply is due today.

For the past two weeks, I have been preparing a lengthy Rule 60(b) motion in *Evans v. Miller*, CA Nos. 13-55087 & 14-72470, habeas cases where the client is serving life without the possibility of parole for a quadruple homicide and our office developed substantial evidence demonstrating the client's actual innocence.

Because Evans must show diligence in bringing his new evidence and claims to the federal courts, this motion is time-sensitive. I had hoped to file the motion last week, but needed additional time to address several complicated legal and factual issues. I expect to file the motion this week.

As soon as I complete the *Evans* motion, I will prepare and file the *McIntosh* reply in this case. Given the length and breadth of the government's opposition (twice the length of the pleading to which it responds), I expect to need, at a minimum, several days to draft this reply.

I will be out of the country on previously scheduled annual leave for one week beginning April 8. Although I expect to work while on leave, I do not expect to be able to engage in intensive legal research or writing at the location where I will be staying.

I have been doing everything in my power to complete both the *Evans* and *Lynch* filings before my leave, including working seven days a week, usually on extended hours. I hope to file the *Lynch* reply before my leave, but expect that I may need a few additional days upon my return to complete my work, and also to allow for review by my supervisor. In an abundance of caution, and mindful of the Court's desire that I not make serial requests for extensions of time, I am seeking an eighteen-day extension, to April 21, to prepare and file the reply. If the Court grants my request, but I nonetheless complete the *Lynch* reply before April 21, I will file the reply before the proposed due date.

I have exercised diligence in preparing the reply, and expect to file it on or before April 21.

In light of the congressional appropriations rider, 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.

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

Executed on April 3, 2017, in Los Angeles, California.

/s/ Alexandra W. Yates  
ALEXANDRA W. YATES

**CERTIFICATE OF SERVICE**

I hereby certify that on April 3, 2017, I electronically filed the foregoing **MOTION FOR EXTENSION OF TIME TO FILE APPELLANT’S REPLY TO OPPOSITION TO REQUEST FOR *MCINTOSH* RELIEF** 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