

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 OVERSIZE BRIEF

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 an oversize third cross-appeal brief, lodged concurrently. 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: July 17, 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. Lynch is on bond pending appeal.

Along with this motion, I am lodging the third cross-appeal brief. This brief responds to a 149-page, 32,951-word government brief. My proposed brief is 79 pages and 18,504 words—almost 14,500 words shorter than the government’s brief. However, my proposed brief exceeds by 4504 words the Court’s limitation on third cross-appeal briefs.

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’s oversize brief raises two new cross-appeal issues, and its responses to many of Lynch’s claims raise issues such as waiver and prejudice that I must address for the first time in the third cross-appeal brief. The Court also instructed Lynch to renew a previously filed motion in his third cross-appeal brief. I have made my arguments on these matters—and also on the substantive issues raised—as succinctly as possible. Where at all possible, I have consolidated issues

to avoid redundancies. I have edited out 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.

For the foregoing reasons, I respectfully request the Court's leave to file a third cross-appeal brief in excess of 14,000 words.

In light of a congressional appropriations rider barring the DOJ from spending funds on medical marijuana cases, it is 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.

Executed on July 17, 2017, in Los Angeles, California.

/s Alexandra W. Yates
ALEXANDRA W. YATES

CERTIFICATE OF SERVICE

I hereby certify that on July 17, 2017, I electronically filed the foregoing **MOTION FOR LEAVE TO FILE OVERSIZE 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.

Lorena Macias
LORENA MACIAS