

CA NO. 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 THIRTY-DAY EXTENSION OF TIME TO FILE
APPELLANT'S PETITION FOR REHEARING AND SUGGESTION FOR
REHEARING EN BANC**

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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COMES NOW Defendant-Appellant/Cross-Appellee Charles C. Lynch, by and through counsel of record Deputy Federal Public Defender Alexandra W. Yates, and applies to this Court under Ninth Circuit Rule 31-2.2 for a thirty-day extension of time to file a petition for rehearing and suggestion for rehearing en banc, to October 29, 2018. This is Lynch’s first request for an extension of time.

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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 the Court may request.

Respectfully submitted,

HILARY P. POTASHNER
Federal Public Defender

DATED: September 20, 2018

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 C. Lynch in this appeal. Lynch is not in custody.

On September 13, 2018, this Court issued a decision affirming Lynch's conviction, reversing on cross-appeal Lynch's sentence, and remanding for an evidentiary hearing on Lynch's compliance with state medical marijuana law. Judge Watford dissented, and would have reversed Lynch's conviction.

Lynch's deadline to file a petition for rehearing and suggestion for rehearing en banc ("PFR/EB") is September 27. For the following reasons, I am requesting an additional thirty days to file the PFR/EB, to October 29.

Lynch's briefing raised, and the panel's decision addressed, several complicated issues. I anticipate filing a PFR/EB on the jury nullification issue that split the Court, but need additional time to determine whether to raise any of the remaining issues, and then to draft concise briefing for the Court. I also need more time to consult with possible *amici* who have expressed interest in the case.

I have begun this work, but have not been able to complete it, and do not believe that I can do so by the current deadline because of previously-scheduled commitments in other cases, including reply briefs due in this Court on October 1

and 15, respectively, on which I am working. I also am lead counsel in *United States v. Dylann Storm Roof*, Fourth Cir. CA No. 17-3, a high-profile capital appeal that requires extensive, often time-sensitive, daily work, and for which I am scheduled to be in an all-day meeting on Tuesday. In October, I am scheduled to travel out-of-state for *Roof* for two days, and also to attend a mandatory two-day work retreat. Finally, I am scheduled for jury service tomorrow, and do not know whether I will be selected to serve, and if so, for how long.

For all of these reasons, I request a thirty-day extension of time, to and including October 29, 2018, to file a PFR/EB in this case. This is Lynch's first request for an extension of time to file the PFR/EB. I have exercised diligence in preparing this case, and expect to file the PFR/EB on or before October 29.

In light of a congressional appropriations rider barring the Department of Justice from spending funds on medical marijuana prosecutions, it has been Lynch's consistent 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 for their position on this motion.

The court reporter is not in default with regard to any designated transcripts.

Executed on September 20, 2018, in Los Angeles, California.

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

CERTIFICATE OF SERVICE

I hereby certify that on September 20, 2018, I electronically filed the foregoing **MOTION FOR THIRTY-DAY EXTENSION OF TIME TO FILE APPELLANT’S PETITION FOR REHEARING AND SUGGESTION FOR REHEARING EN BANC** 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: September 20, 2018

s/ Lorena Macias
LORENA MACIAS