

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 FOURTEEN-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 fourteen-day extension of time to file a petition for rehearing and suggestion for rehearing en banc, to November 13, 2018. This is Lynch’s second 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: October 22, 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 published 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 October 29, following one thirty-day extension of time. For the following two reasons, I am requesting a final, fourteen-day extension to file the PFR/EB, to November 13.

First, I have been in communication with a well-respected, national organization that regularly files amicus curiae briefs in the federal circuit courts and U.S. Supreme Court. This organization has confirmed its intention to file an amicus brief in support of Lynch's PFR/EB for this Court's consideration, but has asked me to seek a fourteen-day extension to allow sufficient time to do so. The additional time not only will be of assistance to the proposed amicus organization,

but will provide the necessary time to ensure that Lynch and the organization do not file duplicative briefing with this Court.

Second, Lynch's initial briefing raised, and the panel's decision addressed, several complicated issues. I have spent a significant amount of time reviewing the Court's decision and the relevant law; identified the issues that I plan to raise in the PFR/EB; and began drafting the briefing. However, I need an additional fourteen days to complete this work, as I also have been preparing for a two-day meeting in *United States v. Dylann Storm Roof*, Fourth Cir. CA No. 17-3, a high-profile capital appeal for which I am lead counsel. That meeting began today and continues tomorrow. I then will be out of the office two additional days this week on a long-planned, prepaid trip.

For these reasons, I request a fourteen-day extension of time, to and including November 13, 2018, to file the PFR/EB in this case. I have exercised diligence in preparing this case, and expect to file the PFR/EB on or before November 13.

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 October 22, 2018, in Los Angeles, California.

s/ Alexandra W. Yates

ALEXANDRA W. YATES

Deputy Federal Public Defender

CERTIFICATE OF SERVICE

I hereby certify that on October 22, 2018, I electronically filed the foregoing **MOTION FOR FOURTEEN-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: October 22, 2018

s/ Lorena Macias
LORENA MACIAS