

NICHOLAS A. TRUTANICH
United States Attorney
ELIZABETH O. WHITE
Appellate Chief and
Assistant United States Attorney
District of Nevada
400 South Virginia, Suite 900
Reno, Nevada 89501
(775) 784-5438

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,)	
)	
Plaintiff-Appellant,)	
)	C.A. No. 18-10287
v.)	
)	
CLIVEN D. BUNDY,)	
RYAN C. BUNDY,)	D.C. No.
AMMON E. BUNDY, and)	2:16-CR-46-GMN
RYAN W. PAYNE,)	
)	
Defendants-Appellees.)	
_____)	

**Government’s Reply in Support of Its Motion for a Third Extension of
Time (14 Days) To File Its Opening Brief**

Appellant United States of America, by and through undersigned counsel and pursuant to Federal Rule of Appellate Procedure 27(a)(4), filed this reply in support of its motion for a 14-day extension of time, to and including February 6, 2019, within which to file its opening brief in this appeal.

In opposing the government’s motion, Cliven Bundy, apparently

complaining about the length of time it was taking to complete the process by which the U.S. Solicitor General decides whether an appeal is warranted, argued that it was time for the government to “fish or cut bait” and that there was “no good reason to grant further extensions of time.”

Undersigned counsel advises the Court and the defendants that the review process is complete and the Solicitor General has authorized the government’s appeal. Undersigned counsel further advises that the draft brief is nearly complete, editing of the completed portions has begun, and she has begun the laborious process of preparing the excerpts of record and updating the record citations in brief to the excerpts of record. Thus, if the government’s motion for a 14-day extension of time is granted, the government’s brief *will* be filed on or before February 6, 2019.

Undersigned counsel reiterates that she understands the Court looks with disfavor on multiple extension requests, and she apologizes to the Court for the inconvenience caused by her filing serial extension requests of 60, 21, and now 14 days. Nevertheless, she avers that the total extension time requested—95 days—is reasonable given the size and complexity of the record in this case, which comprises more than 3,200 docket entries and includes thousands of pages of transcripts.

Finally, undersigned counsel notes that although she will be prepared to serve the government’s brief and excerpts of record on the defendants on or

before February 6, such service is usually accomplished through defendants' counsel. But it appears from the appellate docket that Defendant Ryan Bundy remains unrepresented in this appeal, and that he did not respond to the Court's August 30, 2018, or October 25, 2018, orders directing him to either retain counsel, request the appointment of counsel, or clearly request permission from this Court to proceed without the assistance of counsel. Thus if the government's motion is granted, undersigned counsel will, unless directed otherwise, serve the opening brief and excerpts of record on Ryan Bundy by sending them to him via United States mail on or before February 6, 2019.

For the reasons stated above and in the government's motion, the United States respectfully requests the Court grant its motion for a 14-day extension of time, until February 6, 2019, in which to file its opening brief.

DATED this 23d day of January, 2019

Respectfully submitted,

NICHOLAS A. TRUTANICH
United States Attorney

s/ Elizabeth O. White
ELIZABETH O. WHITE
Appellate Chief and
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **Government's Reply in Support of Its Motion for a Third Extension of Time (14 Days) To File Its Opening Brief** was filed 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 participants in the case who are registered CM/ECF users will be served by the appellate CM/ECF system. In addition, I served a copy of this motion to Appellee Ryan Bundy via email at c4cforall@gmail.com, and via U.S. Mail at the following address:

Ryan Bundy
PO Box 7557
Bunkerville, NV 89007

s/ Elizabeth O. White

ELIZABETH O. WHITE
Appellate Chief and
Assistant United States Attorney

Dated: January 23, 2019