

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

ELBERT PARR TUTTLE COURT OF APPEALS BUILDING
56 Forsyth Street, N.W.
Atlanta, Georgia 30303

John Ley
Clerk of Court

For rules and forms visit
www.ca11.uscourts.gov

October 08, 2014

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 12-15093-U
Case Style: USA v. Alexander Roy
District Court Docket No: 2:12-cr-14022-KMM-1

This Court requires all counsel to file documents electronically using the Electronic Case Files ("ECF") system, unless exempted for good cause.

For the purposes of the upcoming en banc rehearing in the above referenced case, the court desires for counsel to focus on their briefs on the following issues:

(1) Did the seven-minute absence of Roy's attorney while inculpatory evidence was presented to the jury amount to the complete denial of counsel at a critical stage of his trial, giving rise to an irrebuttable presumption of prejudice under United States v. Cronin, 466 U.S. 648 (1984)?

(2) If the Cronin presumption of prejudice does not apply, should this Court apply plain error review, or, instead, harmless error review as described in Chapman v. California, 386 U.S. 18 (1967)?

(3) Under either plain error or harmless error review, is Roy entitled to relief on his Sixth Amendment claim?

APPELLANT'S EN BANC BRIEF SHALL BE SERVED AND FILED ON OR BEFORE MONDAY, NOVEMBER 17, 2014 by 5:00 p.m. APPELLEE'S EN BANC BRIEF SHALL BE SERVED AND FILED ON OR BEFORE WEDNESDAY, DECEMBER 17, 2014 by 5:00 p.m. Any en banc reply brief shall be filed on or before Wednesday, December 31, 2014 by 5:00 p.m. NO EXTENSIONS WILL BE GRANTED. An original and 19 copies of the en banc briefs should be filed (appellant's in blue covers, appellee's in red covers and any reply in gray covers). The parties are expected to insure that all other parties receive a copy of their briefs before the close of business on the day of filing (facsimile, e-mail, etc.). NO TIME FOR MAILING SHALL BE ALLOWED. The filing of en banc amicus briefs is governed by 11th Cir. R. 35-8.

All counsel are requested to file 16 copies of their original opening panel briefs, appendix (record excerpts) and supplemental authorities prior to 5:00 p.m., Monday, November 17, 2014.

Oral argument will be conducted the week of February 23, 2015 in Atlanta, Georgia. Each party

will be allotted 20 minutes per side for oral argument. Counsel will receive subsequent correspondence regarding the specific time of oral argument.

Sincerely,

JOHN LEY, Clerk of Court

Reply to: Jenifer L. Tubbs
Phone #: 404-335-6166

BR-1 Criminal appeal briefing ntc issued