

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

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

David J. Smith
Clerk of Court

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January 30, 2023

MEMORANDUM TO COUNSEL OR PARTIES

Appeal Number: 20-10545-U

Case Style: USA v. Timothy Pate

District Court Docket No: 1:18-cr-00045-RSB-BWC-1

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

Title 18 U.S.C. § 1521 criminalizes the filing “in any public record or in any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of an individual described in [18 U.S.C. §] 1114,^[1] on account of the performance of official duties by that individual, knowing or having reason to know that such lien or encumbrance is false or contains any materially false, fictitious, or fraudulent statement or representation.”

Does 18 U.S.C. § 1521 apply to false liens filed against former federal officers or employees for official duties they performed while in service with the federal government?

¹ In turn, 18 U.S.C. § 1114 provides that “[w]hoever kills or attempts to kill any officer or employee of the United States or of any agency in any branch of the United States Government . . . while such officer or employee is engaged in or on account of the performance of official duties, or any person assisting such an officer or employee in the performance of such duties or on account of that assistance, shall be punished.”

The appellant's en banc brief is due on or before March 13, 2023. The appellee's en banc brief is due within 30 days after the service of the appellant's brief. The appellant's en banc reply brief, if any, is due within 21 days after the service of the appellee's brief. **NO EXTENSIONS WILL BE GRANTED.**

Please see FRAP 28 and 32 and the corresponding circuit rules for information on the form of briefs. Fifteen (15) paper copies of the en banc briefs shall be filed (appellant's in blue covers, appellee's in red covers and any reply in gray covers). Attorneys must file briefs electronically using the ECF system. PAPER COPIES OF THE BRIEFS SHOULD BE RECEIVED THE NEXT BUSINESS DAY. Counsel is not required to submit the additional copies of the previous filed briefs.

The filing of an en banc amicus brief is governed by 11th Cir.R.35-8.

Oral argument will be conducted the week of June 12, 2023 in Atlanta, Georgia. Each party will be allotted twenty (20) minutes per side for oral argument. Counsel will receive subsequent correspondence regarding the specific time of oral argument.

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BR-1 Criminal appeal briefing ntc issued