

Case No. 20-56233

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

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JONAH MARTINEZ, et al.  
Plaintiffs/Appellants,

v.

ALEX VILLANUEVA, et al.  
Defendants/Appellees

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Appeal From The United States District Court  
for the Central District of California  
Honorable André Birotte Jr.  
Lower Court Docket No. 2:20-cv-02874-AB-SK

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**MOTION FOR A SECOND 14-DAY EXTENSION OF TIME FOR FILING  
PETITION FOR REHEARING OR, IN THE ALTERNATIVE,  
REHEARING EN BANC**

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COUNTY OF LOS ANGELES,  
ALEX VILLANUEVA and BARBARA FERRER

PLEASE TAKE NOTICE that Defendants-Appellees County of Los Angeles, Sheriff Alex Villanueva (in his official capacity only), and County Public Health Director Barbara Ferrer (in her official capacity only) (collectively, “Appellees”) respectfully move this Court, under Federal Rule of Appellate Procedure Rules 26(b) and 40(a)(1), for a second 14-day extension of the current February 17, 2022 deadline for filing a petition for rehearing and/or rehearing en banc of this Court’s opinion issued on January 20, 2022. (Dkt No. 37-1.)

This panel’s opinion, which was based on the reasoning set forth in the panel’s published opinion in the related case *McDougall, et al. v. County of Ventura, et al.*, No. 20-56220, \_\_\_ F.4th \_\_\_ (9th Cir. Jan. 20, 2022), raises important issues regarding the intersection of the Second Amendment and COVID-19-related jurisprudence, including the appropriate level of review for pandemic-related actions alleged to have violated the Second Amendment.

Appellees have at all times exercised due diligence in providing timely and professional briefing to this Court, and any petition for rehearing and/or rehearing en banc will be filed within the time requested. (Declaration of Paul B. Beach, ¶ 6.)

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Plaintiffs/Appellants were notified of this Motion and they have not advised Appellees as to their position with respect to this Motion. (*Id.*, ¶ 7.)

Dated: February 15, 2022

Respectfully submitted,

LAWRENCE BEACH ALLEN & CHOI, PC

By           /s/ Paul B. Beach          

Paul B. Beach

Jin S. Choi

Attorneys for Defendants/Appellees

County of Los Angeles, Barbara

Ferrer, and Alex Villanueva

**DECLARATION OF PAUL B. BEACH**

I, Paul B. Beach, declare as follows:

1. I am an attorney at law, duly authorized to practice before this Court and I am a shareholder in the law firm of Lawrence Beach Allen & Choi, PC, attorneys of record for Appellees County of Los Angeles, Sheriff Alex Villanueva (in his official capacity only), and County Public Health Director Barbara Ferrer (in her official capacity only) in the within entitled action. I have personal knowledge of the facts stated herein. If called to testify to the matters herein, I could and would competently do so.

2. I am responsible for the preparation of Appellees' petition for rehearing and/or petition for rehearing en banc of the Court's January 20, 2022 opinion reversing the district court's granting of Appellees' motion for judgment on the pleadings.

3. Appellees' petition for rehearing and/or rehearing en banc is currently due by February 17, 2022.

4. Appellees hereby respectfully request a fourteen (14) day extension—to March 3, 2022—for filing their petition for rehearing and/or rehearing en banc.

5. This will be the second and last request for an extension of this filing deadline, and this request is being made for the reasons set forth below:

(a) The panel based its decision in the instant appeal on the published panel opinion in the related matter *McDougall, et al. v. County of Ventura, et al.*, Case No 20-56220 (“*McDougall*”). The two cases involve similar factual allegations and legal issues. Only after filing the Appellees’ original extension request, however, did the appellees in *McDougall* decide to not seek en banc review. Appellees are in the process of determining whether to seek further review given this recent development, as well as whether a member of the Court is going to sua sponte call for en banc review of the *McDougall* opinion;

(b) In addition to preparing the petition in the instant matter, I am responsible for the day-to-day handling of multiple state and federal cases that have tasks scheduled during the two-week period of time the appellate rules require the petition to be filed in the absence of an extension of time.

6. Appellees have at all times exercised diligence in providing timely and professional briefing to this Court, and this motion is being made in good faith and not for any purpose of delay. If Appellees are going to file a petition for rehearing and/or rehearing en banc, it will be filed within the time requested.

7. On February 15, 2022, Plaintiffs/Appellants’ counsel, Mr. Raymond DiGuseppe, was advised of this Motion. He stated that he would have to check with his clients about their position on this Motion. As of the filing of this Motion, Appellees have not further responded with respect to their position.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed on February 15, 2022, at Glendale, California.

s/ Paul B. Beach  
Paul B. Beach