

No. 19-3618

IN THE
United States Court of Appeals for the Eighth Circuit

UNITED STATES OF AMERICA,

v.

DANIEL LEWIS LEE.

CAPITAL CASE – EXECUTION SCHEDULED IMMEDIATELY

On Appeal from the United States District Court
for the Eastern District of Arkansas
Case No. 97-c4r-243

**OPPOSITION TO EMERGENCY MOTION FOR IMMEDIATE ISSUANCE
OF THE MANDATE**

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July 14, 2020

The Government has sought immediate issuance of the mandate in this case to proceed with the execution of Daniel Lewis Lee, *after* attempting to execute Petitioner at 4:00 a.m. There is no basis for that much belated request.

By issuing the mandate in this case, the Court will be deprived of jurisdiction over Lee’s petition for rehearing en banc, which remains pending. The Government cites no compelling circumstances that would justify this dramatic departure from the ordinary course of appellate review. *See* Fed. R. App. P. 41(b) (providing as default rule that mandate will issue “7 days after entry of an order denying a timely petition for rehearing en banc”). And the lateness of its request—coming *after* it attempted to illegally initiate an execution—counsels strongly against granting it.

CONCLUSION

The Government’s Motion should be denied.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify the following:

1. The foregoing brief complies with the type-volume limitations in Fed. R. App. P. 29(b)(4) because it contains less than 108 words, excluding those parts exempted by Fed. R. App. P. 32(f).

2. This brief complies with the typeface requirements of Fed. R. App. P. 32(a)(5) and the type style requirements of Fed. R. App. P. 32(a)(6) because the brief was produced in a proportionally spaced typeface using Microsoft Word Times New Roman 14-point font.

/s/ George G. Kouros
GEORGE G. KOUROS

CERTIFICATE OF SERVICE

I certify that on July 14, 2020, the foregoing was electronically filed through this Court's CM/ECF system. All counsel of record are registered CM/ECF users, and service will be accomplished by the CM/ECF system.

/s/ George G. Kouros
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