

ORIGINAL

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

\_\_\_\_\_  
Appeal from Barnwell County  
Doyet A. Early, III, Circuit Court Judge  
\_\_\_\_\_

RECEIVED  
JUL 24 2018  
SC Court of Appeals

THE STATE,

RESPONDENT,

v.

DEMONTAY KEITH PAYNE,

APPELLANT

Appellate Case No. 2017-002014  
\_\_\_\_\_

**MOTION TO FILE REQUEST FOR EXTENSION OF TIME TO FILE THE  
INITIAL BRIEF OF APPELLANT AND DESIGNATION OF MATTER  
OUT OF TIME**  
\_\_\_\_\_

Pursuant to Rule 240, SCACR, Counsel for Demontay Keith Payne respectfully requests the Court to accept the request for a first extension of time to file the initial brief of appellant and designation of matter in this case out of time. In support of this request, counsel shows the following:

- (1) The initial brief of appellant and designation of matter was due to be filed with this Court on July 23, 2018. The time in which to file the initial brief of appellant and designation of matter has **not** been previously extended.

✓

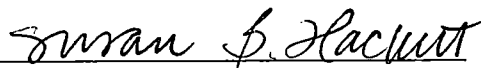
(2) Yesterday, undersigned counsel sought an extension of time in which to file the initial brief of appellant and designation of matter. An email was sent requesting such an extension. The email is attached to this motion as Exhibit #1.

(2) Unfortunately, the email was not sent to this Court, but was sent to opposing counsel. See Exhibit #1. Through an email, opposing counsel, Melody J. Brown, Esquire, brought the oversight to undersigned counsel's attention. See Exhibit #2.

(3) Undersigned counsel advised Ms. Brown of her intention to file this motion to ask this Court to accept the request for an extension of time in which to file the initial brief of appellant and designation of matter out of time. Ms. Brown indicated that she does not oppose this request.

(4) Counsel makes this request in good faith and not for purposes of delay.

WHEREFORE, undersigned counsel respectfully requests the Court accept this first request for an extension of time in which to file the initial brief of appellant and designation of matter out of time. Furthermore, undersigned counsel respectfully requests an extension of thirty days in which to file the initial brief of appellant and designation of matter in this case.

  
Susan B. Hackett  
Appellate Defender

ATTORNEY FOR APPELLANT

July 24, 2018

# **EXHIBIT # 1**

## **Leverett, Scott**

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**From:** Leverett, Scott  
**Sent:** Monday, July 23, 2018 8:45 AM  
**To:** 'mbrown@scag.gov'  
**Cc:** Hackett, Susan; Murdoch, Paula; 'tbrailey@scag.gov'  
**Subject:** The State v. Demontay Markeith Payne – Appellate Case No. 2017-002014

Clerk's Office

South Carolina Court of Appeals

Re: The State v. Demontay Markeith Payne – Appellate Case No. 2017-002014

Dear Ms. Kitchings:

The Initial Brief of Appellant and Designation of Matter in the above case are due to be served and filed with the Court today. However, due to my heavy work-load, I am requesting a thirty day extension in which to serve and file this brief.

By copy of this email, I am informing Melody J. Brown, Esquire, of the Attorney General's office of my request.

Sincerely,

Susan B. Hackett

Appellate Defender

SBH/sl

# **EXHIBIT # 2**

**Leverett, Scott**

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**From:** Melody Brown <MBrown@scag.gov>  
**Sent:** Monday, July 23, 2018 5:06 PM  
**To:** Leverett, Scott  
**Cc:** Hackett, Susan; Murdoch, Paula; Troyeshi Brailey  
**Subject:** RE: The State v. Demontay Markeith Payne – Appellate Case No. 2017-002014

Did this go to the Court? I was doing a reply all and did not see the coa address.

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**From:** Leverett, Scott [mailto:sleverett@sccid.sc.gov]  
**Sent:** Monday, July 23, 2018 8:45 AM  
**To:** Melody Brown  
**Cc:** Hackett, Susan; Murdoch, Paula; Troyeshi Brailey  
**Subject:** The State v. Demontay Markeith Payne – Appellate Case No. 2017-002014

Clerk's Office

South Carolina Court of Appeals

Re: The State v. Demontay Markeith Payne – Appellate Case No. 2017-002014

Dear Ms. Kitchings:

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By copy of this email, I am informing Melody J. Brown, Esquire, of the Attorney General's office of my request.

Sincerely,

Susan B. Hackett

Appellate Defender

SBH/sl

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This communication and any attachment thereto is intended only for use by the addressee(s) named herein, and may contain legally privileged and/or confidential information. If you are not the intended recipient of this e-mail, you are hereby notified that any dissemination, utilization, distribution or copying of this e-mail, and any attachments thereto, is strictly prohibited. If you have received this e-mail in error please notify the Commission on Indigent Defense immediately and permanently delete the original and any copy of any e-mail and any printout thereof. SCCID may be reached by using the email address of the sender, or at 803-734-1343.

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\_\_\_\_\_  
CERTIFICATE OF SERVICE  
\_\_\_\_\_

The undersigned attorney hereby certifies that a true copy of the motion to file request for extension of time to file the initial brief of appellant and designation of matter out of time in the above referenced case has been served upon Melody J. Brown., Esquire, this 24<sup>th</sup> day of July, 2018.

  
\_\_\_\_\_  
Susan B. Hackett  
Appellate Defender

ATTORNEY FOR APPELLANT

SUBSCRIBED AND SWORN TO before me  
this 24<sup>th</sup> day of July, 2018.

  
\_\_\_\_\_  
(L.S.)  
Notary Public for South Carolina

My Commission Expires: July 5, 2027.