

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

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Appeal from Barnwell County  
The Honorable Doyet A. Early, III, Circuit Court Judge

Appellate Case No. 2017-002014

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THE STATE,

Respondent,

vs.

DEMONTAY MARKEITH PAYNE,

Appellant.

**RECEIVED**  
FEB 11 2019  
SC Court of Appeals

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**MOTION FOR SECOND EXTENSION OF TIME TO FILE  
INITIAL BRIEF OF RESPONDENT AND  
DESIGNATION OF MATTER**

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The undersigned counsel would respectfully request a thirty (30) day extension in which to file the Initial Brief of Respondent in the above-referenced case. In support of this motion, counsel would respectfully show the Court the following:

Respondent's Initial Brief is due today, February 11, 2019, upon this Court's grant of Respondent's first request for an extension filed on January 11, 2019. Specifically,

1. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of George Smith, #329531 vs. Aaron Joyner, C/A No. 5:18-2086-HMH-KDW on January 16, 2019;

2. Counsel filed the Return and Memorandum of Law in Support of Motion for

Summary Judgment in the matter of Kevin Wayne McDaniels, #254398 vs. Charles Williams, 1:18-cv-2611-TLW-SVH on January 22, 2019;

3. Counsel filed the Initial Brief of Respondent and Designation of Matter in the case of The State vs. Ricky L. Esaw, a Lexington County murder appeal matter now pending before the South Carolina Court of Appeals on February 1, 2019;

4. Counsel filed Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #38] in the matter of Kevin Wayne McDaniels, #254398 vs. Charles Williams Warden, C/A No. 1:18-2611-TLW-SVH on February 8, 2019;

5. Counsel is preparing the Initial Brief of Respondent and Designation of Matter in the matter of The State vs. Santonio Torez Williams, Appellate Case No. 2017-001950, an Aiken County murder appeal matter now pending in the South Carolina Court of Appeals which is currently due to be filed on February 15, 2019;

6. Counsel is also preparing the Brief of Respondent in the matter of Boyd Rashaen Evans vs. State of South Carolina, Appellate Case No. 2016-001287, a Lexington County Post-Conviction Relief Appeal matter now pending in the South Carolina Court of Appeals which is currently due to be filed on February 15, 2019; and

7. Counsel has begun to prepare the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Kevin Gilliard, #275357 vs. Warden Joyner, C/A No. 6:18-cv-2417-MGL-KFM.

However, due to counsel's involvement in these and other matters pending in state and federal court, counsel is unable to timely complete the Initial Brief of Respondent in this proceeding. Thus, counsel is requesting an extension of time in which to file the Initial Brief in this matter. This request is made in good faith, and not for the purposes of delay.

WHEREFORE, premises considered, counsel hereby respectfully requests a thirty (30) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter.

Respectfully submitted,

ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
Deputy Attorney General  
ID No. 5758

MELODY J. BROWN  
Senior Assistant Deputy Attorney General

W. JOSEPH MAYE  
Assistant Attorney General  
I.D. No. 100851

By:   
W. JOSEPH MAYE

ATTORNEYS FOR RESPONDENT

February 11, 2019.

STATE OF SOUTH CAROLINA  
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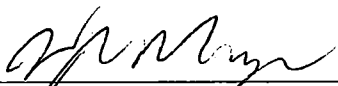
**PROOF OF SERVICE**

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I, **W. Joseph Maye**, of counsel for the Respondent, certify that I have served two (2) copies of the within motion for a second extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to his attorney of record, Susan B. Hackett, Esq., SCCID/Division of Appellate Defense, 1330 Lady Street, Suite #401, Columbia, South Carolina 29201.

I further certify that all parties required by Rule to be served have been served.

This 11<sup>th</sup> day of February, 2019.

  
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W. JOSEPH MAYE  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305



ALAN WILSON  
ATTORNEY GENERAL

February 11, 2019

The Honorable Jenny A. Kitchings  
Clerk, South Carolina Court of Appeals  
Post Office Box 11629  
Columbia, South Carolina 29211


Re: *The State v. Demontay Markeith Payne*  
Appeal from Barnwell County  
Appellate Case No. 2017-002014

Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of the Respondent's Second Extension of Time to File Initial Brief of Respondent and Designation of Matter, together with Proof of Service, in the above-referenced matter. Opposing counsel has graciously consented to this extension request.

Thank you for your assistance in this matter.

Sincerely,

  
W. Joseph Maye  
Assistant Attorney General

**RECEIVED**  
FEB 11 2019  
SC Court of Appeals

WJM:dmd  
Enclosures

cc: Susan Hackett, Esq. (w/two copies of encls.)