

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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

Appellate Case No. 2017-002014

THE STATE,

Respondent,

vs.

DEMONTAY MARKEITH PAYNE,

Appellant.

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MAR 18 2019
SC Court of Appeals

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

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, March 13, 2019, upon this Court's grant of Respondent's second request for an extension filed on February 12, 2019. Specifically,

1. Counsel filed 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 on February 15, 2019;

2. Counsel filed the Brief of Respondent in the matter of Boyd Rashaeen 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 Supreme Court on February 15, 2019;

3. Counsel filed Respondent's Reply to Petitioner's Motion for Appointment of Counsel, Motion for Evidentiary Hearing, and Motion for Issuance of Subpoena [ECF #42] in the matter of Kevin Wayne McDaniels, #254398 vs. Charles Williams Warden, C/A No. 1:18-2611-TLW-SVH on February 15, 2019;

4. Counsel filed Respondent's Second Status Report in the matter of Darrell L. Goss, #305517 vs. Warden Charles Williams, C/A No. 2:18-2938-BHH-MGB on February 26, 2019;

5. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Termain Cooper, #286396 vs. Warden Aaron Joyner, 8:18-cv-2692-RMG-JDA, on March 4, 2019;

6. Counsel also filed 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, on March 4, 2019; and

7. Counsel for Respondent filed the Final Brief of Respondent in the matter of The State vs. Ricky L. Esaw, Appellate Case No. 2017-002213, a direct appeal from Lexington County on March 5, 2019; and

8. Counsel is currently preparing the Respondent's Rule 59(e) Motion to Alter or Amend Judgment in the Lexington County Capital matter of Ron O'Neal Finklea, #SK6025 vs. State of South Carolina, 2010-CP-32-5076, which is currently due to be filed on Monday, March 18, 2019;

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:

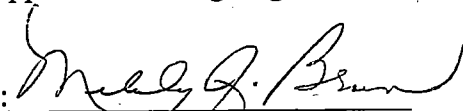


W. JOSEPH MAYE

ATTORNEYS FOR RESPONDENT

March 13, 2019.

I support the finding of good cause.

By: 

MELODY J. BROWN
Senior Assistant Deputy Attorney General

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

Appellate Case No. 2017-002014

THE STATE,

vs.

Respondent,

DEMONTAY MARKEITH PAYNE,

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PROOF OF SERVICE

I, **W. Joseph Maye**, of counsel for the Respondent, certify that I have served two (2) copies of the within motion for a third 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 13th day of March, 2019.


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



ALAN WILSON
ATTORNEY GENERAL

March 13, 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


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Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of the Respondent's Third 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

WJM:dmd
Enclosures

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