

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.

**MOTION FOR FOURTH 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, April 12, 2019, upon this Court's grant of Respondent's third request for an extension filed on March 14, 2019. Appellant's counsel has graciously consented to this extension request. Specifically,

1. 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 18, 2019;

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2. Counsel prepared 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 on March 18, 2019;

3. Counsel filed the Respondent's Return and Memorandum of Law in Support of Motion to Dismiss, and Motion for Dismissal without Prejudice in the matter of Darrell L. Goss, #305517 vs. Warden Charles Williams, C/A No. 2:18-2938-BHH-MGB on March 21, 2019;

4. Counsel filed the Respondent's Return to Motion for Stay and Abeyance, Motion to File Second Post-Conviction Relief, and Motion to Challenge the Constitutionality of the Post-Conviction Relief Statute in the matter of John Wayne Brannon v. Warden Williams, C/A No. 4:18-3321-DCC-TER on March 25, 2019;

5. Counsel filed the Respondent's Response to Motion for Temporary Restraining Order, or in the Alternative, a Preliminary Injunction & Response to Motion for Leave to Conduct Discovery, and Respondent's Motion to Hold Future Motions in Abeyance, and to TEXT Order [ECF #46], in the matter of Darrell L. Goss, #305517 vs. Warden Charles Williams, C/A No. 2:18-2938-BHH-MGB on April 4, 2019;

6. Counsel is currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Marion Bowman, #6006 vs. Bryan Stirling and Willie Davis, C/A No. 9:18-cv-00287-TLW-BM, a capital matter now pending in the United States District Court for the District of South Carolina;

7. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of John Wayne Brannon, #209650 vs. Warden Williams, C/A No. 4:18-3321-DCC-TER on April 8, 2019;

8. Counsel filed Respondent's Response in Opposition to Petitioner's Various

Pending Motions and Respondent's Motion to Hold All Current and Future Motions in Abeyance in the matter of Kevin Wayne McDaniels, #254398 vs. Charles Williams, Warden, C/A 1:18-cv-2611-TLW-SVH on April 9, 2019; and

9. Counsel is currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Samuel Brown, Jr., #254907 vs. State of South Carolina, C/A No. 0:18-3250-DCC-PJG, which is scheduled to be filed today, April 12, 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

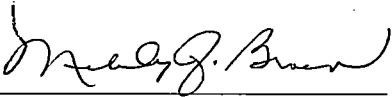
By:


W. JOSEPH MAYE

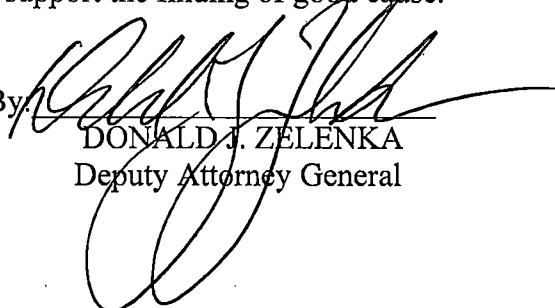
ATTORNEYS FOR RESPONDENT

April 12, 2019.

I support the finding of good cause.

By: 
MELODY J. BROWN
Senior Assistant Deputy Attorney General

I support the finding of good cause.

By: 
DONALD J. ZELENKA
Deputy Attorney General

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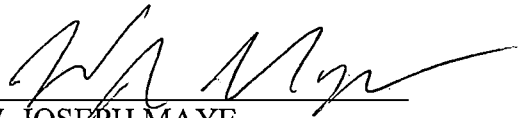
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PROOF OF SERVICE

I, **W. Joseph Maye**, of counsel for the Respondent, certify that I have served two (2) copies of the within motion for a fourth 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 12th day of April, 2019.



W. JOSEPH MAYE
Office of the Attorney General
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(803) 734-6305



ALAN WILSON
ATTORNEY GENERAL

April 12, 2019

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

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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 Fourth 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.)