

**STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS**

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Appeal from Beaufort County  
The Honorable Deadra L. Jefferson, Circuit Court Judge

Appellate Case No. 2018-000448

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THE STATE,

Respondent,

vs.

NICK RUSSELL EVANGELISTA,

Appellant.

**RECEIVED**

APR 24 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, April 24, 2019, upon this Court's grant of Respondent's first request for an extension filed on March 28, 2019. Appellant's counsel has graciously consented to this extension request. This motion is made because the Respondent has not been able to respond within the allotted time for the following reasons. Specifically,

1. 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;

2. 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;

3. 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;

4. 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;

5. 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;

6. Counsel prepared 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 on April 12, 2019; and

7. Counsel filed Respondent's Status Report as per ECF #53 in the matter of Darrell L. Goss, #305517 vs. Warden Charles Williams, C/A No. 2:18-2938-BHH-MGB, also on 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,

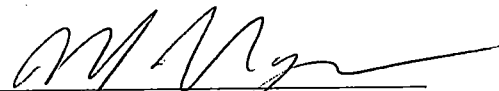
ALAN WILSON  
Attorney General

DONALD J. ZELENKA  
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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 24, 2019.

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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, Robert M. Dudek, 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 24<sup>th</sup> day of April, 2019.

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



ALAN WILSON  
ATTORNEY GENERAL

April 24, 2019

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

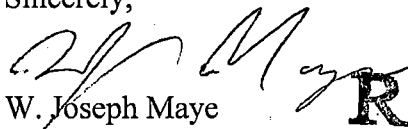
Re: *The State v. Nick Russell Evangelista*  
Appeal from Beaufort County  
Appellate Case No. 2018-000448

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

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APR 24 2019

SC Court of Appeals

WJM:dmd  
Enclosures

cc: Robert M. Dudek, Esq. (w/two copies of encls.)