

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

RECEIVED

APPEAL FROM LAURENS COUNTY
Court of General Sessions
Frank R. Addy, Jr., Circuit Court Judge

APR 25 2019

SC Court of Appeals

Appellate Case No. 2018-001684

The State,Respondent,

v.

Michael Cliff Eubanks,Appellant.

***Petition to Extend Time to File Initial Brief of Appellant and Designation of Matter to
be Included in the Record on Appeal***

Michael Cliff Eubanks petitions this Court for an order extending the time to file his Initial Brief of Appellant and Designation of Matter to be Included in the Record on Appeal. This motion is based on the following grounds.

- 1) Counsel for Mr. Eubanks challenged the accuracy of the transcript. By letter dated February 7, 2019, Court Administration informed this Court and counsel that the transcript had been reviewed and errors were corrected.
- 2) Undersigned counsel received the corrected transcript on February 18, 2019 and notified this Court of receipt of the transcript by letter dated February 20, 2019.
- 3) Mr. Eubank's Initial Brief of Appellant and Designation of Matter to be Included in the Record on Appeal are due today, Tuesday, April 23, 2019.
- 4) Undersigned counsel has been working on this case but has not had time to draft the brief since receiving the corrected transcript.

5) This request is based on undersigned counsel's workload and is not intended for delay. Since the beginning of 2019, counsel's other professional obligations have included:

- a) Counsel attended a court ordered mediation on January 14, 2019 in *Coats v. Pope, et. al.*, Case No. 1:17-cv-02930-TLW-SVH (a wrongful death case); counsel also attended depositions in this case on January 29, 30, and 31, 2019 and February 19, 2019;
- b) Counsel participated in a day long trial on January 16, 2019 in *Katie Harris v. State*, Spartanburg County Case No. 2017-CP-42-02140 (PCR in homicide by child abuse case);
- c) Counsel participated two day trial on January 22-23, 2019 in *State v. Jared Waning* (SC National Guard Court-Martial);
- d) Counsel participated in the evidentiary hearing on January 24, 2019 in *Curtis Elgin v. State*, Fairfield County Case No. 2012-CP-20-00232 (PCR in murder case);
- e) Counsel prepared for and participated in an oral argument in this Court on February 5, 2019 in *State v. Edward Dean*, Appellate Case No. 2016-001004;
- f) Counsel filed the Initial Brief of Appellant on February 8, 2019 in *Quincy Allen v. S.C. Department of Corrections*, Appellate Case No. 2018-002046 (counsel has also filed the initial reply brief in this case); and
- g) Counsel is prepared for a date certain jury trial scheduled to begin on March 4, 2019 in *State v. Joshua Eric Parham*, a Greenwood County first-degree criminal sexual conduct with a minor case, which was continued but involved the better part of a day of jury qualification and pre-trial motions.
- h) Counsel participated is the resumption of trial on March , 2019 in *State v. Jared Waning* (SC National Guard Court-Martial);

- i) Counsel participated in the jury selection, pretrial motions, and guilty plea in *State v. Kevin Wiggins*, a Greenwood County drug trafficking on April 1-2, 2019;
- j) Along with co-counsel, counsel submitted a proposed order on April 22, 2019 in *Jerry Inmon v. State*, a Pickens County Capital Post-Conviction relief case;
- k) Along with co-counsel, today, counsel plans to file a Brief of Respondent in *Crenshaw v. Erskine College*, under our Supreme Court's expedited procedures for appeals from this Court.

6) This extension is necessary for counsel to effectively brief the issues in this appeal. *See Smith v. Robbins*, 528 U.S. 259 (2000), *Evitts v. Lucey*, 469 U.S. 387, 396 (1985); *see also Patrick v. State*, 349 S.C. 203, 562 S.E.2d 609 (2002), *Southerland v. State*, 337 S.C. 610, 524 S.E.2d 833 (1999).

7) Counsel has blocked time to complete this brief and a brief in *State v. Dent*, which is also pending in this Court.

Therefore, counsel for Mr. Eubanks respectfully requests this Court issue an order extending to the time to file Initial Brief of Appellant and Designation of Matter to be Included in the Record on Appeal to Thursday, May 23, 2019.

IT IS SO MOVED.

Respectfully Submitted,

By E. Charles Grose By: *Laura Wingard*
E. Charles Grose, Jr. *paralegal*
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Attorney for Michael Cliff Eubanks

April 23, 2019
Greenwood, South Carolina

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The State, Respondent,

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Michael Cliff Eubanks, Appellant.

Certificate of Service

I certify that I have served this pleading on the State of South Carolina by placing a copy in the United States Mail, postage prepaid, on the date reflected below, addressed to:

J. Benjamin Aplin, Esquire
S.C. Attorney General's Office
PO Box 11549
Columbia, SC 29211

E. Charles Grose By:

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*Laure Wingard
paralegal*

April 23, 2019.

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April 23, 2019

The Honorable Jenny Abbott Kitchings
Clerk, South Carolina Court of Appeals
P.O. Box 11629
Columbia, SC 29211

RECEIVED
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SC Court of Appeals

Re: *State of South Carolina v. Michael Cliff Eubanks*
Appellate Case No. 2018-001684

Dear Ms. Kitchings:

Enclosed please find the original and six copies of Mr. Eubanks Petition to Extend Time to File Initial Brief of Appellant and Designation of Matter to be Included in the Record on Appeal, along with a certificate of service.

Thank you for your attention to this matter. Please let me know if you have any questions or require additional information.

With kindest regards, I am

Yours very truly,

E. Charles Grose

E. Charles Grose, Jr.

*By: Laura Witzel
paralegal*

cc: J. Benjamin Aplin, Esquire

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Greenwood, SC 29646



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