

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**  
MAY 24 2019  
SC Court of Appeals

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MOTION FOR THIRD 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, May 24, 2019, upon this Court's grant of Respondent's second request for an extension filed on April 25, 2019. Appellant's counsel has graciously consented to this extension request. Specifically,

1. Counsel filed the Respondent's Fifth Status Report as per ECF #60 in the matter of Darrell L. Goss, #305517 vbs. Warden Charles Williams, C/A No. 2:18-2938-BHH-MGB on April 30, 2019;

2. Counsel filed Respondent's Reply to Petitioner's Various Motions (ECF #s 60, 61 & 62) in the matter of Kevin Wayne McDaniels, #254398 v. Charles Williams, Warden, C/A No. 1:18-2611-TLW on May 2, 2019;

3. Respondent filed a Response to Motion to Strike [ECF #64] in the matter of Darrell L. Goss, #305517 vs. Warden Charles Williams, C/A No. 2:18-2938-BHH-MGB on May 3, 2019;

4. Counsel prepared and filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Bryan Byrd, #305294 vs. Michael Stephan, Warden, C/A No. 2:18-3256-HMH-MGB, also on May 3, 2019;

5. Counsel filed the Respondent's Response to Motions to Amend [ECF #s 35 and 42] in the matter of Kevin Gilliard, #27537 vs. Warden Joyner, C/A No. 6:18-2417-MGL-KFM on May 6, 2019;

6. Respondent filed a Reply to Response to Report and Recommendation [ECF #69] in the matter of Darrell L. Goss, #305517 vs. Warden Charles Williams, C/A No. 2:18-2938-BHH-MGB, also on May 6, 2019;

7. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Marion Bowman, #6006 vs. Bryan Stirling, et al., C/A No. 9:18-00287-TLW-BM, a Dorchester County capital matter now pending in the United States District Court for the District of South Carolina on May 10, 2019;

8. Counsel filed the Final Brief of Respondent in the matter of The State vs. Santonio T. Williams, Appellate Case No. 2017-001950, an Aiken County murder appeal matter now pending in the South Carolina Court of Appeals on May 22, 2019; and

9. Counsel is currently preparing the Initial Brief of Respondent and Designation of Matter in the matter of The State vs. Demontay Markeith Payne, Appellate Case No. 2017-002014, a Barnwell County murder appeal matter. The Initial Brief of Respondent is on a Fifth extension of time and is currently due to be filed on Tuesday, May 28, 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

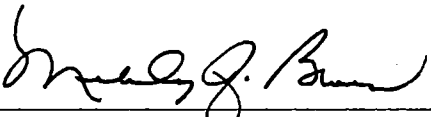
By: \_\_\_\_\_

  
W. JOSEPH MAYE

ATTORNEYS FOR RESPONDENT

May 24, 2019.

I support the finding of good cause.

By:   
MELODY J. BROWN  
Senior Assistant Deputy Attorney General

STATE OF SOUTH CAROLINA  
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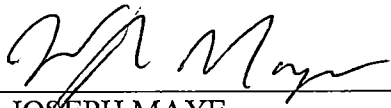
**PROOF OF SERVICE**

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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 third 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 May, 2019.

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



ALAN WILSON  
ATTORNEY GENERAL

May 24, 2019

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

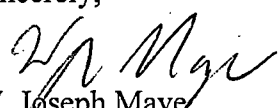
Re: *The State v. Nick Russell Evangelista*  
Appeal from Beaufort County  
Appellate Case No. 2018-000448

Dear Ms. Kitchings:

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

**RECEIVED**

MAY 24 2019

SC Court of Appeals

WJM:dmd  
Enclosures

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