

STATE OF SOUTH CAROLINA
In the Court of Appeals

Appeal from Horry County
The Honorable Robert E. Hood, Circuit Court Judge

RECEIVED
AUG 22 2019
SC Court of Appeals

THE STATE,

Respondent,

v.

JAMES ELBERT DANIELS, JR.,

Appellant.

Appellate Case No. 2018-001630

**MOTION FOR SECOND 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. Opposing counsel, Susan B. Hackett, Esq. has graciously consented to the request. In support of this motion, counsel would respectfully show the Court the following extraordinary or good cause circumstances:

Respondent's Initial Brief is due today, Thursday, August 22, 2019 as per this Court's Order dated July 23, 2019 granting Respondent's first extension request. The undersigned attorney for the Respondent has completed part of the Initial Brief of Respondent, but has had a number of state and federal matters to attend since July 10, 2019. Specifically,

1. Counsel for Respondent has been out of the office on medical leave and is on a reduced work schedule due to a continuous and on-going health condition. Counsel was out of

the office **the entire week of June 10-14, 2019** for week long medical tests and screenings at Duke University Medical Center, Durham, North Carolina for a heart and kidney transplant. Counsel received word June 20, 2019 that he has been approved for transplant and placed on the transplant waiting list. Counsel was also out of the office **on Thursday, June 20, 2019 and Thursday, July 25, 2019** for appointments in Charlotte, N.C. at the Carolinas Medical Center (CMC) for treatment of an infection due to the same or related on-going health condition. Counsel was out of the office on **Thursday, August 8, 2019** for an appointment and further tests at Duke University Medical Center, Durham, N.C.;

1. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #35], in the matter of Arthur L. Singleton, #300109 vs. Warden of Lee Correctional Institution, C/A No. 9:18-3300-RBH-BM (Federal Habeas Corpus) on **July 24, 2019**;

2. Counsel filed the Respondent's Reply to Petitioner's Objections to Report and Recommendation [ECF #41] in the matter of Dennis M. Temple vs. Warden Scott Lewis, C/A No. 8:18-03258-JFA-JDA (Federal Habeas Corpus), also on **July 24, 2019**;

3. Counsel filed the Initial Brief of Respondent and Designation of Matter in the Horry County murder appeal matter of State vs. Nicholas Jacob McIver, Appellate Case No. 2018-000824 on **July 24, 2019 in this Court**;

4. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Dexter Brown, #330278 vs. Brian Stirling, C/A No. 2:19-01613-RMG-MGB (Federal Habeas Corpus) on **July 31, 2019**;

5. Counsel filed the Respondent's Reply to Response to Motion for Summary Judgment [ECF #50] in the matter of Maxwell E. Sipes, #320502 vs. Warden of Tyger River

Correctional Institution, C/A No. 8:18-2842-RBH-JDA (Federal Habeas Corpus) on **August 2, 2019**; and

6. Counsel filed the Respondent's Response to Motion to Appoint Counsel [ECF #55] in the matter of Maxwell E. Sipes, #320502 vs. Warden of Tyger River Correctional Institution; C/A No. 8:18-2842-RBH-JDA on August 15, 2019; and

10. Counsel has been involved in working on other matters in state and federal court as well.

However, due to counsel's medical condition and treatment, and counsel's involvement in these and other matters, counsel is unable to timely complete the Initial Brief of Respondent and Designation of Matter in this matter. Opposing counsel has graciously consented to this request.

WHEREFORE, for good cause shown, counsel respectfully requests a thirty (30) day extension of time to serve and file the Initial Brief of Respondent and Designation of Matter. This request is made in good faith, and not for the purposes of delay.

Respectfully Submitted,

ALAN WILSON
Attorney General

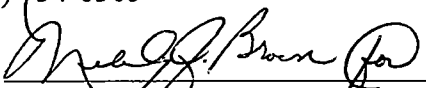
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By: 

J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

August 22, 2019.

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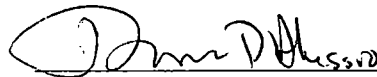
Appellate Case No. 2018-001630

PROOF OF SERVICE

I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to J. Anthony Mabry, of counsel for the Respondent, certify that I have served two (2) copies of the motion for a second extension to file Initial Brief of Respondent and Designation of Matter via U.S. mail to Appellant's 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 22nd day of August, 2019.



Donna D'Alessio, Legal Assistant to
J. Anthony Mabry,
Senior Assistant Attorney General
Office of the Attorney General
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Columbia, South Carolina 29211
(803) 734-6305



ALAN WILSON
ATTORNEY GENERAL

August 22, 2019

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

Re: *The State v. James Elbert Daniels, Jr.*
Appeal from Horry County
Appellate Case No. 2018-00001630

Dear Ms. Kitchings:

Enclosed for filing are the original and six (6) copies of the Respondent's Second Motion for Extension of Time to File Initial Brief of Respondent, together with Proof of Service, in the above-referenced matter. Opposing counsel has consented to this request.

Thank you for your assistance in this matter.

Sincerely,

J. Anthony Mabry
Senior Assistant Attorney General

AJM:dmd
Enclosures
cc: Susan B. Hackett, Esq. (w/two copies of encls.)

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