

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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

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THE STATE,

Respondent,

v.

JAMES ELBERT DANIELS, JR.,

Appellant

Appellate Case No. 2018-001630

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**RECEIVED**

SFP 23 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. 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, Monday, August 23, 2019 as per this Court's Order dated August 23, 2019 granting Respondent's second 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 August 23, 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 has been

approved for transplant and placed on the transplant waiting list at Duke University Medical Center, Durham, North Carolina for a heart and kidney transplant. Counsel was out of the office for part of the day **on Tuesday, September 3, 2019** for a Hepatitis B shot which is part of the protocol for transplant. Counsel was also out of the office **on Thursday, September 5, 2019** for an appointment 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;

2. Counsel prepared and filed the Response to Motion to Appoint Counsel in Maxwell E. Sipes, #320502 v. Warden of Tyger River Correctional Institution, C/A No. 8:18-cv-02842-DCC-JDA (Federal Habeas Corpus) **on August 15, 2019**;

3. Counsel assisted in drafting the Brief of Respondent in the Fourth Circuit Court of Appeals in Freddie E. Owens, #5065 v. Bryan Stirling and Joseph McFadden, No. 18-8 (Capital Federal Habeas Corpus) filed **August 23, 2019**;

4. Counsel prepared and filed Respondent's Reply to Petitioner's Response to Motion for Summary Judgment in London Wooden, #357930 vs. Warden, Perry Correctional Institution, C/A No. 4:19-927-RMG-TER (Federal Habeas Corpus) filed **August 30, 2019**;

5. Counsel prepared and filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in Kevin Herriot, #313862 v. Wayne McCabe, C/A No. 6:19-cv-803-DCN-KFM (Federal Habeas Corpus) filed on **September 3, 2019**;

6. Counsel assisted in the drafting of the Petition for Writ of Certiorari in the United States Supreme Court in Sheriff Al Cannon vs. Broderick W. Seay (Federal Habeas Corpus)[Murder] filed on **September 3, 2019**;

7. Counsel prepared and filed the Respondent's Reply to the Response to Motion in Opposition to Motion for Summary Judgment in Joel Antwan Robinson, #351879 v. Warden,

Perry Correctional Institution, C/A No. 4:19-928-RMG-TER (Federal Habeas Corpus) [Murder, ABWIK] filed on **September 4, 2019**;

8. Counsel filed the Respondent's Reply to Amended Objections [ECF #48] in the matter of Dennis Maurice Temple vs. Warden Scott Lewis, C/A No. 8:18-03258-JFA-JDA on **September 9, 2019**;

9. Counsel filed the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Alonzo C. Jeter, III, #282902 v. Barry Tucker, 2:19-cv-1945-MGL-MGB (Federal Habeas Corpus), also on **September 9, 2019**;

10. Counsel filed the Respondent's Reply to Response in Opposition to Motion for Summary Judgment [ECF #28] in the matter of Jerry L. Scantling, #259057 vs. Warden Lieber Correctional Institution, C/A No. 6:19-00506-TMC-KFM on **September 19, 2019**;

11. Counsel has also been working on other responsive briefs to be filed in this Court; and

12. 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

DONALD J. ZELENKA  
Deputy Attorney General

MELODY J. BROWN  
Senior Assistant Deputy Attorney General

J. ANTHONY MABRY  
Senior Assistant Attorney General  
No. 11973

Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305

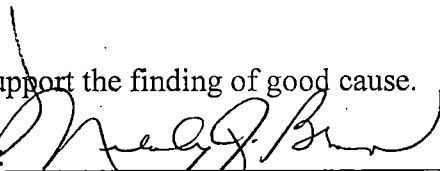
By:

  
\_\_\_\_\_  
J. ANTHONY MABRY  
ATTORNEYS FOR RESPONDENT

September 23, 2019.

I support the finding of good cause.

By:

  
\_\_\_\_\_  
MELODY J. BROWN

Senior Assistant Deputy Attorney General

STATE OF SOUTH CAROLINA  
In the Court of Appeals

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

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THE STATE,

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JAMES ELBERT DANIELS, JR.,

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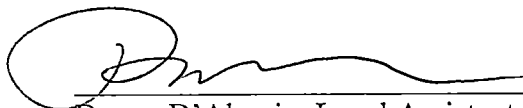
Appellate Case No. 2018-001630

**PROOF OF SERVICE**

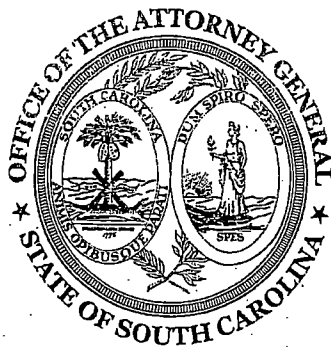
I, **Donna D'Alessio**, an employee of the Respondent and legal assistant to J. Anthony Mabry, of counsel for the Respondent, certify that I have served two (2) copies of the motion for a third extension of time to file Initial Brief of Respondent and Designation of Matter via U.S. mail to Appellant's 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 23<sup>rd</sup> day of September, 2019.



Donna D'Alessio, Legal Assistant to  
J. Anthony Mabry,  
Senior Assistant Attorney General  
Office of the Attorney General  
Post Office Box 11549  
Columbia, South Carolina 29211  
(803) 734-6305



ALAN WILSON  
ATTORNEY GENERAL

September 23, 2019

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

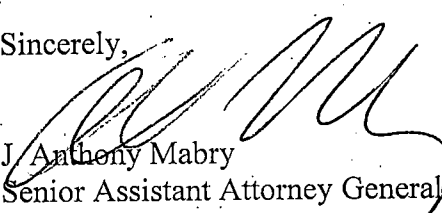
Re: *The State v. James Elbert Daniels, Jr.*  
Appeal from Horry County  
Appellate Case No. 2018-00001630

Dear Ms. Kitchings:

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

**RECEIVED**

SFP 23 2019

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