

STATE OF SOUTH CAROLINA
In the Court of Appeals

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

THE STATE,

Respondent,

v.

JAMES ELBERT DANIELS, JR.,

Appellant.

Appellate Case No. 2018-001630

RECEIVED
OCT 23 2019
SC Court of Appeals

**MOTION FOR FOURTH 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, Wednesday, October 23, 2019 as per this Court's Order dated September 24, 2019 granting Respondent's third 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 September 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 sporadically during the month of September, 2019 due to said health condition;

2. Counsel has recently received evidence regarding this direct appeal matter from the Horry County Solicitor's Office which is relevant to the preparation of the Initial Brief in this matter;

3. Counsel filed the Respondent's Response to Motion to Strike [ECF #61] in the matter of Kevin E. Herriott, #313862 vs. Wayne McCabe, C/A No. 6:19-00803-DCN-KFM on **September 26, 2019**;

4. Counsel filed the Respondent's Response to Motions to Compel [ECF #s 62 & 64], also in the matter of Kevin E. Herriott, #313862 vs. Wayne McCabe, C/A No. 6:19-00803-DCN-KFM also on **September 26, 2019**;

5. Counsel filed Respondent's Response to Motion to Strike [ECF #22] and as per Text Order [ECF #24], in the matter of Alonzo C. Jeter, III, #282902 vs. Barry Tucker, C/A No. 2:19-1945-MGL-MGB on **October 1, 2019**;

6. Counsel filed Respondent's Response to Motion for Extension of Time [ECF #23], also in the matter of Alonzo C. Jeter, III, #282902 vs. Barry Tucker, C/A No. 2:19-1945-MGL-MGB on **October 1, 2019**;

7. Counsel filed the Respondent's Reply to Response to Motion for Summary Judgment [ECF #66] in the matter of Kevin E. Herriott, #313862 vs. Wayne McCabe, C/A No. 6:19-00803-DCN-KFM on **October 2, 2019**;

8. Counsel filed the Respondent's Second Status Report as per Text Order [ECF #33] in the matter of Kinjta Kadeem Sadler, #353966 vs. Charles Williams, Warden, C/A No. 8:19-0113-TMC-JDA on **October 3, 2019**;

9. Counsel filed the Initial Brief of Respondent in the matter of The State vs. Ricky Anthony Short, Appellate Case No. 2018-000782, a Charleston County murder appeal matter now pending in the South Carolina Court of Appeals on **October 9, 2019**;

10. Counsel filed the Respondent's Response to Motion for Evidentiary Hearing [ECF #76] in the matter of Kevin E. Herriott, #313862 vs. Wayne McCabe, C/A No. 6:19-00803-DCN-KFM on **October 18, 2019**;

11. Counsel filed the Respondent's Return to Petition for Writ of Certiorari in the Beaufort County murder appeal matter of The State vs. Aaron Young, Sr., Appellate Case No. 2019-001595 now pending in the South Carolina Supreme Court on **October 21, 2019**;

12. Counsel is currently preparing the Return and Memorandum of Law in Support of Motion for Summary Judgment in the matter of Willie Bell, Jr., #254817 vs. Lavern Cohen, C/A No. 1:19-cv-2270-MGL-SVH, which is currently due to be filed on November 1, 2019;

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

14. Undersigned counsel, cognizant of the number of extensions, will prioritize the completion of this brief and will diligently work on the brief during the time requested.

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,

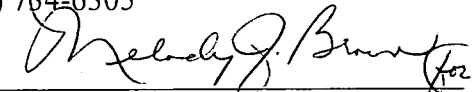
ALAN WILSON
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DONALD J. ZELENKA
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MELODY J. BROWN
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J. ANTHONY MABRY
Senior Assistant Attorney General
No. 11973

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

By: 
J. ANTHONY MABRY
ATTORNEYS FOR RESPONDENT

October 23, 2019.

I support the finding of good cause.

By: 

DONALD J. ZELENKA
Deputy Attorney General

I also support the finding of good cause.

By: 

W. JEFFREY YOUNG
Chief Deputy Attorney General

STATE OF SOUTH CAROLINA
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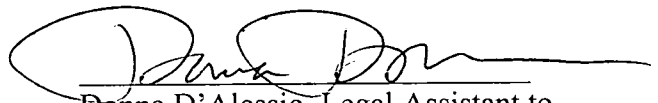
Appellate Case No. 2018-001630

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 **fourth** 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 23rd day of October, 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

October 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. 2018-001630

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SC Court of Appeals

Dear Ms. Kitchings:

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

:dmd

Enclosures

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