

22980

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Aiken County
Honorable Doyet A. Early, Circuit Court Judge

ANDERS

ORIGINAL

No Respondent's Brief Filed

NO DEFENDANT'S BRIEF
RECEIVED

OCT 21 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

v.

MARQUISE TERREL GREEN,

APPELLANT

APPELLATE CASE NO 2015-002627

RECORD ON APPEAL

ROBERT M. DUDEK
Chief Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR APPELLANT

MATTHEW BUCHANAN
General Counsel
S.C. DPPPS - P. O. Box 50666
Columbia, SC 29250

ATTORNEYS FOR RESPONDENT

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State of South Carolina
County of Aiken

Court of General Sessions

State)
)
)
v.)
)
Marquise Green)
)
Defendant.)

Transcript of Record
2015-GS-02-01134

December 15, 2015
Aiken, South Carolina

B E F O R E:

The Honorable Doyet A. Early, III, Judge.

A P P E A R A N C E S:

Ashley Finch, Probation Agent
SC Department of Probation, Parole & Pardon

Bradley McMillian, Assist. Public Defender
Attorney for the Defendant

Bethanie K. Creppon
Circuit Court Reporter

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I N D E X

WITNESS

PAGE

(No Witnesses.)

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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(No Exhibits.)

1

MARQUISE GREEN

2

being first duly sworn, testified as follows:

3

THE DEFENDANT: (Nonverbal response).

4

THE COURT: Mr. McMillian, you represent

5

Marquise Terrell Green. I just sentenced him in

6

July of this year for burglary second degree

7

nonviolent, gave him a YOA not to exceed five years,

8

suspended to five years probation. And it looks

9

like he probably missed his initial meeting.

10

PROBATION AGENT: I'm looking to see if he

11

reported one time. He may not have even reported

12

for intake.

13

THE COURT: Anyway, he either reported one time

14

or none and hasn't reported since then. He's failed

15

to give his address, failed to make his payments as

16

ordered, including restitution, fines, fees, et

17

cetera; he's failed to do any of his public service

18

hours. Is that correct?

19

PROBATION AGENT: Yes, Your Honor.

20

THE COURT: And they're asking for revocation.

21

Mr. McMillian.

22

MR. MCMILLIAN: Thank you, Your Honor.

23

Marquise is 19 years old. He moved here when he was

24

five or six years old from Riverside, California.

25

Judge, his mother is in the courtroom seated on the

1 second to last row back there --

2 THE COURT: She was here when I sentenced him.

3 MR. MCMILLIAN: Yes, sir.

4 THE COURT: She asked me to give him probation.

5 MR. MCMILLIAN: Yes, sir.

6 THE COURT: I did.

7 MR. MCMILLIAN: And he went back to live with
8 her in the Beech Island area. There was an argument
9 between the two of them, and she called law
10 enforcement out. He was arrested for assault and
11 battery third, and then put on trespass notice that
12 he couldn't go back there. So his address change
13 was not exactly voluntary. He tells me, Judge --

14 THE COURT: How about reporting? Was that not
15 voluntary?

16 MR. MCMILLIAN: Well, Your Honor, he tells me
17 once he was kicked out of the house, he didn't
18 really have a ride to get to probation. We talked
19 about, you know, what it meant --

20 THE COURT: How old is he?

21 MR. MCMILLIAN: He's 19, Judge. We talked
22 about what it meant to be on probation and that he
23 had essentially agreed to report and make every
24 attempt to pay these monies and do these public
25 service hours. I --

1 THE COURT: I find his payment is not -- he
2 does not have the ability to pay, so that's not a
3 willful violation. Failing to report is a willful
4 violation, and failing to do his public service is
5 willful.

6 MR. MCMILLIAN: Yes, sir.

7 THE COURT: I'm going to revoke him in full.

8 MR. MCMILLIAN: Thank you, Your Honor.

9 PROBATION AGENT: Thank you, Your Honor.

10 THE COURT: Terminate and convert.

11 PROBATION AGENT: Yes, sir, Your Honor.

12 -- END OF TRANSCRIPT OF RECORD --

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C E R T I F I C A T E

STATE OF SOUTH CAROLINA
COUNTY OF LEXINGTON

I, the undersigned, Bethanie K. Creppon, Circuit Court Reporter for the Second Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete transcript of record of all the proceedings had and the evidence introduced in the hearing of the captioned cause, relative to appeal in the Criminal Court for Aiken County, South Carolina, on the 15th of December, 2015.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

March 13, 2016

s/Bethanie K. Creppon

Bethanie K. Creppon
Circuit Court Reporter

STATE OF SOUTH CAROLINA)
)
COUNTY OF AIKEN)
)

INDICTMENT FOR
ATTEMPTED BURGLARY

§ 16-11-0312(A)

At a Court of General Sessions, convened on August 3, 2015, the Grand Jurors of Aiken County present upon their oath:

That **MARQUISE TERREL GREEN** did in Aiken County on or about November 3, 2014, wilfully and unlawfully attempt to enter the dwelling of Ronald Coursey located at _____, Beech Island, South Carolina without consent and with the intent to commit a crime therein. All in violation of §16-11-312(A) of the Code of Laws of South Carolina (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

Elizabeth B. Young

J. STROM THURMOND, SOLICITOR

WITNESSES

Aiken County Sheriff

Stacey Prince

Law Enforcement Case #:

DOCKET NO. 2015GS0201134

The State of South Carolina

County of Aiken

SBG

COURT OF GENERAL SESSIONS

ARREST WARRANT NUMBER

AUGUST TERM 2015

2014A0210700532

FILED July 6 2015

Liz Hodard
J.C.C.P. & G.S.
Amey Hodard
- JUDGE

THE STATE

vs.

MARQUISE TERREL GREEN

ACTION OF GRAND JURY

CDR #: 0080

Foreperson of Grand Jury

Date: July 30, 2015

Indictment for

VERDICT

ATTEMPTED BURGLARY

§ 16-11-0312(A)

Foreperson of Petit Jury

Date:

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF Aiken VS. STATE

Marquise Terrel Green

AKA: *

Race: Sex: M Age: 18

DOB: SS#:

Address:

City, State, Zip: Beech Island, SC 29842

DL#: SID#: SC02135548

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Burglary / Burglary (After June 20, 1985) - Third degree - 1st offense

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS0201134

A/W#: 2014A0210700532

Date of Offense: 11/3/2014

S.C. Code § : 16-11-012(A)

CDR Code #: 0080

SENTENCE SHEET 0-5 yrs

CONVICTED OF or PLEADS

in violation of § 16-11-0313 of the S.C. Code of Laws, bearing CDR Code # 0427
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury: MG (defendant's initials)

The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST Samuel B. Grimes, Samuel B. Grimes, SC Bar# 77509 Defendant Country, SC Page 76707 Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of days/months/years or under the Youthful Offender Act not to exceed 5 years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for 6

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections. The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION: Deferred Def. Waives Hearing Ordered Total: \$ 968. plus 20% fee: \$ Payment Terms: Set by SCDPPPS

PTUP 100 days Public Service Employment

Obtain GED Attend Voc. Rehab. or Job Corp.

May serve W/E beginning Substance Abuse Counseling

Random Drug/Alcohol testing Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund Other:

Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

Table with 2 columns: Description and Amount. Includes items like § 14-1-206 (Assessments 107.5%), § 14-1-211(A)(1) (Conv. Surcharge) \$100, § 14-1-211(A)(2) (DUI Surcharge) \$100, § 56-5-2995 (DUI Assessment) \$12, § 56-1-286 (DUI Breath Test) \$25, Proviso 47.9 (Public De/Prob) \$500, § 14-1-212 (Law Enforce. Funding) \$25, § 14-1-213 (Drug Court Surcharge) \$150, § 50-21-114 (BUI Breath Test Fee) \$50, § 56-5-2942(J) (Vehicle Assessment) \$40/ea, Proviso 90.5 (SCCJA Surcharge) \$5, 3% to County (if paid in installments) \$18.90, TOTAL \$648.90

Clerk of Court/ Deputy Clerk Sharon Appen Court Reporter: Bethanie Creppitt SCCA/217 (03/2011)

Presiding Judge Judge Code: 0136 Sentence Date: July 6, 2015

Form 18.1 - Arrest Warrant
Form Approved by
SC Attorney General
Section 17-13-160
March 16, 1978

Probation

STATE OF SOUTH CAROLINA

ARREST WARRANT

COUNTY OF AIKEN

Indictment Number 15-GS-02-01134

ORIGINAL

Warrant Number W-02-15-0195

State Identification No. (SID) 02135548

TO ANY LAW ENFORCEMENT OFFICER OF THIS STATE OR COUNTY OR OF THE MUNICIPALITY OF AIKEN, AND ANY CONSTABLE OF THIS MAGISTERIAL DISTRICT:

It appearing from the attached affidavit that there are reasonable grounds to believe that MARQUISE TERREL GREEN, did on the 17 day of September, 2015 violate the criminal laws of the State of South Carolina as set forth below:

DESCRIPTION OF OFFENSE:

Marquise Green has violated conditions 1, 2, 7, 9, 10, 11 and special conditions of his probationary sentence ordered in Aiken County General Sessions Court.

Now, therefore, you are empowered and directed to arrest the said defendant and bring MARQUISE TERREL GREEN before me forthwith to be dealt with according to law. A copy of this Arrest Warrant shall be delivered to the defendant at the time of its execution, or as soon thereafter as is practicable. Done at AIKEN, S. C. this 17 day of September, 2015.

County of **AIKEN**



Signature of Probation and Parole Agent (L.S.)

STATE OF SOUTH CAROLINA

AFFIDAVIT

Personally appeared before me, one Trinity Claros, who, first being duly sworn, deposes and says that MARQUISE TERREL GREEN did within this County and State on the 17 day of September, 2015, violate the criminal laws of the State of South Carolina in the following particulars:

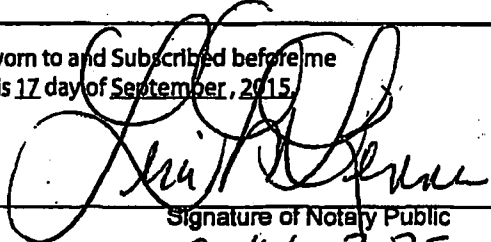
DESCRIPTION OF OFFENSE:

Marquise Green has violated conditions 1, 2, 7, 9, 10, 11 and special conditions of his probationary sentence ordered in Aiken County General Sessions Court.

The affiant states that there is probable cause to believe that the defendant named above did commit the crime(s) set forth, and that such probable cause is based on the following facts:

Marquise Green has violated his probationary sentence by: Failing to report as instructed on 8/18/2015, 9/1/2015, and 9/8/2015; Failing to obtain the consent of his agent prior to changing his residence as discovered during a home visit on 9/14/2015, making his whereabouts unknown; Failing to pay restitution, arrearage \$50.00, balance \$1,161.65; Failing to pay the Court ordered fine as instructed, arrearage \$22.00, balance being \$648.90; Failing to pay supervision fees, arrearage \$100.00; Failing to pay PSE fee and drug test fee; Failing to complete 100 hours PSE which constitutes a violation of conditions 1, 2, 7, 9, 10, 11 and special conditions of his probationary sentence.

Sworn to and Subscribed before me
this 17 day of September, 2015.



Signature of Notary Public

(L.S.)

7-14-2025

My Commission Expires



Affiant

Address: P.O. BOX 2194
AIKEN, SC 29802-2194
AIKEN
USA

(803) 641-7690

RETURN

Constable or Law Enforcement Officer

A copy of this Arrest Warrant was delivered by me to the following defendant:

Marquise Green

on the *3d* day of *December* *2015*

[Signature]
Constable or Law Enforcement Officer

This Warrant is certified for service in [County of warrant Certification] County. The accused is to be arrested and brought before me to deal with according to law.

Signature of Judge

(L.S.)

STATE OF SOUTH CAROLINA

COUNTY OF

AIKEN

THE STATE

against

MARQUISE TERREL GREEN

ARREST WARRANT

Offense: Violation of Conditions of Probation Supervision

Offense Section: 24-21-450

Date: 9/17/2015

Officer and Agency: SC Department of Probation, Parole and Pardon Services

Trinity Claros

Disposition _____

Sentence _____

Co-Defendants _____

INFORMATION ON DEFENDANT

Name MARQUISE TERREL GREEN

Address _____

Phone _____

Sex Male Race Black Height 510

Weight 180 Birth date _____

Social Security Number _____

INFORMATION ON WITNESSES

Name _____

Address _____

Phone _____

Name _____

Address _____

Phone _____

Name _____

Address _____

Phone _____

Name _____

Address _____

Phone _____

PRELIMINARY HEARING held by

Magistrate _____

on _____

with _____

Attorney for the Defendant.

Decision _____

BAIL

Date Set

Magistrate

Amount

Surety

12/4/15
[Signature]
\$1000.00

12

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Aiken
STATE VS.

Indictment Number: 2015-GS-02-01134
Probation C/W#s: W-02-15-01134

AKA: Marquise Terrel Green
Race: B Sex: M
DOB: _____
SSN: _____
SID#: 02135548

Name of Original Offense: Burglary 3rd degree - non-violent
Original A/W#: 2014 A0210700532
Date of Original Offense: 11/03/14
Conviction, S.C. Code #: 16-11-0313
Conviction CDR Code #: 0141217
Original Sentence: 10 Months 5 yrs 55 5 yrs Prob

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 07/06/15 in the Court of General Sessions of Aiken County, and/or the additional conditions ordered by the Court in probation continuation orders(s) issued on _____ as set forth in the attached warrant(s) or citation(s) dated 9/17/15. After hearing the evidence and being duly advised, in the presence/absence of the defendant, I find that the above named defendant has violated the following condition(s) of probation: (List by number or indicate special conditions as provided in the affidavit)
1, 2, 7, 9, 11, 11.5, 12, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve A months/years, the remainder of the original sentence, and/or pay \$ _____
- the suspended sentence be revoked and the above named defendant be required to serve _____ months/years of the original sentence and/or pay \$ _____; thereupon to be reinstated on probation, subject to the conditions set forth in the attached order and not inconsistent with this order.
- the above named defendant is continued on probation as provided for in the original sentence, subject to the conditions set forth therein and not inconsistent with this order.
- probation is reduced to time served under supervision and the defendant is discharged from supervision on this date.
- the above named defendant is placed on active electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first degree criminal sexual conduct with a minor or lewd act, discretionary if convicted of any other applicable sex offense against a minor).
- Financial Obligations: Order satisfies: Department fees (arrearage) Civil judgment: Department fees
 Fines and other fees (arrearage/balance) Fines and other fees
 Restitution (and 20%) (arrearage/balance) Restitution (and 20%)
- Additional Conditions ordered by the Court: Revoke Probation & enact YOA Active Sentence

- The defendant is given credit for pre-arrest hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- The defendant has previously served 0 months/years on this sentence.
(split sentence time and/or prior partial revocation time)
- The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 15 day of Dec 2015
Aiken, SC

T. D. Taylor
Presiding Judge 2nd Judicial Circuit

You are hereby advised that under the law the Court may at any time revoke or modify any condition of this probation; impose any lawful conditions it deems proper; or extend your period of probation not to exceed five (5) years. At any time within the period of your probation, the Court may require you to serve any part of the original sentence imposed.

This is to certify that I have read, or have had read to me, the order and the conditions set out therein. I agree to comply with such conditions and the conditions of my attached probation order during the period of my probation. I have received a copy of this Court's order and all attachments.

Offender Signature: Marquise Green

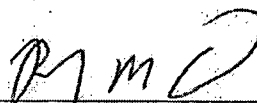
Witnessed by: Carmeney Dale

Signed this 15 day of Dec 2015 at Aiken SC

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 21st day of October, 2016.

RECEIVED₁₄

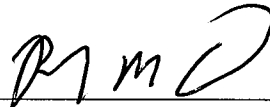
OCT 21 2016

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Robert M. Dudek
Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 21st day of October, 2016.

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

ORIGINAL

RECEIVED

OCT 21 2016

SC Court of Appeals

Appeal from Aiken County
Honorable Doyet A. Early, Circuit Court Judge

THE STATE,

RESPONDENT,

v.

MARQUISE GREEN,

APPELLANT

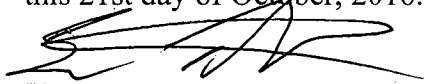
CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Matthew Buchanan, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Marquise Green, 366793, at Trenton Correctional Institution, 84 Greenhouse Road, Trenton, SC 29847 this 21st day of October, 2016.



George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 21st day of October, 2016.



(L.S.)

Notary Public for South Carolina
My Commission Expires: October 30, 2022.