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ANDERS

NO DEF. BRIEF

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM DORCHESTER COUNTY

Maite Murphy, Circuit Court Judge

ORIGINAL

RECEIVED

OCT 23 2014

SC Court of Appeals

THE STATE,

RESPONDENT,

V.

AARON DEVON GREEN

APPELLANT

APPELLATE CASE NO. 2014-000830

RECORD ON APPEAL

BENJAMIN JOHN TRIPP
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

J. BENJAMIN APLIN
Chief Legal Counsel

MATTHEW BUCHANAN
General Counsel
South Carolina Department of
Probation, Parole & Pardon Services
PO Box 50666
Columbia, SC 29250
(803) 734-9220

Attorneys for Respondent

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WITNESSES

J Parker

Dorchester County Sheriff

12-005175

ARREST WARRANT NUMBER

M473285

Arrested: May 14, 2012

ACTION OF GRAND JURY

TRUE BILL

Charles P. Shirley
Foreperson of Grand Jury

Date: July 12, 2012

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2012GS18-0785

The State of South Carolina

2012 JUL 12 PM 3:20 DORCHESTER

CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

COURT OF GENERAL SESSIONS

July 16, 2012 TERM

**THE STATE
vs.**

Aaron Devon Green

Indictment for

**BURGLARY (NON - VIOLENT) -
SECOND DEGREE**

SC Code: 16-11-312

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

FILED - RECORD
2012 JUL 12 PM 3:20
CHERYL GRAHAM
CLERK OF COURT
DORCHESTER COUNTY

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS18-0785

A/W#: M473285

Date of Offense: 5/14/2012

S.C. Code § : 16-11-312

CDR Code #: 0080

SENTENCE SHEET

☐ CONVICTED OF or ☒ PLEADS

in violation of § 16-11-~~10~~ **313** of the S.C. Code of Laws, bearing CDR Code # ~~000~~ **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. (defendant's initials)

The plea is 7 ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☒ ~~Recommendation~~ by the State.

ATTEST: Hilton, Russell D. 73945 SC Bar# 74992
Hilton, Russell D. SC Bar# Defendant 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 3

months 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: \$ _____ plus 20% fee: \$ _____

Payment Terms:☐ Set by SCDPPPS

Recipient: _____

*Fine:		
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 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 Def/Prob)	\$500	\$ 500.00
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ 25.00
§ 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	\$ 5.00
3% to County (if paid in installments)		\$ 18.90
TOTAL		\$ 1,448.90

PTUP

_____ days/hours 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: interview on October 1973

6 months ankle monitor

to be in place before

2 hours GPS monitoring
may go to waste, however

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

Presiding Judge

Judge Code:

Sentence Date:

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (03/2011)

Wynne, health care providers, GED class otherwise none

of doing well $\rightarrow$ P5 month pay by removed in 6 months. Zero tolerance during
at many go with them

PROBATION CITATION

No. C-18-13-0127

SOUTH CAROLINA V. AARON GREEN		COUNTY: DORCHESTER					
		SCDC #	SID # 02052735				
TO: AARON GREEN							
YOU ARE HEREBY NOTIFIED to appear in the above named case at the time, date and place specified below. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Place</td> <td style="width: 50%; padding: 5px;">Room</td> </tr> <tr> <td style="width: 50%; padding: 5px;"></td> <td style="width: 50%; padding: 5px;">Date and Time</td> </tr> </table>				Place	Room		Date and Time
Place	Room						
	Date and Time						
YOU ARE HEREBY NOTIFIED that you are charged with violating the conditions of your supervision as stated below. Violations Charged By violating conditions of probation 3, 7, 9, 10 and Special Conditions as ordered in Cause Number 12-GS18785 by the Dorchester County Court of General Sessions.							
YOU ARE HEREBY NOTIFIED that you have the rights listed below. List of Rights: You have the right at the hearing to question any person who appears as a witness against you and to have witnesses appear on your behalf. You may present evidence on your behalf. You may have an attorney represent you. If you cannot afford an attorney, an attorney will be appointed for you. You must advise the agent or the court in writing of your desire for an attorney. It is your responsibility to make arrangements for your witnesses and your attorney to appear at the hearing.							
IF YOU FAIL TO APPEAR AT THE TIME, DATE AND PLACE SHOWN ABOVE, THE HEARING WILL BE HELD IN YOUR ABSENCE AND YOU MAY BE INCARCERATED.							
SUMMERVILLE, South Carolina		Probation and Parole Agent Luther S. Brown <i>[Signature]</i>					
Date 9/6/2013		Agent # 0474					
A copy of the citation was served by the undersigned and given to the individual named therein at the time, date, and place indicated below. <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 5px;">Place</td> <td style="width: 50%; padding: 5px;">Date and Time 9/6/13 9:10 </td> </tr> <tr> <td style="width: 50%; padding: 5px;"></td> <td style="width: 50%; padding: 5px;">Serving Officer's Signature <i>[Signature]</i> </td> </tr> </table>				Place	Date and Time 9/6/13 9:10		Serving Officer's Signature <i>[Signature]</i>
Place	Date and Time 9/6/13 9:10						
	Serving Officer's Signature <i>[Signature]</i>						
Sworn to and subscribed before me this <u>6th</u> day of <u>Sept.</u> , <u>2013</u>							
Signature of Notary Public <i>[Signature]</i>		My Commission Expires <u>4-12-2016</u>					

STATE OF SOUTH CAROLINA

AFFIDAVIT

County of DORCHESTER

Personally appeared before me, Luther S. Brown, who first being duly sworn, deposes and says that AARON GREEN did within this county and State on the 6 day of September, 2013, violate certain conditions of release in the following particulars:

DESCRIPTION OF VIOLATION

By violating conditions of probation 3, 7, 9, 10 and Special Conditions as ordered in Cause Number 12-GS18785 by the Dorchester County Court of General Sessions.

The Affiant states that there is probable cause to believe the defendant named committed the violations set forth and that such probable cause is based on the following facts:

Mr. Green has failed to follow the advice and instructions of his agent by failing to submit to a urine sample. Subj. left the building without this agent's consent after being instructed that he must submit a urine sample. Fail to pay S/F. Current arrears \$950. Fail to pay fine. Current arrears \$108

Sworn to and subscribed
before me this 6 day of
September, 2013

Signature of Notary Public

My Commission Expires:

4-12-2016

Signature of Affiant
Affiant

1 STATE OF SOUTH CAROLINA

COURT OF COMMON PLEAS

2 COUNTY OF DORCHESTER

CASE NO. 12-GS-18-0785
2014-000830

3

4 STATE OF SOUTH CAROLINA)

5 vs.)

TRANSCRIPT OF RECORD

6 AARON GREEN)

7

APRIL 11, 2014
ST. GEORGE, SC

8

9

10 B E F O R E:

11 HONORABLE MAITÉ MURPHY

12

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

13

LUTHER BROWN

14

South Carolina Department of Probation, Parole
and Pardon Services

15

PIERCE WEHMAN, ESQUIRE

16

Attorney for Aaron Green

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Ruth L. Mott, RPR, CRR
Official Court Reporter

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I N D E X

CERTIFICATE OF REPORTER

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E X H I B I T S

NO.

DESCRIPTION

ID

EVD

(NONE MARKED)

1 AARON GREEN,
2 being first duly sworn, testified as follows:

3 THE COURT: Mr. Green, have you had an opportunity to
4 review the citation and the agent's report against you?

5 MR. GREEN: Yes, ma'am.

6 THE COURT: And have you had an opportunity to do so
7 with your attorney and discuss that?

8 MR. GREEN: Yes, ma'am.

9 THE COURT: And what is your position as to whether or
10 not you've willfully violated the terms and conditions of
11 your probation?

12 MR. GREEN: Guilty.

13 THE COURT: Mr. Wehman?

14 MR. WEHMAN: Thank you, Your Honor, may it please the
15 Court. Mr. Green is 19. He went through the 11th grade. He
16 tells me he was enrolled in a GED program at Oak Grove
17 Church. He says he left that program, that it wasn't meeting
18 his specific needs, and he was planning on enrolling at
19 Trident Tech to get his GED. He has a girlfriend, who he
20 lives with. They have a child on the way, and it's due June
21 16th. One of the allegations is a change in address. He
22 tells me that he did change addresses in the same apartment
23 complex. He moved out with his mom and moved in with his
24 girlfriend to help her. He tells me that the next time he
25 actually reported they have a sheet where it says, have you

1 changed your address, and he wrote it down, but he didn't
2 call the moment it happened. He tells me that's the
3 confusion with his change in address. He's paying his own
4 bills at the moment. When he can't come up with the money,
5 his mom's helping him. His mom and his girlfriend are both
6 supporting him in the courtroom today. They're in the middle
7 of the courtroom. She suffers from vasculitis and
8 stiff-person syndrome, which I've never heard of until today,
9 Your Honor. She tells me it's making it hard for her to
10 work, but she's helping him out when she can. There's an
11 allegation of a missed appointment that's part of this
12 violation. He tells me that he went to that appointment. He
13 had a job at Pizza Hut that was set to start that very day.
14 He went in and told them about it, he said I have to be at
15 work, they said they'll have him out of there by 11:00, and
16 when 11:00 came up, he hadn't been called, and he noticed he
17 was far down on the list, and he said, can I leave, I have to
18 go to work, and they said, no, you have to stay, and he said,
19 I've got to leave because I've got to keep this job, so he
20 left. He came back at 2:30, when he got off of work, and was
21 told that it was too late, he had already violated, and he
22 admits that he left, and that's why it's a willful violation,
23 Your Honor. He did work at TGI Fridays for two to three
24 weeks. He was hired for a specific job as a fry cook. They
25 moved him to washing dishes, and he was unhappy about it

1 because it was not the job he thought he was hired for, his
2 hours were way down, and he was unhappy, and he talked to his
3 boss, and his boss said, are you unhappy with this, and he
4 said, yes, well, you can go home. I think that was a real
5 learning experience for him at 19 years old, getting a job,
6 that sometimes you have to do what you have to do. Since
7 then he's just now gotten a job at Snyder Rentals. He got it
8 last week he said. He loads and unloads trucks. That's
9 paying him 8.50 an hour, and he thinks he can get around 40
10 hours a week. It kind of varies based on demand. He's
11 behind in his moneys, and he understands that, but he says
12 with this new job and hopefully with his girlfriend
13 delivering and being able to go back to work that he thinks
14 that he can work on the arrearage that he has in his moneys.
15 There's also something in the report that he was given a list
16 of jobs and that he didn't do anything with them. He tells
17 me that he asked for help. He knew he was going to be
18 violated because he didn't have work and he wasn't paying.
19 He said that the list was provided to him, he contacted some
20 of these places and that they turned him down. He had just
21 been kicked out of his home, and eventually he did find work.
22 So I understand the officer's position, but at the same time,
23 I think he's finally gotten his feet under himself. He's got
24 a job. He wants to pay. He says he'll do anything he can.
25 Whatever you tell him to do, he'll do it. I'm sure his

1 girlfriend and his mother will make sure that he does it, and
2 we would just ask that you give him another chance on
3 probation. He understands that that was his second chance,
4 but he would just submit to whatever you would have him do.

5 THE COURT: Probation?

6 MR. BROWN: Your Honor, I'll address some of the points
7 that were made. Mr. Green has not been charged with missing
8 a report. His violations are leaving without submitting a
9 urine sample, which is a de facto positive drug test. Mr.
10 Green was told in no uncertain terms that he had to submit,
11 and it wasn't that he was far down on the list. When he was
12 taken back there, he could not go, and so I put him back in
13 the lobby, let him wait until he was able to go. And he just
14 said, you know, he had to be to work at 11:00, up and left,
15 and that's how that came about. We had an administrative
16 hearing, Your Honor, and I'm not a hearing officer, but I
17 kind of could gauge where the hearing officer was going to go
18 with her recommendation. Her original, probably -- like I
19 said, I'm not a hearing officer, but I believe that Mr. Green
20 would have been continued at that hearing if he would have
21 agreed to go into substance abuse treatment. He basically
22 stated that he didn't want to do treatment, and I was taken
23 aback by that because, I mean, here the hearing officer,
24 they're offering you a way out and trying to get him help for
25 his marijuana addiction, and he's saying that he doesn't want

1 to go to treatment. Then the hearing officer had no other
2 option but to forward this case to court and recommend
3 revocation in fact, just because he didn't want to go to
4 treatment, and he's probably still using up until that point.
5 I hadn't drug tested him today but, I mean, it seems like he
6 has a marijuana addiction.

7 THE COURT: Let's test him right now.

8 MR. BROWN: Okay.

9 MR. GREEN: Your Honor, I would be testing positive.

10 THE COURT: Okay. For what?

11 MR. GREEN: For marijuana.

12 THE COURT: Anything else?

13 MR. GREEN: And when I did have the hearing I told
14 Mr. Brown only reason I don't want to do treatment is because
15 I didn't have a job. I wouldn't have the money to pay for
16 it.

17 THE COURT: Well, Mr. Green, you know, it's troubling.
18 I appreciate your honesty in telling me that you would test
19 positive. Obviously this is not your first rodeo here.
20 You've already had one continuation. You refused to do the
21 drug test. You refused to accept treatment. I'm going to
22 revoke you. I'm going to follow the recommendation and
23 revoke you.

24 MR. WEHMAN: Thank you, Your Honor.

25 --- END OF TRANSCRIPT OF RECORD ---

1 CERTIFICATE OF REPORTER
2 STATE OF SOUTH CAROLINA
3 COUNTY OF DORCHESTER
4

5 I, the undersigned Ruth L. Mott, Official Court Reporter
6 for the State of South Carolina, do hereby certify that the
7 foregoing is a true, accurate and complete transcript of
8 record of all the proceedings had and evidence introduced in
9 the matter of the State of South Carolina versus Aaron Green,
10 relative to appeal, in the First Judicial Circuit Court for
11 Dorchester County, South Carolina, on the 11th of
12 April, 2014.

13 I further certify that I am neither related to nor
14 counsel for any party to the cause pending or interested in
15 the events thereof.

16 June 24, 2014
17
18
19

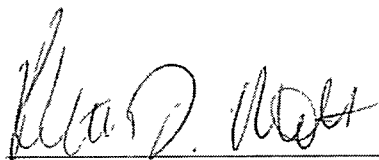
20 _____
21 Ruth L. Mott, RPR, CRR
22 Official Court Reporter
23
24
25

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3 COUNTY OF DORCHESTER
4

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16 June 24, 2014

17
18 
19

20 Ruth L. Mott, RPR, CRR
21 Official Court Reporter
22
23
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25

UNCLASSIFIED

DATE 10-10-2000

BY SP-10/2000

REASON FOR REVIEW

REVIEWED BY

REVIEWED DATE

REVIEWED BY

REVIEWED DATE

REVIEWED BY

REVIEWED DATE

REVIEWED BY

REVIEWED DATE

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STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

County of Dorchester
STATE VS.

Indictment Number:
12 -GS- 18 - 705
Probation C/W#s: C-18-13-0127

Aaron Green
AKA:
Race: NR Sex: MALE
DOB: [REDACTED]
SID#: [REDACTED]

Name of Original Offense: Burglary 3rd Degree - 1st Offense
Original A/W#: M473205
Date of Original Offense: 5-19-2012
Conviction S.C. Code §: 16-11-313
Conviction CDR Code #: 01 9 1 2 1 7
Original Sentence: 404 NTE 5 YRS SS: 3 YRS Probation

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 12/05/12 in the Court of General Sessions of Dorchester County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 9-6-13, as set forth in the attached warrant(s) or citation(s) dated 9-6-13. 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)
3, 7, 9, 10 and Special Conditions

Therefore, IT IS ORDERED that:

- ☒ the suspended sentence be revoked and the above named defendant be required to serve 404 NTE 5 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:

- ☐ The defendant is given credit for pre-revocation hearing detention time on current probation violation to be calculated and applied by the SC Department of Corrections.
- ☐ The defendant has previously served 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 11 day of April, 2014,
St. George, SC

Maite Mund
Presiding Judge 15 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's Signature unavailable for signature

Witnessed by SR

Signed this 11th day of April, 2014, at St. George, SC
Day Month Year City

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."

October 23, 2014


Benjamin John Tripp
Appellate Defender

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

ATTORNEY FOR APPELLANT

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October 23, 2014



Benjamin John Tripp
Appellate Defender

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ATTORNEY FOR APPELLANT

RECEIVED

OCT 23 2014

SC Court of Appeals