

STATE OF SOUTH CAROLINA

 ORIGINAL

In The Court of Appeals

APPEAL FROM BARNWELL COUNTY

Doyet A. Early, III, Circuit Court Judge

RECEIVED
MAR 15 2013
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

ANTWON BYARS,

APPELLANT

APPELLATE CASE NO. 2012-212535

RECORD ON APPEAL

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County of Barnwell)	Court of General Sessions
<hr/>		2011-GS-06-00014

State of South Carolina)	
Plaintiff)	
vs.)	Transcript of Record
Antwon Byars)	
Defendant)	
<hr/>		

July 9, 2012
 Barnwell, 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:

Susanna M. Ringler, Asst. Solicitor
 Attorney for the Plaintiff

Michael W. Chesser, Esq.
 Attorney for the Defendant

Lisa H. Davenport, RPR
 Official Court Reporter

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I N D E X O F W I T N E S S E S

Antwon Byars,

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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EV</u>
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(None offered)

1 (Whereupon, on July 9, 2012 the following proceedings
2 were held:)

3 ANTWON BYARS, after being duly sworn, testified
4 as follows:

5 MS. RINGLER: Thank you, Your Honor. We have state
6 versus Antwon Byars. He was originally charged with
7 assault and battery with intent to kill, indictment
8 2011-GS-06-14. He'll be pleading ~~to that~~ today, Your
9 Honor, and the state is recommending ~~a cap of 45 years~~.

10 THE COURT: All right. Does Mr. Byars have a record?

11 MS. RINGLER: He does, Your Honor. He's got a 2006
12 possession of 28 grams or less of marijuana, a 2007
13 possession of 28 grams or less of marijuana, a 2007
14 possession with intent to distribute marijuana and
15 possession of cocaine.

16 THE COURT: This is another shooting case?

17 MS. RINGLER: Yes. This is one where the defendant
18 -- Excuse me, the victim was shot in the chest.

19 THE COURT: Shot in the chest?

20 MS. RINGLER: Yes, Your Honor.

21 THE COURT: How is the victim doing?

22 MS. RINGLER: He said that he is actually applying
23 for disability. He has a hard time sitting. He has some
24 pain from that. SOVA was able to cover his medical bills.
25 The bullet is still in him. I think it's towards his back

1 and so that causes him some pain still.

2 THE COURT: How much were the medical bills that
3 and have had to pay?

4 MS. GATLING: Yes, sir, and there are still bills
5 coming in. That's why SOVA was not able to give me an
6 exact amount this morning.

7 THE COURT: What was the closest amount?

8 MS. GATLING: The last amount given was 27 --
9 \$28,000.

10 THE COURT: All right. Mr. Chesser, you represent
11 Antwon Byars. He is charged with assault and battery with
12 intent to kill.

13 MR. CHESSER: Yes, Your Honor.

14 THE COURT: I assume you've advised him this carries
15 up to 20 years in the Department of Corrections?

16 MR. CHESSER: Yes, sir.

17 THE COURT: Have you advised him that it's classified
18 as violent and that will have some effect on how he is
19 housed in the Department of Corrections?

20 MR. CHESSER: Yes, sir.

21 THE COURT: Have you advised him it's classified as
22 most serious and that means if he gets another most
23 serious that is two strikes?

24 MR. CHESSER: Yes, Your Honor.

25 THE COURT: Or two serious -- that would be three

1 strikes and he would be subjecting himself to life in
2 prison without the possibility of parole?

3 MR. CHESSER: Yes, Your Honor.

4 THE COURT: Have you advised him this is a no-parole
5 sentence that he'll do 85 percent of whatever sentence I
6 give to him?

7 MR. CHESSER: Yes, sir.

8 THE COURT: And I understand the recommendation is a
9 cap of 15 years?

10 MR. CHESSER: Correct.

11 THE COURT: Have you advised him of his right to
12 trial by jury?

13 THE WITNESS: Yes.

14 THE COURT: How does he indicate to you he wishes to
15 plead, not guilty or guilty?

16 MR. CHESSER: Guilty.

17 THE COURT: After having reviewed all the information
18 in this file and speaking with your client, are you in
19 agreement with his decision?

20 MR. CHESSER: Yes, sir.

21 THE COURT: Mr. Byars, good afternoon.

22 THE DEFENDANT: Good afternoon.

23 THE COURT: You stand before me charged with assault
24 and battery with intent to kill. That carries up to 20
25 years in the State Department of Corrections. Do you

1 understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: You further understand that it is
4 classified as violent and that will have some effect on
5 where you're housed in the Department of Corrections?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: It is also classified as most serious
8 which means that once you get out and you become involved
9 in another crime which is classified as most serious
10 that's two strikes or if you become involved in criminal
11 activity classified as serious two times and this most
12 serious, that's three strikes. Under either of those
13 circumstances you would be subjecting yourself to the
14 possibility of life in prison without parole. Do you
15 understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You further understand that this offense
18 is what we call a no-parole sentence and you do 85 percent
19 of whatever sentence I impose upon you?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: Do you have any questions about any of
22 that?

23 THE DEFENDANT: No, sir.

24 THE COURT: When you're released from prison you'll
25 be released to a community supervision program. Do you

1 understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Understanding all of that how do you wish
4 to plead, not guilty or guilty?

5 THE DEFENDANT: Guilty.

6 THE COURT: Mr. Byars, if you plead guilty you
7 further give up your right to remain silent. You'll have
8 to admit to me your shooting in this incident and you'll
9 further give up your right to a jury trial. Obviously, if
10 you ask for a jury trial the state would give you one at
11 which time you would have the right through Mr. Chesser to
12 cross examine everyone who testified against you. Excuse
13 me.

14 You would have the right to present your own case.
15 You could call your own witnesses, introduce relevant
16 exhibits and testify in your own defense. If you
17 exercised your constitutional right to remain silent, then
18 I would tell the jury you cannot hold the fact that he
19 didn't testify against him in any manner whatsoever and I
20 would further instruct them that they couldn't even
21 consider the fact that you didn't testify while they
22 deliberated your guilt or innocence. Under the
23 constitution you would be presumed innocent throughout the
24 trial and the State of South Carolina would have the
25 burden of proving your guilt beyond a reasonable doubt to

1 a jury of 12 people. In order for that jury to convict
2 you all 12 would have to unanimously agree that you were,
3 in fact, guilty and even if you were found guilty you
4 would still have the right to an appeal. Do you
5 understand your right to trial by jury?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Understanding those rights, do you still
8 wish to plead guilty?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Other than the recommendation that we
11 discussed of the cap of 15 years, has anyone promised you
12 anything, held out any hope of reward, or threatened you
13 in any manner in order to make you plead guilty?

14 THE DEFENDANT: No, sir.

15 THE COURT: Mr. Chesser has been your lawyer. Are
16 you satisfied with his legal representation?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: In your opinion has he had enough time to
19 spend with you, enough time to research the law, and
20 enough time to investigate the facts so that he can
21 properly defend you here today?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: Anything else you want him to do for you
24 today before we move forward other than speak up on your
25 behalf?

1 THE DEFENDANT: No, sir.

2 THE COURT: And I ask you again, Mr. Byars, are you
3 totally and completely satisfied with his services
4 provided to you as your lawyer?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Are you today under the influence of
7 alcohol, drugs, or prescription medication?

8 THE DEFENDANT: No, sir.

9 THE COURT: Are you pleading guilty of your own free
10 will?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Did you in Barnwell County on or about
13 September 5 of the year of 2009 commit a violent injury
14 upon one Dwayne Smith when you shot him?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: Did you shoot Dwayne Smith on that date
17 September 5, 2009?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. I find your decision to plead
20 guilty to be freely, voluntarily, and intelligently made.
21 You've had the representation of an excellent lawyer
22 Mr. Michael Chesser with whom you say you're satisfied and
23 I will accept your plea. If you disagree with these
24 proceedings or my sentence you have 10 days from today's
25 date to file a notice of intent to appeal. Do you

1 understand that?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Ma'am?

4 MS. RINGLER: Thank you, Your Honor. On September 5,
5 2009 out in front of the club Lucky Spot in Williston,
6 South Carolina---

7 THE COURT: Lucky Spot?

8 MS. RINGLER: Lucky Spot; yes, Your Honor. There
9 were several groups of people gathered around outside, the
10 victim being one of those being with a group of people.
11 The defendant at that point felt as though the victim was
12 being disrespectful, giving him dirty looks. He came over
13 and confronted the victim and there was a brief verbal
14 altercation. They then parted ways and the defendant then
15 came back about 10 or 15 minutes later armed with a gun.

16 He shot the victim once in the chest and when the
17 victim was on the ground he stood over him and the gun
18 misfired. A witness reported hearing a click -- clicking
19 noise. At that point the defendant's friend CJ Chandler
20 who has also been charged in the case -- he's been charged
21 with accessory after the fact -- he was a short distance
22 away. He said he heard the gunshot, came running, grabbed
23 the defendant, and they both got into the car that they
24 had arrived in together and left the scene.

25 They were both stopped by law enforcement a short

1 time later and the gun was recovered from the car. It was
2 a revolver and Mr. Chandler was prepared to testify at
3 trial and Jerry Screen represents him. Mr. Screen
4 informed me his wife is having some health issues; so
5 we're going to wait and deal with Mr. Chandler's charges
6 during the September term, but he was prepared to be a
7 state's witness and as was the man who witnessed the event
8 and the victim who did have some difficulty being here
9 today but was ready to testify tomorrow in trial, Your
10 Honor.

11 THE COURT: Mr. Chesser?

12 MR. CHESSER: May it please the court. I'm going to
13 tell you about this case, obviously, from our point of
14 view. There is going to be some details that might be
15 different from the prosecution's point of view, but they
16 don't go to the gist of this case. The first point that I
17 want to make, Your Honor, is that the victim Dwayne
18 Smith -- he was -- he had a reputation for violence. I'm
19 not here to run him down.

20 THE COURT: I understand.

21 MR. CHESSER: He is the victim in this case, but I do
22 want to make that clear. This, of course, was conveyed to
23 me by Mr. Byars. I noticed on Mr. Smith's rap sheet that
24 when he was about 18 years of age he was charged --
25 arrested for murder. He ended up pleaing out to

1 involuntary manslaughter. That was in 1995 when he went
2 to court on that, but he had this reputation. I assume
3 that arose out of this.

4 He did kill somebody back in '95 when he was -- he
5 was born in '72. The actual charge arose in '94; so I
6 believe that's more like a 22 years old or 23, right
7 there, and, again, there is no way that I would seek to
8 justify this by running down the victim, but I do want to
9 make the court aware and that is not to say that he is
10 worth less or anything, but with regard to his reputation
11 in terms of what Mr. Byars did and my point to you being
12 where I am going is Mr. Byars was scared. I have talked
13 with Mr. Byars about if we went to trial the possibility
14 of a self-defense which I don't think would be availing.

15 I have talked to him about the details about the law
16 on it, but I do want to tell you that in truth he was
17 scared. What happened was they had this disagreement at
18 this party and Mr. Smith told Mr. Byars if he didn't get
19 out of his face he would kill him. Now, Mr. Byars left
20 and came back. Actually, the gun was in his car the whole
21 time, but he came back and he saw Mr. Smith at that point.
22 He felt like Mr. Smith was approaching him and he shot
23 him. The detail about pulling the trigger, again,
24 Mr. Byars denies. That's -- I say it is a detail. It is
25 significant, but yet I'll just tell you that part of it

1 Mr. Byars denies.

2 Mr. Smith has a lengthy and continuous record.
3 There's not a lot of extremely serious convictions. There
4 are some drug crimes, but ABHAN, fleeing from law, and so
5 forth. I say that again with the idea that Mr. Byars was
6 scared and I want to point out the age difference. At the
7 time this happened Mr. Smith was about 37. Mr. Byars was
8 25. You had a 37-year-old with a reputation as being a
9 very tough individual and he told Mr. Byars if he didn't
10 get out of his face he would kill him.

11 THE COURT: All Mr. Byars had to do once he got in
12 the car is kept on going.

13 MR. CHESSER: And I have explained that to him. I
14 think that's a correct observation. Your Honor, this
15 case, in fact, it somehow got -- overlooked is the wrong
16 word, but it didn't get addressed for years. That's why
17 we're here in 2012. It happened in September of '09.
18 It's been almost three years. There is no reason that it
19 didn't get brought here. I don't know why it didn't get
20 brought here, but it's here today, but I've had three
21 years almost of dealing with Mr. Byars since he hired me
22 to represent him.

23 I will just tell you that he is a cut above the
24 people that I deal with on a day-to-day basis in this type
25 of situation. Your Honor---

1 THE COURT: Then what is his rhyme or reason for
2 using the guns just indiscriminately? This is the second
3 one in a row. We see it day in and day out up here. I
4 don't understand it.

5 MR. CHESSER: I would agree and what I want to do at
6 the end of this is I want Antwon to -- he can't explain
7 that to you, but to try. Your Honor, I would ask -- we've
8 got some of Antwon's -- not really his family, but his
9 supporters and -- three of them. We've got Theodore
10 Bellinger -- Mr. Bellinger, Bernard Milligan, and Shannon
11 Premus, and if it please the court I'd like for you to
12 hear from them in that order. First, Theodore Bellinger.

13 THE COURT: Mr. Bellinger, stand right there and you
14 tell me what you want to tell me. Good afternoon.

15 MR. BELLINGER: Good afternoon, Your Honor. My name
16 is Ted Bellinger. I am a retired Savannah River Plant
17 employee and businessman in Barnwell County and I do not
18 stand before you, Your Honor, to embellish this situation
19 that has transgressed the law, but I stand before you,
20 Your Honor, as a God-fearing person to allow every one in
21 this courtroom to understand that there is a word in the
22 Bible called forgiveness and I do not condone the violence
23 of any nature toward anyone, but I do ask that this court
24 have some leniency on this person that's standing before
25 you Mr. Byars.

1 Now, if Jesus Christ, the Son of God, who was nailed
2 to a cross and God looked down from Heaven and looked upon
3 the people that killed him who nailed him to that cross
4 and said I forgive you and even Jesus himself said forgive
5 them for they know not what they're doing, surely this
6 court and the people in this community and the one -- the
7 victim -- He looked for forgiveness and I stand before you
8 to ask for mercy, not to embellish what had happened --
9 the transgression of the law -- but to ask for forgiveness
10 on behalf of Mr. Byars.

11 I know him. I know his family and I know the victim
12 and I also know that he has a child, a one-year-old, and I
13 know that this country -- a one-parent, a single-parent
14 home has caused a whole lot of trouble in this country; so
15 he has a one-year-old child and I am asking that the court
16 allow him to, you know, not to spend too much time away
17 from that child; that he have some part in raising that
18 child, not to transgress against the law but to bring him
19 -- to rear that child up in the God-fearing manner. I
20 thank you.

21 MR. MILLIGAN: Your Honor, my name is Bernard
22 Milligan. I am a 17-year educator in the Richmond County
23 school system. I am friends of the family. As he said, I
24 am not here to embellish crime. As a teacher I see it
25 every day and I see what will happen and I try to talk for

1 his kids, but in this situation I speak for his oldest
2 stepson. I have seen his relationship to him. He's taken
3 him to games. He's helped him. When he got in trouble in
4 school he's come to support. That little boy does not act
5 up in school because of this young man. That's why I come
6 here.

7 Also, I think the both of them -- when I have kids
8 that don't have something, I have about five to six
9 families in Williston that I can come to and ask them for
10 help with field trips and things of that sort. Now, she
11 is a little stingy, but he will help, and that's what I
12 appreciate out of them, but now the thing is for the last
13 three years I have known him very well after that last
14 incident. He has really helped his stepson and I beg for
15 leniency from this court. Thank you.

16 THE COURT: Yes, ma'am?

17 MS. PRIMUS: My name is Shannon Primus. I am
18 Antwon's girlfriend. When Antwon did this three years ago
19 he didn't have kids. He have two kids now. He is a
20 wonderful father. I just ask for mercy for him.

21 THE COURT: Thank you. Mr. Byars, anything you want
22 to tell me?

23 THE DEFENDANT: Yea, I just want to say that I'm
24 very, very sorry to the victim and his family for the pain
25 that I probably caused them from the bad decision I made

1 that night. I mean, I'm honestly sorry.

2 THE COURT: You're intelligent. You're a
3 good-looking young man. You got good people supporting
4 you. What makes young people grab guns and shoot people?
5 Where are we learning this?

6 THE DEFENDANT: Alcohol, hard drugs. I mean, dumb
7 decisions. It's not one thing. It is probably a
8 collection of a lot of things -- in my case, anyway, but
9 I'm really sorry and, you know, at the time I really was
10 living for myself. I didn't have no kids. I didn't have
11 a girl. Now I got two kids. I met the woman that I want
12 to marry. Things just kind of different right now for me.

13 THE COURT: Well, it sounds like you're making an
14 improvement.

15 MR. CHESSER: Your Honor, I'd like to tell you a
16 little more about Mr. Byars. He is going to be 28 in
17 November. He has an 11th grade education. He went in
18 2008 and got his GED. He did that. After that he went --
19 he got 30 credits at Denmark Tech. He was studying
20 general business or business. He had -- and still is --
21 he's got a 2.7 grade point average.

22 There is one thing I haven't told you yet that I need
23 to tell you and I am fixing to, but he's disabled now.
24 When he worked he worked at Dixie Narco, Kronotex
25 Flooring, Mid-am Metal Formers, and a couple of other

1 places.

2 Now, Your Honor, what I am going to tell you now, you
3 know, I would ask you just to take into account however
4 you deem it appropriate. In August of last year Antwon
5 was shot four times. His---

6 THE COURT: How was he shot?

7 MR. CHESSER: Sir?

8 THE COURT: I mean, where and how? What kind of
9 circumstances?

10 MR. CHESSER: Well, I'll tell you how it was.

11 THE COURT: In the clubs, in the bars, in the joints?

12 MR. CHESSER: He was in a house and somebody came in
13 and they robbed him. It's my understanding, Your Honor,
14 there was drugs involved and they robbed him and shot him
15 four times. This -- his injuries from that -- I'd like to
16 hand up this paper. It is a short paper from the
17 hospital.

18 Your Honor, you've heard of a hernia and that's where
19 a section of the abdomen is weakened and allows part of
20 the intestines to bulge out. What Mr. Myers [sic] has as
21 a result of this is -- you could call it a hernia. It is
22 actually -- the fact is his muscles over his stomach are
23 very far from closing and what that paper indicates that I
24 handed up is that it will never close. It's probably
25 somewhat smaller, I guess -- Your Honor, he's got this

1 very serious medical condition and I know that you -- I
2 don't think there is any doubt that you're fixing to send
3 him to prison.

4 It's not 100 percent pleasant, but I would ask you to
5 see his wound. You're fixing to send him to prison and I
6 think it's relevant; so I would ask that he be able to get
7 to maybe this point over here and show it to you.

8 THE COURT: Well, I mean, I can read that. I know
9 what he is going through.

10 MR. CHESSER: Well, in addition to that particular
11 wound which I've seen it and it is about the size I would
12 say of a volley ball and it's sort of a window into his
13 interior and it's not going to heal and in addition to
14 that he's got some areas where there is some scar tissue
15 that affects his lungs the way they expand on one side.

16 I talked to him and for some reason just today
17 Mr. Byars informed me that he is scheduled for an
18 operation to sort of push back in -- not to close the
19 wound because it's not anticipated it can be closed, but
20 to actually push back in his intestines I assume for some
21 medical benefit to push it back in. Whether it will be
22 temporary or not, I don't know. I would ask him to
23 explain that to you because I don't have enough knowledge
24 of that.

25 Mr. Byars?

1 THE DEFENDANT: Yea, I got a hernia, but my whole
2 fascia is open. It is pulled back; so my intestines is
3 basically covered by a skin graft off my legs, but they're
4 going to push my intestines back in, put a net or whatever
5 they use---

6 THE COURT: And try to close it?

7 THE DEFENDANT: I don't think they're going to be
8 able to close it. It is just that big. They say they
9 won't be able to close it, but they're gonna fix the
10 hernia but they won't be able to close my fascia.

11 THE COURT: This is as a result of you being shot?

12 THE DEFENDANT: Yes, sir.

13 THE COURT: Anything else?

14 THE DEFENDANT: I thank you, Your Honor, for
15 listening to my case.

16 THE COURT: You were in here just a second ago. The
17 other young man that shot at the guy indiscriminately, he
18 got a 10-year sentence. You got a recommendation of a cap
19 of 15 years and you're looking at 20 years or you could
20 have been charged with attempted murder and you could have
21 been looking at 30.

22 All right. I am going to take into consideration
23 everything that your lawyer said, that you had three
24 people to speak on your behalf, your medical condition and
25 I am going to go below the cap of 15. The sentence of the

1 court is that you be committed to the State Department of
2 Corrections for 10 years. Good luck to you.

3 (End of Transcript of Record.)
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CERTIFICATE OF REPORTER

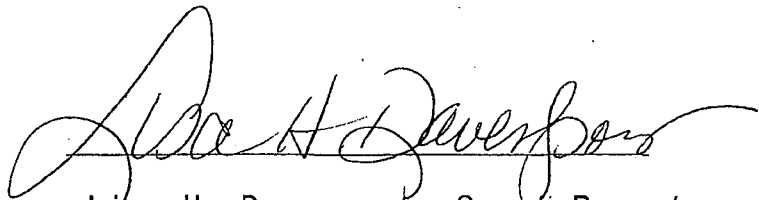
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State of South Carolina)
)
County of Aiken)

I, Lisa H. Davenport, Official 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 the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Barnwell County, South Carolina, on the 9th day of July, 2012.

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

January 2, 2013



Lisa H. Davenport, Court Reporter

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BARNWELL)

INDICTMENT FOR
 ASSAULT AND BATTERY WITH INTENT TO
 KILL

§ 16-03-0620

At a Court of General Sessions, convened on January 2011, the Grand Jurors of Barnwell County present upon their oath:

That **ANTWON BYARS** did in Barnwell County, South Carolina on or about September 5, 2009, with malice aforethought, willfully and unlawfully commit a violent injury to the person of another, Dwyane Smith in that the defendant, **ANTWON BYARS**, did shoot the victim, in violation of the 16-3-620 of the South Carolina Code of Laws, 1976, as amended.

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


 J. STROM THURMOND, SOLICITOR

WITNESSES

Williston Police Department

Craig Martin

Law Enforcement Case #: 09-09-1018

LM

ARREST WARRANT NUMBER

K338348

ACTION OF GRAND JURY

Ernie Bell

Mark Gillman 1/6/2011

Foreperson of Grand Jury
Date:

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2011GS0600014

The State of South Carolina

County of Barnwell

COURT OF GENERAL SESSIONS

JANUARY TERM 2011

THE STATE

vs.

ANTWON BYARS

CDR #: 0014

Indictment for

**ASSAULT AND BATTERY WITH INTENT
TO KILL**

§ 16-03-0620

J. STROM THURMOND, SOLICITOR

STATE OF SOUTH CAROLINA)
 COUNTY OF Bamwell)
 STATE)
 VS.)
Antwon Byars)
 AKA:)
 Race: Sex M Age: 27)
 DOB: SS#:)
 Address:)
 City, State, Zip: WILLISTON, SC 29853)
 DL# ID#)
 *CDL Yes No CMV Yes No Hazmat Yes No

IN THE COURT OF GENERAL SESSIONS
 INDICTMENT/CASE#: 2011GS0600014
 A/W#: K338348
 Date of Offense: 9/5/2009
 S.C. Code §: 16-03-0620
 CDR Code #: 0014

SENTENCE SHEET
0 to 20 yrs

In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
 TO: Assault and battery with Intent to Kill (ABWIK)
 In violation of § 16-03-0620 of the S.C. Code of Laws, bearing CDR Code # 0014
 NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS §17-25-45
 (CSC w/ minor 1st or Lawd Act)
 The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury. (def.'s initials)
 The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:
[Signature] 74493 [Signature] [Signature]
 Solicitor 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 10 days/months/years or under the Youthful Offender Act not to exceed _____ 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 _____

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 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 PTUP _____
 Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____ Obtain GED
 Set by SCDPPPS _____ Attend Voc. Rehab. Or Job Corp. _____

Recipient: _____

*Fine:		\$	_____
§14-1-206 (Assessment 107.5%)		\$	_____
§14-1-211 (A)(1)(Conv. Surcharge)	\$100	\$	<u>100.00</u>
§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	\$	_____
§14-1-212 (Law Enforce. Funding)	\$25	\$	<u>25.00</u>
§14-1-213 (Drug Court Surcharge)	\$150	\$	_____
§50-21-114 (BUI Breath Test Fee)	\$50	\$	_____
§58-5-2942(J) (Vehicle Assessment)	\$40/ea	\$	_____
Proviso 90.5 (SCCJA Surcharge)	\$5	\$	<u>5.00</u>
3% to County (if paid in installments)		\$	<u>3.90</u>
TOTAL		\$	<u>133.90</u>

May serve W/E beginning _____
 Substance Abuse Counseling
 Random Drug/Alcohol Testing
 Fine may be pd. in equal consecutive weekly/monthly
 prmts. of \$ _____ Beginning _____
 \$ _____ Paid to Public Defender Fund

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

Clerk of Court/Deputy Clerk S. Hannon H. Ritchie
 Court Reporter: Lisa Ravenport
 SCCA/217 (03/2011)
 Presiding Judge [Signature]
 Judge Code: 0136
 Sentence Date July 9, 2012

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BARNWELL COUNTY
Court of General Sessions
Doyet A. Early, III, Circuit Court Judge

Case No: 2011-GS-06-0014

State of South Carolina,..... Respondent
v.
Antwon Byars,..... Appellant

**Notice of Appeal from the Court of General Sessions
And Written Explanation of Appeal from Guilty Plea**

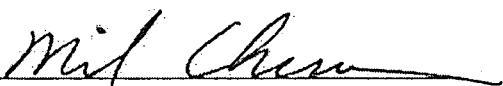
Antwon Byars pled guilty and was sentenced on July 9th, 2012. He appeals his conviction and sentence. The sentence was imposed by the Honorable Doyet A. Early, III.

Indictment:	Statutory Violation:	Charge:	Sentence:
2011-GS-06-0014	16-3-620	A&B with Intent to Kill	10 years

Written explanation of appeal from guilty plea:

- Excessive sentence
Byars pled guilty pursuant to a negotiated cap of 15 years. The maximum sentence under the law is 20 years. The sentence pronounced by the Honorable Court was 10 years. Byars submits on appeal that, based on the facts adduced in Court, the sentence was excessive.

July 18, 2012


 Michael Chesser
 PO BOX 1018
 AIKEN, SC 29802
 803-646-1166
chesserlaw@gmail.com
 Attorney for the Defendant

THE STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM BARNWELL COUNTY
Court of General Sessions
Doyet A. Early, III, Circuit Court Judge

Case Nos: 2011-GS-06-0014

State of South Carolina,..... Respondent
v.
Antwon Byars,..... Appellant

CERTIFICATE OF SERVICE

I, Michael Chesser, do hereby certify that I have this day served the Notice of Appeal with Written Explanation in Support of Appeal from Guilty Plea upon the South Carolina Court of Appeals by placing same in the United States Mail properly addressed and with correct postage affixed thereto:

South Carolina Court of Appeals
Attn: Appeal from Gen'l Sessions
PO BOX 11629
COLUMBIA, SC 29211

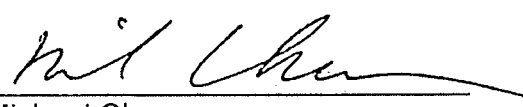
Office of the Solicitor
Attn: Susanna Ringler, Ass't Solicitor
PO Drawer 3368
Aiken, SC 29802-3368

South Carolina Commission
Of Indigent Defense
Attn: Office of Appellate Defense
Appeal from Gen'l Sessions
PO Box 11433
COLUMBIA, SC 29211-1433

Office of the Attorney General
Attn: Appeal from Gen'l Sessions
PO Box 11549
COLUMBIA, SC 29211-1549

The Honorable Rhonda D. McElveen
Clerk of Court for Barnwell County
Attn: Appeal from Gen'l Sessions
PO BOX 723
BARNWELL, SC 29812-0723

July 18, 2012



Michael Chesser
PO BOX 1018
AIKEN, SC 29802
803-646-1166
chesserlaw@gmail.com
Attorney for the Defendant

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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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

March 15, 2013

A handwritten signature in black ink, appearing to read 'D. Alexander', written over a horizontal line.

David Alexander
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