

STATE OF SOUTH CAROLINA)
COUNTY OF DORCHESTER)

IN THE COURT OF COMMON PLEAS
FOR THE FIRST JUDICIAL CIRCUIT

Benjamin Antwan Green, #352810,)

2014-CP-18-1957

Applicant,)

ORDER DENYING MOTION TO DISMISS

-versus-

State of South Carolina,)

Respondent.)

RECEIVED

SEP 25 2020

SC Court of Appeals

Joseph B. H. [Signature]
CLERK OF COURT
DORCHESTER COUNTY

2020 APR 16 PM 12:19

CERTIFIED COPY

THIS MATTER CAME BEFORE ME on July 20, 2017 for a hearing upon Respondent's Motion to Dismiss the Applicant's post-conviction relief application, filed on March 10, 2016. The Applicant was present and testified at the hearing. Attorneys for the Applicant and Respondent presented argument to the Court.

Based upon the testimony and argument presented, the Court denies Respondent's Motion to Dismiss based upon the following:

On October 16, 2012, Applicant pled guilty to six (6) counts of Assault and Battery of a High and Aggravated Nature ("ABHAN"), two (2) counts of Discharging a Firearm into a Dwelling, and one (1) count of Possession of a Weapon during the Commission of a Violent Crime. The Honorable Diane S. Goldstein sentenced Applicant to 20 years imprisonment on each count of ABHAN, 10 years imprisonment for each count of Discharging a Firearm into a Dwelling, and five (5) years imprisonment for Possession of a Weapon during a Crime of Violence, all to run concurrent. Applicant was represented by Robert Howe, Esquire, during the guilty plea and sentencing.

Applicant subsequently retained Mark Peper, Esquire, who filed a timely Motion to Reconsider. Judge Goldstein denied the Motion to Reconsider on May 30, 2013.

Applicant did not appeal his plea or sentence, and filed the current application for post-conviction relief on October 23, 2014.

During the hearing on Respondent's Motion to Dismiss, Appellant testified that Mr. Howe did not talk to him after his plea and sentencing. Applicant testified that Mr. Howe never explained to him his appellate rights. Appellant further testified that, after going to prison, he wrote letters to Mr. Howe asking him to file a direct appeal, but that Mr. Howe did not respond. Applicant also testified that he was on lockdown in prison for a long period of time and was unable to get a stamp to mail his PCR application in a timely manner.

The rules of civil procedure apply in post-conviction relief proceedings. S.C. Code Ann. § 17-27-80. A Motion to Dismiss asserting a statute of limitations defense has the effect of asserting that the [applicant] has failed to state a cause of action. *McLendon v. S.C. Dep't of Hwys and Pub. Transp.*, 313 S.C. 525 (1994) (holding that because a motion to dismiss has the effect of asserting that respondent has failed to state a cause of action, the denial of such motion is not immediately appealable under S.C. Code Ann. § 14-3-330(1976)). When considering whether to grant a Motion to Dismiss for failure to state a claim, the circuit court must view the facts in the light most favorable to the non-moving party. If there is any basis upon which relief can be granted when viewing the facts in the light most favorable to the non-moving party, the motion to dismiss must be denied. *Spence v. Spence*, 368 S.C. 106 (2006), citing S.C.R.Civ.P. 12(b)(6), *Gentry v. Yonce*, 337 S.C. 1, 522 S.E.2d 137 (1999).

In general, an application for PCR must be filed within "one year after the entry of a judgment of conviction or within one year after the sending of the remittitur to the lower court from an appeal or the filing of the final decision on appeal, whichever is later." S.C. Code Ann. § 17-27-45(a). However, this one-year statute of limitations does not apply to appeals filed

pursuant to *Austin v. State*, 305 S.C. 453 (1991) where they are intended to correct unjust procedural defects. *Odom v. State*, 337 S.C. 256 (1999). The one-year statute of limitations period in which an applicant must file a petition for post-conviction relief is also inapplicable where the applicant was denied a direct appeal of his conviction due to ineffective assistance of counsel. *Wilson v. State*, 348 S.C. 215 (2002) (extending the reasoning in *Odom* and *Austin*).

Appellant's testimony during the hearing on Respondent's Motion to Dismiss is not contradicted. Appellant testified that he had written to his attorney to request that a direct appeal be filed on his behalf, but that Mr. Howe did not respond. Respondent did not offer Mr. Howe's testimony on this issue, and Appellant's testimony is therefore not disputed on this issue. When viewed in the light most favorable to the non-moving party, this fact, standing alone, gives rise to the principles in *Wilson*, *Odom*, and *Austin*.

Accordingly, Respondents Motion to Dismiss for Failure to Timely File is hereby DENIED. Applicant may file a direct appeal.

AND IT IS SO ORDERED!



Judge Edgar W. Dickson
Chief Administrative Judge, 1st Judicial Circuit

3 April, 2020

Orangeburg, South Carolina

FORM 4

STATE OF SOUTH CAROLINA
COUNTY OF DORCHESTER
IN THE COURT OF COMMON PLEAS

JUDGMENT IN A CIVIL CASE
CASE NUMBER 2014CP1801957

Benjamin Autwan Green

South Carolina State Of

PLAINTIFF(S)

DEFENDANT(S)

Submitted by:

Attorney for: ☐ Plaintiff ☐ Defendant
☐ Self-Represented Litigant

DISPOSITION TYPE (CHECK ONE)

- ☐ **JURY VERDICT.** This action came before the court for a trial by jury. The issues have been tried and a verdict rendered.
- ☒ **DECISION BY THE COURT.** This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered. ☐ See Page 2 for additional information.
- ☐ **ACTION DISMISSED (CHECK REASON):** ☐ Rule 12(b), SCRPC; ☐ Rule 41(a), SCRPC (Vol. Nonsuit);
☐ Rule 43(k), SCRPC (Settled); ☐ Other: _____
- ☐ **ACTION STRICKEN (CHECK REASON):** ☐ Rule 40(j), SCRPC; ☐ Bankruptcy;
☐ Binding arbitration, subject to right to restore to confirm, vacate or modify arbitration award; ☐ Other: _____
- ☐ **STAYED DUE TO BANKRUPTCY**
- ☐ **DISPOSITION OF APPEAL TO THE CIRCUIT COURT (CHECK APPLICABLE BOX):**
☐ Affirmed; ☐ Reversed; ☐ Remanded; ☐ Other: _____

20 APR 16 PM 12:19
CERTIFIED COPY
JAMES E. DICKSON
CLERK OF COURT
DORCHESTER COUNTY

NOTE: ATTORNEYS ARE RESPONSIBLE FOR NOTIFYING LOWER COURT, TRIBUNAL, OR ADMINISTRATIVE AGENCY OF THE CIRCUIT COURT RULING IN THIS APPEAL.

IT IS ORDERED AND ADJUDGED: ☒ See attached order; (formal order to follow). ☐ Statement of Judgment by the Court.

ORDER INFORMATION

This order ☐ ends; ☒ does not end the case.

Additional Information for the Clerk: _____

INFORMATION FOR THE JUDGMENT INDEX

Complete this section below when the judgment affects title to real or personal property or if any amount should be enrolled. If there is no judgment information, indicate "N/A" in one of the boxes below.

Judgment in Favor of (List name(s) below)	Judgment Against (List name(s) below)	Judgment Amount To be Enrolled (List amount(s) below)

If applicable, describe the property, including tax map information and address, referenced in the order: _____

The judgment information above has been provided by the submitting party. Disputes concerning the amounts contained in this form may be addressed by way of motion pursuant to the SC Rules of Civil Procedure. Amounts to be computed such as interest or additional taxable costs not available at the time the form and final order are submitted to the judge may be provided to the clerk.

Note: Title abstractors and researchers should refer to the official court order for judgment details.

E-Filing Note: In E-Filing counties, the Court will electronically sign this form using a separate electronic signature page.

Edgar Dickson

Circuit Court Judge

2153

Judge Code

4/16/2020

Date

RECEIVED

SEP 25 2020

SC Court of Appeals

For Clerk of Court Office Use Only

This judgment was entered on 4/16/2020, and a copy mailed first class or placed in the appropriate attorney's box on 4/16/2020, to attorneys of record or to parties (when appearing pro se) as follows:

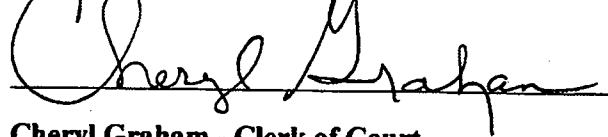
Benjamin Autwan Green Wateree River Correctional Institution, #352810 8200 State Farm Road, Rembert, SC 29128

Leslie Therese Sarji 230 Congress Street Charleston, SC 29403

Benjamin Hunter Limbaugh/Sara Gunton 1000 Assembly Street Columbia, SC 29201

ATTORNEY(S) FOR THE PLAINTIFF(S)

ATTORNEY(S) FOR THE DEFENDANT(S)



Cheryl Graham - Clerk of Court

Court Reporter

Court Reporter:

E-Filing Note: In E-Filing counties, the date of Entry of Judgment is the same date as reflected on the Electronic File Stamp and the clerk's entering of the date of judgment above is not required in those counties. The clerk will mail a copy of the judgement to parties who are not E-Filers or who are appearing pro se. See Rule 77(d), SCRCP.

ADDITIONAL INFORMATION REGARDING DECISION BY THE COURT AS REFERENCED ON PAGE 1.

This action came to trial or hearing before the court. The issues have been tried or heard and a decision rendered.

STATE OF SOUTH CAROLINA

COUNTY OF DorchesterSTATE VS
Benjamin Antwan Green

AKA:

Race: B Sex: M Age: 19DOB: [REDACTED] SS#: [REDACTED]Address: [REDACTED]Charleston, SC 29403DL#: [REDACTED] SID#: [REDACTED]CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was:

☐ CONVICTED OF or ☐ PLEADSTO: Assault / Assault and Battery of a High and Aggravated NatureIn violation of § 16-3-600(B)(1) of the S.C. Code of Laws, bearing CDR Code #3411☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lowd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Matt Austin 77941 Benjamin Antwan Green Matt Austin 02701
Hilton, Russell D. SC Bar# Benjamin Antwan Green Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 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: 10-16-2012☒ 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 Dept. 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 PTUP Total: \$ plus 20% fee: \$ Payment Terms: ☐ set by SCOPPSRecipient:

*Fine:	\$	
14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1)(Conv. Surcharge)	\$100	\$ 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 Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25
§ 33.7, 1B TP (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
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/Deputy Clerk

Up To 20 years

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS18-0169AW#: M727132Date of Offense: 12/7/2011S.C. Code § 16-3-29CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADSIn violation of § 16-3-600(B)(1) of the S.C. Code of Laws, bearing CDR Code #3411☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

w/minor 1st or Lowd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Matt Austin 77941 Benjamin Antwan Green Matt Austin 02701
Hilton, Russell D. SC Bar# Benjamin Antwan Green Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 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: 10-16-2012☒ 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 Dept. 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 PTUP Total: \$ plus 20% fee: \$ Payment Terms: ☐ set by SCOPPSRecipient:

*Fine:	\$	
14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1)(Conv. Surcharge)	\$100	\$ 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 Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25
§ 33.7, 1B TP (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
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/Deputy Clerk

 days/hours Public Service EmploymentObtain 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 FundOther: ☐ Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.☐ Appointed PD or appointed other counsel, § 44-53-450(C) requires \$500 be paid to Clerk during probation.PRESIDING JUDGE Judge Code: 213Sentence Date: 10-16-2012

Up To 20 years

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF Dorchester
STATE VS.
Benjamin Antwan Green
AKA:
Race: B Sex: M Age: 19
DOB: SS#:
Address: Charleston, SC 29403
DL#: SID#:

INDICTMENT/CASE#: 2012GS18-0170
AW#: M727133
Date of Offense: 12/7/2011
S.C. Code § 16-3-29
CDR Code #: 3410

SENTENCE SHEET

CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was:

☐ CONVICTED OF or ☐ PLEADS

TO: Assault / Assault and Battery of a High and Aggravated Nature

In violation of § 16-3-60(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

☐ 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 Initial)

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

ATTEST:

Matt Austin - 77941 Benjamin Antwan Green 02701
Hilton, Russell D. SC Bar# Benjamin Antwan Green Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 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: 10-16-2012

☐ 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 Dept. 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 PTUP

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

Payment Terms: _____

☐ set by SCDPPPS

_____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

Recipient: _____

*Fine:	\$-:
14-1-206 (Assessments 107.5 %)	\$
14-1-211(A)(1)(Conv. Surcharge)	\$100 \$ 100
14-1-211(A)(2) (DUI Surcharge)	\$100 \$
56-5-2995 (DUI Assessment)	\$12 \$
56-1-288 (DUI Breath Test)	\$25 \$
Proviso 47.9 (Public Def/Prob)	\$500 \$
73.3, 1B TP (Law Enforce. Funding)	\$25 \$ 25
33.7, 1B TP (Drug Court Surcharge)	\$150 \$
50-21-114 (BUI Breath Test Fee)	\$50 \$
56-5-2842(J) (Vehicle Assessment)	\$40/ea \$
Proviso 90.5 (SCCJA Surcharge)	\$5 \$ 5
44-53-450(C) (Conditional Discharge)	\$350 \$
3% to County (If paid in installments)	\$ 3.90
TOTAL	\$ 133.90

Cheryl Graham
Clerk of Court/ Deputy Clerk
Hilda Jordan

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: _____
SEP 25 2020
SC COURT OF APPEALS

☐ Conditional Discharge § 44-53-450(C) requires \$500 paid to the Clerk prior to disposition.

☐ Appointed PD or appointed other counsel, § 47-12 requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE Debra

Judge Code: 2112

Sentence Date: 10-16-2012

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Dorchester

VS.
Benjamin Antwan Green

AKA:

Race: B Sex: M Age: 19

DOB: SS#:

Address:

Charleston, SC 29403

DL#: SID#:

CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was:

TO: Assault / Assault and Battery of a High and Aggravated Nature

In violation of § 16-3-600(B)(1) of the S.C. Code of Laws, bearing CDR Code #

3411

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Matt Austin 77941 Benjamin Antwan Green
 Matt Austin SC Bar# Benjamin Antwan Green Attorney for Defendant SC Bar# 02701

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 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

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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: \$

Payment Terms:

☐ set by SCDPPPS

Recipient:

*Fine:	\$
14-1-206 (Assessments 107.5 %)	\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100 \$ 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 Def/Prob)	\$500 \$
§ 73.3, 1B TP (Law Enforce. Funding)	\$26 \$ 25
§ 33.7, 1B TP (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
§ 44-53-450(C) (Conditional Discharge)	\$350 \$
3% to County (if paid in installments)	\$ 3.90
TOTAL	\$ 133.90

Cheryl Graham
Clerk of Court Deputy Clerk

Hilda Jordan

Up To 20 years

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS18-0171

AW#: M727134

Date of Offense: 12/7/2011

S.C. Code § 16-3-29

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADS

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:

☐ Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 2112

Sentence Date: 10-16-2012

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SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF DorchesterSTATE Benjamin Antwan Green VS.

AKA:

Race: B Sex: M Age: 19DOB: SS#: Address: Charleston, SC 29403DL#: SID#: CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was:

TO: Assault / Assault and Battery of a High and Aggravated Naturein violation of § 16-3-600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lowd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.ATTEST: Matt Austin 77941 Benjamin Antwan Green Phil Moore 02701
Hilton, Russell D. SC Bar# Benjamin Antwan Green Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center, for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/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

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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.

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§ 58-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25
§ 33.7, 1B TP (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 58-5-2842(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (If paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 33.90

Clerk of Court/Deputy Clerk

Up To 20 years
IN THE COURT OF GENERAL SESSIONSINDICTMENT/CASE#: 2012GS18-0172AW#: M727135Date of Offense: 12/7/2011S.C. Code § 16-3-29CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADS days/hours Public Service/employmentObtain 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 FundOther: ☐ Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.☐ Appointed PD or appointed other counsel, § 47.2 requires \$500 be paid to Clerk during probation.PRESIDING JUDGE Judge Code: 2112Sentence Date: 10-16-2012RECEIVED
SEP 25 2012
SC Court of Appeals

up To 20 year

IN THE COURT OF GENERAL SESSIONS

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Dorchester

VS.
Benjamin Antwan Green

AKA:

Race: B Sex: M Age: 19

DOB: SS#:

Address:

Charleston, SC 29403

DL#: SID#:

CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was:

TO: Assault / Assault and Battery of a High and Aggravated Nature

In violation of § 16-3-600(B)(1) of the S.C. Code of Laws, bearing CDR Code #

3411

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)

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

ATTEST:

HILTON, RUSSELL D.

SC Bar#

Benjamin Antwan Green

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, 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: 10-16-2012

☒ 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 Dept. 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 PTUP

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
§ 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 \$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25 \$ 25
§ 33.7, 1B TP (Drug Court Surcharge)	\$150 \$
§ 50-21-114 (BUI Breath Test Fee)	\$50 \$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea \$
Proviso 80.5 (SCCJA Surcharge)	\$5 \$ 5
§ 44-53-450(C) (Conditional Discharge)	\$350 \$
3% to County (if paid in installments)	\$ 3.90
TOTAL	\$ 133.90

Clerk of Court/ Deputy Clerk

INDICTMENT/CASE#: 2012GS18-0173

A/W#: M727136

Date of Offense: 12/7/2011

S.C. Code § 16-3-29

CDR Code #: 3410

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADS

_____ days/hours Public Service/employment

Obtain GED ☐

Attend Voc. Rehab. or Job Com

May serve W/E beginning

Substance Abuse Counseling

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly payments of \$ _____ Beginning _____

\$ _____ paid to Public Defender Fund

Other:

☐ Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.

☐ Appointed PD or appointed other counsel, § 47-12 requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 2112

Sentence Date: 10-16-2012

Sentence Date:

STATE OF SOUTH CAROLINA

COUNTY OF

Dorchester

STATE

VS
Benjamin Antwan Green

AKA:

Race: B Sex: M Age: 19

DOB: SS#:

Address:

Charleston, SC 29403

DL#: SID#:

CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was:

TO: Discharging Firearms into a Dwelling

in violation of § 16-23-440(A) of the S.C. Code of Laws, bearing CDR Code #

0052

☒ NON-VIOLENT☐ VIOLENT☐ SERIOUS☐ MOST SERIOUS☐ Mandatory GPS(CSC

w/minor 1st or Lawd Act)

☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury.

(Defendant initial)

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

ATTEST:

Matt Austen 77991
Matt Austen
SC Bar#

Benjamin Antwan Green

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the

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: 10-16-2012☐ 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 Dept. 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

PTUP

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
§ 14-1-211(A)(2) (DUI Surcharge)	\$100 \$
§ 56-5-2995 (DUI Assessment)	\$12 \$
§ 56-1-288 (DUI Breath Test)	\$25 \$
Proviso 47.9 (Public Def/Prob)	\$500 \$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25 \$ 25
§ 33.7, 1B TP (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
§ 44-53-450(C) (Conditional Discharge)	\$350 \$
3% to County (if paid in installments)	\$ 3.90
TOTAL	\$ 133.90

Clerk of Court/Deputy Clerk

Up To 10 years or Up To \$1,000

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

2012GS18-0175

A/W#:

M727138

Date of Offense:

12/7/2011

S.C. Code §

16-23-440(A)

CDR Code #:

0052

SENTENCE SHEET

☐ CONVICTED OF

or

☐ PLEADSRECEIVED
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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:

☐ Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 316

Sentence Date: 10-16-2012

Up To 10 years or Up To \$1,000

STATE OF SOUTH CAROLINA

COUNTY OF Dorchester
STATE VS.
Benjamin Antwan Green

AKA:
Race: B Sex: M Age: 19
DOB: [REDACTED] SS#: [REDACTED]
Address: [REDACTED]
Charleston, SC 29403

DL#: [REDACTED] SID#: [REDACTED]
CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was:

TO: Discharging Firearms into a Dwelling

In violation of § 16-23-440(A) of the S.C. Code of Laws, bearing CDR Code # 0052

☒ 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 initial)

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

ATTEST:

Matt Austin 77941 Benjamin Antwan Green Matt Austin 02701
Hilton, Russell D. SC Bar# Benjamin Antwan Green Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, not to exceed 10 days/months/years or ☐ under the Youthful Offender Act

and/or to pay a fine of \$ [REDACTED]; provided that upon the service of [REDACTED] days/months/years and/or payment of \$ [REDACTED]; plus costs and assessments as applicable; the balance is suspended with probation for [REDACTED]

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: 10-16-2012

☒ 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 Dept. 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: \$ [REDACTED] plus 20% fee: \$ [REDACTED]

Payment Terms: [REDACTED]

☐ set by SCOPPPS [REDACTED]

Recipient: [REDACTED]

*Fine:	\$	
14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A) (1)(Conv. Surcharge)	\$100	\$ 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 Def/Prob)	\$500	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25
§ 33.7, 1B TP (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
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Cheryl Graham
Clerk of Court/ Deputy Clerk
Hilda Jordan

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS18-0176

AW#: M727139

Date of Offense: 12/7/2011

S.C. Code § 16-23-440(A)

CDR Code #: 0052

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADS

PTUP [REDACTED] days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. [REDACTED]

May serve W/E beginning [REDACTED]

Substance Abuse Counseling ☐

Random Drug/Alcohol Testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ [REDACTED] Beginning [REDACTED]

\$ [REDACTED] paid to Public Defender Fund

Other: [REDACTED]

☐ Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.

☐ Appointed PD or appointed other counsel, § 47-19 requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE [REDACTED]

Judge Code: 2112

Sentence Date: 10-16-2012

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SC Court of Appeals

STATE OF SOUTH CAROLINA

COUNTY OF
STATE

Dorchester

VS.
Benjamin Antwan Green

AKA:

Race: B Sex: M Age: 19

DOB: SS#:

Address:

Charleston, SC 29403

DL#: SID#:

CDL: Yes ☐ No ☐ CMV: Yes ☐ No ☐ Hazmat: Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was:

☐ CONVICTED OF or ☐ PLEADS

TO: Poss. Weapon During Violent Crime, If not Also Sentenced to Life without Parole or Death

In violation of § 16-23-490 of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lowd Act) ☐ §17-25-45The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (Defendant Initial)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Hilton, Russell D.
MATT AUSTIN

SC Bar#

Benjamin Antwan Green

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center, for a determinate term of 3 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: 10-16-2012☒ 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 Dept. 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 PTUP

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
§ 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	\$
§ 73.3, 1B TP (Law Enforce. Funding)	\$25	\$ 25
§ 33.7, 1B TP (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
§ 44-53-450(C) (Conditional Discharge)	\$350	\$
3% to County (If paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Cheryl Graham
Clerk of Court/Deputy Clerk

Hilda Jordan

date 10/16/2012 up To 5 years
IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS18-0177

AM#: M727141

Date of Offense: 12/7/2011

S.C. Code § 16-23-490

CDR Code #: 0549

SENTENCE SHEET

_____ 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: _____

☐ Conditional Discharge § 44-53-450(C) requires \$350 be paid to the Clerk prior to disposition.☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.

PRESIDING JUDGE

Judge Code: 2112Sentence Date: 10-16-2012

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