

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from York County

Daniel D. Hall, Circuit Court Judge

**RECEIVED**

**Jan 08 2021**

**SC Court of Appeals**

THE STATE,

RESPONDENT,

V.

ANTHONY TERMAINE AVERA,

APPELLANT

APPELLATE CASE NO. 2020-000812

RECORD ON APPEAL

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ATTORNEYS FOR RESPONDENT

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1 State of South Carolina ) Court of General Sessions  
 2 County of York ) 2018-GS-46-04263,  
 3 ) 2020-GS-46-00421,  
 ) 2020-GS-46-02373

4 State of South Carolina )  
 5 vs. ) Transcript of Record  
 6 Anthony Termaine Avera )  
 7 )

8 Tuesday, May 7, 2020  
 9 York, South Carolina

10 B E F O R E:

11 The Honorable Daniel D. Hall, Judge.

12  
 13 A P P E A R A N C E S:

14 Sharon J. Ohayon, Asst. Solicitor  
 15 Attorney for the State

16 Jeffrey B. Zuschke, Asst. Public Defender  
 17 Attorney for the Defendant

18  
 19 Nadine Capps, CVR  
 20 Court Reporter

21  
 22  
 23  
 24  
 25

## P R O C E E D I N G S

(The matter was held in open court.)

MS. OHAYON: May it please the court, Your Honor.

Before you is Anthony Termaine Avera. He's represented by Ms. Jeff Zuschke. He's pleading guilty under indictments 2020-421 to domestic violence, second degree and 2373 to domestic violence, first degree.

It's my understanding that Mr. Zuschke needs to be officially appointed on one of those charges.

THE COURT: All right. And has the State complied with the Victim's Rights Act?

MS. OHAYON: Yes, Your Honor.

THE COURT: Is there any negotiation or recommendation?

MS. OHAYON: Your Honor, on the 2373, the domestic violence, first degree, the negotiation is time served with credit for time served of 58 days.

As to the domestic violence, second degree, I have been instructed that the negotiation will depend on what Your Honor does with the probation violation.

MR. ZUSCHKE: Your Honor, to clarify a little bit: It's a recommendation of probation with domestic violence conditions; however, given that he's also facing a probation matter, if you were to give him a significant amount of time, I think she would rather just be encompassed within

1 that.

2 Does it sound like a fair assessment of what she  
3 had written there? That's what she told me.

4 THE COURT: All right. I understand. It's a  
5 recommendation. I'll figure out what's appropriate.

6 All right. Mr. Zuschke, I'm signing an order  
7 appointing you on the charge that you -- domestic violence,  
8 second degree, that you have not been appointed on. I've  
9 signed the order appointing you to that.

10 Mr. Zuschke, you represent Mr. Avera?

11 MR. ZUSCHKE: I do, Your Honor.

12 THE COURT: How does he plead?

13 MR. ZUSCHKE: Guilty.

14 THE COURT: Mr. Avera, how old are you?

15 THE DEFENDANT: Twenty-eight.

16 THE COURT: You can pull your mask down over your  
17 lips. How far did you go in school?.

18 THE DEFENDANT: Eleventh grade.

19 THE COURT: You can pull it down a little bit  
20 more. Have you ever been treated for any mental or  
21 emotional disability?

22 THE DEFENDANT: No, sir.

23 THE COURT: You know you are doing here today?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Mr. Avera, I have two indictments

1 before the Court, each of them for domestic violence. One  
2 of them is domestic violence, first degree. One is domestic  
3 violence, second degree. Domestic violence, first degree,  
4 Indictment 2020-2373, alleges on March the 7th of this year,  
5 you caused physical harm or injury to a Samantha Spenollo,  
6 household member. Under the circumstances, you're charged  
7 with domestic violence, first degree. By pleading guilty,  
8 I'm required to sign an order that would prohibit you from  
9 owning or possessing a firearm or ammunition for a period of  
10 ten years.

11 You're also on probation for a sentence that  
12 Judge McKinnon gave you back in January of 2019. You have  
13 ten years suspended on five years probation -- let's see the  
14 charge on here -- to assault and battery of a high and  
15 aggravated nature. You can have that revoked in its  
16 entirety because of your plea today.

17 Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And you're wanting to go forward with  
20 your probation matters today as well?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: The only negotiation is that you  
23 receive time served for the domestic violence, second  
24 degree, which means you can get up to three years for the  
25 domestic violence -- I'm sorry -- domestic violence, first

1 grade, is the negotiation for time served. The domestic  
2 violence, second degrees, you could get up to three years  
3 and, in addition, you could have the ten years revoked. It  
4 appears that that ten years is for a -- is on a serious  
5 violent offense and whatever time you would get revoked  
6 would likely be non-parolable.

7 Has that been explained to you? Has that been  
8 explained to you?

9 THE DEFENDANT: I guess, sir.

10 THE COURT: Do you understand that?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: How do you plead to domestic violence,  
13 second degree, that took place on -- 2020-421, that  
14 allegedly took place here in York County on or about  
15 January the 1st, involving Rosario Spinello?

16 How do you plead? Guilty or not guilty?

17 THE DEFENDANT: Guilty.

18 THE COURT: I'm sorry?

19 THE DEFENDANT: Guilty.

20 THE COURT: And, again, on the other indictment  
21 that allegedly took place here in March, are you pleaded  
22 guilty to that as well?

23 THE DEFENDANT: Yes, sir.

24 MR. ZUSCHKE: All right. You keep looking at your  
25 lawyer, and I do remember this plea now. We attempted to do

1 this plea last term.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: And you had some hesitancy, and that's  
4 fine, because we're not in the business of trying to make  
5 people do anything. I want you to be -- understand what  
6 you're pleading to today and the consequences. I'm required  
7 to let you know that.

8 Are you aware, again, that by pleading today and  
9 if I follow the recommendation and the negotiation that you  
10 could get your ten years revoked? Do you understand?

11 THE DEFENDANT: Yes, sir.

12 THE COURT: All right. And that you could also  
13 get three years for the domestic violence, second degree.  
14 Do you understand that?

15 THE DEFENDANT: Yes, sir.

16 THE COURT: And it still your desire to plead  
17 guilty and go forward with your plea today?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: Do you understand -- has your  
20 lawyer -- and, normally, we would allow you to sign the  
21 indictments and initial the indictments. I'm going to write  
22 on here "unable to sign because of COVID." We are doing  
23 that to limit our contact with paper as much as we can. Do  
24 you understand that as well?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you understand when you plead  
2 guilty you give up your right to a jury trial? Nobody can  
3 force you to plead guilty or make you plead guilty. You  
4 have a right for a trial by jury. Do you understand that?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: Let me be sure you do. You have a  
7 right to maintain your innocence or simply to -- or just to  
8 simply ask for a trial. If you did, then the State would  
9 have to bring witnesses here in the courtroom and would have  
10 to present those witnesses so you could see and hear those  
11 witnesses, every one of them. Your lawyer could  
12 cross-examine, ask questions of every State's witness.  
13 That's called the right to confrontation. If you had the  
14 jury trial, you'd have a right to remain silent. You  
15 wouldn't have to say anything about the case. That's your  
16 constitutional right. If you exercise that right, the judge  
17 would tell the jury to not hold that against you. That's  
18 your right to remain silent, and the State has to prove  
19 their case with their evidence, beyond reasonable doubt,  
20 before you can be convicted.

21 In fact, 12 jurors would have to all unanimously  
22 agree that the State had proven your guilt beyond a  
23 reasonable doubt on each offense before you could be  
24 convicted. Do you understand that?

25 THE DEFENDANT: Yes, sir.

1 THE COURT: Do you want to give that right up and  
2 plead guilty to both of these charges today?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And you're ready to go forward with  
5 your probation violation as well?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Are you satisfied with your lawyer and  
8 the way he's represented you?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Do you have any complaints?

11 THE DEFENDANT: No, sir.

12 THE COURT: Are pleading to these two charges  
13 today of your own free will?

14 THE DEFENDANT: Yes, sir.

15 THE COURT: You have ten days to appeal if I make  
16 an error or if you disagree with the sentence. That's a  
17 right you have. Do you understand that?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Solicitor?

20 MS. OHAYON: Your Honor, on January 1st, 2020,  
21 Rock Hill PD dispatched to [REDACTED] Garden Way, Rock Hill,  
22 South Carolina, in reference to a domestic. Officers met  
23 with Samantha Spinello who stated her live-in boyfriend, the  
24 defendant, struck her back of head and face. Law  
25 enforcement observed injury to the victim's face. There was

1 a scratch and what appeared to be evidence of struggle in  
2 the apartment. The suspect was not on scene but located  
3 later.

4 On March 11th, 2020, approximately nine in the  
5 morning, Rock Hill PD responded to meet the sheriff's office  
6 who was out with Samantha Spinello. Samantha told officers  
7 that she lived at [REDACTED] Bynum Avenue in Rock Hill with the  
8 defendant and that on March 7th, 2020, from about 9:00 p.m.  
9 to midnight, she and Avera were engaged in a heated  
10 argument. She told officers that it got physical. The  
11 defendant had been drinking, and when the victim confronted  
12 him about stopping, he punched her on her arms and  
13 shoulders. She told officers that she had bruises on parts  
14 of her arms because she was covering her face to keep from  
15 getting hit there.

16 When she tried to call 911, she took Avera -- she  
17 said Avera took her phone, ran into the bathroom, dropped  
18 the phone into the toilet, and the phone was not usable  
19 after that. Officer Hyman, indicated he saw bruises on the  
20 victim that were partially healed, indicating the timeframe  
21 consistent with what she was saying. She stated the phone  
22 was still in a bag of rice, consistent with getting water  
23 damage.

24 The defendant has previously been convicted of DV  
25 within the last ten years and is subject to a bond condition

1 for the pending DV second charge, prohibiting from  
2 contacting the victim.

3 I do have a note here that says the victim is  
4 likely to be in court and she does want contact and will try  
5 to potentially say that it didn't happen. The defense's  
6 text messages of conversations between her and him or the  
7 sister, where she downplays what happened. Ms. Desch has  
8 watched the body cam. She relayed to the officer everything  
9 that the report says. She may also bring up that the  
10 defendant's family has her stuff and will not give it back.

11 There is also a note on here, Your Honor, that the  
12 victim does want contact, but it's the State's position that  
13 the no-contact order should be in place, given the history.  
14 We understand the victim's request.

15 THE COURT: All right. Looks like the State has a  
16 dilemma about who to believe when. All right.

17 Mr. Zuschke -- well, let me do this.

18 Mr. Walker, let me hear about his probation.

19 MR. WALKER: Yes, sir, Your Honor. As you know,  
20 he's been placed on probation January of last year by  
21 Judge McKinnon. He does have ten years hanging over his  
22 head. Your Honor, he has a warrant and a citation with us  
23 that we're addressing. The warrant number is W46200083.  
24 The citation is C46200005.

25 Your Honor, with his warrant, we're addressing the

1 DV charge from -- from March 11th in there. And then for --  
2 Your Honor, for his citation, we're addressing the DV from  
3 January the 1st, that he was charged with, and also his  
4 money in arrears.

5 THE COURT: All right. Thank you.

6 Mr. Zuschke, I'd be glad to hear from you and your  
7 client, and if the victim's present, I'll be glad to hear  
8 from her.

9 MR. ZUSCHKE: Yes, Your Honor. We are asking you  
10 to institute a domestic violence probation here on that  
11 domestic violence in the second degree. We'd ask for a  
12 partial revocation and continue or a partial intermittent on  
13 the probation case. Understanding that unusual, I'm going  
14 to explain to you why.

15 Mr. Avera is here, pleading guilty. He wants to  
16 put himself on the mercy of the Court. As you've heard  
17 there, the victim, Ms. Samantha Spinello, has indicated that  
18 she lied to the police; that he did not assault her. She  
19 has told that to us, as well as to the solicitor's office,  
20 told them that she wants contact. He's not guilty of  
21 anything. She got in his face, causing a scratch, and he  
22 grabbed her to get her off is the extent of what happened  
23 there. She said that the bruising on her arms came from a  
24 hospital visit. She also produced pictures of her arm with  
25 IVs in it to show the source of the bruising from days

1 before the alleged incident. It was also a late report.  
2 The indication was that because he threw her cell phone in  
3 the toilette, she was mad. She is here in his support. She  
4 does very much want him out and want him on probation, wants  
5 him to get the counseling.

6           The solicitor spoke with him -- Ms. Jenny Desch  
7 spoke to him extensively. As you heard, you've appointed me  
8 on the domestic violence in the second degree. She met with  
9 him and spoke with him one-on-one, when he was pro se on  
10 that and came up with an arrangement there, where he was  
11 going to go on probation. That was before the second one  
12 came up. There was discussions about dismissing the second  
13 charge. But, essentially, she said she wasn't willing to do  
14 more than a time served, unless there was just a smoking gun  
15 that proved it, that it was something more than her saying  
16 it now. We weren't able to produce that.

17           I've told them that I was more than happy to take  
18 his case to trial; that he seemed to have a very good one.  
19 That's why we weren't in the situation where I was even  
20 talking about an Alfred Plea. Because of the nature of the  
21 evidence in the case, it was going have to be either a  
22 guilty plea, where he was excepting responsibility, or  
23 nothing. He said he wanted to accept responsibly. He  
24 wanted go forward. He wanted to go in front of Your Honor  
25 and have his case heard.

1           We're just hoping that you would give him chance  
2 at doing a probation. Everybody involved in the case seems  
3 to believe that he has a shot and that they want him to get  
4 that counseling. The enhancement was based on a non-contact  
5 order, not based -- to the first degree and the second, not  
6 based on any kind of a weapon or death likely or children  
7 present or anything like that.

8           He'd signed up for Three Trees before he even came  
9 in here. He was wanting to go and do that on his own and  
10 get some anger management counseling. The solicitor wants  
11 it. There's two kids in the picture that he pays child  
12 support to, voluntarily; he's not ordered by the court. He  
13 had two jobs when he was out. They were both in fast food.  
14 He still thinks he has the one from McDonald's. They've  
15 indicated they would take him back. The other one's gone  
16 now, but he's hoping to work at another. He's a worker. He  
17 does things, as you've heard.

18           These are his violations on probation and some  
19 monetary issues. He didn't have any other issues with  
20 complying with them. It's these charges for a while. We  
21 think he's a good candidate with the intensive monitoring  
22 that he would get with the domestic program. It prevents  
23 all alcohol. They do in-home checks, they prevent weapons  
24 from being in the home, and they make you do counseling, so  
25 we think that he can do that this time. We understand that

1 it's unusual, but that is what we're asking the Court to do  
2 here.

3 THE COURT: All right. Thank you. And does the  
4 victim wish to address the Court?

5 MR. ZUSCHKE: She's here in his support. I told  
6 her I would give her a chance, but she indicated he wasn't  
7 likely going to speak.

8 Is that still the case?

9 She doesn't want to speak, Your Honor.

10 THE COURT: All right. Anything you want to say,  
11 Mr. Avera?

12 THE DEFENDANT: No, sir.

13 THE COURT: All right. The sentence on each of  
14 the two domestic violence cases, the domestic violence,  
15 first degree, which was negotiated time served. I'll file  
16 that negotiation. The sentence on domestic violence, second  
17 degree, the sentence is time served.

18 How many days has he been in jail?

19 MR. ZUSCHKE: Fifty-eight, Your Honor.

20 THE COURT: On the probation matter, I find that  
21 there is a willful, substantial violation to his probation.  
22 We'll revoke three years and continue the balance. Thank  
23 you.

24 MR. ZUSCHKE: Thank you.

25 MS. OHAYON: Thank you, Your Honor.

1 MR. WALKER: Judge, what's -- so are we going  
2 to --

3 THE COURT: I mean continue -- we're going to  
4 revoke three, but continue him on --

5 MR. WALKER: -- on the domestic violence?

6 THE COURT: Yes. On the -- I'm sorry. I thought  
7 there was just an ABHAM. Was there also a domestic  
8 violence?

9 MR. WALKER: No, no. He is -- you know, we have  
10 ABHAM, but we wanted to put him on the DV protocol once  
11 he...

12 THE COURT: We can add the DV protocol as a  
13 condition of probation when he finishes the sentence.

14 MR. WALKER: Okay. Thank you, Judge.

15 (End of transcript of record)

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CERTIFICATE OF REPORTER

State of South Carolina        )  
  )  
County of York                    )

I, Nadine M. Capps, Official Court Reporter for the Sixteenth 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 General Sessions Court for York County, South Carolina, on the 7th day of May, 2020.

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

September 9, 2020



\_\_\_\_\_  
Nadine M. Capps, CVR  
Court Reporter

**WITNESSES**

RHPD

Witnessing Officer:

**ARREST WARRANT NUMBER**

2020A4620300759

**ACTION OF GRAND JURY**

Foreperson of Grand Jury  
Date:

**VERDICT**

Foreperson of Petit Jury  
Date:

**DOCKET NO. 2020-GS-46-02373**

**The State of South Carolina**

**County of York**

**COURT OF GENERAL SESSIONS**

**JUNE 11, TERM 2020**

**THE STATE**

**VS.**

**ANTHONY TREMAINE AVERA**

**INDICTMENT FOR**

**DOMESTIC VIOLENCE, 1ST DEGREE**

SC Code: § 16-25-0020(B)  
CDR Code: 3811

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.**

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on June 11, 2020, the Grand Jurors of York County present upon their oath:

**DOMESTIC VIOLENCE, 1ST DEGREE**

The defendant, Anthony Tremaine Avera, on or about March 7, 2020 in York County, South Carolina, did cause physical harm or injury to Samantha Rosaria Spinillo, a household member, or did offer or attempt to cause physical harm or injury to said household member with apparent present ability under circumstances reasonably creating fear of imminent peril. In addition the defendant has one prior conviction for domestic violence within ten years of the current offense and the defendant violated a protection order while committing the offense . All in violation of 16-25-0020(B), *Code of Laws of South Carolina* (1976, as amended).

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

  
JENNY E. DESCH  
ASSISTANT SOLICITOR

**WITNESSES**

RHPD

Witnessing Officer:

**ARREST WARRANT NUMBER**

2020A4620300016

**ACTION OF GRAND JURY**

*Foreperson of Grand Jury  
Date:*

**VERDICT**

*Foreperson of Petit Jury  
Date:*

**DOCKET NO. 2020-GS-46-00421**

**The State of South Carolina**

**County of York**

**COURT OF GENERAL SESSIONS**

**MARCH 19, TERM 2020**

**THE STATE**

**VS.**

**ANTHONY TREMAINE AVERA**

**INDICTMENT FOR**

**DOMESTIC VIOLENCE, 2ND DEGREE**

SC Code: § 16-25-0020(C)  
CDR Code: 3812

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.**

STATE OF SOUTH CAROLINA  
COUNTY OF YORK

INDICTMENT

At a Court of General Sessions, convened on March 19, 2020, the Grand Jurors of York County present upon their oath:

**DOMESTIC VIOLENCE, 2ND DEGREE**

The defendant, Anthony Termaine Avera, on or about January 1, 2020, in York County, South Carolina, did cause physical harm or injury to Samantha Rosaria Spinillo, a household member, or did offer or attempt to cause physical harm or injury to said household member with apparent present ability under circumstances reasonably creating fear of imminent peril. In addition, the defendant has one prior conviction for domestic violence within ten years of the current offense, all in violation of Section 16-25-0020(C), *Code of Laws of South Carolina* (1976, as amended).

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

  
JENNY E. DESCH  
ASSISTANT SOLICITOR

WITNESSES

RHPD

Witnessing Officer: *Quate*

ARREST WARRANT NUMBER

2018A4620300038

ACTION OF GRAND JURY

TRUE BILL

*YMO Bennett*

Foreperson of Grand Jury

Date: *9-6-18*

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2018-GS-46-04263

The State of South Carolina

County of York

COURT OF GENERAL SESSIONS

SEPTEMBER 6, TERM 2018

THE STATE

VS.

ANTHONY TERMAINE AVERA

INDICTMENT FOR

ATTEMPTED MURDER

SC Code: § 16-03-0029

CDR Code: 3410

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

*ARHAN*  
Defendant

Witness:

*J. Benfield* C.C.C. PLS. AND G.S. *specialist*

STATE OF SOUTH CAROLINA  
COUNTY OF YORK


INDICTMENT

At a Court of General Sessions, convened on September 6, 2018, the Grand Jurors of York County present upon their oath:

**ATTEMPTED MURDER**

The defendant, Anthony Termaine Avera, did on or about January 4, 2018, in York County, South Carolina, did unlawfully, with malice aforethought, either express or implied, and with the intent to kill, attempted to kill James Ewing, all in violation of 16-03-0029, *Code of Laws of South Carolina* (1976, as amended).

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

  
\_\_\_\_\_  
T. MATTHEW HOGGE  
ASSISTANT SOLICITOR

COUNTY OF YORK
STATE VS.

INDICTMENT/CASE#: 2020-GS-46-02373
A/W: 2020A4620300759
Date of Offense: 03/07/2020
S.C. Code §: 16-25-0020(B)
CDR Code #: 3811

JAIL

ANTHONY TREMAINE AVERA
AKA: Anthony Termaine Avera, Anthony Avera
Race: Black Sex: M Age: 28
DOB: SS#:
Address: Bynum Avenue
City, State, Zip: Rock Hill, SC 29730
DL# SID# SC01844639

ORIGINAL 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: Domestic Violence, 1st Degree (NMT 10 years)

In violation of § 16-25-0020(B) of the S.C. Code of Laws, bearing CDR Code # 3811

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS \$17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)

The charge is: As indicted, Lesser Included Offense, Defendant Waives Presentation to Grand Jury, Negotiated Sentence, Recommendation by the State.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST:

Jenny E. Desch, Assistant Solicitor 72806 SC Bar # COVID - Unable to sign Defendant Attorney for Defendant 102416 SC Bar #

WHEREFORE, the Defendant is committed to the State Department of Corrections County Detention Center,
for a determinate term of 90 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$ 100; provided that upon the service of 90 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 Service 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 SCDoc.
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 (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

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like Assessments, DUI Surcharges, Probation fees, etc. Total: 125

Attend Voc. Rehab. Or Job Corp.
May serve W/E beginning
Substance Abuse Counseling
Random Drug/Alcohol Testing
Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ Beginning
Paid to Public Defender Fund

Other:

Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Clerk of Court/Deputy Clerk: DAVID HAMILTON
Court Reporter: Nadine Capps

Presiding Judge:
Judge Code: 2753
Sentence Date: 5-7-2020

COUNTY OF YORK  
STATE VS.

ANTHONY TREMAINE AVERA  
AKA: Anthony Tremaine Avera, Anthony Avera  
Race: Black Sex: M Age: 28  
DOB: [redacted] SS#: [redacted]  
Address: Bynum Avenue  
City, State, Zip: Rock Hill, SC 29730  
DL# [redacted] SID# SC01844639

INDICTMENT/CASE#: 2020-GS-46-00421  
A/W: 2020A4620300016  
Date of Offense: 01/01/2020  
S.C. Code §: 16-25-0020(C)  
CDR Code #: 3812

JAIL

SENTENCE SHEET

ORIGINAL

\*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: Domestic Violence, 2nd Degree (NMT 3 years &/or \$2500-5000)

In violation of § 16-25-0020(C) of the S.C. Code of Laws, bearing CDR Code # 3812

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45  
(CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

The charge is:  As indicted,  Lesser Included Offense,  Defendant Waives Presentation to Grand Jury. COVID (def.'s initials)  
The plea is:  Without Negotiations or Recommendation,  Negotiated Sentence,  Recommendation by the State.

ATTEST:  
Jenny E. Desch, Assistant Solicitor SC Bar # 80151-72806  
Defendant unable to sign COVID  
Attorney for Defendant PROSE SC Bar #

WHEREFORE, the Defendant is committed to the  State Department of Corrections  County Detention Center,  
for a determinate term of Time days/months/years or  under the Youthful Offender Act not to exceed \_\_\_\_\_ years  
and/or to pay a fine of \$ 5000; 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 Service 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 SCDOC.  
 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 (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. \_\_\_\_\_  
May serve W/E beginning \_\_\_\_\_

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 (Public Def/Probation) \$500 \$ \_\_\_\_\_  
§14-1-212 (Law Enforce. Funding) \$25 \$ 25  
§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_  
§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_  
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_  
3% to County (if paid in installments) \$ \$ \_\_\_\_\_  
TOTAL \$ 125

Appointed PD or appointed other counsel.  
Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: DAVID HAMILTON  
Court Reporter: Nadine Capps.

Presiding Judge: \_\_\_\_\_  
Judge Code: 1753  
Sentence Date: 5-7-2020

COUNTY OF YORK

STATE VS.

ANTHONY TERMAINE AVERA

AKA: Anthony T Avera

Race: Black Sex: M Age: 27

DOB: [redacted] SS#: [redacted]

Address: Patriot Parkway, [redacted]

City, State, Zip: Rock Hill, SC 29730

DL# [redacted] SID# SC01844639

INDICTMENT/CASE#: 2018-GS-46-04263

A/W: 2018A4620300038

Date of Offense: 01/04/2018

S.C. Code §: 16-03-0029

CDR Code #: 3410

JAIL

SENTENCE SHEET

ORIGINAL

\*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 & Battery Of A High And Aggravated Nature (NMT 20 years)

In violation of § 16-03-0600(B)(1) of the S.C. Code of Laws, bearing CDR Code # 3411

NON-VIOLENT  VIOLENT  SERIOUS  MOST SERIOUS  Mandatory GPS  §17-25-45 (CSC w/minor 1<sup>st</sup> or CSC w/minor 3<sup>rd</sup>)

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:

T. Matthew Hogge, Assistant Solicitor SC Bar # 100126

Defendant

Attorney for Defendant SC Bar # 66593

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 390 days months/years and or payment of \$ \_\_\_\_\_; plus costs and assessments as applicable\*; the balance is suspended with probation for 5 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service 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 SCDOC.

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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

RESTITUTION:  Deferred  Def. Waives Hearing  Orderful PTUP \_\_\_\_\_ days/hours Public Service Employment

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

Payment Terms: \_\_\_\_\_

Obtain GED

Set by SCDPPPS \_\_\_\_\_

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: \_\_\_\_\_

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 (Public Def/Probation) \$500 \$ \_\_\_\_\_

§14-1-212 (Law Enforce. Funding) \$25 \$ 25

§14-1-213 (Drug Court Surcharge) \$150 \$ \_\_\_\_\_

§50-21-114 (BUI Breath Test Fee) \$50 \$ \_\_\_\_\_

§56-5-2942(J) (Vehicle Assessment) \$40/ea \$ \_\_\_\_\_

3% to County (if paid in installments) \$ \$ \_\_\_\_\_

TOTAL \$ 125

Appointed PD or appointed other counsel.

Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/Deputy Clerk: David Hamilton

Court Reporter: [Signature]

Presiding Judge: [Signature]

Judge Code: 2701

Sentence Date: 1-31-19

Indictment Number:

STATE

VS.

FILED-RECEIVED 18

- GS - 4L - 042623

AKA: Anthony Avera

Race: B

Sex: M

2020 MAY 18 PM 3:37

Probation C/W#s: N-4L-20-0083

C-4L-20-0005

Name of Original Offense: ABHAN

Original A/W#: 2018 #4L20300038

Date of Original Offense: 1/4/2018

Conviction S.C. Code §: 11-13-0600(B)(1)

Conviction CDR Code #: 3 1 4 1 1 1

Original Sentence: 10 yrs provided upon serv.

390 days bal sus 5 yrs prob

DOB: [REDACTED]

SSN: [REDACTED]

SID# 01844639

DAVID HAMILTON

C.C.C.P. & G.S.

YORK COUNTY, SC

ORDER

The above named defendant has been charged with violating the conditions of probation ordered on 1/31/19 in the Court of General Sessions of York County, and/or the additional conditions ordered by the Court in probation continuation order(s) issued on 3/12/20, as set forth in the attached warrant(s) or citation(s) dated 1/7/20. 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)

12, 7, 8, 9, 10

Therefore, IT IS ORDERED that:

- the suspended sentence be revoked and the above named defendant be required to serve \_\_\_\_\_ 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 3 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 electronic monitoring pursuant to §23-3-540 (mandatory if convicted of first or third 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)
  - Fines and other fees (arrearage / balance)
  - Restitution (and 20%) (arrearage / balance)

Civil judgment:  Department fees  
 Fines and other fees  
 Restitution (and 20%)

Additional Conditions ordered by the Court:

Revoke 3 Years  
Continue Balance

Restrictive Surcharge

Anger Management  
No contact with victim

Graduated of Domestic Violence Protocol to Follow upon Release

- 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 is to be given credit for pretrial detention time served (N/A if defendant has served prior SCDC time).
- The defendant has served \_\_\_\_\_ days/months/years of prior revocations and/or initial SCDC time.
- The defendant was previously placed on active electronic monitoring pursuant to §23-3-540.

This 7th day of May, 2020,  
York, SC

Presiding Judge

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

X Anthony Avera

Signed this 7th day of May, 2020

Witnessed by

[Signature]

at York SC

## CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,

**RECEIVED**

**Jan 08 2021**

**SC Court of Appeals**

s/ Joanna K. Delany

Joanna K. Delany  
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 8th day of January, 2021.