

**United States Court of Appeals
for the Fifth Circuit**

United States Court of Appeals
Fifth Circuit

FILED

June 22, 2023

Lyle W. Cayce
Clerk

No. 23-40186

TRAY DEWAYNE GREEN,

Petitioner—Appellant,

versus

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,
Correctional Institutions Division,*

Respondent—Appellee.

Application for Certificate of Appealability
the United States District Court
for the Southern District of Texas
USDC No. 6:22-CV-7

ORDER:

Tray Dewayne Green, Texas prisoner # 02106292, moves for a certificate of appealability (COA) to appeal the dismissal of his 28 U.S.C. § 2254 application challenging his conviction and sentence for aggravated assault with a deadly weapon. The district court dismissed the § 2254 application as time barred. Green addresses the merits of various Texas state and constitutional claims and fails to meaningfully challenge the district court's finding that his § 2254 application was time barred.

No. 23-40186

To obtain a COA with respect to the denial of a § 2254 application, a prisoner must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 483 (2000). When a district court has denied a request for habeas relief on procedural grounds, the prisoner must show “that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right and that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.” *Slack*, 529 U.S. at 484.

Green has not made the necessary showing. *See id.* Accordingly, his motion for a COA is DENIED.

/s/ Dana M. Douglas

DANA M. DOUGLAS

United States Circuit Judge

United States Court of Appeals
for the Fifth Circuit

No. 23-40186

TRAY DEWAYNE GREEN,

Petitioner—Appellant,

versus

BOBBY LUMPKIN, *Director, Texas Department of Criminal Justice,*
Correctional Institutions Division,

Respondent—Appellee.

Appeal from the United States District Court
for the Southern District of Texas
USDC No. 6:22-CV-7

ON PETITION FOR REHEARING EN BANC

UNPUBLISHED ORDER

Before ELROD, HAYNES, and DOUGLAS, *Circuit Judges.*

PER CURIAM:

Treating the petition for rehearing en banc as a motion for reconsideration (5TH CIR. R. 35 I.O.P.), the motion for reconsideration is DENIED. Because no member of the panel or judge in regular active service requested that the court be polled on rehearing en banc (FED. R.

No. 23-40186

APP. P. 35 and 5TH CIR. R. 35), the petition for rehearing en banc is DENIED.

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
Suite 115
NEW ORLEANS, LA 70130

June 22, 2023

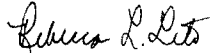
MEMORANDUM TO COUNSEL OR PARTIES LISTED BELOW:

No. 23-40186 Green v. Lumpkin
USDC No. 6:22-CV-7

Enclosed is an order entered in this case.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Rebecca L. Leto, Deputy Clerk
504-310-7703

Mr. Tray Dewayne Green
Mr. Edward Larry Marshall
Mr. Nathan Ochsner
Ms. Susan Frances San Miguel

ENTERED

February 23, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

TRAY DEWAYNE GREEN,

Petitioner,

v.

BOBBY LUMPKIN,

Respondent.

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Civil Action No. 6:22-CV-00007

**ORDER ACCEPTING FINDINGS, CONCLUSIONS, AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the July 25, 2022 Memorandum and Recommendation ("M&R") prepared by Magistrate Judge Julie K. Hampton. (Dkt. No. 22). Magistrate Judge Hampton made findings and conclusions and recommended that Respondent's Motion to Dismiss be granted. (*Id.* at 1). Magistrate Judge Hampton further recommended that the Court deny a Certificate of Appealability. (*Id.*).

The Parties were provided proper notice and the opportunity to object to the M&R. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b). Here, no timely objection was filed. Instead, after the deadline to submit objections had passed, on September 6, 2022, Plaintiff filed a "Memorandum of Law" in which he recounts his original petition. (Dkt. No. 24).

In accordance with 28 U.S.C. § 636(b)(1)(C), the Court is required to "make a de novo determination of those portions of the [magistrate judge's] report or specified proposed findings or recommendations to which objection [has been] made." After conducting this de novo review, the Court may "accept, reject, or modify, in whole or in

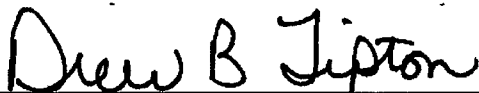
part, the findings or recommendations made by the magistrate judge." *Id.*; see also Fed. R. Civ. P. 72(b)(3).

The Court has carefully considered de novo those portions of the M&R to which objection was made, and reviewed the remaining proposed findings, conclusions, and recommendations for plain error. Finding no error, the Court accepts the M&R and adopts it as the opinion of the Court. It is therefore ordered that:

- (1) Magistrate Judge Hampton's M&R, (Dkt. No. 22), is **ACCEPTED** and **ADOPTED** in its entirety as the holding of the Court; and
- (2) Defendants' Motion to Dismiss, (Dkt. No. 19), is **GRANTED**.

It is SO ORDERED.

Signed on February 23, 2023.


DREW B. TIPTON
UNITED STATES DISTRICT JUDGE

ENTERED

February 23, 2023

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION**

TRAY DEWAYNE GREEN,

Petitioner,

VS.

BOBBY LUMPKIN,

Respondent.

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Civil Case No. 6:22-CV-00007

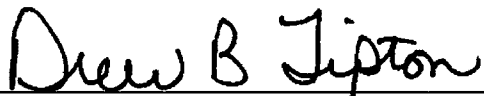
FINAL JUDGMENT

In accordance with the Order Accepting Findings, Conclusions, and Recommendation of the United States Magistrate Judge signed by the Court on this date, the Court finds that there are no genuine issues of material fact with respect to any of Petitioner's claims, and the Respondent is entitled to judgment as a matter of law.

Accordingly, the Petitioner's claims against the Respondent are **DISMISSED WITH PREJUDICE**. All relief requested by Petitioner is denied. All relief not expressly granted herein is denied.

This is a **FINAL JUDGMENT**.

Signed on February 23, 2023.


DREW B. TIPTON
UNITED STATES DISTRICT JUDGE

ENTERED

July 25, 2022

Nathan Ochsner, Clerk

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

TRAY DEWAYNE GREEN,

Petitioner,

VS.

BOBBY LUMPKIN,

Respondent.

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CIVIL ACTION NO. 6:22-CV-00007

MEMORANDUM AND RECOMMENDATION

Petitioner Tray DeWayne Green is an inmate in the Texas Department of Criminal Justice and is currently incarcerated at the Polunsky Unit in Livingston, Texas. Proceeding *pro se*, Green filed an original habeas corpus petition pursuant to 28 U.S.C. § 2254 on January 28, 2022.¹ (D.E. 1). Green contends that the State of Texas subjected him to double-jeopardy in violation of the Fifth Amendment, violated his right to freedom of contract, failed to disclose itself as a for-profit corporation, and issued a counterfeit obligation in convicting him. Respondent filed a motion to dismiss contending that the § 2254 petition is untimely, to which Green failed to respond. (D.E. 19). As discussed below, it is respectfully recommended that Respondent's motion to dismiss (D.E. 19) be **GRANTED** and Green's § 2254 petition be **DISMISSED** as untimely. It is further recommended that a Certificate of Appealability ("COA") be **DENIED**.

¹ Green stated under penalty of perjury that he placed his petition in the prison mail system on January 28, 2022, and it is considered filed as of that date. *See Spotville v. Cain*, 149 F.3d 374, 376 (5th Cir. 1998), and Rule 3, Rules Governing Section 2254 Cases.

I. JURISDICTION

This court has jurisdiction pursuant to 28 U.S.C. § 1331 and venue is appropriate because Green was convicted and sentenced in Jackson County, Texas. *See* 28 U.S.C. §§ 124(b)(5), 2241(d), 2254(a); *Wadsworth v. Johnson*, 235 F.3d 959, 961 (5th Cir. 2000).

II. BACKGROUND

a. Petition and Claims

In his petition, Green first claims that he was subjected to multiple convictions for the same offense in violation of the Fifth Amendment after his deferred adjudication was revoked and the forty-year sentence imposed. (D.E. 1 at 6-7). Second, Green alleges that the state violated his freedom of contract rights when the state, as a corporation, tried Green and did business as the 24th District Court of Jackson County. (*Id.*). Third, Green contends that the 24th District Court is a for-profit corporation, that it did not disclose its identity as such, that the order of deferred adjudication is thus a contract, and that Green thus has the right to rescind his signature from the order because it was obtained under conditions of fraud, deceit, and non-disclosure. (*Id.* at 8-9). Finally, Green claims to reserve the right to not be compelled to perform any contract to which he did not knowingly and voluntarily agree because the 24th District Court, as a business, issued a counterfeit obligation or security that resulted in his unlawful confinement. (*Id.*).

b. State Court Records

In November 2011, Green was indicted with aggravated assault with a deadly weapon in violation of Texas Penal Code § 22.02, subject to an enhancement for a prior felony conviction for assault on a public servant in 2006. (D.E. 18-16 at 6). On April 18,

2013, Green pled guilty to the indictment and enhancement and waived his right to appeal. (*Id.* at 11-18). The 24th District Court of Jackson County entered an order of deferred adjudication and placed Green on community supervision for ten years. (*Id.* at 19).

In December 2014, the state filed a petition for revocation and final adjudication, alleging that Green had violated several conditions of his probation. (*Id.* at 23-30). The state claimed that Green: (1) committed new offenses of indecent exposure and theft; (2) moved to another county in violation of his probation; (3) failed to report to the Jackson County Probation Department; (4) failed to pay court costs and supervision fees; and (5) failed to perform his community service hours. (*Id.*).

On December 9, 2016, the trial court adjudicated Green guilty, revoked Green's community supervision, and sentenced Green to forty years of confinement in state prison. (*Id.* at 33-34). Green appealed, and the Thirteenth Court of Appeals of Texas affirmed the judgment of the district court on August 17, 2017. (D.E. 18-4). The Texas Court of Criminal Appeals refused Green's petition for discretionary review on October 25, 2017. (D.E. 18-15). Green later filed a writ of habeas corpus in the Court of Criminal Appeals on August 11, 2020. (D.E. 18-23 at 5). The Court of Criminal Appeals denied the writ without written order on February 3, 2021. (D.E. 18-21 at 1).

III. DISCUSSION

Respondent argues that all of Green's claims are time-barred by the one-year statutory limitations period in 28 U.S.C. § 2241(d). (D.E. 19 at 6-7). First, Respondent argues that Green's claims challenging the order of deferred adjudication are untimely because that order was a judgment for statutory purposes and became final on May 20,

2013, when the deadline for Green to file a direct appeal expired, and the time to file a § 2254 petition with these claims expired one year later. (D.E. 19 at 6). Second, Respondent contends that Green's claims related to the revocation proceedings and 40-year sentence are time-barred because the conviction became final on January 23, 2018, when the deadline for Green to file a petition for *certiorari* to the Supreme Court expired. (*Id.* at 7). According to Respondent, Green thus had until January 23, 2019, to file a § 2254 petition on these claims. Further, Respondent argues that Green is not entitled to statutory tolling on any of his claims because he did not file a state habeas petition until after the applicable limitations periods expired. (*Id.*). Finally, Respondent argues that Green is not entitled to equitable tolling because he has not shown rare or exceptional circumstances that would warrant tolling or that he diligently pursued § 2254 relief. (*Id.* at 7-8).

A one-year limitations period applies to an application for a writ of habeas corpus filed by a person in custody pursuant to a state court judgment. 28 U.S.C. § 2244(d)(1). In the relevant part, the limitations period runs from the latest of either: (1) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review; (2) the date on which the impediment to filing an application created by state action in violation of the Constitution or laws of the United States was removed; or (3) the date on which the factual predicate of the claim presented could have been discovered through the exercise of due diligence. *Id.* § 2244(d)(1)(A), (B), (D). The time during which a properly filed state post-conviction or other collateral review application is pending is not counted toward the limitations period. *Id.* § 2244(d)(2).

However, a state habeas petition filed after the limitations period ends does not toll the limitations period under § 2244(d)(2). *Scott v. Johnson*, 227 F.3d 260, 263 (5th Cir. 2000).

A Texas judgment of deferred adjudication ordering community supervision is a final judgment for the purposes of § 2244(d). *Caldwell v. Dretke*, 429 F.3d 521, 528-29 (5th Cir. 2005). An offender in any criminal action must file a notice of appeal within thirty days after the day the sentence is imposed in open court. Tex. R. App. P. 26.2(a)(1). Additionally, an offender placed on community supervision can directly file an application for a writ of habeas corpus. Tex. Crim. Proc. Code Ann. art. 11.072.

In this case, Green's § 2254 petition is untimely. Under Fifth Circuit precedent, the state court's deferred adjudication order of community supervision on April 18, 2013, was a final judgment for the purposes of § 2244(d)(1)(A). *Caldwell*, 429 F.3d at 528-29. Green did not appeal, and the judgment became final on May 20, 2013, when Green's deadline to appeal elapsed.² Green had one year to file a § 2254 petition. 28 U.S.C. § 2244(d)(1)(A). The limitations period expired on May 20, 2014, but Green did not file his § 2254 petition until January 28, 2022, missing the deadline by over seven years. (D.E. 1).

Green's claims related to the revocation of his community supervision are also untimely. Green's deferred adjudication was revoked and he was convicted on December 9, 2016. (D.E. 18-16 at 33-34). The Texas Court of Criminal Appeals refused Green's petition for discretionary review on October 25, 2017, and he had 90 days to file a petition for *certiorari* with the Supreme Court. *See* Sup. Ct. R. 13.1. Green failed to do so, and his

² The thirtieth day after Green's judgment fell on a Saturday. Green's judgment therefore became final on the following Monday, May 20, 2013. *See* Tex. R. App. P. 4.1(a).

conviction became final on January 23, 2018. Green had until January 23, 2019, to file a federal habeas petition, but he did not file until January 28, 2022. Green thus missed the deadline to file a petition related to his conviction as well.

Further, as to statutory tolling, Green did not file a state habeas writ until August 17, 2020, well after the deadline to file a federal habeas petition. (D.E. 18-23 at 5). The state habeas application thus does not entitle Green to statutory tolling under § 2244(d)(2). *See Scott*, 227 F.3d at 263.

Finally, Green has not established that he is entitled to equitable tolling. At best, Green was negligent for failing to file on time. The Fifth Circuit has consistently held that garden variety negligence is not excusable and is insufficient to equitably toll a statute of limitations in the absence of rare and exceptional circumstances. *Lookingbill v. Cockrell*, 293 F.3d 256, 264-65 (5th Cir. 2002). Although Green pled guilty and waived his right to appeal the judgment of deferred adjudication, nothing prevented Green from filing an application for a writ of habeas corpus in state court challenging the order of deferred adjudication that placed him on community supervision. *See Tex. Crim. Proc. Code Ann.* art. 11.072. Similarly, if Green was under the impression that the statute of limitations period did not begin until his community supervision was later revoked, determining the actual law was a circumstance within his control. *See In re Wilson*, 442 F.3d 872, 875 (5th Cir. 2006) (stating that “a petitioner’s failure to satisfy the statute of limitations must result from external factors beyond his control” in order to be eligible for equitable tolling). Green’s neglect is further evidenced by his failure to timely file either a federal habeas petition or a state writ of habeas corpus related to his subsequent conviction. Green has

neither claimed nor responded with any rare or exceptional circumstances that could excuse his failure to file on time. Even for a *pro se* petitioner like Green, delays of a petitioner's own making do not qualify for equitable tolling; ignorance of the law does not excuse prompt filing. *Felder v. Johnson*, 204 F.3d 168, 172 (5th Cir. 2000). Thus, Green's § 2254 petition is untimely and he has not established that he is entitled to any statutory or equitable tolling.

IV. CERTIFICATE OF APPEALABILITY

An appeal may not be taken to the court of appeals from a final order in a habeas corpus proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1)(A). Although Green has not yet filed a notice of appeal, the issue of whether he is entitled to a COA will be addressed. *See Alexander v. Johnson*, 211 F.3d 895, 898 (5th Cir. 2000) (stating that a district court may *sua sponte* rule on a COA).

A COA "may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). "The COA determination under § 2253(c) requires an overview of the claims in the habeas petition and a general assessment of their merits." *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). Where a district court rejects the claims on procedural grounds, a petitioner must show that jurists of reason would find it debatable whether: (1) the petition states a valid claim of the denial of a constitutional right; and (2) the district court was correct in its procedural ruling. *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).

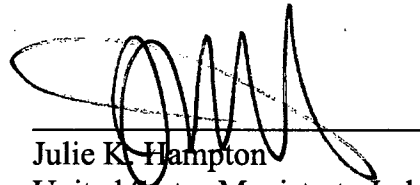
In this case, reasonable jurists would not find it debatable that Green's claims are time-barred by the statute of limitations in § 2244(d). Therefore, it is further recommended

that any request for a COA be denied because Green has not made the necessary showing for such an issuance.

V. RECOMMENDATION

Based on the foregoing, it is respectfully recommended that Respondent's motion to dismiss (D.E. 19) be **GRANTED**. Green's § 2254 petition should be **DISMISSED** as untimely. In addition, it is further recommended that any request for a Certificate of Appealability be **DENIED**.

Respectfully submitted on July 25, 2022.



Julie K. Hampton
United States Magistrate Judge

NOTICE TO PARTIES

The Clerk will file this Memorandum and Recommendation and transmit a copy to each party or counsel. Within FOURTEEN (14) DAYS after being served with a copy of the Memorandum and Recommendation, a party may file with the Clerk and serve written objections on the United States Magistrate Judge and all parties pursuant to Fed. R. Civ. P. 72(b), 28 U.S.C. § 636(b)(1), and General Order No. 2002-13, United States District Court for the Southern District of Texas.

A party's failure to file written objections to the proposed findings, conclusions, and recommendation in a magistrate judge's report and recommendation within FOURTEEN (14) DAYS after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. *Douglass v. United Servs. Auto Ass'n*, 79 F.3d 1415 (5th Cir. 1996) (*en banc*).

Appendix B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

March 27
Nathan Ochse

TRAY DEWAYNE GREEN,

Petitioner,

v.

BOBBY LUMPKIN,

Respondent.

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Civil Action No. 6:22-CV-00007

ORDER DENYING A CERTIFICATE OF APPEALABILITY

For the reasons set out in the Memorandum and Recommendation ("M&R") prepared in this federal habeas corpus proceeding by Magistrate Judge Julie K. Hampton (Dkt. No. 22), which was adopted on February 23, 2023, (Dkt. No. 32), a certificate of appealability is DENIED.

It is SO ORDERED.

Signed on March 27, 2023.

Drew B. Tipton
DREW B. TIPTON
UNITED STATES DISTRICT JUDGE

Appendix B

INDICTMENT

NO. 11-11-8685

THE STATE OF TEXAS vs. TRAY DEWAYNE GREEN

Offense: Aggravated Assault w/Deadly Weapon- by threats
 -- Sec. 22.02 -- F-2 Enhanced to F-1

IN THE NAME AND BY AUTHORITY OF THE STATE OF TEXAS:

The Grand Jurors for the County of Jackson, State of Texas, duly selected, impaneled, sworn, charged and organized as such at the **January-July**, Term, A.D., **2011**, of the 24th Judicial District Court of said County, upon their oaths present in and to said Court that **TRAY DEWAYNE GREEN**, on or about the **14th** day of **April**, A.D., **2011**, and before the presentment of this indictment, in said County and State, did then and there

intentionally or knowingly threaten **Amanda Russell** with imminent bodily injury by threatening to kill the said **Amanda Russell** and in the commission of this offense, did use or exhibit a deadly weapon, to-wit: a handgun.

ENHANCEMENT PARAGRAPH 1:

Before the commission of the offense alleged above, hereafter styled primary offense, on the **4th** day of **October**, **2006**, in Cause No. **2006R-095** in the **155th Judicial District Court of Fayette County, Texas**, the defendant, **TRAY DEWAYNE GREEN**, was convicted of the felony of **Assault on a Public Servant**.

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Jonni Parker
 FOREMAN OF THE GRAND JURY

Filed November 18, 2011
 10:30 am
Sharon Mathis
 District Clerk
 By Kathryn Rodriguez, Deputy

THE STATE OF TEXAS §
COUNTY OF JACKSON §

I, _____, Clerk of the District Court within and for the County and State aforesaid, do hereby certify that the foregoing contains a true and correct copy of indictment in Cause No. _____, of the State of Texas vs. **TRAY DEWAYNE GREEN** as now on file in this office.

IN TESTIMONY WHEREOF, I hereto set my hand and official seal, this the _____ day of _____, A.D., _____.

Clerk of the 24th District Court

By: _____
Deputy, Jackson County, Texas



CASE NO. 11-11-8685 COUNT SINGLE
INCIDENT NO./TRN: 0136785433

THE STATE OF TEXAS

V.

TRAY DEWAYNE GREEN

STATE ID No.: TX06645776

§ IN THE 24th JUDICIAL
§
§ DISTRICT COURT
§
§ JACKSON COUNTY, TEXAS
§
§

ORDER OF DEFERRED ADJUDICATION

Judge Presiding:	HON. Skipper Koetter	Date Order Entered:	4/18/2013
Attorney for State:	PAM GUENTHER, ADA	Attorney for Defendant:	BILL WHITE
<u>Offense:</u>			
AGGRAVATED ASSAULT W/DEADLY WEAPON - BY THREATS			
<u>Charging Instrument:</u>	<u>Statute for Offense:</u>		
INDICTMENT	§ 22.02 Penal Code		
<u>Date of Offense:</u>			
September 15, 2011			
<u>Degree of Offense:</u>	<u>Plea to Offense:</u>	<u>Findings on Deadly Weapon:</u>	
First Degree Felony	GUILTY	N/A	
<u>Terms of Plea Bargain:</u>			
Adjudication Deferred, Placed on Community Supervision for TEN (10) YEARS, \$0.00 Fine, Court Costs, 400 hours CSR, Testify truthfully in any other proceedings, Waives all right to Appeal			
<u>Plea to 1st Enhancement Paragraph:</u>	TRUE	<u>Plea to 2nd Enhancement/Habitual Paragraph:</u>	N/A
<u>Findings on 1st Enhancement Paragraph:</u>	TRUE	<u>Findings on 2nd Enhancement/Habitual Paragraph:</u>	N/A

ADJUDICATION OF GUILT DEFERRED; DEFENDANT PLACED ON COMMUNITY SUPERVISION.

PERIOD OF COMMUNITY SUPERVISION: TEN (10) YEARS

<u>Fine:</u>	<u>Court Costs:</u>	<u>Restitution:</u>	<u>Restitution Payable to:</u> <input checked="" type="checkbox"/> AGENCY/AGENT (see below) <input type="checkbox"/> VICTIM (see below)
\$0.00	\$288.00	N/A	

Sex Offender Registration Requirements do not apply to the Defendant. TEX. CODE CRIM. PROC. chapter 62

The age of the victim at the time of the offense was N/A .

Time N/A DAYS
Credited: NOTES: N/A

All pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

Filed April 24 2013
At 11:40 AM/PM

SHARON MATHIS
Clerk District Court
Jackson County, Texas

This cause was called for trial in Jackson County, Texas. The State appeared by her District Attorney as named above.

Counsel / Waiver of Counsel (select one)

- ☒ Defendant appeared in person with Counsel.
☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

Both parties announced ready for trial. Defendant waived the right of trial by jury and entered a plea as indicated above. The Court admonished the Defendant as required by law. It appeared to the Court that Defendant was mentally competent to stand trial, made the plea freely and voluntarily, and was aware of the consequences of this plea. The Court received the plea and entered it of record. Having heard the evidence submitted, the Court FINDS such evidence substantiates Defendant's guilt of the offense of AGGRAVATED ASSAULT W/DEADLY WEAPON - BY THREATS as alleged in the indictment in this cause as indicated above. The Court FINDS that, in this cause, it is in the best interest of society and Defendant to defer proceedings without entering an adjudication of guilt and to place Defendant on community supervision for the period as indicated above.

The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS that Defendant is given credit noted above for the time spent incarcerated. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

The Court ORDERS that no judgment shall be entered at this time. The Court further ORDERS that Defendant be placed on community supervision for the adjudged period so long as Defendant abides by and does not violate the terms and conditions of community supervision, to-wit: That during the term of community supervision, the defendant shall:

- (1) Commit no offense against the laws of this State or of any other state or of the United States of America.
- (2) Do not purchase nor have in your possession alcoholic beverages, illegal drugs or narcotics. Stay away from liquor stores and any place where alcoholic beverages are consumed, except bona fide eating places, and abstain from the use of alcoholic beverages of any kind or any substance capable of or calculated to cause intoxication.
- (3) Avoid association with persons who violate or have a reputation for violating the laws of this State or any other state or of the United States of America.
- (4) Seek employment in some lawful and useful occupation, work reasonably to perform the duties of the employment, and maintain a standard of personal appearance that will not impede the obtaining of and/or maintaining of employment.
- (5) Support those, if any, dependent upon the defendant.
- (6) Report in person or by letter to the Supervision Officer, (hereinafter called Officer) within five days after any charge of violating any law of the State of Texas or any other state or of the United States of America has been made against the defendant, stating the offense charged, the Court in which the charge is filed, and disposition, if any, of the charge.
- (7) Not change place of residence without prior approval of the Officer.
- (8) Not leave the State of Texas or the County of approved residence without first obtaining permission in writing from the Officer showing that the Court authorized such removal.
- (9) Furnish the Officer with accurate information concerning background and present status and report in person or by letter, within 5 days, any changes in employment or marital status.
- (10) Permit the Officer to visit the defendant at home or elsewhere.
- (11) Report to the Officer as directed by the Judge or Officer by submitting an accurately completed and signed Monthly Report to the Officer and cooperating with the Officer during said report and obeying all rules and regulations of the Community Supervision and Corrections Department (hereinafter called CSCD).
- (12) Not purchase, receive, nor have in possession a rifle, shotgun, revolver, or any other weapon, either at home, or in an automobile or on the defendants person.
- (13) Immediately upon receiving any information concerning the commission of an offense by any person against the laws of this State or any other state or of the United States of America, report in person said information to the Officer.
- (14) Abide by a 10:00 p.m. curfew every night. The defendant shall be in the defendants home or place of residence before 10:00 p.m. each night and shall not leave such home or place of residence between 10:00 p.m. and 5:00 a.m. without the written permission of the Officer. The written permission, when issued, is to be kept on the defendants person when away from home or place of residence.
- (15) Report all income and the sources of all income from whatever source to the Officer. Income means wages, salary, commission, gifts, loans, found property, and anything else of value, no matter how acquired.

- (16) Submit to testing for alcohol and drugs immediately upon arrest and/or at the direction of the CSCD including submitting samples of breath, urine, blood, hair and/or saliva. The defendant shall not provide a false sample nor alter, dilute or tamper with the sample provided. At the discretion of the CSCD, the defendant may be required to pay for all or part of the testing costs.
- (17) Pay Court Costs in the amount of \$288.00 at \$10.00 per month, with the first payment being due and payable on or before 6/18/2013, and a like payment being due and payable on or before the same day of each month thereafter until fully paid through the CSCD having jurisdiction.
- (18) Pay a fee of \$60.00 per month, each and every month during the term of this Community Supervision, with payments beginning 4/18/2013 to the CSCD having jurisdiction.
- (19) Reimburse JACKSON County for the Court Appointed Attorney in the amount of TBD at TBD per month, with the first payment being due and payable on or before TBD, and a like payment being due and payable on or before the same day of each month thereafter until fully paid through the CSCD having jurisdiction.
- (20) Pay Restitution in the amount of _____ at _____ per month, with the first payment being due and payable on or before _____, and a like payment being due and payable on or before the same day of each month thereafter until fully paid through the CSCD having jurisdiction.
- (21) Pay a Fine of \$0.00 at \$0.00 per month, with the first payment being due and payable on or before \$0.00, and a like payment being due and payable on or before the same day of each month thereafter until fully paid through the CSCD having jurisdiction.
- (22) Participate and cooperate in the CSCD Assessment, Classification and Rehabilitation Program.
- (23) Satisfactorily complete high school or high school equivalency program during the term of this Community Supervision.
- (24) Perform satisfactorily 400 Community Service hours on or before 5/18/2015 through the Community Service Restitution Project of the CSCD beginning 5/18/2013 at a minimum of 17 hours per month.
- (25) Serve _____ days in the _____ without credit for time served beginning _____.
- (26) Pay the amount of _____ to the local Crime Stoppers Program on/or before _____, through the CSCD having jurisdiction.
- (27) Participate and cooperate in the CSCD Rehabilitation Assessment Program for the purpose of classification, assessment and rehabilitation of the Defendant and pay the required fee of \$60.00 due on or before 5/18/2013 pursuant to C.C.P. Art. 42.12 Sec. 11(b) to the CSCD having jurisdiction.
- (28) Submit a copy of your income tax return filed with the IRS or Proof of Extension to the CSCD having jurisdiction by April 15th of each year during the term of Community Supervision and bring your IRS Income Tax Refund check to the CSCD having jurisdiction immediately upon receipt and endorse the check to the CSCD to be applied to fees payable through the CSCD by the defendant.
- (29) Enter a Community Corrections Facility at the discretion of the Community Supervision and Corrections Department.
- (30) Participate and cooperate in an alcohol/drug treatment program up to and including SAFFP at the discretion of the Community Supervision & Corrections Department.

IT IS FURTHER ORDERED that the Officer is authorized by the court to transfer the Defendant to different programs within the Community Supervision Programs.

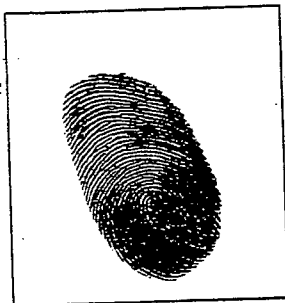
Furthermore, the following special findings or orders apply:

Defendant shall testify truthfully in any other proceedings.

SIGNED AND ORDERED ENTERED this 18 day of April, 2013.

X Skipper Koetter
Skipper Koetter
JUDGE PRESIDING

A copy furnished to the above named defendant on this 18th day of April, 2013
I acknowledge receipt of a copy of the Conditions of Adult Community Supervision and fully understand same.



Right Thumb

[Signature]
DEFENDANT

[Signature]
SUPERVISION OFFICER

Attachment/Exhibit C

CASE NO. 11-11-8685 COUNT
INCIDENT NO./TRN: 0136785433

THE STATE OF TEXAS

§
§
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§

IN THE 24TH DISTRICT

COURT

TRAY DEWAYNE GREEN

JACKSON COUNTY, TEXAS

STATE ID No.: TX06645776

JUDGMENT ADJUDICATING GUILT

Judge Presiding: HON. JACK W. MARR

Date Judgment Entered: 12/9/2016

Attorney for State: KEITH WEISER

Attorney for Defendant: W. A. WHITE

Date of Original Community Supervision Order:
4/18/2013Statute for Offense:
Sec. 22.02 Penal Code

Offense for which Defendant Convicted:

AGGRAVATED ASSAULT WITH DEADLY WEAPON - BY THREATSDate of Offense:
9/15/2011

Degree:

1ST DEGREE FELONYPlea to Motion to Adjudicate: Findings on Deadly Weapon:
NOT TRUE to Paragraphs **YES, A FIREARM**

Terms of Plea Bargain:

1, 2, 3, 5, 6, 7 and 8

FORTY (40) YEARS CONFINEMENT IN TEXAS DEPARTMENT OF CRIMINAL JUSTICE

Date Sentence Imposed: 12/9/2016

Date Sentence to Commence: 12/9/2016

Punishment and Place
of Confinement:**FORTY (40) YEARS INSTITUTIONAL DIVISION, TDCJ****THIS SENTENCE SHALL RUN CONCURRENTLY.**☐ SENTENCE OF CONFINEMENT SUSPENDED, DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR N/A .Fine:
\$ 0.00Court Costs:
\$ 2,104.00Restitution:
\$

Restitution Payable to:

☐ VICTIM (see below) ☐ AGENCY/AGENT (see below)☒ Attachment A, Order to Withdraw Funds, is incorporated into this judgment and made a part hereof.

Sex Offender Registration Requirements do not apply to the Defendant. TEX. CODE CRIM. PROC. chapter 62

The age of the victim at the time of the offense was N/A .

If Defendant is to serve sentence in TDCJ, enter incarceration periods in chronological order.

From 9/15/2011 to 4/23/2013

From 12/3/2014 to 7/6/2015

From 11/18/2016 to 12/9/2016

Time
Credited:

From to

From to

From to

If Defendant is to serve sentence in county jail or is given credit toward fine and costs, enter days credited below.

N/A DAYS NOTES: N/A

All pertinent information, names and assessments indicated above are incorporated into the language of the judgment below by reference.

The Court previously deferred adjudication of guilt in this case. Subsequently, the Court heard the matter of Defendant's compliance with and obedience to the terms and conditions of the Court's Order of Deferred Adjudication of Guilt. The State appeared by her District Attorney.

Counsel / Waiver of Counsel (select one)☒ Defendant appeared in person with Counsel.☐ Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

After hearing and considering the evidence presented by both sides, the Court FINDS THE FOLLOWING: (1) The Court previously found the Defendant to be qualified for community supervision; (2) The Court DEFERRED further proceedings, made no finding of guilt, and rendered no judgment; (3) The Court issued an order placing Defendant on community supervision for a period of 10 YEARS; (4) The Court assessed a fine of \$ 000.00; (5) While on community supervision, Defendant violated the terms and conditions of community supervision as set out in the State's AMENDED Motion to Adjudicate Guilt as follows:

1, 7, 8, 11, 17, 18 AND 24.

Filed December 9, 2016 at 5:00 AM

Annex 11/10/16

Accordingly, the Court GRANTS the State's Motion to Adjudicate the Defendant's Guilt in the above cause. FINDING the defendant committed the offense on the date as noted above, the Court ORDERS, ADJUDGES AND DECREES that Defendant is GUILTY of the offense. The Court FINDS the Presentence Investigation, if so ordered, was done according to the applicable provisions of TEX. CODE CRIM. PROC. art. 42.12 § 9.

The Court ORDERS Defendant punished as indicated above. The Court ORDERS Defendant to pay all fines, court costs, and restitution as indicated above.

Punishment Options (select one)

☒ **Confinement in State Jail or Institutional Division.** The Court ORDERS the authorized agent of the State of Texas or the Sheriff of this County to take, safely convey, and deliver Defendant to the Director, Institutional Division, TDCJ. The Court ORDERS Defendant to be confined for the period and in the manner indicated above. The Court ORDERS Defendant remanded to the custody of the Sheriff of this county until the Sheriff can obey the directions of this sentence. The Court ORDERS that upon release from confinement, Defendant proceed immediately to the Jackson County District Clerk, 115 West Main, Room 203, Edna, Texas 77957. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **County Jail—Confinement / Confinement in Lieu of Payment.** The Court ORDERS Defendant immediately committed to the custody of the Sheriff of _____ County, Texas on the date the sentence is to commence. Defendant shall be confined in the County Jail for the period indicated above. The Court ORDERS that upon release from confinement, Defendant shall proceed immediately to the _____. Once there, the Court ORDERS Defendant to pay, or make arrangements to pay, any remaining unpaid fines, court costs, and restitution as ordered by the Court above.

☐ **Fine Only Payment.** The punishment assessed against Defendant is for a FINE ONLY. The Court ORDERS Defendant to proceed immediately to the Office of the _____ County District Clerk. Once there, the Court ORDERS Defendant to pay or make arrangements to pay all fines and court costs as ordered by the Court in this cause.

Execution / Suspension of Sentence (select one)

☒ The Court ORDERS Defendant's sentence EXECUTED.

☐ The Court ORDERS Defendant's sentence of confinement SUSPENDED. The Court ORDERS Defendant placed on community supervision for the adjudged period (above) so long as Defendant abides by and does not violate the terms and conditions of community supervision. The order setting forth the terms and conditions of community supervision is incorporated into this judgment by reference.

The Court ORDERS that Defendant is given credit noted above on this sentence for the time spent incarcerated.

Furthermore, the following special findings or orders apply:

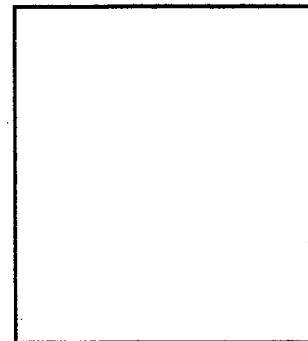
Court appointed attorney fees in the amount of \$1,646.⁰⁰

The defendant's print was ordered taken in accordance with Article 38.33 of the Code of Criminal Procedure and appears as an exhibit and is incorporated into this judgment.

Signed and entered on December 9, 2016

X Jacob W. Man
JUDGE PRESIDING

Clerk: Sharon Mathis



Right Thumbprint

revised 9/1/2011

CAUSE NO. 11-11-8685

THE STATE OF TEXAS

IN THE DISTRICT COURT

VS.

S

24th JUDICIAL DISTRICTTray Dewayne Green
DEFENDANT

S

Jackson COUNTY, TEXASPLEA MEMORANDUM

The defendant named in the above numbered and entitled cause and the defendant's attorney state that the Court has made the admonishments required by Article 26.13 of the Texas Code of Criminal Procedure (C.C.P.) in writing as set out on Exhibit A attached hereto (and any applicable attachments as noted on Exhibit "A"), and that the defendant understands the admonitions and is aware of the consequences of the defendant's plea. The defendant and defendant's attorney further state:

1. MENTAL COMPETENCY TO STAND TRIAL. The defendant understands the proceedings in this case, fully cooperated with the defendant's attorney, and certifies that no issue of mental competency to stand trial exists.

2. FREE AND VOLUNTARY PLEA. The defendant is entering his/her plea freely and voluntarily without any threats or coercion, and the defendant has not been made any promise to induce the defendant to plead which is not revealed to the Court.

3. PAROLE AND GOOD CONDUCT CREDIT. The defendant understands that it cannot accurately be predicted how the parole law or good conduct time might be applied to the defendant if the defendant is sentenced for a non-state jail felony offense to a term of imprisonment in the *Texas Department of Criminal Justice because the application of these laws will depend on decisions made by prison and parole authorities. The defendant further understands that eligibility for parole does not guarantee that parole will be granted.

The defendant understands that the parole law does not apply and the defendant does not earn good conduct time if the defendant is sentenced for a State Jail Felony offense to a term of confinement in a State Jail.

4. APPROVAL OF COUNSEL. The defendant is totally satisfied with the representation given by the defendant's attorney in this case, and the defendant was provided fully effective and competent representation.

Filed April 18 2013 at 6:15 PMSharon Mainis
Sharon Mainis, District Clerk, Jackson County TX

5. WAIVER OF RIGHTS. Pursuant to Art. 1.14 C.C.P., the defendant voluntarily waives and gives up all rights given defendant by law, whether of form, substance, or procedure, including the following:

(a) WAIVER OF ARRAIGNMENT. The defendant waives: the right to have a copy of the indictment served upon the defendant; the right to have at least two ~~2~~ entire days after the day on which a copy of the indictment was served on the defendant, if it was, to be arraigned; and waives arraignment. The defendant further waives the reading of the indictment/information;

(b) WAIVER OF 10 DAYS PREPARATION. The defendant's attorney waives 10 days preparation time to prepare for a proceeding and file written pleadings, and the defendant consents to this waiver. The defendant announces ready for trial;

(c) WAIVER OF PRESENTENCE REPORT AND 48 HOUR REVIEW. The defendant and the defendant's attorney waive the right to read any presentence report at least 48 hours before the defendant's sentencing and further waive the preparation of any presentence report required by Art. 42.12 §9 C.C.P.;

(d) WAIVER OF JURY TRIAL. Pursuant to Art. 1.13 C.C.P., the defendant waives the right to trial by jury on both guilt and punishment in this cause in person in writing in open Court, joined by the defendant's attorney, and with the written consent and approval of the attorney representing the State as reflected by the State attorney's signature below and filed in this cause before the defendant has entered his/her plea, and the defendant requests consent and approval of the Court;

(e) STIPULATION OF EVIDENCE. Pursuant to Art. 1.15 C.C.P., the defendant consents in writing, in open Court, to waive and does waive the appearance, confrontation and cross-examination of witnesses. The defendant further consents to an oral stipulation of the evidence and testimony and to the introduction of testimony by affidavits, written statements of witnesses, and any other documentary evidence in support of the judgment of the court;

(f) WAIVER OF RIGHT AGAINST SELF-INCRIMINATION. The defendant waives the right against self-incrimination, understanding that a defendant cannot be compelled to be a witness nor give evidence against himself or herself, that a defendant has the right to remain silent, is not required to make any statement, and that any statement a defendant makes may be used against him or her. The defendant agrees to testify if called as a witness. The defendant judicially confesses under oath: that each and every allegation contained in the indictment or information which is not waived by the State is true and correct; and that each and every enhancement allegation, if any, which is not waived by the State is true and correct.

6. NEW TRIAL/NOTICE OF APPEAL. The defendant understands that in a plea bargain case, if the punishment does not exceed the punishment recommended by the prosecutor and agreed to by the defendant, a defendant may appeal only those matters raised by written motion filed and ruled on before trial or after getting the trial court's permission to appeal. A defendant may also waive the right of appeal.

Otherwise, a defendant has the right to appeal and/or ask for a new trial, to have an attorney appointed to represent him/her if he/she does not have an attorney and is not financially able to employ counsel. A motion for new trial may be filed before, but no later than 30 days after, the date the trial court imposes or suspends sentence in open court. An appeal is perfected by timely filing a notice of appeal in writing with the trial court clerk within 30 days after the day sentence is imposed or suspended in open court or after the day the trial court signs an appealable order or within 90 days after the day sentence is imposed or suspended in open court if the defendant timely files a motion for new trial. If there is an appeal, the defendant has the right to petition the Court of Criminal Appeals to review a court of appeals decision in a criminal case by filing a pro se petition (the defendant is not entitled to a court-appointed attorney for this further appeal) with the clerk of the court of appeals within 30 days after the day the court of appeals' judgment was rendered or the last day the timely motion for rehearing was overruled by the court of appeals.

If the Court follows the plea bargain agreement in this case, I also waive any right of appeal.

7. WITHDRAWING FUNDS FROM INMATE TRUST ACCOUNT. I understand and have been notified that if I am sentenced to the Texas Department of Criminal Justice or State Jail, the law permits the Court to order that funds be withdrawn from my Texas Department of Criminal Justice inmate trust account to pay any court costs (including court-appointed attorney fees), restitution, fine, and other fees that I have not paid. I waive my right to dispute any amount owed not raised in Court at the time sentence is imposed.

8. CONFINEMENT NOTICE IF RECEIVING COMMUNITY SUPERVISION. If I receive community supervision, I understand that the judge determines the conditions of community supervision and may at any time alter or modify the conditions, which includes the following confinement conditions for a felony: a maximum 180 days confinement in the county jail in 1 or more blocks; up to 24 months in a community correctional facility ["CCF"] (if a subsequent CCF confinement, total county jail & CCF confinement not > 36 months); and 90 days to 1 year in a substance abuse felony punishment facility ["SAFPF"], a secure facility operated by the Texas Department of Criminal Justice [Penal Code §21.11, §22.011, §22.021 offenses (or criminal attempted offense) not eligible for SAFPf].

*Effective 9/1/2009, "Institutional Division, TDCJ" was renamed Texas Department of Criminal Justice in law punishment provisions.

STATE OF TEXAS
COUNTY OF JACKSON }

On this day the defendant in the above-captioned cause appeared before me, the undersigned clerk, and after being duly sworn stated under oath: "I am the defendant in this cause. I have read this PLEA MEMORANDUM, including Exhibit A and any attachments, understand all the information in it, am waiving the rights as stated in it, and swear that all the allegations of fact contained in it are true and correct."

[Signature]
Defendant

SUBSCRIBED AND SWORN TO before me by the Defendant in this cause on

April 18, 2013

Jackson

Bruce Mathis
County District Clerk



By _____

Consented to and Agreed (including, before the entry of defendant's plea, the attorney representing the State consenting to and approving the defendant's waiver of jury trial in this cause):

W. G. White
Defendant's Attorney

[Signature]
State's Attorney

O R D E R

On this day the Defendant appeared before me in open Court and the Court hereby consents to and approves in writing: the waiver of trial by jury; the waiver of the appearance, confrontation, and cross-examination of witnesses; an oral stipulation of the evidence and testimony and/or the introduction of testimony by affidavits, written statements of witnesses, and any other documentary evidence in support of the judgment of the Court; and the other waivers as set forth in this Plea Memorandum.

Signed April 18, 2013.

Skipper Koetter
JUDGE PRESIDING

CAUSE NO. 11-11-8685

THE STATE OF TEXAS

§

IN THE DISTRICT COURT OF

VS.

§

JACKSON COUNTY, TEXAS

TRAY DEWAYNE GREEN

§

24TH JUDICIAL DISTRICT

PROPOSED PUNISHMENT RECOMMENDATIONDATE OF RECOMMENDATION: 4-18-13OFFENSE: AGGRAVATED ASSAULT W/DEADLY WEAPON-by threats - F-2 Enhanced to F-1DATE OF OFFENSE: 9/15/11

As the result of negotiations between the parties, and unless and until this recommendation is superseded by a subsequent proposal, it is understood by the undersigned that the Attorney for the State, upon Defendant's plea of guilty, will recommend to the Court that:

(x) Prosecution proceed only on Count 1 Paragraph _____;

(x) Punishment be assessed at:

_____ years in the Institutional Division of the
Texas Department of Criminal Justice;

_____ years in a State Jail Felony Facility;

_____ days/months/years in the County Jail -
to begin on _____
(in Cause No. _____.)

_____ Fine (in Cause No. _____.)
Plus Court Costs; Court appointed attorney's fees
(if applicable)

_____ Hours Community Service
(in Cause No. _____.)

_____ Loss of License

() Probation be granted for a term of _____ years;

(x) Defendant waives any rights he might have to appeal this case;

(x) This sentence to run concurrent with Cause Number(s):
all others

Filed

April 18 2013 at 6:15 PM
Sharon Mathis
Sharon Mathis, District Clerk, Jackson County

☒ Adjudication of Guilt be deferred pursuant to Art. 42.12 C.C.P., for a probation term of Ten (10) years;

☐ The Court considers the following unadjudicated offenses under Section 12.45 P.C.:

☐ Prosecution proceed only on the lesser included offense of:

☐ Class A Misdemeanor or punishment be assessed pursuant to Section 12.44 P.C.;

☐ Substance Abuse Felony Punishment Facility (SAFPF);

☐ Participate in a treatment program as directed by CSCD, up to and including SAFPF;

☐ Enter a Community Corrections Facility (CFF) at the discretion of the CSCD;

☐ Sign over all tax refund checks to the CSCD to be applied towards restitution, court costs, fees, fine and costs.

OTHER RECOMMENDATIONS:

☐ Restitution in the amount of \$ _____, payable to: _____

☐ Deep Lung Device.

☒ Testify truthfully.

☐ Defendant will be sentenced on _____. However, if Defendant commits a Class "B" misdemeanor or higher, the Judge is free to assess any punishment within the punishment range of () 2 to 10 yrs. ID-TDCJ; () 2 to 20 yrs. ID-TDCJ; or () 5 to 99 yrs. or Life in the ID-TDCJ. That is, it will be an "Open Plea".

AGREEMENT

It is agreed by the Defendant, the Attorney for the Defendant, and the Attorney for the State that the punishment recommendation outlined above may be considered by the Court when assessing punishment in this cause.

DATE OF AGREEMENT: 4-18-13

[Signature]
DEFENDANT

[Signature]
ATTORNEY FOR STATE

W. A. White
ATTORNEY FOR DEFENDANT

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE
NEW ORLEANS, LA 70130

December 29, 2017

Mr. Tray Dewayne Green
#2106292
CONNALLY UNIT
899 FM 632
Kenedy, TX 78119

Dear Sir:

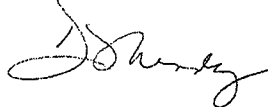
I am again responding to your petition, complaint or other papers for the following reason(s):

As previously advised, this is a court of limited jurisdiction. We can only act on cases which have been filed and decided in a U. S. District Court, or an agency within this circuit. The case numbers you refer to on your documents seem to be related only to state court action(s) to which this Court has no jurisdiction to consider. We again take no action on your brief and are prohibited by statute from giving any type of legal advice to assist you in their filing.

Forthcoming submissions of your documents will be neither addressed nor acknowledged.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Donna L. Mendez, Deputy Clerk
504-310-7677