

NAME CHARLES LAYMAN COX  
ADDRESS 128 ANDERSON  
BAGINAM IX 76179  
RACE MSEX MAGE 43 DOB 05-25-53  
CASE NO. 0647447 FILED (DATE) 02-14-97  
PC HAS BEEN DETERMINED  
TRANSFER: 0460000 DATE

10,000  
OFFENSE AGG SEXUAL ABUSE CHILD-ALL  
DATE 11-01-96  
I.P. [REDACTED]  
C.C.  
AGENCY BAGINAM PD  
OFFENSE NO. 96013900 COURT 0213

COMPLAINT NO. 0647447

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

Before me, the undersigned Assistant District Attorney of Tarrant County, Texas, this day personally appeared the undersigned affiant, who upon his oath says that he has good reason to believe and does believe that in the County of Tarrant and State of Texas \* \* \* \* \*

CHARLES LAYMAN COX hereinafter called Defendant, in the County of Tarrant and State aforesaid, on or about the 10th day of NOVEMBER, 1996, did INTENTIONALLY OR KNOWINGLY CAUSE THE PENETRATION OF THE FEMALE SEXUAL ORGAN OF A CHILD YOUNGER THAN 14 YEARS OF AGE WHO WAS NOT THE SPOUSE OF SAID DEFENDANT BY PLACING HIS FINGER IN THE FEMALE SEXUAL ORGAN OF [REDACTED]

AGAINST THE PEACE AND DIGNITY OF THE STATE.

Sworn to and subscribed before me on this the 14th day of FEB 1997

Filed (Clerk's use only)

FILED  
THOMAS A. WILDER, DIST. CLERK  
TARRANT COUNTY, TEXAS

FEB 14 1997

Time By Deputy

**CASE NO. 0647447D**

THE STATE OF TEXAS

§

IN THE 213TH DISTRICT

VS.

§

COURT OF

CHARLES LAYMAN COX

§

TARRANT COUNTY, TEXAS

**UNADJUDICATED JUDGMENT ON PLEA OF GUILTY OR NOLO CONTENDERE AND  
SUSPENDING IMPOSITION OF SENTENCE**

Judge Presiding	: HON. ROBERT K. GILL	Date of Judgment	: APRIL 27, 1998
Attorney for State District Attorney	: TIM CURRY	Assistant District Attorney	: MARK THIELMAN
Attorney for Defendant	: BARRY ALFORD	Charging Instrument:	INDICTMENT
<u>Offense Date</u>	<u>Offense</u>		
NOVEMBER 1, 1996	AGGRAVATED SEXUAL ASSAULT OF A CHILD UNDER 14 YEARS OF AGE		
<u>Degree</u>	<u>Count</u>	<u>Plea</u>	
1ST	ONE	GUILTY	
Findings on Deadly Weapon	: NONE		
Plea to Enhancement Paragraph(s)	: NONE		
Plea to Habitual Paragraph(s)	: NONE		
Findings on Enhancement/ Habitual Paragraph(s)	: NONE		
Punishment	: DEFERRED	Date to Commence	: APRIL 27, 1998
Probationary Term	: SEVEN (7) YEARS		
Fine Not Suspended	: NONE		

On this day, set forth above, this cause came for trial and came the State of Texas, by its above-named attorney, and the Defendant appeared in person and by the above-named attorney for the Defendant, or, where a Defendant is not represented by counsel, that the Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel; and announced ready for trial, the Defendant having been heretofore arraigned, or having waived arraignment in open court, and having agreed that the testimony may be stipulated in this cause and the Defendant, his counsel, and the State's attorney having agreed in writing in open court to waive a jury in the trial of this cause and to submit this cause to the Court, and the Court having agreed to the same, the said attorney for the State read the instrument charging the offense as shown or the reading of the charging instrument having been waived by Defendant, the Defendant entered his pleas as shown above thereto, and it appearing to the Court that the Defendant is mentally competent and the plea is free and voluntary, and the Court having duly admonished the Defendant as to the consequences of such plea, including the range of punishment attached to the offense and the fact that any recommendation of the prosecuting attorney as to punishment is not binding on the Court, and the Defendant further having affirmatively stated awareness of the consequences of such plea and acknowledged to not having been misled or harmed by the admonishment of the Court, yet the Defendant persisted in entering such plea, said plea is by the Court received and now entered of record upon the minutes of the Court as the plea herein of said Defendant. The Court after receiving the plea shown and hearing the evidence, finds that it substantiates the Defendant's guilt and that further proceedings should be deferred without entering an adjudication of guilt and that Defendant should be placed on probation on reasonable terms and conditions as the Court may require.

The State of Texas do have and recover of the said Defendant all costs in this prosecution expended including any fine shown above for which let execution issue. And it is further ORDERED by the Court that the imposition of sentence of the judgment of conviction herein shall be suspended during the good behavior of the Defendant and that the Defendant be placed on probation during the period of time, fixed by the Court, under the conditions to be determined by the Court, as provided by law. However, when it is shown above that a fine applicable to the offense committed has been imposed by the Court and not suspended, then it is ORDERED that Defendant pay such fine and all costs in this prosecution expended and that Defendant be placed on probation during the period of time fixed by the Court, under the conditions to be determined by the Court, as provided by law.

IT IS THEREFORE CONSIDERED by the Court that the evidence substantiates the Defendant's guilt and that further proceedings should be Deferred without entering an adjudication of guilt, and that Defendant be placed on probation during the period of time prescribed by the Court on such reasonable terms and conditions as the Court may require in accordance with law.

**ORDER SETTING CONDITIONS OF COMMUNITY SUPERVISION**

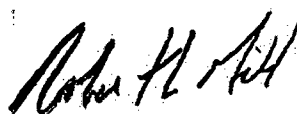


On this day, above shown, in open court, the Defendant, the above-named attorney for Defendant, and the attorney for the State, appeared and the Court considered the terms and conditions of probation in accordance with the judgment of conviction heretofore entered herein; and the Court being of the opinion that such terms and conditions should be subject to the supervision of the Court through the duly appointed and acting Director of Community Supervision and Corrections Department of Tarrant County, Texas;

It is therefore ORDERED by the Court that the Defendant be, and is hereby placed on probation for the above named term beginning on the date of entry of judgment herein under the supervision of the Court, through the Director of Community Supervision and Corrections Department of Tarrant County, Texas, subject to the following terms and conditions set out in the attached Conditions of Community Supervision which is incorporated and made a part thereof.

CONDITIONS OF COMMUNITY SUPERVISION INCORPORATED AS A PART OF THIS JUDGMENT  
AND ATTACHED HERETO RECORDED IN VOLUME 67, PAGE 295 A-B

SUPPLEMENT/AMENDMENT TO CONDITIONS OF COMMUNITY SUPERVISION SEXUAL OFFENSES  
AGAINST CHILDREN RECORDED IN VOLUME 67, PAGE 296 A



PRESIDING JUDGE

Date Signed : APRIL 28, 1998

Notice of Appeal : \_\_\_\_\_

Warrant Received : \_\_\_\_\_

THE STATE OF TEXAS

IN THE 213TH JUDICIAL

VS.

DISTRICT COURT OF

Cor, Charles Layman

TARRANT COUNTY, TEXAS

THOMAS A. WILDER, DIST. CLERK  
TARRANT COUNTY, TEXAS  
APR 27 1998  
By 11-56  
64 DeputyWRITTEN PLEA ADMONISHMENTS

On this 27 day of April, 1998, pursuant to the requirements of law, you, the defendant in this cause, are hereby admonished in writing as follows:

1. ☒ You are charged with the felony offense of:

Aggravated Sexual Assault on a Child

Offense Code: 110132

- ☐ Your charge has been reduced to the lesser included offense of:

Offense Code: \_\_\_\_\_

2. The plea bargain recommendation is: 7 years deferred

adjudication, sex offender case load as a condition  
of probation

3. You are entitled to have a jury determine whether you are Guilty or not Guilty and if Guilty, to assess your punishment. Should you have more than one case pending, you may have them tried separately.

4. You may request that the indictment be read and explained to you in open court. You are not obligated to give evidence against yourself; you may require the State to prove the elements of the offense alleged in the indictment by legal and competent evidence beyond a reasonable doubt; you and your attorney may confront and cross-examine witnesses and you have the power of subpoena to bring witnesses into court to testify in your behalf.

5. If convicted, you face the following range of punishment:

☒ **FIRST DEGREE FELONY:** Life or any term of not more than 99 years nor less than 5 years in the Institutional Division of the Texas Department of Criminal Justice, and in addition, a fine not to exceed \$10,000 may also be assessed.

☐ **SECOND DEGREE FELONY:** A term of not more than 20 years nor less than 2 years in the Institutional Division of the Texas Department of Criminal Justice, and in addition, a fine not to exceed \$10,000 may also be assessed.

☐ **THIRD DEGREE FELONY:** A term of not more than 10 years nor less than 2 years in the Institutional Division of the Texas Department of Criminal Justice and in addition, a fine not to exceed \$10,000 may also be assessed. (If the offense was committed before September 1, 1994, a term of confinement in a community correctional facility for any term of not more than one (1) year may be assessed in lieu of confinement in the Institutional Division).

☐ **FIRST DEGREE ENHANCED:** Life or any term of not more than 99 years nor less than 15 years in the Institutional Division of the Texas Department of Criminal Justice, and in addition, a fine not to exceed \$10,000 may also be assessed.

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[ ] **SECOND DEGREE ENHANCED:** Life or any term of not more than 99 years nor less than 5 years in the Institutional Division of the Texas Department of Criminal Justice, and in addition, a fine not to exceed \$10,000 may also be assessed.

[ ] **THIRD DEGREE ENHANCED:** A term of not more than 20 years nor less than 2 years in the Institutional Division of the Texas Department of Criminal Justice, and in addition, a fine not to exceed \$10,000 may also be assessed.

[ ] **HABITUAL OFFENDER:** Life or any term of not more than 99 years nor less than 25 years in the Institutional Division of the Texas Department of Criminal Justice.

[ ] **OTHER:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. **Plea Bargaining:** A plea bargain or recommendation of punishment is not binding on the Court. The Court may set punishment anywhere within the range provided by law for this offense. If there is a plea bargain agreement, the Court will inform you in open Court whether the agreement will be followed before making any finding on your plea. Should the Court reject the agreement, you will be permitted to withdraw your plea should you desire.

7. **Permission to Appeal:** When the Court follows a plea bargain agreement, permission of the Court must be given before you can prosecute an appeal on any matter in the case, except for matter raised by written motion filed prior to trial. This Court seldom consents to an appeal where conviction is based upon a Guilty Plea.

8. **Citizenship:** If you are not a citizen of the United States of America, a plea of guilty or nolo contendere for this offense may result in deportation, the exclusion from admission to this country, or the denial of naturalization under federal law.

9. **Deferred Adjudication:** Should the Court defer adjudicating your guilt and place you on probation, upon violation of any imposed condition, you may be arrested and detained as provided by the law. You will then be entitled to a hearing limited to the determination by the Court, without a jury, whether to proceed with an adjudication of your guilt upon the original charge. No appeal may be taken from this determination. Upon adjudication of your guilt, the Court may assess your punishment anywhere within the range provided by law for this offense.

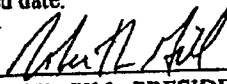
After adjudication of guilt, all proceedings including assessment of punishment, pronouncement of sentence, granting of probation and your right to appeal continue as if adjudication of guilt had not been deferred.

10. **Probation:** If the Court grants you straight probation as opposed to deferred adjudication, upon violation of any imposed condition, you may be arrested and detained as provided by law. You will then be entitled to a hearing limited to the determination by the court, without a jury, whether to revoke your probation and sentence you to imprisonment in the Institutional Division of the Texas Department of Criminal Justice for a period of time not to exceed that originally assessed by the Court at the time you were found guilty.

11. If no indictment has been returned by a Grand Jury charging you with this offense, you do not have to stand trial until such an indictment has been returned, and you then will be given ample time (at least 10 days) to consult with your attorney before trial.

12. If a victim impact statement has been returned to the prosecutor under Art. 26.13 C.C.P., the Judge has reviewed a copy of that report.

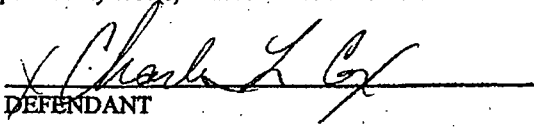
Admonishments given this defendant on the above noted date.

  
\_\_\_\_\_  
ROBERT K. GILL, PRESIDING JUDGE

WRITTEN WAIVER OF DEFENDANT-JOINED BY ATTORNEY

Comes now the Defendant, in open Court, joined by my attorney and state:

- (1) I am able to read the English language and fully understand each of the written plea admonishments by the Court and I have no questions;
- (2) I waive arraignment and formal reading of the indictment or felony information;
- (3) I am aware of the consequences of my plea;
- (4) I am mentally competent and my plea is knowingly, freely, and voluntarily entered;
- (5) Should my attorney be just recently appointed, I give up and waive any right I may have for further time to prepare for trial;
- (6) If I am proceeding on a felony information, I give up my right to indictment by a Grand Jury;
- (7) Should I be tried on more than one case, I agree that all may be heard and determined at one time;
- (8) I waive all pretrial motions that may have been filed in connection with my case(s);
- (9) I am totally satisfied with the representation given to me by my attorney. My attorney provided me fully effective and competent representation;
- (10) I also waive and give up in accordance with Art. 1.14 C.C.P. all rights given to me by law, whether of form, substance, or procedure;
- (11) Joined by my attorney, I waive and give up my right to a jury, both as to my guilt and assessment of my punishment, and in accordance with Art. 1.15 C.C.P., I waive and give up the right to appearance, confrontation, and cross-examination of the witnesses, and I consent to oral and written stipulations of evidence;
- (12) I give up my right not to incriminate myself and agree to testify under oath and judicially confess my guilt if requested by my attorney or the State's attorney;
- (13) I waive preparation of a presentence investigation report;
- (14) I request the Court to approve of the plea recommendation (in Paragraph 2 of the Plea Admonishments) and dispose of my case(s) in accordance therewith.

  
DEFENDANT

I have fully reviewed and explained the above and foregoing court admonishments, rights, and waivers to the Defendant and am satisfied that the Defendant is legally competent and has intelligently, knowingly, and voluntarily waived his rights and will plead guilty understanding the consequences thereof.

  
ATTORNEY FOR DEFENDANT

6  
JUDICIAL CONFESSION

Upon my oath I swear my true name is CHARLES LAYMAN COX  
and I am 45 years of age. I have read the indictment or information filed in this case and  
I committed each and every act as alleged therein, except those acts waived by the State. All the facts  
alleged in the indictment or information are true and correct. I am guilty of the offense(s) charged  
as well as all lesser included offenses. All the facts alleged in the indictment or information are true  
and correct. Any enhancement and habitual allegations set forth in the indictment or information are  
true and correct, except those waived by the State. I further admit my guilt on any unadjudicated  
offenses set forth in the plea recommendation (Paragraph 2 of the Plea Admonishments) and request  
the Court to take each into account in determining my sentence for the instant offense. I swear to  
all of the foregoing and I further swear that all testimony I give in the case will be the truth, the whole  
truth and nothing but the truth, so help me God.

X Charles L Cox  
DEFENDANT

APPLICATION FOR PROBATION

I swear and it is my testimony here in open court that I have never before been convicted of  
a felony offense in any court of the State of Texas, any other state, nor in any Federal Court of the  
United States. I request the Court to consider this my application for a probated sentence.

X Charles L Cox  
DEFENDANT

SWORN AND SUBSCRIBED before me this 27 day of April, 1998.

Jim Bell  
DEPUTY DISTRICT CLERK  
TARRANT COUNTY, TEXAS  
\*\*\*\*\*

In open court we join and approve the waiver of jury trial pursuant to Art. 1.13 C.C.P. and  
the stipulations of evidence pursuant to Art. 1.15 C.C.P. We further agree and consent to the  
admission of guilt of any unadjudicated offense under Section 12.45 of the Texas Penal Code. In  
addition, the Court finds as a fact that the Defendant is mentally competent and that his plea is  
intelligently, freely and voluntarily entered. It is agreed that the Court may take judicial notice of this  
document and all contents; and the Court takes judicial notice of same.

[Signature]  
ATTORNEY FOR THE DEFENDANT

SBN 00783534

[Signature]  
ATTORNEY FOR THE STATE

SBN 19837210

[Signature]  
ROBERT K. GILL, PRESIDING JUDGE

7

Official Dis of Tarrant County, Texas  
COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT

J S J F

200 West Belknap, Fort Worth, Texas 76196-0255  
Telephone: (817) 884-2450 Office Hours: 7:30 a.m. to 5:30 p.m. Monday - Friday

FILED

ADJUDICATED

CONDITIONS OF COMMUNITY SUPERVISION  
TARRANT COUNTY, TEXAS

DEFERRED ADJUDICATION

THE STATE OF TEXAS

VS. NO. 06474470

Charles Dayman Cox

APR 27 1998

Time 11:55  
By [Signature] Deputy

IN 213th DISTRICT

COURT NO. \_\_\_\_\_ OF

TARRANT COUNTY, TEXAS

In accordance with the authority conferred by the Community Supervision Law of the State of Texas, you have been placed on Community Supervision as an alternative to incarceration on this 27th day of April, 1998, for the period of 7 years, having been sentenced for 7 years, for the offense of Aggravated Assault on a Child by the Honorable Robert C. Gail. Judge/Magistrate in Criminal District Court No. 213th, Tarrant County, Texas.

IT IS THE ORDER OF THE COURT THAT YOU SHALL COMPLY WITH THE FOLLOWING TERMS AND CONDITIONS OF COMMUNITY SUPERVISION:

- Commit no offense against the laws of this State or of any other State or of the United States.
- Avoid injurious or vicious habits and abstain from the illegal use of controlled substances, marijuana, cannabinoids or excessive consumption of alcoholic beverages. Submit to an assessment for substance abuse. Attend and complete out-patient treatment at the direction of the Supervision Officer.
- Avoid persons and places of disreputable or harmful character.
- Report to the Community Supervision and Corrections Department of Tarrant County, Texas, immediately following this hearing, and no less than monthly thereafter, or as scheduled by the Court and/or Supervision Officer and obey all rules and regulations of the Department.
- Permit the Supervision Officer to visit you at your home or elsewhere at any time.
- Work faithfully at suitable employment as far as possible, furnish proof of employment to your Supervision Officer and, if unemployed, participate in the Community Supervision and Corrections Department's Jobs, Education and Training Skills (JETS) program, unless waived by the Court.
- Remain within Tarrant County, Texas, unless the Court or Supervision Officer authorizes you to leave.
- Support your dependents.
- Notify the Supervision Officer of Tarrant County, Texas, if your address or employment is changed within five days from the date of change.
- Possess no firearms away from your residence. OWN
- Supervision is conditioned on your agreement to execute a pre-signed waiver of extradition.
- Pay to and through the Community Supervision and Corrections Department of Tarrant County, Texas, the following:

- COURT COSTS in the amount of \$ 176.50, at the rate of \$ 10 per month.
- SUPERVISION FEE in the amount of \$ 40, each month during the period of supervision.
- RESTITUTION in the amount of \$ \_\_\_\_\_, at the rate of \$ \_\_\_\_\_ per month.
- FINE in the amount of \$ \_\_\_\_\_, at the rate of \$ \_\_\_\_\_ per month.
- ATTORNEY FEES in the amount of \$ \_\_\_\_\_, at the rate of \$ \_\_\_\_\_ per month.
- CRIME STOPPERS FEE in the amount of \$ 50 to be paid within 30 days from the date shown above.
- CRIME VICTIMS COMPENSATION ACT PAYMENT in the amount of \$ 45, at the rate of \$ 5 per month.
- ~~TIME PAYMENT FEE in the amount of \$25.00 to be paid within 60 days from the date shown above.~~
- \_\_\_\_\_ in the amount of \$ \_\_\_\_\_, at the rate of \$ \_\_\_\_\_ per month.

The first payments on the above to be made on the 15th of May, 1998, and like payments on the 15th day of each month thereafter until full payments are made (Unless otherwise specified).



## Conditions of Community Supervision

Page 2

- m. If supervision is transferred to another jurisdiction, continue to report to Tarrant County in the manner prescribed by the Supervision Officer, and comply with the rules and regulations of the receiving jurisdiction. Pay fees to Tarrant County unless waived by the Court.
- n. ☒ Complete 320 hours of Community Service Restitution at the rate of no less than 10 hours per month as scheduled by the Supervision Officer or Court, to be completed at an agency approved by the District Judges of Tarrant County.
- o. ☒ Submit to urine testing for controlled substances and cannabinoids at the direction of the Supervision Officer and pay for urine testing as required.
- p. ☒ Complete education programs as directed by the Supervision Officer.
- q. ☐ Observe a curfew as directed by the Supervision Officer or the Court.
- r. ☐ Do not contact \_\_\_\_\_.
- s. ☒ Supplement(s) / Amendment(s) as attached. T. ☒ Submit your person, place of residence, or any vehicle under your control, to search, at any time, day or night, upon request of any peace officer, with or without a warrant.

You are advised that under the laws of this State, the Court has determined and imposed the above terms and conditions of your Community Supervision, and may at any time during the period of Community Supervision alter or modify them. The Court also has the authority, at any time during the period of Community Supervision, to Revoke your Community Supervision for any violation of the conditions of your Community Supervision set out above.

John H. Hill  
Judge / Magistrate

This day, a copy of the conditions of Community Supervision was handed to me by the Clerk of this Court.

Laurel Smith  
Witness: Supervision Officer

Charles Layman Jr  
Probationer

John Hill  
Witness: District Clerk



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THE STATE OF TEXAS

H

IN 23<sup>rd</sup> DISTRICT.

VS. NO. 0647447D

H

COURT NO. \_\_\_\_\_ OF

Charles Layman Cox

H

TARRANT COUNTY, TEXAS

**SUPPLEMENT / AMENDMENT TO CONDITIONS OF COMMUNITY SUPERVISION  
SEXUAL OFFENSES AGAINST CHILDREN**

1. Comply with sex offender registration procedures as required by the laws of this state and of any other state in which you reside; and pay any costs thereof as required by law.
2. Do not supervise or participate in any program that includes as participants or recipients persons who are 17 years of age or younger and that regularly provide athletic, civic, or cultural activities. Do not reside, go in, on, or within 500 ft. distance of a premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, or video arcade facility, unless permission is obtained from the supervision officer or court.
3. Submit to evaluation for sex offenders as directed by the supervision officer. Attend and participate fully in and successfully complete psychological counseling/treatment sessions (including aftercare) for sex offenders with an individual or organization which provides sex offender treatment or counseling as specified by or approved by the judge or the supervision officer. Assume responsibility for your offense. Pay all costs of evaluation/counseling/treatment. Treatment must be completed within three years of its initiation.
4. Submit to and pay all costs for a clinical polygraph and/or other diagnostic test or evaluation as directed by the supervision officer or court.
5. Do not accept or maintain employment which will bring you into direct contact with minor children unless approved by the supervision officer or court. can work construction at schools, but not allowed to come in contact with minor children.
6. Pay the costs of any medical, psychological or other evaluation/counseling/treatment incurred by \_\_\_\_\_ in the amount of \$ \_\_\_\_\_ at the rate of \$ \_\_\_\_\_ per month, beginning \_\_\_\_\_.
7. Do not contact \_\_\_\_\_ in any form including, but not limited to: writing; personal; phone; passing by his/her residence, school, areas of recreation, place of employment; or through third parties.
8. Have no contact with minor children unless a chaperone approved by the supervision officer or court is present.
9. Do not go on the premises of or patronize sexually oriented establishments. Do not purchase, own, or possess pornographic materials.
10. Do not reside in a household where any minor children live without permission of the supervision officer or court.
11. Abstain from the use of alcohol and submit to testing for alcohol.
12. Comply with a curfew as directed by the supervision officer or court.
13. Pay a sex offender fee of \$5.00 each month during the period of supervision. Submit a blood sample or other specimen to the Department of Public Safety 11:55 EG or a local agency approved by the Court, within 30 days of the date of By \_\_\_\_\_ Deputy probation. Pay any and all costs associated with the submission of blood or other specimens.
14. I, Charles Layman Cox, do hereby acknowledge receipt of these additional terms and conditions of my probated sentence and agree to participate fully in and comply with the conditions of this Supplement/Amendment to Conditions of Probation for Sexual Offenses Against Children.

**FILED**  
THOMAS A. WILDER, DIST. CLERK  
TARRANT COUNTY, TEXAS

APR 27 1998

Sally Smith  
Witness: Supervision Officer

Charles Layman Cox  
Probationer

Robert H. Hill  
Witness: District Clerk

Robert H. Hill  
Judge / Magistrate

\_\_\_\_\_

	the Order of the Prince
M-1186	Caplan, Isidor

**Thomas A. Wilder\***

CASE NO. 0647447D

THE STATE OF TEXAS

§

IN THE 213TH DISTRICT

VS.

§

COURT OF

CHARLES LAYMAN COX

§

TARRANT COUNTY, TEXAS

JUDGMENT ADJUDICATING GUILT

Judge Presiding	: HON. LOUIS E. STURNS	Date of Judgment	: OCTOBER 4, 2007
Attorney for State District Attorney	: TIM CURRY	Assistant District Attorney	: CHRISTY JACK
Attorney for Defendant	: MARK S. ROŠTEET		
<u>Offense Date</u>	<u>Convicted Offense</u>	<u>Degree</u>	
NOVEMBER 1, 1996	AGGRAVATED SEXUAL ASSAULT OF A CHILD UNDER 14 YEARS OF AGE	1ST	
Findings on Deadly Weapon	: NONE		
Plea to Enhancement Paragraph(s)	: NONE		
Plea to Habitual Paragraph(s)	: NONE		
Findings on Enhancement/Habitual Paragraph(s)	: NONE		
Date of Probation Order	: APRIL 27, 1998		
Paragraph Violated and Grounds for Revocation	PARAGRAPH ONE - DEFENDANT FAILED TO COMPLETE COUNSELING/TREATMENT FOR SEX OFFENDERS FOR THE MONTHS OF OCTOBER 1998 - OCTOBER 1999 PARAGRAPH TWO - DEFENDANT FAILED TO AVOID INJURIOUS OR VICIOUS HABITS IN THAT DEFENDANT USED ALCOHOL ON SEPTEMBER 14, 1999 PARAGRAPH THREE - DEFENDANT FAILED TO REPORT TO THE COMMUNITY SUPERVISION AND CORRECTIONS DEPARTMENT OF TARRANT COUNTY, TEXAS		
As set out in State's FIRST AMENDED Petition to Adjudicate Guilt			
Date Sentence Imposed	: OCTOBER 4, 2007	Date to Commence	: OCTOBER 4, 2007
Punishment	: COUNT ONE - SIXTY-FIVE(65) YEARS		
Place of Confinement	: INSTITUTIONAL DIVISION OF THE TEXAS DEPARTMENT OF CRIMINAL JUSTICE		
Time Credited	: 93 DAYS	Court Costs	: \$91.50
Reparation	: \$3,460.00	Restitution	: NONE

On this day, set forth above, this cause again came on for trial. The Court had previously received Defendant's plea of guilty or plea of nolo contendere, heard the evidence, found that it substantiated the Defendant's guilt, deferred further proceedings without entering an adjudication of guilt, and placed the Defendant on probation as shown above. Came the State of Texas, by its above-named attorney, and the above-named attorney for the Defendant, or, where a Defendant is not represented by counsel, that the Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel, and announced ready for hearing after the Defendant was arrested upon warrant of the Court for violation of the conditions of probation set by the Court, and the Defendant having been served a copy of the State's Petition to Adjudicate, or after motion for final adjudication filed by Defendant within 30 days after entering such plea and the deferment of prosecution as shown above. And the Court having heard evidence limited to whether the Court should proceed to an adjudication of guilt under the original charge and having determined that the Court should proceed to such determination of guilt, finds that the Defendant is guilty of the offense named above as set



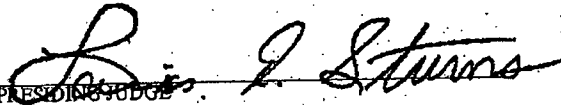
forth in the original charge and as confessed or noncontested by said Defendant.

IT IS THEREFORE CONSIDERED by the Court that the Defendant is adjudged to be guilty of the offense as found by the Court and set forth above and that Defendant committed the offense on the date charged as shown in the order of the Court deferring the adjudication of guilt in this cause.

IT IS THEREFORE CONSIDERED AND ORDERED by the Court, in the presence of said Defendant, that the said judgment be, and the same is hereby in all things approved and confirmed, and the Defendant, who has been adjudged guilty of the above-named offense, as charged above, and whose punishment has been assessed by the Court (a jury having been waived in accordance with law) in accordance with the terms set forth above, be delivered by the Sheriff to the Director of the Institutional Division of the Texas Department of Criminal Justice, or other person legally authorized to receive such convicts for the punishment assessed herein, and said Defendant shall be confined for the above named term in accordance with the provisions of law governing such punishments and execution may issue as necessary.

And, if shown above that Defendant has been duly and legally convicted of a prior offense by showing the court, cause number, and offense together with the punishment for such offense and date Defendant was sentenced for such offense in accordance with such conviction, then it is further ORDERED AND ADJUDGED that the punishment herein adjudged against the said Defendant shall begin when the judgment and sentence in such prior offense, when shown above, shall have ceased to operate.

And the said Defendant is remanded to jail until said Sheriff can obey the directions of this judgment.

  
PRESIDING JUDGE

Date Signed : OCTOBER 4, 2007

Notice of Appeal : OCTOBER 4, 2007

Mandate Received : MAR 13 2009

0647447D

## CRIMINAL DOCKET

8/10/07	Affidavit of Indigency Filed
	Election of Counsel Filed
	Mark Rostuit on 8/10/07 Appointed As Counsel
AUG 10 2007	PROBATION REVOCATION DOCKET
9-4-07	State's 1st Amended Motion for Continuance
10-4-07	State's 1st Amended Motion for Continuance
	petition to proceed to adjudication granted. Defendant found guilty per previous plea and sentenced to:
	7 days max yrs Tarrant County Jail
	7 days max yrs State Jail Div. Tex. Dept. of Criminal Justice
	10 yrs Institutional Division Texas Dept. of Criminal Justice
	trial court's Certification of Defendant's Right to Appeal filed.
	Affidavit of Indigency
	NOTICE OF APPEAL
	MOTION FOR FREE REPORTER'S RECORD AND AFFIDAVIT OF ABILITY TO PAY FOR COUNSEL AND REPORTER'S RECORD
	ORDER APPOINTING COUNSEL FOR THE APPEAL AND ORDER FOR COURT REPORTER TO PREPARE REPORTER'S RECORD
	<i>David J. Stevens</i> Presiding Judge, 215th District Court
OCT 9 2007	COPY OF JUDGEMENT NOTICE OF APPEAL TRIAL COURT'S CERTIFICATION AND ATTORNEY APPOINTMENT LETTER SENT TO STATE AND COURT OF APPEALS
10-10-07	<b>SCANNED</b>
DEC 3 2007	TRANSMITTED TO CA
5-30-08	Statement Under Oath; Copy to Coordinator
7-5-08	Panel Warrant Received
JUN 16 2008	Statement Hearing
JUN 16 2008	Under Adoption, Corroborative Court Reporter's Record as the Accurate Record of the Proceedings at Trial
JUN 18 2008	TRANSMITTED TO CA - 1st Supplemental Returns Defendant to IDTCAS
6-18-08	JUDGMENT AND OPINION FROM COURT OF APPEALS
SEP 29 2008	Letter from Court of Appeals filed
MAR 13 2009	MANDATE RECEIVED, FILED, AFFIRMED
MAR 13 2009	CERTIFIED COPY OF MANDATE MAILED TO IDTCAS

JUN 10 2014

C-213-009413-0647447-A

TIME 8:48  
BY SR DEPUTY

EX PARTE

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IN THE 213<sup>th</sup> JUDICIAL

DISTRICT COURT OF

CHARLES LAYMON COX  
AKA CHARLES LAYMAN COX

TARRANT COUNTY, TEXAS

**ORDER**

The Court adopts the State's proposed Memorandum, Findings of Fact and Conclusions of Law as its own with the following modification:


1. Conclusion of Law number "14" is modified to read as follows:  
"Applicant has failed to prove the State presented false testimony." See Memorandum, p. 10."

Accordingly, this Court **RECOMMENDS** that the relief Applicant requests be **DENIED**. The Court further orders and directs:

The **Clerk of this Court** to file these findings and transmit them along with the Writ Transcript to the Clerk of the Court of Criminal Appeals as required by law.

The **Clerk of this Court** to furnish a copy of the Court's findings to Applicant; at his most recent address, and to the appellate section of the Tarrant County Criminal District Attorney's Office.

SIGNED AND ENTERED this 9<sup>th</sup> day of June, 2014.

  
JUDGE PRESIDING  
213th DISTRICT COURT  
TARRANT COUNTY, TEXAS

18

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

CHARLES LAYMON COX,  
a.k.a. CHARLES LAYMAN COX,  
Petitioner,

v.

LORIE DAVIS, Director,  
Texas Department of Criminal Justice,  
Correctional Institutions Division,  
Respondent.

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Civil Action No. 4:16-CV-767-O

**OPINION AND ORDER**

Before the Court is a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 filed by Petitioner, Charles Laymon Cox, a.k.a. Charles Layman Cox, a state prisoner confined in the Correctional Institutions Division of the Texas Department of Criminal Justice (TDCJ), against Lorie Davis, director of TDCJ, Respondent. After considering the pleadings and relief sought by Petitioner, the Court has concluded that the petition should be dismissed as time-barred.

**I. BACKGROUND**

In March 1997, in the 213th Judicial District Court, Tarrant County, Texas, Case No. 0647447D, Petitioner was indicted on two counts of aggravated sexual assault of a child and one count of indecency with a child. SHR03 243, ECF No. 21-19.<sup>1</sup> On April 27, 1998, pursuant to a plea agreement, Petitioner pleaded guilty or nolo contendere to one count of aggravated sexual assault of a child and the trial court deferred a finding of guilt and placed Petitioner on seven years' deferred adjudication community supervision. *Id.* at 244-48. Petitioner did not appeal the judgment of deferred adjudication. On October 4, 2007, after a hearing, the trial court adjudicated Petitioner's

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<sup>1</sup>"SHR03" refers to the record of Petitioner's state habeas proceeding in WR-78,951-03.



guilt based on various violations of his community supervision and assessed his punishment at 65 years' confinement in TDCJ. *Id.* at 259. Petitioner appealed the judgment adjudicating guilt, but the Second District Court of Appeals of Texas affirmed the judgment and, on February 4, 2009, the Texas Court of Criminal Appeals refused Petitioner's petition for discretionary review. Docket Sheet 1, ECF No. 20-2. Petitioner did not seek writ of certiorari. Pet. 3, ECF No. 1. Petitioner also filed a state habeas-corpus application challenging the judgment adjudicating guilt on April 17, 2011, which was denied by the Texas Court of Criminal Appeals on September 17, 2014, without written order on the findings of the trial court.<sup>2</sup> SHR03 15 & Action Taken, ECF Nos. 21-18 & 21-5. This federal habeas petition was filed on August 11, 2016.<sup>3</sup> Pet. 6, ECF No. 1. Petitioner seeks release and monetary damages.<sup>4</sup> *Id.* at 7.

In two grounds, Petitioner argues that (1) the trial court lacked jurisdiction to enter judgment in both the original plea proceeding and in the proceeding adjudicating guilt, and (2) he was denied due process during the proceeding adjudicating guilt. *Id.* at 6; Pet'r's Mem. 4-8, 12-16, ECF No. 2; Pet'r's Traverse 5, ECF No. 22. Respondent contends the petition is untimely under the federal one-year statute of limitations in 28 U.S.C. § 2244(d)(1). Resp't's Preliminary Resp. 5-10, ECF No. 19.

## II. LEGAL DISCUSSION

The Antiterrorism and Effective Death Penalty Act of 1996 (the AEDPA), imposes a one-

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<sup>2</sup>A habeas petitioner's state habeas application is deemed filed when placed in the prison mailing system. *Richards v. Thaler*, 710 F.3d 573, 578-79 (5th Cir. 2013). Although the application does not state the date Petitioner placed the document in TDCJ's mailing system, the "Inmate's Declaration" was signed on August 17, 2011. For purposes of this opinion, the application is deemed filed on that date.

<sup>3</sup>A prisoner's pro se federal habeas petition is also deemed filed when placed in the prison mailing system. *Spotville v. Cain*, 149 F.3d 374, 377 (5th Cir. 1998). Petitioner asserts that he placed his petition in TDCJ's mailing system on August 11, 2016. Pet. 10, ECF No. 1. As such, the petition is deemed filed on that date.

<sup>4</sup>To the extent Petitioner alleges civil rights violation and/or seeks monetary damages, such claims are properly raised in a complaint under 42 U.S.C. § 1983.

*Johnson*, 227 F.3d 260, 263 (5th Cir. 2000). Thus, the petition as to any such claim is time-barred unless equitable tolling is justified.

To the extent petitioner's challenges the trial court's jurisdiction and the procedures relevant to the adjudication proceedings, the one-year limitations period began to run on the date the judgment adjudicating guilt became final upon expiration of the time that Petitioner had for filing a petition for writ of certiorari in the United States Supreme Court on May 5, 2009, and expired one year later on May 5, 2010, absent any tolling. See *Jimenez v. Quarterman*, 555 U.S. 113, 129 (2009); SUP. CT. R. 13.1. Petitioner's postconviction state habeas application, filed on August 17, 2011, after the limitations period had already expired, did not operate to toll the limitations period for purposes of § 2244(d)(2). *Scott*, 227 F.3d at 263. Thus, the petition as to any such claims is time-barred unless equitable tolling is justified.

Equitable tolling is permitted only in rare and exceptional circumstances when, although pursuing his rights diligently, an extraordinary factor beyond the petitioner's control prevents him from filing in a timely manner or he can prove that he is actually innocent of the crime(s) for which he was convicted. *McQuiggin v. Perkins*, 569 U.S. 383, 386 (2013); *Holland v. Florida*, 560 U.S. 631, 649 (2010). First, Petitioner asserts that the statute of limitations is not applicable in this case because "[j]urisdiction may always be collaterally attacked." Pet'r's Traverse 5, ECF No. 22. However, this rule has no application to federal habeas proceedings challenging a state criminal conviction. Although a petitioner's claim that a judgment is void for lack of jurisdiction may provide a basis for habeas relief if proven, it provides no basis for statutorily or equitably tolling the AEDPA limitations period under either existing case law or provisions of the federal statute itself. See *Dodd v. United States*, 545 U.S. 353, 357 (2005) (when text unequivocally identifies date from which

one-year limitation period is measured, it must be presumed that statute means what it says); *Mayle v. Felix*, 545 U.S. 644, 654 (2005) (discrete set of rules apply to federal habeas actions launched by state prisoners and Federal Rules of Civil Procedure apply to the extent they are not inconsistent with any statutory provisions or the habeas rules); *United States v. Scruggs*, 691 F.3d 660, 666 (5th Cir. 2012) (jurisdictional claims are subject to the one-year limitations period in § 2255 cases); *Chelf v. Thaler*, No. 4:12-CV-433-A, 2012 WL 6719467, at \*2 (N.D.Tex. Dec. 27, 2012) (jurisdictional claims are subject to the one-year limitations period in § 2254 cases).

Second, Petitioner attributes his delay to his pro se status, unfamiliarity with the law, and limited access to the prison's law library. Pet. 9, ECF No. 1; Pet'r's Mem. 4, ECF No. 22; Pet'r's Traverse 7, ECF No. 22. However, these are common problems for inmates seeking postconviction habeas relief. *Felder v. Johnson*, 204 F.3d 168, 171 (5th Cir. 2000); *Turner v. Johnson*, 177 F.3d 390, 391-92 (5th Cir. 1999); *Madis v. Edwards*, 347 Fed. App'x 106, 2009 WL 3150322, at \*2 (5th Cir. Oct. 1, 2009). Petitioner also attributes his delay to the Texas Court of Criminal Appeals's failure to notify him of its ruling on his state habeas application, which he learned of on April 25, 2016. Pet'r's Traverse 4, ECF No. 22. However, the delay is irrelevant in this case as Petitioner's state habeas application was filed after limitations had already expired. Petitioner fails to establish that an extraordinary factor beyond his control prevented him from filing a timely federal petition or to assert and present a credible claim of actual innocence. Therefore, equitable tolling is not justified.

Accordingly, Petitioner's federal petition as it relates to the judgment deferring adjudication was due on or before May 27, 1999; thus, his petition filed on August 11, 2016, is untimely. Petitioner's federal petition as it relates to the judgment adjudicating guilt was due on or before May

5, 2010; thus, his petition filed on August 11, 2016, is untimely.

### III. CONCLUSION

For the reasons discussed herein, the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 is DISMISSED as time-barred. Further, for the reasons discussed herein, a certificate of appealability is DENIED.

**SO ORDERED** on this 8th day of June, 2018.

  
Reed O'Connor  
UNITED STATES DISTRICT JUDGE

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

CHARLES LAYMON COX,  
a.k.a. CHARLES LAYMAN COX,  
Petitioner,

v.

LORIE DAVIS, Director,  
Texas Department of Criminal Justice,  
Correctional Institutions Division,  
Respondent.

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Civil Action No. 4:16-CV-767-O

**ORDER**

Petitioner has appealed the Court's denial of his petition for a writ of habeas corpus under 28 U.S.C. § 2254 and now seeks permission to proceed on appeal *in forma pauperis*. Appl., ECF No. 37. Because Petitioner paid the \$5.00 filing fee to initiate this habeas-corpus action, he may not proceed *in forma pauperis* on appeal without authorization. FED. R. APP. P. 24(a). After review and consideration of Petitioner's application along with the supporting documentation, the Court concludes that the application should be GRANTED.

**SO ORDERED** on this 27th day of July, 2018.

  
Reed O'Connor  
UNITED STATES DISTRICT JUDGE

**IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

\_\_\_\_\_  
No. 18-10871  
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A True Copy  
Certified order issued Feb 04, 2019

*Steph W. Cuyca*  
Clerk, U.S. Court of Appeals, Fifth Circuit

CHARLES LAYMON COX,

Petitioner-Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL  
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent-Appellee

\_\_\_\_\_  
Appeal from the United States District Court  
for the Northern District of Texas  
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**O R D E R:**

Charles Laymon Cox, Texas prisoner # 1463721, filed a 28 U.S.C. § 2254 petition, challenging a 1998 judgment in which the trial court deferred a finding of guilt and placed him on seven years of deferred adjudication community supervision for aggravated assault of a child under 14 years of age, as well as a 2007 judgment adjudicating him guilty of that offense and sentencing him to 65 years of imprisonment. Cox moves for a certificate of appealability (COA) to appeal the district court's dismissal of his § 2254 petition as untimely. If his brief is liberally construed, Cox argues that (1) his conviction is not final because he was denied the right to appeal; (2) the one-year limitations period in 28 U.S.C. § 2244(d) should be equitably tolled

because the judgments are void as the state court lacked subject matter jurisdiction.

For the first time in his COA motion, Cox argues that the limitations period should be equitably tolled pursuant to *Trevino v. Thaler*, 569 U.S. 413 (2013). This court will not consider issues raised for the first time in a COA motion. *Butler v. Cain*, 533 F.3d 314, 320 (5th Cir. 2008).

To obtain a COA, Cox must make a substantial showing of the denial of a constitutional right. See 28 U.S.C. § 2253(c)(2); *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). When the district court's denial of relief is based on procedural grounds, as here, "a COA should issue when the prisoner shows, at least, 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 v. McDaniel*, 529 U.S. 473, 484 (2000). Cox has not made the required showing. Accordingly, Cox's COA motion is DENIED. Cox's motion for leave to file a supplement to correct his brief is GRANTED.

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/s/Edith H. Jones  
EDITH H. JONES  
UNITED STATES CIRCUIT JUDGE

IN THE UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT

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No. 18-10871

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CHARLES LAYMON COX,

Petitioner - Appellant

v.

LORIE DAVIS, DIRECTOR, TEXAS DEPARTMENT OF CRIMINAL  
JUSTICE, CORRECTIONAL INSTITUTIONS DIVISION,

Respondent - Appellee

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Appeal from the United States District Court  
for the Northern District of Texas

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Before JONES, ELROD, and HIGGINSON, Circuit Judges.

PER CURIAM:

A member of this panel previously denied Appellant's motion for a Certificate of Appealability. The panel has considered Appellant's motion for reconsideration. IT IS ORDERED that the motion is DENIED.



**Additional material  
from this filing is  
available in the  
Clerk's Office.**