

VII Appendix

Appendix A

Texas Penal Code § 6.03(a) “A person acts intentionally, or with intent, with respect to the nature of his conduct or to a result of his conduct when it is his conscious objective or desire to engage in the conduct or cause the result.

Appendix B

Texas Penal Code §6.03(b) A person acts knowingly, or with knowledge, with respect to the nature of his conduct or to circumstances surrounding his conduct when he is aware of the nature of his conduct or that the circumstances exist. A person acts knowingly, or with knowledge, with respect to a result of his conduct when he is aware that his conduct is reasonably certain to cause the result.

Appendix C.

Texas Penal Code §8.01 A person acts recklessly, or is reckless, with respect to circumstances surrounding his conduct or the result of his conduct when he is aware of but consciously disregards a substantial and unjustifiable risk that the circumstances exist or the result will occur. The risk must be of such a nature and degree that its disregard constitutes a gross deviation from the standard of care that an ordinary person would exercise under all the circumstances as viewed from the actor's standpoint.

Appendix D.

Texas Health and Safety Code 841.002 (2) "Behavioral abnormality" means a congenital or acquired condition that, by affecting a person's emotional or volitional capacity, predisposes the person to commit a sexually violent offense, to the extent that the person becomes a menace to the health and safety of another person.

Appendix E.

State v Welsh caus. B10 Findings of Facts and Conclusions of Law

FILED 2-5-20
2087 M
CLERK'S PLANT
KERR COUNTY, TEXAS
J. H. [Signature]
No. B10-02
THE STATE OF TEXAS § IN THE DISTRICT COURT
v. § 198th JUDICIAL DISTRICT
LONNIE KADE WELSH § KERR COUNTY, TEXAS

Findings of Fact & Conclusions of Law

On this day, came on to be considered the amended application for post-conviction writ of *habeas corpus* of Applicant, Lonnie Kade Welsh, in which he alleges:

1. his sentence was improperly enhanced to a first degree felony;
2. his guilty plea was coerced by an investigator for the District Attorney's office;
3. the Court improperly admonished him;
4. there is new exculpatory evidence provided by the State demonstrating that Applicant lacked the necessary *mens rea*;
5. there is new exculpatory evidence demonstrating that Applicant was insane at the time of the commission of the offense in this case.

Having reviewed the Court's file, including the *habeas corpus* application, Applicant's verification and unsworn declaration, as well as the affidavits of retired District Attorney, Amos Barton, and Todd Burdick, an investigator in the District Attorney's office, all of whom the Court finds to be a credible witnesses, the Court enters the following findings of fact & conclusions of law.

Findings of Fact

1. Applicant's sentence was not improperly enhanced to a first degree felony;
2. Applicant's guilty plea was not coerced;
3. Applicant was properly admonished by the Court;
4. Applicant has not demonstrated that he lacked the *mens rea* necessary to commit the crime of which he was convicted;

DA - Bar 2/5/95
Def - mail 2/5/95

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5. Applicant's new evidence demonstrates nothing more than he may have been unable to conform his behavior to that required by law, and does not demonstrate that he did not know right from wrong.

Conclusions of Law

1. Applicant's plea was voluntary;
2. The punishment assessed in this case is within the proper punishment range;
3. Applicant was not insane at the time of the commission of the offense in this case.

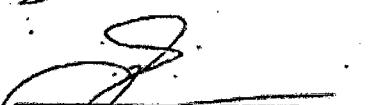
Recommendation

It is recommended that the Court of Criminal Appeals adopt these findings and conclusions as its own, and deny Applicant the relief he has requested.

Order

The Clerk of the Court is hereby Ordered to immediately transfer to the Court of Criminal Appeals a true and correct copy of the record in this matter occurring since the filing of Applicant's original *habeas corpus* application on October 21, 2019.

SIGNED this day of February, 2020.



Hon. M. Rex Emerson
Presiding Judge
198th District Court

Appendix F.

State v Welsh cause No. 2010CR12730 Finding of Facts and Conclusions of Law

NO. 2010CR12730-WI

EX PARTE	§	IN THE DISTRICT COURT
	§	187th JUDICIAL DISTRICT
LONNIE WELSH	§	BEXAR COUNTY, TEXAS

ORDER

Applicant, Lonnie Welsh has filed a *pro se* application for post-conviction writ of habeas corpus pursuant Article 11.07 of the Texas Code of Criminal Procedure, collaterally attacking his conviction in cause number 2010CR12730.

HISTORY OF THE CASE

On or about October 25, 2013, Applicant plead guilty to the offense of sexual assault of a child was sentenced to four (4) years in the Texas Department of Criminal Justice - Institutional Division. Applicant filed this first writ application on December 30, 2019, and a copy of this application was received by the District Attorney's office on January 3, 2020.

ALLEGATIONS OF APPLICANT

1. In Ground One, Applicant alleges he is actually innocent. Applicant claims his civil commitment on October 14, 2015, as a sexual predator, negates the mens rea of this offense. Applicant specifically alleges that evidence of his behavior abnormality due to an emotional or volitional control disorder is exculpatory evidence that proves that he could not have formed the necessary mens rea for the offense. He additionally suffers the collateral consequence of lifetime sex offender registration.
2. In Ground Two, Applicant alleges he was insane at the time of the offense based upon new exculpatory evidence.

Appendix G.

In re Commitment of Lonnie Kade Welsh cause No.15-06-0659 Jury Charge

RECEIVED AND FILED
FOR RECORD
AT 4:50 P.M.
OCT 14 2015
NO. 15-01-00659-CV
IN RE: THE COMMITMENT OF § IN THE DISTRICT COURT OF MONTGOMERY COUNTY, TEXAS
§ MONTGOMERY COUNTY, TEXAS
LONNIE KADE WELSH § 436th JUDICIAL DISTRICT
JURY CHARGE

LADIES AND GENTLEMEN OF THE JURY

After closing arguments, you will go to the jury room to decide the case, answer the question that is attached and reach a verdict. You may discuss the case with other jurors only when you are all together in the jury room.

Remember my previous instructions. Do not discuss the case with anyone else either in person or by any other means. Do not do any independent investigation about the case or conduct any research. Do not look up any words in dictionaries or on the Internet. Do not post information about the case on the Internet. Do not share any special knowledge or experiences with the other jurors. Do not use your phone or any other electronic device during your deliberations for any reason.

Any notes you have taken are for your own personal use. You may take your notes back into the jury room and consult them during deliberations, but do not show or read your notes to your fellow jurors during your deliberations. Your notes are not evidence. Each of you should rely on your independent recollection of the evidence and not be influenced by the fact that another juror has or has not taken notes.

You must leave your notes with the bailiff when you are not deliberating. The bailiff will give your notes to me promptly after collecting them from you. I will make sure your notes are kept in a safe, secure location and not disclosed to anyone. After you complete your deliberations, the bailiff will collect your notes. When you are released from jury duty, the bailiff will promptly destroy your notes so that nobody can read what you wrote.

Here are the instructions for answering the question:

1. Do not let bias, prejudice, or sympathy play any part in your decision.
2. Base your answer only on the evidence admitted in court and on the law that is in these instructions and the question. Do not consider or discuss any evidence that was not admitted in the courtroom.
3. You are to make up your own minds about the facts. You are the sole judges of the credibility of the witnesses and the weight to give their testimony. But on matters of law, you must follow all of my instructions.

Jury Charge - IN RE: THE COMMITMENT OF LONNIE KADE WELSH
Page 1 of 5

SCANNED

Hearsay is a statement, other than one made by the declarant while testifying at the trial or hearing, offered to prove the truth of the matter asserted. Certain hearsay information contained in records reviewed by the experts was admitted before you through expert testimony. Such hearsay was admitted only for the purpose of showing the basis of the experts' opinion and cannot be considered as evidence to prove the truth of the matter asserted.

DEFINITIONS

"SEXUALLY VIOLENT PREDATOR":

(a) A person is a sexually violent predator for the purposes of Chapter 841 of the Texas Health and Safety Code if the person:

- (1) is a repeat sexually violent offender; and
- (2) suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence.

(b) A person is a repeat sexually violent offender for the purposes of Chapter 841 of the Texas Health and Safety Code if the person is convicted of more than one sexually violent offense and a sentence is imposed for at least one of the offenses.

"BEHAVIORAL ABNORMALITY" means a congenital or acquired condition that, by affecting a person's emotional or volitional capacity, predisposes the person to commit a sexually violent offense, to the extent that the person becomes a menace to the health and safety of another person.

"PREDATORY ACT" means an act directed toward individuals, including family members, for the primary purpose of victimization.

DIRECTED VERDICT GRANTED BY THE COURT

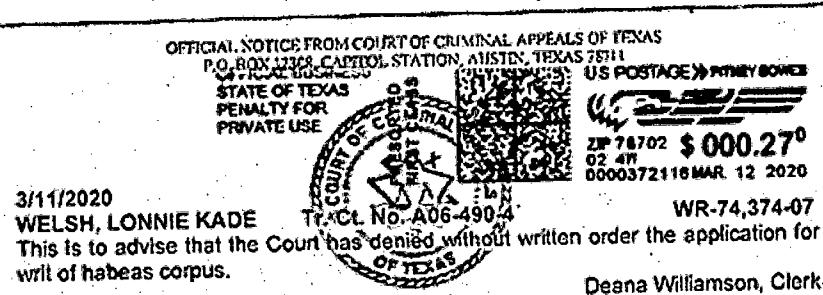
The Court has granted a directed verdict that LONNIE KADE WELSH has been convicted of more than one sexually violent offense and a sentence was imposed for at least one of the offenses. Therefore, he "is a repeat sexually violent offender" under (a)(1) and (b) above.

Instructions for Answering the Question:

You will be asked to answer one question in this case. The question is attached to this jury charge as the last page.

Appendix H.

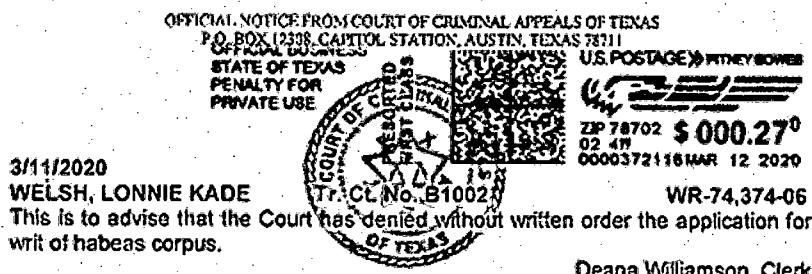
Texas Court of Criminal Appeals Final decision



LONNIE KADE WELSH
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RECEIVED MAR 16 2020

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