

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 pe

Appendix B.

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

FILED 2-5-20 9:08 AM CLERK OF DISTRICT COURT 196th JUDICIAL DISTRICT KERR COUNTY, TEXAS		No. B10-02	THE STATE OF TEXAS v. LONNIE KADE WELSH
IN THE DISTRICT COURT		§ § § § §	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 now exculpatory evidence provided by the State demonstrating that Applicant lacked the necessary *mens rea*;
5. there is now 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, Arnon 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;

Def. Ex
04-101-2

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.

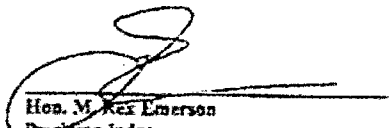
Recommendation

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 1 day of Feb, 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-W1

EX PARTE	§	IN THE DISTRICT COURT
	§	182th 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 pled 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

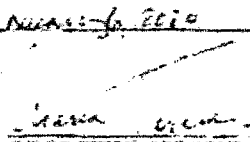
1. In Ground One, Applicant alleges he is actually innocent. Applicant claims his civil commitment on October 14, 2015, as a sexual predator, negates the mens rea of this offense. Applicant specifically alleges that evidence of his behavior abnormality due to an emotional or volitional control disorder 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.

ORDER

The District Clerk of Bexar County, Texas, is hereby ordered to prepare a copy of this document, together with any attachments and forward the same to the following persons by mail or the most practical means:

- a. The Court of Criminal Appeals
Austin, Texas 78711
- b. Joe Gonzales
Criminal District Attorney
Conviction Integrity Unit
101 W. Nueva St.
Bexar County, Texas 78205
- c. Lonnie Welsh
Texas Civil Commitment Center
2600 S. Sunset Ave.
Littlefield, Texas 79329

SIGNED, ORDERED and DECREED on


JUDGE STEPHANIE BOYD
187th Judicial District Court
Bexar County, Texas

Appendix G.

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

RECEIVED AND FILED
FOR RECORD
11:51 O'Clock P.M.

OCT 14 2015

NO. 15-01-00559-CV

BARBARA GLADEN ADAMSON
J.A. County Clerk
MONTGOMERY COUNTY, TEXAS
CLERK OF DISTRICT COURT

IN RE: THE COMMITMENT OF

§

IN THE DISTRICT COURT

§

MONTGOMERY COUNTY, TEXAS

LONNIE KADE WELSH

§

435TH 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

No. _____

In The Supreme Court of the United States

Lonnie Kade Welsh

Vs.

The State of Texas

Certificate of Service


I Lonnie Kade Welsh do hereby declare under penalty of perjury that a true and correct copy has been served on the State of Texas by placing the same with the United States Postal Service postage pre-paid on 22nd of June 2020 to:

Ken Paxton

Attorney General of Texas

Attorney for the Respondent

P.O. Box

Respectfully Submitted, 

Lonnie Kade Welsh #6516607

22600 South Sunset Blvd.

Littlefield, TX 7933