

App. 1

FILE COPY

OFFICIAL NOTICE FROM  
COURT OF CRIMINAL APPEALS OF TEXAS  
P.O. BOX 12308, CAPITOL STATION,  
AUSTIN, TEXAS 78711

[SEAL]

**9/7/2022**

**Tr. Ct. No. 17477-A**  
**RIDDLE, SAMMY JAY**                           **WR-91,158-01**

This is to advise that the Court has denied without written order the application for writ of habeas corpus on the findings of the trial court without a hearing and on the Court's independent review of the record.

Deana Williamson, Clerk

JOSH BARRETT SCHAFFER  
JOSH SCHAFFER, PLLC  
1021 MAIN ST., SUITE 1440  
HOUSTON, TX 77002  
\* DELIVERED VIA E-MAIL \*

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**Cause No. 17477-A**

**EX PARTE** § **IN THE DISTRICT**  
§ **COURT OF**  
§ **CHAMBERS COUNTY,**  
§ **TEXAS**  
**SAMMY JAY RIDDLE** § **253rd JUDICIAL**  
§ **DISTRICT**

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Having considered the Petition for Writ of Habeas Corpus, the Affidavit filed by counsel for the State, and the Courts file in the above captioned cause the Court makes the following Findings of Fact and Conclusions of Law:

1. Applicant was indicted in Cause No. 17477 for the offense of Aggravated Sexual Assault of a Child.
2. Applicant was represented at trial by Robert Turner.
3. On February 26, 2016, after entering a plea of guilty, Applicant was placed on deferred adjudication for a period of 10 years.
4. On July 21, 2016, the Court found the allegations in the State's Motion to Revoke Defendant's Unadjudicated Probation to be true.
5. On August 22, 2016 the Court adjudicated Appellant guilty and sentenced Appellant to

### App. 3

54 years in the Institutional Division of the Texas Department of Criminal Justice.

6. Counsel for the State Kathy Esquivel filed an affidavit addressing the matters raised by Appellant.
7. Said Affidavit by counsel and supporting matters are attached and are incorporated herein for all purposes.
8. Applicant received effective assistance of counsel.
9. Applicant fails to raise any new evidence.
10. Applicant fails to state sufficient specific facts to support his grounds for relief.

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**Cause No. 17477-A**

**EX PARTE** § **IN THE DISTRICT**  
§ **COURT OF**  
§ **CHAMBERS COUNTY,**  
§ **TEXAS**  
**SAMMY JAY RIDDLE** § **253rd JUDICIAL**  
§ **DISTRICT**

## **CONCLUSIONS OF LAW**

1. There are no material, previously unresolved issues of fact which are material to the legality of Applicant's conviction and sentence and there being ample evidence in the record for the Court to rule on the relief sought.

## **RECOMMENDATION**

It is the recommendation of this Court that the relief requested by Applicant be DENIED.

SIGNED ON THIS THE 12th DAY OF July, 2022.

/s/ Chap B. Cain, III  
**Judge Presiding**  
**253rd District Court**  
**Chambers County, Texas**

**Cause No. 17477-A**

**EX PARTE**                   **§ IN THE DISTRICT**  
                                 **§ COURT OF**  
                                 **§ CHAMBERS COUNTY,**  
                                 **§ TEXAS**

**SAMMY JAY RIDDLE**   **§ 253rd JUDICIAL**  
                                 **§ DISTRICT**

**ORDER**

The Court having considered the record in the above styled cause and the answers and affidavits filed specifically adopts the State's Finding of Fact and Conclusions of Law.

IT IS SO ORDERED.

SIGNED ON THIS THE 12th DAY OF July, 2022.

/s/ Chap B. Cain, III  
**Judge Presiding**  
**253rd District Court**  
**Chambers County, Texas**

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App. 6

## FILE COPY

OFFICIAL NOTICE FROM  
COURT OF CRIMINAL APPEALS OF TEXAS  
P.O. BOX 12308, CAPITOL STATION,  
AUSTIN, TEXAS 78711

[SEAL]

9/26/2022

Tr. Ct. No. 17477-A  
RIDDLE, SAMMY JAY WR-91,158-01

This is to advise that the applicant's suggestion for reconsideration has been denied without written order.

Deana Williamson, Clerk

JOSH BARRETT SCHAFFER  
JOSH SCHAFFER, PLLC  
1021 MAIN ST., SUITE 1440  
HOUSTON, TX 77002  
\* DELIVERED VIA E-MAIL \*

App. 7

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OFFICIAL NOTICE FROM  
COURT OF CRIMINAL APPEALS OF TEXAS  
P.O. BOX 12308, CAPITOL STATION,  
AUSTIN, TEXAS 78711

[SEAL]

**12/5/2018**                   **COA No. 01-16-00657-CR**  
**Tr. Ct. No. 17477**  
**RIDDLE, SAMMY JAY**                   **PD-1007-18**

On this day, the Appellant's petition for discretionary review has been refused.

Deana Williamson, Clerk

JOSH BARRETT SCHAFFER  
JOSH SCHAFFER, PLLC  
1021 MAIN ST., SUITE 1440  
HOUSTON, TX 77002  
\* DELIVERED VIA E-MAIL \*

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**Opinion issued August 23, 2018**

[SEAL]

**In The  
Court of Appeals  
For The  
First District of Texas**

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**NO. 01-16-00657-CR**

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**SAMMY JAY RIDDLE, Appellant**  
**V.**  
**THE STATE OF TEXAS, Appellee**

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**On Appeal from the 253rd District Court  
Chambers County, Texas  
Trial Court Case No. 17477**

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**MEMORANDUM OPINION**

Appellant Sammy Jay Riddle pleaded guilty to the offense of aggravated sexual assault of a child and was placed on deferred-adjudication community supervision. After Riddle violated the conditions of his community supervision, the trial court adjudicated his guilt and sentenced him to 54 years in prison.

## App. 9

On direct appeal, Riddle claims that his guilty plea resulted from ineffective assistance of counsel.

Under established precedents, Riddle is not permitted to raise errors on direct appeal from the adjudication of his guilt relating to the proceedings that preceded his guilty plea and placement on deferred-adjudication community supervision. Accordingly, we affirm the judgment of the trial court.

### **Background**

Appellant Sammy Jay Riddle was indicted for the offenses of aggravated sexual assault of a child. *See* TEX. PENAL CODE § 22.021. Almost two years later, he was indicted for the offense of continuous sexual abuse of a young child. *See id.* § 21.02. The second case was set for trial, but after a jury was selected, Riddle and the State reached a plea agreement. As part of the agreement, Riddle pleaded guilty to the charge of aggravated sexual assault of a child. In exchange, the State recommended a deferred adjudication on that charge and a dismissal of the remaining charge of continuous sexual abuse of a young child. The court accepted Riddle's guilty plea, and it found that the evidence supported a guilty finding. It deferred adjudication and placed Riddle on community supervision for ten years.

The State subsequently filed a motion to revoke community supervision. After a hearing, the court determined that Riddle had committed twenty violations of the conditions of his community supervision. Riddle

## App. 10

then was adjudicated guilty and sentenced to 54 years in prison for the offense of aggravated sexual assault of a child.

After appointment of appellate counsel, Riddle filed a motion for a new trial, alleging ineffective assistance of counsel relating to the circumstances of his plea bargain. He claimed that his guilty plea was neither knowing nor voluntary because his trial counsel never informed him of a misdemeanor plea-bargain offer made by the State. Riddle contended that had he been aware of the offer, he would have accepted it, and thus his guilty plea was the result of ineffective assistance of trial counsel.

Riddle attached to his motion for new trial the affidavit of his trial counsel, Robert G. Turner. Turner stated that, in September 2015, before Riddle was indicted for the offenses of continuous sexual abuse of a child, the State called him and suggested a resolution of the case that would involve a misdemeanor plea. Additional details were not discussed or finalized during the call. Turner further stated that, at the time, he was waiting to receive information from a private investigator who was working on the case. Riddle was indicted for the offense of continuous sexual assault of a child approximately one month after the State's call to Turner. The affidavit stated that Turner had first informed Riddle of the potential misdemeanor plea agreement after the second indictment, at which point the offer had been withdrawn.

## App. 11

The trial court did not grant a requested hearing on the motion for new trial, which was denied by operation of law. Riddle appeals.

### **Analysis**

Riddle contends that he received ineffective assistance from his trial counsel in three respects: failure to timely advise him of the misdemeanor-plea offer; failure to withdraw after a conflict of interest developed because of counsel's failure to communicate the misdemeanor-plea offer; and failure to raise the issue of the misdemeanor-plea offer in subsequent proceedings. Riddle claims that his guilty plea was neither knowing nor voluntary and that his plea and placement on deferred-adjudication community supervision resulted from ineffective assistance of counsel. He also argues that the trial court erred by denying him a hearing on his motion for new trial and by not granting him a new trial.

A defendant who is placed on deferred-adjudication community supervision may raise issues of error in the original plea proceeding only through a timely appeal after community supervision is first imposed. *Manuel v. State*, 994 S.W.2d 658, 661–62 (Tex. Crim. App. 1999). This includes issues relating to both the voluntariness of the guilty plea and claims of ineffective assistance of counsel. *Gavin v. State*, 404 S.W.3d 597, 605 (Tex. App.—Houston [1st Dist.] 2010, no pet.); *Guillory v. State*, 99 S.W.3d 735, 738 (Tex. App.—Houston [1st Dist.] 2003, pet. ref'd).

## App. 12

Riddle could have appealed from the order placing him on deferred adjudication community supervision when the order was initially imposed. *See* TEX. CODE CRIM. PROC. art. 44.01(j); *Manuel*, 994 S.W.2d at 661. The State filed its motion to revoke community supervision three months after Riddle's plea, and it was not until after he was adjudicated guilty and sentenced to prison that he raised the claim that his guilty plea resulted from ineffective assistance of counsel. But under the law applicable to this appeal, a defendant who pleads guilty to a felony, is placed on deferred adjudication community supervision, and is later adjudicated guilty may not complain on appeal of error in the original plea proceeding. *See* *Manuel*, 994 S.W.2d at 661-62; *Gavin*, 404 S.W.3d at 605; *Guillory*, 99 S.W.3d at 738. The application of this rule is dispositive of Riddle's claims on appeal, all of which relate to allegations of ineffective assistance resulting in the guilty plea.

### **Conclusion**

We affirm the judgment of the trial court.

Michael Massengale  
Justice

Panel consists of Justices Jennings, Massengale, and Caughey.

Do not publish. TEX. R. APP. P. 47.2(b).

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[SEAL] **CASE No. 17477** COUNT  
INCIDENT No./TRN: 9064102341 A001

**THE STATE OF TEXAS** § **IN THE 253RD DISTRICT**  
v. § **COURT**  
**SAMMY JAY RIDDLE** § **CHAMBERS COUNTY,**  
STATE ID No.: TX07499005 § **TEXAS**

## JUDGMENT ADJUDICATING GUILT

Judge Presiding:	<b>HON. CHAP B. CAIN, III</b>	Date Judgment Entered:	<b>8/22/2016</b>
Attorney for State:	<b>KATHY ESQUIVEL</b>	Attorney for Defendant:	<b>ROBERT G. TURNER</b>
<u>Date of Original Community Supervision Order:</u>		<u>Statute for Offense:</u>	
<b>2/23/2016</b>		<b>22.021</b>	
<u>Offense for which Defendant Convicted:</u>			
<b>AGGRAVATED SEXUAL ASSAULT OF CHILD</b>			
<u>Date of Offense:</u>			
<b>6/13/2005</b>			
<u>Degree:</u>	<u>Plea to Motion</u>	<u>Findings on</u>	
<b>1ST DEGREE</b>	<u>to Adjudicate:</u>	<u>Deadly Weapon:</u>	
<b>FELONY</b>	<b>NOT TRUE</b>	<b>N/A</b>	
<u>Terms of Plea Bargain:</u>			
<u>Date Sentence Imposed:</u>	<b>8/22/2016</b>	<u>Date Sentence to Commence:</u>	<b>8/22/2016</b>
<u>Punishment and Place of Confinement:</u>			
<b>54 YEARS</b>			
<b>INSTITUTIONAL DIVISION, TDCJ</b>			
<b>THIS SENTENCE SHALL RUN CONCURRENTLY.</b>			

App. 14

SENTENCE OF CONFINEMENT SUSPENDED. DEFENDANT PLACED ON COMMUNITY SUPERVISION FOR **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.

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

From 12/20/2013 to 12/20/2013

Time From 5/10/2016 to 8/22/2016 From to

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 \$ 0.00; (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, 3, 4, 6, 7, 8, 9, 10, 11, 12, 15, 16, 17, 18, 19, 22, 23, 24, 26 AND 27.

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 CHAMBERS COUNTY DISTRICT CLERK'S OFFICE. 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 CHAMBERS County, Texas on the date the sentence is to commence. Defendant shall be confined in the CHAMBERS County Jail for the period indicated above. The Court **ORDERS** that upon release from confinement, Defendant shall proceed immediately to the CHAMBERS COUNTY DISTRICT CLERK'S OFFICE. 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 **CHAMBERS COUNTY DISTRICT CLERK'S OFFICE**. 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:**

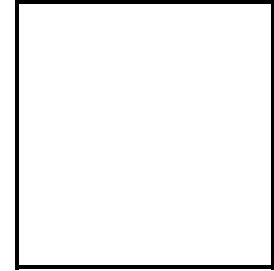
**Signed and entered on August 22, 2016**

/s/ Chap B. Cain, III  
JUDGE PRESIDING

Clerk:

App. 18

FILED  
THIS THE 23 DAY OF Aug  
A.D. 2016 AT 9:26 O'CLOCK A.M  
PATTI L. HENRY  
DISTRICT CLERK,  
CHAMBERS COUNTY, TEXAS  
BY /s/ [Illegible] DEPUTY



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[SEAL] **CASE No. 17477** COUNT  
INCIDENT No./TRN: 9064102341 A001

**THE STATE OF TEXAS** § **IN THE 253RD DISTRICT**  
v. § **COURT**  
**SAMMY JAY RIDDLE** § **CHAMBERS COUNTY,**  
STATE ID No.: TX07499005 § **TEXAS**

## **ORDER OF DEFERRED ADJUDICATION**

Judge **HON. CHAP B.** Date **2/23/2016**  
Presiding: **CAIN, III** Order  
Entered:  
Attorney **KATHY** Attorney **ROBERT G.**  
for State: **ESQUIVEL** for **TURNER**  
Defendant:  
Offense: **AGGRAVATED SEXUAL ASSAULT OF CHILD**  
Charging Instrument: **INDICTMENT** Statute for Offense: **22.021**  
Date of Offense: **6/13/2005**  
Degree of Offense: **1ST DEGREE** Plea to Offense: **GUILTY** Findings on  
**FELONY** Deadly Weapon: **N/A**  
Terms of Plea Bargain: **10 YEARS DEFERRED ADJUDICATION**

Plea to 1st Enhancement Paragraph:	<b>N/A</b>	Plea to 2nd Enhancement/Habitual Paragraph:	<b>N/A</b>
Findings on 1st Enhancement Paragraph:	<b>N/A</b>	Findings on 2nd Enhancement/Habitual Paragraph:	<b>N/A</b>

**ADJUDICATION OF GUILT DEFERRED;  
DEFENDANT PLACED ON COMMUNITY SUPERVISION.**

**PERIOD OF COMMUNITY SUPERVISION: 10 YEARS**

Fine: Court Restitution: Restitution Payable to:  
**\$ 0.00** Costs: **\$ N/A**  VICTIM (see below)  
**\$ 349.00**  AGENCY/AGENT  
(see below)

**Sex Offender Registration Requirements 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.**

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

**Counsel / Waiver of Counsel (select one)**

Defendant appeared in person with Counsel.

App. 21

- Defendant knowingly, intelligently, and voluntarily waived the right to representation by counsel in writing in open court.

Both parties announced ready for trial. Defendants 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. 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.

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

App. 22

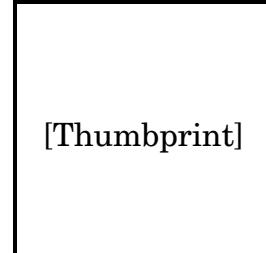
does not violate the terms and conditions of community supervision. See TEX. CODE CRIM. PROC. art. 42.12 § 5(a).

**Furthermore, the following  
special findings or orders apply:**

**Signed and entered on February 23rd, 2016**

/s/ Chap B. Cain, III  
JUDGE PRESIDING

Clerk:



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