

United States Court of Appeals
for the Fifth Circuit

No. 23-50512

United States Court of Appeals
Fifth Circuit

FILED

January 5, 2024

Lyle W. Cayce
Clerk

BILLY JOE KING,

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 Western District of Texas
USDC No. 6:22-CV-741

ORDER:

Billy Joe King, Texas prisoner # 02280417, moves for a certificate of appealability (COA) to appeal the district court's denial of his 28 U.S.C. § 2254 application challenging his conviction of two counts of continuous sexual abuse of a child. He renews his argument that his trial counsel was ineffective for failing to investigate his intellectual deficiency. King does not challenge the district court's denial of his claim that his counsel was ineffective for failing to object at trial to a witness's non-responsive statement. Therefore, he has abandoned any challenge to this determination

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by the district court. *See Yohey v. Collins*, 985 F.2d 222, 224-25 (5th Cir. 1993); *Brinkmann v. Dallas Cnty. Deputy Sheriff Abner*, 813 F.2d 744, 748 (5th Cir. 1987).

To obtain a COA, King must show that “reasonable jurists would find the district court’s assessment of the constitutional claim[] debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *see* 28 U.S.C. § 2253(c)(2). He has not made the required showing. Accordingly, his motion for a COA is DENIED.



STEPHEN A. HIGGINSON
United States Circuit Judge

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**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
WACO DIVISION**

BILLY JOE KING #2280417

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§**

V.

W-22-CA-741-ADA

BOBBY LUMPKIN

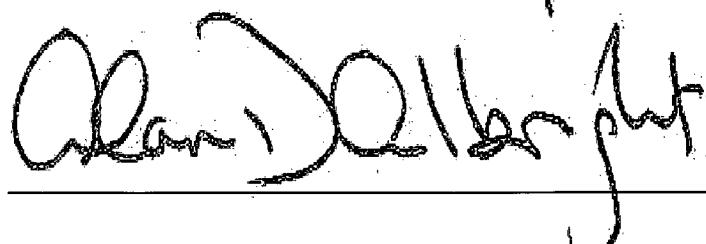
FINAL JUDGMENT

Before the Court is the above styled and numbered cause. On this date, the Court denied Petitioner Billy Joe King's Application for Habeas Corpus Relief and determined that a certificate of appealability shall not be issued. Accordingly, as all issues in this cause have been resolved, the Court renders the following Final Judgment pursuant to Federal Rule of Civil Procedure 58.

It is therefore **ORDERED** that Petitioner Billy Joe King's Application for Habeas Corpus Relief is hereby **DENIED**.

It is finally **ORDERED** that the above styled and numbered cause is hereby **CLOSED**.

SIGNED on June 23, 2023



**ALAN D ALBRIGHT
UNITED STATES DISTRICT JUDGE**