

APPENDIX "A"



**KAREN BUNN
DISTRICT CLERK
115TH DISTRICT COURT
UPSHUR COUNTY**

405 N. TITUS
GILMER, TEXAS 75644

PHONE: 903-843-5031
FAX: 903-843-3540

June 11, 2021

Mr. LaFerney

The only document that we have in our office is the Indictment, which I have enclosed. Complaint / Affidavit, are not filed in this office. It may be at the Sheriff's office, or the Police Department.

Thank You

HOLMES, MOORE, WALDRON & PARRISH, P.L.L.C.

CEDAR L "SCRAPPY" HOLMES (1939 - 2020) • DAVID E. MOORE
GREGORY A. WALDRON • JASON L. PARRISH
LAWYERS

August 3, 2022

Via: CM RRR 7014 0510 0002 3737 4626

Kevin ~~Other LaFerney~~
#14989859
William P. Clements Unit
9601 Spur 591
Amarillo, Texas 79107

Re Copy of your file from 09/03/2005

Kevin,

I don't know if you are aware, but Scrappy passed away in 2020. Enclosed you will find a copy of everything we could find in your file. There are DVD's in your file and we have checked with the prison (Warden's office and law library) and they will not allow us to forward the DVD's, only the paper documents.

I noticed ~~the~~ ~~he~~ ~~was~~ previously at your request given a copy to someone else at your direction.

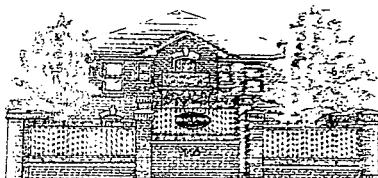
This is the ~~the~~ ~~copy~~ ~~we~~ will make for you and we will be destroying the file in the future.

Best,



David E. ~~Moore~~

DEM: ~~Moore~~
Enclosur~~e~~



APPENDIX "C"

INDICTMENT

NO. 14.309

BOND \$ 150,000.00

Conditioned upon
Reporting, no Contact
with victim, etc.

THE STATE OF TEXAS VS. KEVIN OTHELL LAFERNEY

Charge: AGGRAVATED SEXUAL ASSAULT CHILD
Court: 115th Judicial District
22.021 F1
TR# 116911

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

IN GRAND JURY, for the County of Upshur, State of Texas, duly selected, empaneled, sworn, charged, and organized as such at the June Term A.D. 2006 of the 115th Judicial District Court for said County, upon their oaths present in and to said court at said term that KEVIN OTHELL LAFERNEY hereinafter styled Defendant, on or about the 1st day of January, A.D. 2000, and before the presentment of this indictment, in the County and State aforesaid,

did then and there intentionally or knowingly cause the penetration of the sexual organ of CADEY LYNN HATHCOAT, a child who was then and there younger than 14 years of age and not the spouse of the defendant, by defendant's sexual organ.

AGAINST THE PEACE AND DIGNITY OF THE STATE


Foreman of the Grand Jury

FILED
CAROLYN BLACK
DISTRICT ATTORNEY
2006 DEC -4 PM 3:55
BY 
DEPUTY

COPY

DA

PID# 102171
TR# 116911
DPS # 11990004
22.021 F1
AGGRAVATED SEXUAL ASSAULT CHILD

COMPLAINT

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

BEFORE ME, the undersigned authority, personally appeared Roxanne Warren who after being by me duly sworn deposes and says upon his oath that heretofore and prior to the making and filing of this complaint, in the County of Upshur and State of Texas, on or about the 1st day of January, 2000, KEVIN OHELL LAFERNEY, hereinafter called defendant

did then and there intentionally or knowingly cause the penetration of the sexual organ of CADEY LYNN HATHCOAT, a child who was then and there younger than 14 years of age and not the spouse of the defendant, by defendant's tongue.

AGAINST THE PEACE AND DIGNITY OF THE STATE

Roxanne Warren
OfficerSWORN to and subscribed before me this 21 day of November, 2006.Mike Fetter
Mike Fetter
Criminal District Attorney
Upshur County, Texas

APPENDIX "E"

AFFIDAVIT OF PROBABLE CAUSE - GENERAL

THE STATE OF TEXAS §

§

COUNTY OF UPSHUR §

§

I, Roxanne Warren, being duly sworn, upon oath, state that I have good reason to believe and do believe, before making this statement, that: **KEVIN OHELL LAFERNEY** did commit the offense of **Aggravated Sexual Assault Child** in Upshur County, Texas.

I am a peace officer employed by the Upshur County Sheriff's Department and was so employed and acting in that capacity on or about the 1st day of January, 2000.

I conclude that the Defendant committed the offense because of the following facts, to-wit:

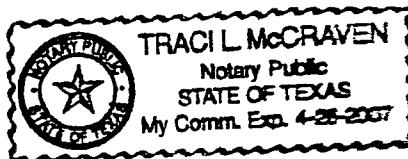
did then and there intentionally or knowingly cause the penetration of the sexual organ of **CADEY LYNN HATHCOAT**, a child who was then and there younger than 14 years of age and not the spouse of the defendant, by defendant's tongue.

Roxanne Warren
Officer

Sworn to and subscribed before me this 21 day of November, 2006.

Traci L McCraven
Signature

Notary Public
Title



United States Court of Appeals
for the Fifth Circuit

United States Court of Appeals
Fifth Circuit

FILED

November 7, 2024

Lyle W. Cayce
Clerk

IN RE KEVIN LAFERNEY,

Movant.

Motion for an Order Authorizing
the United States District Court
for the Eastern District of Texas
to Consider a Successive 28 U.S.C. § 2254 Application

UNPUBLISHED ORDER

Before HO, WILSON, and RAMIREZ, *Circuit Judges.*

PER CURIAM:

Kevin LaFerney, Texas prisoner # 1498939, pleaded guilty to aggravated sexual assault of a child and was sentenced to life imprisonment. He now moves for authorization to file a successive 28 U.S.C. § 2254 application. LaFerney seeks to raise claims for ineffective assistance of counsel, that there was a conflict of interest with his trial counsel, that the indictment and plea were defective, that the state habeas courts erred in denying his postconviction application, and that he is actually innocent.

We may authorize the filing of a successive § 2254 application only if the prisoner makes a *prima facie* showing that the claim relies on (1) "a new rule of constitutional law, made retroactive to cases on collateral review by

APPENDIX "F"

No. 24-40476

the Supreme Court, that was previously unavailable," or (2) "the factual predicate for the claim could not have been discovered previously through the exercise of due diligence" and that "the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense." 28 U.S.C. § 2244(b)(2)(A), (B); *see id.* § 2244(b)(3)(C).

To the extent LaFerney reasserts claims raised in his initial § 2254 application, they are not considered. *See id.* § 2244(b)(1). Inasmuch as his claims differ from those previously presented, he has failed to make the required *prima facie* showing. *See id.* § 2244(b)(2).

Accordingly, IT IS ORDERED that LaFerney's motions for authorization to file a successive § 2254 application and for an evidentiary hearing are DENIED.

APPENDIX "G"

OFFICIAL NOTICE FROM COURT OF CRIMINAL APPEALS OF TEXAS
P.O. BOX 12308, CAPITOL STATION, AUSTIN, TEXAS 78711-0STAGE - FEE BY COADS
PENALTY FOR
PRIVATE USE

9/27/2023

LAFERNEY, KEVIN OHELL Tr. Ct. No. 14,309-D **WR-71,958-04**
The Court has dismissed without written order this subsequent application for a writ
of habeas corpus. TEX. CODE CRIM. PROC. Art. 11.07, Sec. 4(a)-(c).

See: 7(a) (3).

KEVIN OTHELL LAFERNEY
CLEMENTS UNIT - TDC #1498939
9601 SPUR 591
AMARILLO, TX 79107-9606

IIZVAA68 79107

NOTICE THAT WRIT OVERRULED BY OPERATION OF LAW

CAUSE # 14,309-D

Ex Parte: Kevin Laferne § IN THE 115TH DISTRICT COURT
Petitioner § of Upshur County, Texas

CLERK'S CERTIFICATE UNDER ART. 11.07, SEC. 2(C), V.A.C.C.P.

This is to certify that the above numbered and entitled application, for Writ of Habeas Corpus was filed in this Court on the 11th day of July, 2023, and that a copy of said petition was served upon the District Attorney's Office on the 11th day of July, 2023, that further, as Clerk of this Court, I hereby certify that no orders have been entered by the Trial Court within a 50 day time limit from the filing of this petition, and that therefore, pursuant to the provisions of Art. 11.07, Sec. 2 (c), supra, it appears that the Trial Court's failure to act within the time limits as prescribed by statute constitutes a finding that there are no previously unresolved facts material to the legality of the Applicant's confinement, and therefore, it would appear that the Application for Writ of Habeas Corpus has been overruled by operation of law.

So certified this 31st day of August, 2023.

NICOLE HERNANDEZ, DISTRICT CLERK

By: M. Chevalier