



DISTRICT ATTORNEY FOR THE 15TH JUDICIAL COURT **SERVING ACADIA, LAFAYETTE & VERMILION PARISHES**

UNITED STATES FIFTH CIRCUIT COURT OF APPEALS DENIES APPEAL OF BRANDON LAVERGNE

First Assistant District Attorney Daniel Landry announced that the US Fifth Circuit Court of Appeal has denied the appealability of the two count convictions of Brandon Lavergne for the First Degree Murders of Mickey Shunick and Lisa Pate.

Lavergne asserted that his sentence constituted cruel and unusual punishment because he had been kept in solitary confinement since his conviction pursuant to a provision in his written plea agreement. The United States Court of Appeals declined to allow the appeal to proceed forward indicating that Lavergne has not made a requisite showing that the United States District Court's rejection of these arguments was incorrect.

If additional information is requested please contact First Assistant District Attorney Daniel Landry at 337-262-8655 or email dmlandry@15thjdcda.org

United States Court of Appeals

FIFTH CIRCUIT
OFFICE OF THE CLERK

LYLE W. CAYCE
CLERK

TEL. 504-310-7700
600 S. MAESTRI PLACE,
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June 17, 2019

Mr. Tony R. Moore
Western District of Louisiana, Lafayette
United States District Court
300 Fannin Street
Suite 1167
Shreveport, LA 71101-0000

No. 18-30639 Brandon Lavergne v. Darrel Vannoy, Warden
USDC No. 6:14-CV-2805

Dear Mr. Moore,

Enclosed is a copy of the judgment issued as the mandate.

Sincerely,

LYLE W. CAYCE, Clerk



By: _____
Allison G. Lopez, Deputy Clerk
504-310-7702

cc w/encl:

Mr. Justin Caine Harrell
Mr. Daniel Morgan Landry III

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT

No. 18-30639



A True Copy
Certified order issued Jun 17, 2019

July W. Cayce
Clerk, U.S. Court of Appeals, Fifth Circuit

BRANDON SCOTT LAVERGNE,

Petitioner-Appellant

v.

DARREL VANNOY, WARDEN, LOUISIANA STATE PENITENTIARY,

Respondent-Appellee

Appeal from the United States District Court
for the Western District of Louisiana

ORDER:

Brandon Scott Lavergne, Louisiana prisoner # 424229, pleaded guilty to two counts of first degree murder and received concurrent sentences of life in prison at hard labor, without benefit of parole, probation, or suspension of sentence. Lavergne now seeks a certificate of appealability (COA) to appeal the district court's denial of his 28 U.S.C. § 2254 petition challenging these convictions and sentences. He asserts that his sentence constitutes cruel and unusual punishment because he has been kept in solitary confinement since his conviction pursuant to a provision in his written plea agreement. Lavergne also maintains that the trial court lacked jurisdiction over one of the murder charges because none of the elements of the offense occurred in Lafayette Parish. Finally, he maintains that his trial attorneys rendered ineffective

No. 18-30639

assistance by failing to object and encouraging him to plead guilty despite these flaws in the proceedings.

To obtain a COA, Lavergne must make “a substantial showing of the denial of a constitutional right.” 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000). “A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court’s resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further.” *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003). Because the district court has rejected his claims on their merits, Lavergne “must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack*, 529 U.S. at 484; *see also Miller-El*, 537 U.S. at 338. He has not made the requisite showing. Accordingly, Lavergne’s motion for a COA is DENIED.

A handwritten signature in black ink, appearing to read 'SKD', with a long horizontal flourish extending to the right.

STUART KYLE DUNCAN
UNITED STATES CIRCUIT JUDGE