

## Conviction of man who burned boy to cover up rape upheld

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Photos: Ana Ramirez, Jason Fochtman, Steve Ueckert, Andrew Buckley (AP), Michael Minesi, Melissa Phillip, Brett Coomer



On Robert Middleton's eighth birthday, he was doused with gasoline and burned over 99 percent of his body. He died at the age of 21.



Don Willburn Collins, who is accused of murdering Robert Middleton by setting him on fire in 1998, sits during a hearing petition at the 359th Judicial District Court with Judge Kathleen Hamilton presiding in Conroe Monday.



J.D. Lambright, Montgomery County Attorney



Judge Kathleen Hamilton hears Don Collins' not guilty plea during an arraignment hearing in the 359th state District Court on Thursday, June 19, 2014, at the Lee G. Alworth Building in Conroe, Texas.

With all state appeals exhausted, Montgomery County officials believe Don Willburn Collins' capital murder conviction and 40-year prison sentence are finally affirmed after the Texas Supreme Court refused to look into the case Oct. 20.

Collins, now 32, was convicted of the capital felony in 2015, nearly 17 years after he raped 8-year-old Robert Middleton and later doused him with gasoline and set him on fire to cover up the crime in 1998. Collins was 13 at the time. Middleton suffered burns over more than 99 percent of his body but survived, living the rest of his life enduring pain and surgeries. He died in 2011 at the age of 21 from an aggressive cancer stemming from the burns. Prosecutors did not know about the rape until days before Middleton's death when he recorded himself making the outcry. Authorities ruled Middleton's death a homicide.

Collins was indicted on a capital murder charge in 2014, and a jury convicted him a year later. He was sentenced to 40 years in prison.

"I don't think there's ever been, and there may never be, a juvenile case in the county that's more egregious than that," County Attorney J.D. Lambright said. "... All to shut him up to not get charged with sexual assault."

Collins' many appeals hinged on whether it was constitutional that he was tried as an adult. Even though he was charged when he was an adult, the crime was still considered a juvenile offense since it happened when Collins was 13. Lambright's office is tasked with prosecuting juveniles in Montgomery County, and Lambright personally sought Collins' prosecution when he took office in 2013. The case had gone cold up until Middleton's death in 2011.

In 2012, then-Montgomery County Attorney David Walker sought an opinion from then-Attorney General Greg Abbott as to whether Collins could be certified to stand trial as an adult. Abbott's ruling only said prosecutors have "great discretion" on whether to prosecute juveniles as adults but did not give an opinion on Collins' specific case, according to earlier reports.

Lambright decided to "step up to the plate" and seek Collins' prosecution in light of Middleton's death and did so successfully.

A state law passed in 1999 allowed juvenile prosecutors to seek adult trials on juvenile suspects who were at least 10 years old at the time of the offense, which brought the minimum age down from 14 years old. Collins' Conroe-based attorney, Jerald Crow, argued that Collins'

adult certification was not legal since the law changed the year after the offense, claiming Collins should only be held accountable to the laws that were in place in 1998.

Three state courts – the 359th state District Court in Montgomery County, the 9th Court of Appeals in Beaumont and the Texas Supreme Court in Austin – all disagreed with Crow and upheld Collins' conviction. Crow could not be reached for comment.

"The Middleton family is very gratified," Lambright said. "It's not going to bring Robert back, but Collins is not going to be out there harming others." Lambright speculated there is a "remote" chance that Collins' attorneys will take the issue to the federal court system, although it is entirely possible. Collins will not be eligible for parole until 2033.



Colleen Middleton and Bobby Middleton, parents of Robert Middleton speak to the media in the 359th State District Court Thursday, March 6, 2014 in Conroe after a ruling by Judge Kathleen Hamilton.



Colleen Middleton, mother of Robert Middleton, testifies in the 359th State District Court during the hearing of Donald Wilburn Collins Monday, March 3, 2014 in Conroe.

Colleen and Bobby Middleton pose for a photo holding a photo of their son at their home Sunday, April 29, 2012, in Humble. The Middleton's son, Robert, was doused with gasoline and burned in 1998, when he was eight. The 13-year-old boy accused as the culprit was never brought to trial, but now prosecutors want to pursue the case. Robert Middleton, shown in family photo on the wall, was severely disfigured and died in 2011 at the age of 20 from cancer complications with the skin grafts.



Don Willburn Collins sits during a hearing petition at the 359th Judicial District Court with Judge Kathleen Hamilton on Wednesday. Prosecutors with the Montgomery County Attorney's Office are trying to convince a judge that the neighbor, Don Willburn Collins, now 28, should be tried as an adult for a crime he is accused of committing as a teen.



Donald Collins sits in the 359th State District Court on Thursday, March 6, 2014, in Conroe waiting to be transported after Judge Kathleen Hamilton ruled that he will be tried as an adult for allegedly setting 8-year-old Robert Middleton on fire with gasoline in 1998. Robert died in 2011.



E. Tay Bond, lead defense attorney for Don Willburn Collins, speaks to the press before a hearing petition at the 359th Judicial District Court with Judge Kathleen Hamilton presiding in Conroe Monday. Collins is accused of murdering Robert Middleton by setting him on fire in 1998.



The defense counsel for Don Willburn Collins, including lead defense attorney E. Tay Bond, left, collaborate during a hearing petition at the 359th Judicial District Court with Judge Kathleen Hamilton presiding in Conroe.



An evidence photo is displayed as Donald Wilburn Collins sits in the 359th State District Court during his hearing Monday, March 3, 2014 in Conroe. The photo shows the site in the woods where Robert Middleton was set on fire.



Laura Thomason, one of the first to see Robert Middleton after he was set on fire, wipes tears from her eyes during a hearing petition at the 359th Judicial District Court with Judge Kathleen Hamilton presiding in Conroe.



Don Willburn Collins walks into a hearing petition at the 359th Judicial District Court with Judge Kathleen Hamilton on Wednesday. Prosecutors with the Montgomery County Attorney's Office are trying to convince a judge that the neighbor, Don Willburn Collins, now 28, should be tried as an adult for a crime he is accused of committing as a teen. A verdict in the case will be reached Thursday morning. Collins is facing a murder charge in the death of Robert Middleton. Authorities allege in 1998, Collins poured gasoline on Middleton and set him on fire near his home in Splendora, about 35 miles northeast of Houston. Middleton survived, though he was burned over 99 percent of his body and endured years of physical therapy and surgeries. He died in 2011 from skin cancer authorities say was caused by the burns.