



California court considers new hearing for long-serving Monache inmate

Douglas 'Chief' Stankewitz believes a new hearing will result in his release from San Quentin Prison

RICHARD ARLIN WALKER • JUN 24, 2022

Prison guards walk down a corridor in San Quentin Prison in this file photo from 2015. The longest-serving inmate on San Quentin's Death Row, Douglas "Chief" Stankewitz, is seeking a new hearing that could make him eligible for parole in a murder he maintains he did not commit in 1978. (AP Photo/Ben Margot)

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California's 5th District Court of Appeal has ordered state Attorney General Rob Bonta to respond to

an Indigenous man's request for a new hearing that his attorneys believe could lead to his release from San Quentin Prison, where he has been incarcerated 44 years for a murder he says he did not commit.

Douglas "Chief" Stankewitz, a Monache man from Big Sandy Rancheria, filed a petition asking for an evidentiary hearing in January 2021 in Fresno County Superior Court, where he was convicted in 1978 for a carjacking/murder.

Judge Arlan L. Harrell, who was appointed to the Superior Court in 2006, has not ruled on the petition in the 17 months since it was filed, but instead has granted himself several extensions that have exceeded the time allowed under the California Rules of Court.

Stankewitz's petition asks the three-judge appellate court to transfer his case to another county for an evidentiary hearing, or dismiss the case against him for "extensive, egregious law enforcement and prosecution misconduct" that Stankewitz's legal team alleges led to his conviction and has kept him in San Quentin.

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The appellate court directed Bonta to submit an informal response to Stankewitz's petition by June 26. The appellate court will consider Bonta's response in making its decision.

Stankewitz attorney Alexandra Cock said she is hopeful the court will act swiftly. The legal team appealed to the state court to intervene on May 19; the court issued its directive to the state attorney general within a week.

A phone message and email message were left for Bonta at his press office June 23, three days before the deadline for the informal response.

Now 63, Stankewitz has never wavered in his claims that he is innocent.

"I'm not guilty," he said in an earlier interview with *Indian Country Today*. "I am innocent and I was framed, and the physical evidence proves that."

Stankewitz was sent to San Quentin's Death Row in October 1978 to await death in the gas chamber for the fatal shooting of Theresa Graybeal, 22, whom he and his friends carjacked in a Kmart parking lot in Fresno, a city roughly midway between Los Angeles and Sacramento in California's Central Valley.

Stankewitz's conviction was overturned in 1982 because of doubts he had been competent to assist in his own defense. He was found guilty and sentenced to death again at retrial the following year.

But his retrial attorney, Hugh Goodwin, acknowledged in sworn written statements in 1989 and 1995 that he had failed to introduce Stankewitz's mental health history, including psychiatric and psychological evaluations, that might have spared him the death penalty.

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As a result, the penalty phase of the case was reversed in 2012 and Stankewitz's death sentence was reduced in 2019 to life without parole. Stankewitz has chosen to stay in a cell on Death Row, saying it's safer there than among the general population.

Cock said Stankewitz was entitled to a hearing before he was resentenced in 2019, but that didn't happen. Had the court heard mitigating evidence at that hearing, Cock said, Stankewitz might have received a sentence of life with the possibility of parole.

With time served, he would have been immediately eligible for release, she said.

'They just wanted a Stankewitz'

On Feb. 8, 1978, Stankewitz, then 19, and three other young Indigenous Californians — Billy Brown, 14; Marlin Lewis, 22; and Teena Topping, 19 — were hitchhiking from Modesto to Fresno when they decided to steal a car, according to co-defendants' statements in court records.

They targeted Graybeal, who was shopping alone in Kmart. They followed her from the store to her Mercury Cougar and pushed her inside. It was early evening and still light outside.

Once in Fresno, they picked up Christina Menchaca, 25, so they could make a drug buy, according to court documents. After trying to sell Graybeal's watch, Topping — the driver — stopped Graybeal's car at 10th and Vine streets in Fresno and let everyone out except Menchaca, presumably so they could go score.

It was about 8 p.m., dark and raining. Graybeal apparently thought the group was abandoning her there. Stankewitz reportedly had told her earlier that she wouldn't be harmed — they just needed a ride to Fresno and would eventually let her go. In the time that followed, Graybeal relaxed, was talkative and shared her cigarettes, the co-defendants told investigators. As the young woman stepped away from the car at 10th and Vine, one of the co-defendants said he heard her say, "At least you could have dropped me off at a restroom."

Topping and Menchaca were in the car and had not driven off yet when they heard a gunshot. Both

women were stunned.

"I thought they were just going to drop her off," Topping told investigators. Testimony differs on what was said after Brown, Lewis and Stankewitz returned to the car, but the record shows that the group said little as they drove away from the scene.

No one in the group talked about motive during interviews with police. Cock speculates that whoever shot Graybeal did so "because she knew too much" – despite the small talk and the cigarettes, she was a victim of a carjacking and kidnapping and she had heard about their plans to make a drug score.

But, Cock said, "It was Chief's intention that she not be harmed."

Graybeal's family reported her missing and police found her car at 11 p.m. outside a Fresno bar and brought Lewis, Menchaca, Stankewitz and Topping in for questioning; Brown had been dropped off at home and was brought in separately. Then, at about 1:40 a.m., a Fresno police officer found Graybeal's body at 10th and Vine. A forensic pathologist determined a small-caliber bullet entered near Graybeal's right ear lobe, traveled at a 10-degree upward angle and exited her skull behind her left ear.

Under questioning by police, Brown and Lewis said Stankewitz shot Graybeal. Topping and Menchaca said they were in the car and didn't see who fired the shot.

Among Stankewitz's defense team's contentions are that:

–The bullet's trajectory indicates that Stankewitz, at 6-feet-1 inch the tallest of his co-defendants, was too tall to have fired the shot that killed Graybeal, who was 5 feet 2 1/2 inches. "I continue to believe that the trajectory of the fatal shot demonstrates that the victim, Ms. Graybeal, was not shot by Mr. Stankewitz but instead by a shorter person," wrote expert witness Roger Clark, a certified police procedures consultant and retired Los Angeles County sheriff's detective. According to case documents, Brown was 5-foot-6, Lewis 5-foot-3, and Menchaca and Topping, 5-foot-1.

–Brown initially testified that he saw Stankewitz shoot Graybeal. He recanted that testimony in 1993, saying he had been threatened with being charged as an accessory if he didn't testify against Stankewitz. Clark, the police procedures consultant, wrote that the content of Brown's 1978 testimony "does not match the obvious physical facts." Brown, a minor at the time, was granted immunity for testifying against the others. Lewis, Menchaca and Topping were convicted of lesser charges.

–Information was either withheld or overlooked during Stankewitz's trial and retrial. Lewis told investigators the night of the Graybeal murder, "You know me personally, I wanted to hit her cold down and I didn't want Doug and Tina and Bill there." Interviewed before Stankewitz's retrial, Lewis told police investigators Stankewitz should have been sentenced to life with possibility of parole, but then declined to discuss details of the crime. Laura Wass, Central California director of the

American Indian Movement, wrote in a sworn declaration in 2020 that Lewis admitted to her that he fatally shot Graybeal.

—Evidence was carelessly handled and not verified according to procedure, Clark wrote. For example, a police report stated that the serial number on the alleged murder weapon had been removed. “When I inspected the physical evidence on March 21, 2019, including the alleged murder weapon, the serial number on the gun was clearly visible,” Clark wrote. That gun, he wrote, appeared to have been in police custody prior to Graybeal’s murder.

—Investigators and the prosecutor were biased against Stankewitz because of confrontations family members had had with law enforcement. Stankewitz’s parents and several siblings had served or were serving prison time.

Thomas D. Lean III, one of the lead detectives in the 1978 case, said in a 2020 interview with the legal team’s investigator that Stankewitz’s family “had a reputation” in the community.

“Several of them had gone to prison,” Lean said. “So they were known in the law enforcement community.”

Prosecutor James A. Ardaiz had pursued charges against other Stankewitz family members by 1978 when Douglas Stankewitz became a suspect in the Graybeal murder.

“He came from a very poor background and it was predictable that he would be, you know, he would be a person that was disposed to violence in order to solve whatever thing he was confronted with,” Ardaiz told an investigator assisting Stankewitz’s legal team in March 2020.

Stankewitz doesn’t deny his past. His mother was an alcoholic and abusive, and his father and siblings spent time in prison. Stankewitz alternated between foster homes, a state hospital and juvenile hall. When he was 15, he was the driver of a car fleeing the scene of an alleged robbery and assault; a passenger in the car was killed in a shootout between Stankewitz’s brother and a pursuing police officer.

But Stankewitz denies killing Graybeal and said he thinks he was low-hanging fruit for investigators and the prosecutor.

“I was the target because I’m Indian and because of my family and my family name,” Stankewitz told *ICT* in an earlier interview. “My family was known for violence, was known for trouble, was known to start trouble and to be at the wrong place at the wrong time. But police knew I didn’t do it. They just wanted any Stankewitz.”

Stankewitz said he wants Graybeal’s family to know he regrets their loved one’s death, and that he didn’t pull the trigger that night 44 years ago. “If I could talk to them today, I would tell them I feel bad that they lost their daughter, their wife, whoever she was to them,” he told *ICT*. “She was only 22 years old. That was a devastating loss to everybody. I hold her in my prayers every morning, her and

her family. I wish it hadn't happened, but I didn't do it."

David Graybeal, who later remarried and started a family after several years of struggling to cope with his wife's death, told *ICT* that Stankewitz deserves to spend the rest of his life in prison. He doesn't support the death penalty, but believes life in prison without parole is a just punishment.

"It doesn't matter who pulled the trigger. They were all guilty of kidnapping and murdering Theresa," he said in an earlier interview. "She was a beautiful young woman who had her whole life ahead of her. They didn't need to kill her."

Meanwhile, Marlin Lewis died in 2000, Cock said. Teena Topping died in 2015 or 2016. Brown died in 2006. *ICT* could not confirm Menchaca's whereabouts.

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