



Monache man on Death Row maintains his innocence

Douglas Stankewitz says evidence shows he didn't commit 1978 murder but questions remain *Updated

RICHARD ARLIN WALKER • FEB 25, 2022

A Monache man who has spent 43 years on San Quentin Prison's Death Row continues to maintain he is innocent in the death of 21-year-old Theresa Graybeal in 1978. Douglas Ray Stankewitz, now 63, whose sentence was eventually reduced to life in prison, has remained on Death Row because he believes it is safer than the general prison population. His lawyers are fighting in 2022 for a hearing they believe could make him eligible for parole. (AP Photo/Eric Risberg)

Richard Arlin Walker

Special to [Indian Country Today](#)

Douglas Ray Stankewitz has lived for more than 43 years in a roughly 4-by-10-foot cell on San Quentin Prison's Death Row.

He was sent there in October 1978 to await execution in the gas chamber for the murder of Theresa Graybeal, 21, in Fresno, California. Although his death sentence was later overturned, he remains housed in a Death Row cell, which is safer, he says, than the general prison population.

Now 63, the Monache man from Big Sandy Rancheria has never wavered in his claims that he is innocent.

"I'm not guilty. I am innocent, and I was framed, and the physical evidence proves that," said Stankewitz, who embraces the nickname that he has come to be known by in prison, Chief.

In a series of phone calls from San Quentin with *Indian Country Today*, Stankewitz doesn't deny he has a criminal history. But he said he didn't kill Graybeal. And 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 said. "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."

His team of lawyers is trying to get a hearing on evidence they believe could lead to a reduced sentence, making him eligible for parole.

"There is a high likelihood that once the Court of Appeals rules, there will be a sentencing hearing and we then will be able to present mitigating information," said Alexandra Cock, a member of Stankewitz's legal team.

Her husband, David Wayne Graybeal of California, told *Indian Country Today* on Friday, Feb. 25, that Stankewitz deserves to spend the rest of his life in prison.

"It doesn't matter who pulled the trigger," said Graybeal, who has declined to talk about the case for decades. "They were all guilty of kidnapping and murdering Theresa. "She was a beautiful young woman who had her whole life ahead of her. They didn't need to kill her."

Graybeal said he's never supported the death penalty, but believes life in prison without parole is a just punishment.

"I'll tell you the same thing I've told others throughout the years – don't lose track of the victim," Graybeal said. "Douglas Stankewitz is not the victim."

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Theresa Graybeal's father-in-law, Wayne Graybeal, who died in 2017, also spoke out on the family's behalf.

He told the *San Francisco Chronicle* in 2012 that Stankewitz was "a bad guy and I don't know why he's alive. I wish they would just do what they have to do to him so he's not still alive breathing the same air as me. ... My daughter-in-law didn't deserve what happened to her."

Kidnapping and murder

On Feb. 8, 1978, Stankewitz, then 19, was hitchhiking from Modesto to Fresno with three other Indigenous youths – Billy Brown, 14; Marlin Lewis, 22; and Teena Topping, 19 – when they decided to steal a car, according to co-defendants' statements in the case file.

They targeted Graybeal, who was shopping alone in a 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, in hopes she could help them make a drug buy. 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 score some drugs. By then, 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.

As the young woman stepped away from the car, one of the co-defendants said he heard her say, "At least you could have dropped me off at a restroom."

Topping and Menchaca had not driven away when they heard a gunshot. Both women were stunned. "I thought they were just going to drop her off," Topping said.

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."

She added, "It was Chief's intention that she not be harmed."

By then, Graybeal's family had reported her missing. Police found Brown, Lewis, Menchaca, Stankewitz and Topping in or near Graybeal's car at 11 p.m. outside a Fresno bar and brought the five in for questioning. At about 1:40 a.m., a Fresno police officer found the body of a young woman at 10th and Vine. She had been shot in the head.

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 — which Stankewitz has unwaveringly denied. Topping and Menchaca said they were in the car and didn't see who fired the shot.

Raising questions

The California Supreme Court reversed Stankewitz's conviction in 1982 because he had not been given a mental competency hearing. He was retried in 1983, found guilty and again sentenced to death.

Stankewitz's then-attorney Hugh Goodwin wrote in sworn declarations in 1989 and 1995 that he had failed to introduce mitigating evidence — mental health history, including psychiatric and psychological evaluations — that might have resulted in a lesser sentence.

Stankewitz had resisted Goodwin's proposed defense strategy, the attorney wrote, and Goodwin acquiesced even though he didn't believe Stankewitz "was capable of understanding the legal issues in his case," in particular "the importance of mitigating evidence at the penalty phase."

Stankewitz's death sentence was reversed in 2012, and the Fresno County district attorney recommended in 2019 that the Superior Court re-sentence Stankewitz to life without the possibility of parole.

The legal roller-coaster doesn't end there. Cock said Stankewitz was entitled to but did not receive a hearing in 2019 so that mitigating information could be presented before he was resentenced. The legal team has filed an appeal of his sentence and a separate petition, both of which could provide a new hearing they hope will lead to his freedom.

Stankewitz's legal team is challenging the evidence on several fronts:

—The bullet's trajectory. They believe Stankewitz, at 6-foot-1 the tallest of his co-defendants, was too tall to have fired the shot that killed Graybeal, who was just over 5-foot-2. According to case documents, Brown was 5-foot-6, Lewis 5-foot-3, and Menchaca and Topping, 5-foot-1.

"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.

—Recanted testimony and allegations of questionable police conduct. 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."

—A reported confession. Laura Wass, the Central California director of the American Indian Movement, wrote in a sworn declaration in 2020 that 20 years earlier Lewis told her that he had fatally shot Graybeal.

—Careless handling of evidence. According to Clark, a police report stated that the serial number on the alleged murder weapon had been removed even though the serial number was "clearly visible."

—Bias by investigators and the prosecutor against Stankewitz because of his family. Stankewitz's parents and several siblings had served or were serving prison time.

Judge James A. Ardaiz of California's 5th District Court of Appeals told an investigator assisting Stankewitz's legal team in March 2020 that the family was known to law enforcement. As a prosecutor in Fresno County before being appointed to the bench, he had handled cases involving other Stankewitz family members by 1978, when Douglas Stankewitz and the other four were arrested on suspicion of kidnapping and killing Graybeal.

"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 the investigator.

Thomas D. Lean III, one of the lead detectives in the 1978 case, agreed in a March 2020 interview with the legal team's investigator.

"They had a reputation in the community," Lean said. "Several of them had gone to prison. So they were known in the law enforcement community."

Guilt by association

Stankewitz was born on May 31, 1958, into a world in turmoil. He was the fifth of 11 children and was born the year the Big Sandy Rancheria was dissolved by the federal Termination Act. His parents drank and his truck-driver father spent time in prison for bank robbery.

Stankewitz's home life started to unravel early. According to case documents, Stankewitz's mother beat him when he was 5 and 6, landing her in jail and the young Stankewitz in foster care. In 1964, his maternal grandfather, Sam Jack Sample — a Mono/Chukchansi ceremonial singer and a stable

influence in the family – died. Sample's death received a five-paragraph news story in *The Fresno Bee*, a sign of his recognition in the community..

In the ensuing years, Stankewitz would end up in state hospitals and juvenile hall for theft, battery and running away, and several of his siblings would do time for various crimes.

Evaluations described him, on the one hand, as a youngster who could be cheerful and respond well to direction – a kid who liked math and wanted to someday be a police officer or a teacher. But he could also be destructive and unpredictable in his behavior, they said.

At 15, Stankewitz was driving away from the scene of an alleged robbery and assault when his brother fired at a pursuing police officer; another suspect in the vehicle was struck by the officer's return fire and was killed.

Four years later, Graybeal was shot and killed near the street corner in Fresno.

Years of legal fights

Stankewitz now waits for another day in court. His co-defendants are no longer available to testify; Lewis died in 2000, Topping died in 2015 or 2016, and Brown died in 2006, according to Cock.

Each day, Stankewitz meditates and exercises in his cell, listens to his radio, talks with his legal team, and for two or three hours works on his case. He has a typewriter in his cell and checks out materials from the prison law library. Every other day he gets 15 minutes to shower, and twice a week he can exercise in the yard. He also participates in various worship services.

Although his sentence was reduced to life without parole, Stankewitz could request a transfer to the general population or to another prison. He's decided to stay where he is.

"My legal team is in this area," he said. "I could end up 500 miles away and it would be harder for them to come and see me when they have to. I could transfer to the general population, but I'd go to Level IV, which has a lot of violence. People would want to test you because you were on Death Row."

Stankewitz said he has a message for Graybeal's family.

"I want to give them proof I didn't do that," he said. "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. 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."

Update: This story was updated Feb. 25, 2022 to include comments from David Wayne Graybeal, the husband of Theresa Graybeal when she died in 1978.

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