

Wayne and Sharmon Stock were shot to death in their Murdock, Nebraska farmhouse on April 17, 2006. A mildly retarded nephew, Matthew Livers, was questioned the day after the murder by Nebraska State Patrol and Cass County Sheriff's Office investigators. Livers confessed after 11 continuous hours of questioning. He also implicated his cousin Nicholas Sampson.

Based on Livers' confession, he and Sampson were charged with two counts of first-degree murder and held without bail in the Cass County Jail.

Two days after the murders authorities impounded a Ford Contour that Sampson drove, but which was owned by his brother. No blood or other evidence was found during a 6-hour search of the car on April 19. Nor was any evidence incriminating Livers or Sampson found at the crime scene or during a search of their residences.

David Kofoed, director of the Douglas County (Omaha) CSI unit, was involved in the crime scene investigation and the car search. Eight days after the car was searched, Kofoed told a reporter for the Omaha *World-Herald* newspaper that he re-examined the car and found a small spot of blood under the car's dashboard. The blood tested positive for matching Wayne Stock. That physical evidence was considered confirmation of Livers' confession.

While Livers and Sampson languished in jail a strange picture emerged from testing of the crime scene evidence and further investigation. The evidence pointed to two perpetrators ... but those people were not the cousins. They were Gregory Fester and Jessica Reid, a romantically involved couple from Wisconsin.

When questioned Fester and Reid admitted to the crime and had knowledge of details not released to the public. After the couple were arrested for the murders, the charges were dismissed against Livers and Sampson and they were released after six months in jail.

Omaha Crime Lab Director Charged With Fabricating Evidence In Murder Case

Fester and Reid pled guilty to avoid the possibility of the death penalty after a trial. They were both sentenced to life in prison without the possibility of parole.

Suspicious about Kofoed's actions related to the blood evidence were fueled when Livers and Sampson each filed a federal civil rights lawsuit that among other claims alleges the blood evidence was planted.

An in-house investigation by Douglas County Sheriff Tim Dunning cleared Kofoed of wrongdoing. However, a special prosecutor was appointed by the State of Nebraska to investigate Kofoed's role in the Stock murder case, and the FBI also conducted an investigation. Kofoed told the *World-Herald* during an interview in the fall of 2008 that the blood could have gotten under the dashboard by "accidental contamination."

On April 22, 2009 Kofoed was charged in Cass County Court with one felony count of tampering with physical evidence. Kofoed was alleged to have falsified the report of when he allegedly found the blood in the car. He stated in the report that he found the blood on May 8, 2006, when 11 days before that he told a newspaper reporter he had found it. He also did not log, date or even bag the alleged blood swab, and he omitted from his report that another lab technician found no trace of blood when he examined the same area of the car after Kofoed had done so.

Special Prosecutor Clarence Mock told reporters that he wasn't alleging that Kofoed planted the blood evidence because there is no evidence the blood was recovered from the car. Instead Mock said: "This charge addresses the creation of an actual police report that was false, and Dave Kofoed knew that it was false, and he failed to inform anybody about that during the case."

On April 23 a four-count federal indictment was unsealed charging Kofoed with:

- Deprivation of the civil rights of Matthew Livers, a misdemeanor that carries a maximum sentence of up to one year in jail.
- Deprivation of the civil rights of Nicholas Sampson, a misdemeanor that carries a maximum of up to one year in jail.
- Mail fraud, a felony offense that carries a penalty of up to 20 years in federal prison.
- Destruction, alteration or falsification of records, a felony punishable by up to 20 years in federal prison.

Kofoed, 52, pled not guilty to the state and federal charges, and refused to resign from the crime lab, although he was placed on administrative leave. He told reporters in his defense, "They [Livers and Sampson] didn't go to jail because of the CSI Unit. They went to jail because of a bad confession."

Kofoed and the Douglas County CSI Unit have been involved in many murder investigations, and Sampson's original defense attorney Jerry Soucie said he thought his indictments would raise questions about some of those cases, particularly two cases in which the defendant was convicted without discovery of the victim's body.

Locke Bowman is a lawyer affiliated with Northwestern University's Center on Wrongful Convictions that is representing Livers in his federal lawsuit. Bowman said about the indictments, "These allegations against Dave Kofoed are profoundly disturbing. The presentation of false evidence against an innocent man is the ultimate nightmare in terms of law enforcement misconduct."

On September 10, 2009 a federal court jury acquitted Kofoed. His state trial is expected to take place in 2010.

Sources:

Douglas County official charged with mishandling blood in Murdock case, *Omaha World-Herald*, April 23, 2009. Federal Charges against Kofoed unsealed, *Omaha World-Herald*, April 23, 2009. Kofoed verdict: Not guilty, *Omaha World-Herald*, April 23, 2009.

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shotgun to her stomach in front of her young son asking her if she wanted to die? What would have happened to the three children in the home that night that she might have had to leave behind after her husband had already put a shotgun to her son's head and said no one would walk out of the house that night?

This case is a reminder of the unrealistic expectations and responsibilities often placed on battered women to "just leave."

The court's opinion reflects the understanding that "imposition of the duty to retreat on a battered woman who finds herself the target of a unilateral, unprovoked attack in her own home is inherently unfair. During repeated instances of past abuse, she has 'retreated,' only to be caught, dragged back inside, and severely beaten again."

This precedent-setting opinion holds great significance, not only for battered women struggling to stay alive, but also in signaling forward movement of society's under-

standing of the serious and lethal nature of domestic violence.

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