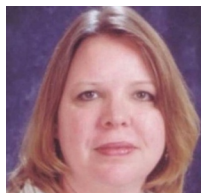


Charles Stobaugh Acquitted By Texas Appeals Court Of Murdering His Wife Who May Be Alive

The Texas Court of Appeals [has acquitted](#) Charles Stobaugh of murdering his wife Kathy Stobaugh in 2004 in Denton County, Texas. Stobaugh was convicted in 2011 and sentenced to 25-years in prison.

Charles and Katherine (Kathy) Stobaugh married in 1984 and they had two children. In 1991 they bought a 105 acre farm outside Sanger, Texas, in Denton County. In May 2004 Charles and Kathy separated, she filed for divorce, she took half the money (about \$39,000) they had in a joint bank account, she moved into a rental house in Sanger, and she got a job as a kindergarten teacher. There was no court ordered visitation, and the couple's 16-year-old daughter Charee, who drove, and their 13-year-old son Tommy, freely traveled between the farm and their mom's rental house that were less than ten minutes apart. Charles and Kathy's separation was amicable. Kathy kept a key to the farm house, Charles continued to service her car by changing the oil, and the entire family spent the July 4th 2004 holiday at the home of Charles' mother, they spent Tommy's 13th birthday together, and in August 2004 they went to the Missouri State Fair together.



Kathy Stobaugh (Family)

Kathy told several friends on December 27 or 28, 2004 that Charles had agreed to the divorce, and although he wanted to sell everything and split the proceeds, he agreed with her the farm shouldn't be sold because Tommy loved it, while other community property would be sold and split down the middle.

Kathy was last seen or talked with by her family or friends on the evening of December 29, 2004. After she was reported missing on January 3, 2005 the police investigation discovered she had a "secret" boyfriend named Rocky who she had seen numerous times, that she made three phone calls to him the evening of December 28 -- the day before she was last seen in Sanger — and that she had been planning a trip to Florida. Although none of Kathy's family or friends knew about her relationship with Rocky, he was not investigated as a possible suspect. It was also discovered that a number of unknown men called Kathy's rental house when her daughter was there, and that she would take the

phone in the bedroom to talk with them privately. None of those men were investigated as a possible suspect after she went missing.

No evidence of violence or a struggle was found at Kathy's rental house or the farm, and nothing suspicious was found in either her or Stobaugh's vehicle. Neither did the police investigation discover any evidence she was dead, only that she hadn't contacted her family and friends since the evening of December 29, 2004.

Kathy's disappearance was featured on *Dateline NBC* in May 2007. In the program her family said they didn't think investigators were doing enough to solve the case.

Although there was no direct evidence Kathy was dead or Stobaugh had killed her, he was indicted in November 2009 for murdering her. After Stobaugh's indictment the police discovered that Kathy's boyfriend Rocky only had an alibi up to 9 p.m. on the evening of her disappearance, but he wasn't investigated as a suspect.

During Stobaugh's trial that began in January 2011 the prosecution's case was based on circumstantial evidence and inferences that Kathy must be dead because she was last seen or talked with by her family and friends on December 29, 2004. The prosecution claimed that because of their pending divorce he had motive, and because he regularly saw her he had the opportunity to kill her. Although the prosecution introduced evidence Stobaugh had made several false and inconsistent statements, they didn't implicate him in her disappearance from Sanger.

Stobaugh's defense was the prosecution didn't present any evidence his wife was dead, no evidence he had harmed her, and no evidence he had committed any crime related to his wife. Stobaugh lawyer argued to the jury the prosecution case wasn't based on evidence, but merely the suspicion he killed her since she hadn't been seen in Sanger since December 2004. Stobaugh's lawyer also brought up Kathy's "secret lover" Rocky and the other men in her life that hadn't been investigated as suspects.

The [jury convicted Stobaugh](#) of murder on February 16, 2011, and two days later the judge sentenced him to 25 years in prison.

Stobaugh appealed. On January 23, 2014 Texas' Second District Court of



Charles Stobaugh (TX DOC)



Charles Stobaugh released from the Denton County Jail with his son Tommy (L) and daughter Charee (L). (David Minton - Denton Record-Chronicle)

Appeals overturned Stobaugh's conviction on the basis the prosecution had presented insufficient evidence to support his conviction, and ordered his acquittal. In *Charles Stobaugh v. Texas*, No. 02-11-00157-CR (2nd Dist. Ct. of Appeals, 1-23-2014) [the Court ruled:](#)

"... there is no body, no murder weapon, no witnesses, no blood or DNA evidence; there are no fibers, hairs, or any type of forensic evidence establishing that a murder occurred; and there is no confession or directly incriminatory statement by Charles. Although the evidence viewed in the light most favorable to the State does establish a possible motive for Charles to kill Kathy and a definite opportunity to do so, Charles's motive and opportunity to murder cannot alone establish that a murder has occurred, cannot link Charles to a murder without evidence that there was a murder, and certainly cannot establish the *mens rea* for murder. In the absence of evidence of a murder, Charles's motive for murder and opportunity to murder are meaningless. [*Id.* at 167]

Because no evidence exists in the record before us that a murder has occurred, Charles's utterance of false statements or inconsistent statements does not, by itself, create an inference that a murder or any wrongful conduct has occurred. [*Id.* at 168]

... because none of the evidence established that the offense (murder) had occurred, all of the rest of the State's circumstantial evidence that "was perhaps suspicious" but did not establish the commission of the offense, was mere "suspicion linked to other suspicion." [*Id.* at 169]

Having sustained Charles's first point challenging the sufficiency of the evidence to support his conviction, we reverse the trial court's judgment and render a judgment of acquittal. [*Id.* at 176] (Underlining added to original text.)

Stobaugh cont. on p. 9

“Judges think of the judiciary as something that belongs to them” — Attorney Alan Lud

From 1976 to 1983 Argentina’s anti-communist military dictatorship engaged in what is known as the “Dirty War.” Between 30,000 and 45,000 men and women who expressed opposition to the dictatorship were disappeared -- kidnapped in the middle of the night — never to be publicly seen again. In some cases entire families were kidnapped. The disappeared people were brutally tortured, and it is known that some of them were taken up in airplanes and thrown out alive over the Atlantic Ocean.

During the dictatorship years many hundreds of infants and very young children were kidnapped by the military and “adopted” by high military personal, politicians, and judges. Women who were pregnant when taken into custody had their baby snatched from them after it was born.

In 1977 grandmothers of kidnapped children founded [Grandmothers of Plaza de Mayo](#) (A companion organization founded was [Mothers of Plaza de Mayo](#).) Members openly defied retaliation by the dictatorship by protesting and trying to locate kidnapped children and return them to their families. Thirty-seven years after it was founded, members wearing their trademark white head scarves continue to gather every Thursday at 3:30 p.m. and peacefully protest by marching around the Plaza de Mayo that is located directly in front of the President’s residence in Buenos Aires.

During the 37 years since its founding the Grandmothers of Plaza de Mayo has been able to locate 87 kidnapped grandchildren. The task has been difficult because not only are all the kidnapped children now adults, but



Grandmothers of Plaza de Mayo protesting in Buenos Aires (www.abuelas.org.ar)

the original identify of the children was wiped clean in many cases. To overcome that obstacle, DNA testing is being used to determine the true identity of persons who are likely to have been snatched from their parents.

Alan Lud is a human rights lawyer in Buenos Aires and lead counsel for Grandmothers of Plaza de Mayo. He is also an appointed substitute judge for the Criminal Cassation Court. He was recently interviewed by the *Buenos Aires Herald*. [Part of Lud’s interview](#) follows with the questions in **Bold**:

There are some sectors that suggest plea bargains to exchange information about the disappeared for a lesser sentence. Would the Grandmothers support this idea?

Historically, they have not. It’s difficult to express how this possibility affects them. Some Grandmothers say: “I couldn’t look my grandchild in his or her eyes if I had negotiated impunity for his appropriators, who might also have known what happened to his parents.” ... I find the proposal difficult in this particular context.

Why?

Those who are taken to court are members of the military or the security forces. They are not ordinary people who turned up there by chance. ... They have never acknowledged the systematic plan

to snatch babies. ... *There is a huge pact of silence among the repressors and they prefer not to talk in order to avoid being ousted from their circles.*

Next week, a trial against former judges for their role during the dictatorship will begin in Mendoza. Is there a need to purify the judiciary?

It’s clear that the judiciary was an accomplice in state terrorism. There are few magistrates these days who were judges during the military regime but there are many who began their careers then. We cannot expect the judiciary to purify itself, the boost for reform must come from outside. Last year, there were attempts to reform the judiciary but they were quashed by corporativism and the Supreme Court.

The Supreme Court created three commissions of criminal judges to propose changes. Can that be enough?

No. We cannot expect a beneficial reform from the judges. They think of their interests. They think of the judiciary as something that belongs to them, not as a state branch that has to guarantee the citizens’ rights. The best reform proposals have always been quashed by judges.



Alan Lud, human rights attorney (Buenos Aires Herald)

[Click her to read the complete interview](#) of attorney Alan Lud by Luciana Bertoia

[Click her to go to the Grandmothers of Plaza de Mayo website.](#)

Sources:

“[We cannot expect judges to reform the judiciary.](#)” Interview of Alan Lud by Luciana Bertoia, *Buenos Aires Herald* (Buenos Aires, Argentina),

February 9, 2014

Grandmothers of Plaza de Mayo website, www.abuelas.org.ar/english/history.htm

Stobaugh cont. from p. 8

The appeals court ordered Stobaugh released on \$25,000 bond while the State decides if it will appeal their ruling to the Texas Court of Criminal Appeals. However the Court left the conditions of Stobaugh’s release to be decided by the Denton County District Court. If the appeals court’s ruling isn’t appealed then Stobaugh’s indictment will be dismissed and his retrial for murder barred by double jeopardy.

Seven days after Stobaugh’s acquittal a bond

hearing was held and District Court Judge Bruce McFarling — who presided over Stobaugh’s trial in 2011 — [ordered his release](#) from the Denton County Jail on the conditions he wear a GPS tracking device, and that he not leave Denton, Tarrant or Cooke counties without permission pending either the State’s appeal or dismissal of his indictment. Stobaugh was accompanied by his son Tommy and daughter Charee as he left the jail after 2 years and 50 weeks of incarceration.

[Click here to read](#) the appeals court’s 176-page ruling in *Charles Stobaugh v. Texas*,

No. 02-11-00157-CR (2nd Dist. Ct. of Appeals, 1-23-2014).

Source:

[Charles Stobaugh v. Texas](#), No. 02-11-00157-CR (2nd Dist. Ct. of Appeals, 1-23-2014) (Opinion)

[Charles Stobaugh v. Texas](#), No. 02-11-00157-cr (2nd dist. ct. of appeals, 1-23-2014) (Judgment)

[Stobaugh conviction overturned](#), *Denton Record Chronicle* (Denton, TX), January 27, 2014

[Walking free](#): Stobaugh released after three years in prison, *Denton Record-Chronicle* (Denton, TX), January 30, 2014

[Denton County jury](#) finds Charles Stobaugh guilty of murdering estranged wife, *The Dallas Morning News*, February 17, 2011