

Four Actual Courtroom Death Penalty Cases

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Case study #1: Lesley Gosch

The Crime

At approximately 2:30 on the afternoon of September 18, 1985, Frank Patton, president of Castle Hills National Bank in San Antonio, Texas, received a telephone call at the bank from his wife, Rebecca Patton. When he answered the phone his wife said, "Hi, Frank, there is someone here who wants to talk to you," and then a male voice, unfamiliar to Mr. Patton, took over the line. The unknown male instructed Mr. Patton to gather cash in a briefcase, in \$50 and \$100 bills, and go directly to the pay telephones at the food court at the North Star Mall in San Antonio and await further instructions. The caller told Mr. Patton that he had precisely 45 minutes to comply with these directions, or it would be "all over."

After hanging up the phone, Mr. Patton immediately directed a bank cashier to begin gathering the money, while his secretary called the F.B.I. Seven minutes after the initial extortion call, officers from the Alamo Heights Police Department arrived at the Patton home to find the body of Rebecca Patton lying on the floor. She had been shot fatally in the head.

After being informed of his wife's death, and accompanied by several agents from the F.B.I., Mr. Patton proceeded, briefcase in hand, to the North Star Mall. While plainclothes agents stationed themselves nearby, Mr. Patton waited by the pay telephones at the food court designated by the caller. After 40 minutes, however, no one had called or come to collect the money, and Mr. Patton was advised by the F.B.I. to return to the bank.

State and federal law enforcement agencies swiftly initiated an intensive investigation of Mrs. Patton's murder. The crime scene was secured, and the home was thoroughly searched for evidence. Seven .22 caliber cartridge casings, believed to be manufactured by an English company called the Eley Ammunition Company, were found in the home. In addition, at least one foreign hair and several unknown fingerprints were found in the residence and processed for identification.

The police also conducted a house-to-house canvass of the Pattons' neighborhood to determine if anyone had noticed anything unusual on the day of the crime. However, despite the impressive law enforcement resources devoted to investigating the case, the police were without significant leads several days after the crime.

The Suspect

On September 23, 1985, a group of San Antonio-area bankers held a press conference to announce that they were offering a \$100,000 reward for information leading to the arrest and conviction of those responsible for the murder of Mrs. Patton. Less than two days later, 21-year-old Stephen Hurst was brought to the Alamo Heights Police Department by his uncle, claiming that he had information that would lead to the arrest of the individuals responsible for the crime.

At the police station, Hurst produced a briefcase which he claimed had been given to him for safekeeping by his friend and housemate, John Rogers. Inside police found a Ruger .22 caliber automatic handgun, several full boxes and one partially full box of Eley pistol ammunition, and two silencers which fit the weapon. A subsequent firearms comparison by the Bexar County Firearms Examiner concluded that this handgun was the murder weapon.

Hurst gave a written statement to the Alamo Heights police implicating his roommate Rogers and a man named Lesley Gosch in the failed extortion plot and subsequent murder of Mrs. Patton.

According to Hurst's statement, Rogers told him of a plan to obtain ransom money but that the plan had "gone sour" and that "Skipper (Gosch) emptied a clip into her." Rogers told Hurst that "Skipper went to the house with a big flower box with a gun inside it, he rang the door bell, she opened the door and he forced his way in."

After Hurst turned the briefcase over to the authorities, officers from several law enforcement agencies acted quickly to secure warrants for the arrests of Rogers and Gosch, and for the search of the apartment of Rogers and Hurst.

The Trial

Following a change in the venue for the trial, the first phase (to determine guilt or innocence) of Gosch's trial began in Victoria, Texas on August 26, 1986. The State's evidence was largely circumstantial. The fingerprints found at the crime scene did not match Gosch. Two witnesses testified that Gosch had told them that he owned a .22 caliber pistol. Other witnesses testified to conversations with Gosch indicating his fear of serving time on a pending federal firearms charge, and one witness said that he had bought the .22 Ruger for Gosch approximately a year before the murder.

Finally, the co-defendant, John Rogers, testified to many of the details outlined above and alleged that Mr. Gosch was the one who had entered the Patton household and shot Mrs. Patton, and that it was all part of a scheme to raise a large sum of money to finance Gosch's escape to Belize. Rogers admitted giving the briefcase containing a number of guns, including the .22 Ruger, to Stephen Hurst, and acknowledged that Hurst knew about, and at one time was going to participate in, the extortion plan.

The defense presented no witnesses at this phase of the trial. The jury returned a verdict of guilty against Mr. Gosch. The punishment phase of the trial began the next day.

The prosecution presented testimony alleging various prior offenses committed by Gosch which had never been submitted to a trial, and offered judgments of his earlier convictions. The defense presented only two witnesses on Gosch's behalf: his adoptive father, Wesley Gosch, and a former co-worker, Preston Knodell, who had known Gosch for four years. Gosch, himself, did not testify.

The jury found that Gosch acted deliberately and that he represented a future danger to society. The court sentenced him to die.

Meet the victim

Rebecca Patton lived with her husband, Frank Patton, and her two children. She had been married for 17 years. Mr. Patton was president of the Castle Hills National Bank in San Antonio. Mrs. Patton was very active and well-known in the local community.

Regarding the death penalty for Gosch, Mrs. Patton's daughter remarked that it was not about revenge, but about justice. "This man took a life. He took a lot of things. My mom was a lot of things to a lot of people. He took her away from a lot of people and left a big hole in a lot of people's lives as well as deprived her of the pleasure of living."

Meet the defendant

Lesley Gosch was a former Eagle Scout. He was 29 years old at the time of the crime. Gosch had pleaded guilty a month earlier to charges of manufacturing and selling gun silencers. Gosch was facing sentencing for this earlier federal firearms conviction and the prosecution maintained that he sought the ransom money for a flight to Belize, Central America, to avoid being incarcerated. He also had previous convictions for a pair of pharmacy robberies in San Antonio.

Due to injuries Gosch sustained in an accident as a teenager, he would have had a hard time carrying out his role in the offense. As a result of the accident, Gosch lost one of his eyes and his eyesight was so poor in the other eye that he was legally blind. Given this disability, it would have been difficult for Gosch to drive the victim from the crime scene. Moreover, Gosch also lost the distal phalanges of four of his fingers and the thumb on his left hand, as well as portions of the thumb and index finger of his right hand, from the accident. These disabilities would have made it extremely difficult for him to brandish a weapon with one hand while binding Mrs. Patton with the other.

Although little was presented at the sentencing phase of Gosch's trial regarding his background, the defense could have presented to the jury the picture of a physically

and emotionally abused child who nevertheless attempted to, and at times succeeded in, achieving in his academic endeavors; of a boy who hated violence and seeing animals killed; of a young man who was not a leader but a follower, and who was struggling to overcome the effects of an overbearing father and a traumatic injury; of an adult man who had the intellectual and spiritual faculties to make that struggle a success. The witnesses who provided the information necessary to put together that life history include numerous members of Gosch's extended family who were never contacted by the defense.

Moreover, it appears that counsel failed to review potentially mitigating records. Records from the 1977 hospitalization following the explosion in Gosch's home offer significant information about the struggles and successes he experienced while coping with his injuries. Excerpts from those same records show Gosch's consistent attendance at the therapy sessions five, six and seven years after counseling was ordered in conjunction with a probationary sentence resulting from his only prior conviction. Repeatedly, the notations from those sessions show Gosch's honest attempts to confront the issues and dilemmas presented to him and to reflect on his own life and behavior. For no apparent reason, however, defense counsel failed to present this evidence to the jury.

Case study #2: Kenneth Junior French

The Crime

On the night of August 6, 1993, a man stepped out of a truck near Luigi's Restaurant and the Kroger supermarket in Cumberland County, North Carolina. The man carried a pump shotgun and was wearing shorts, a T-shirt and a hunting vest. A witness stated that there appeared to be a bottle of beer in his hunting vest. The man suddenly began firing in the direction of the Kroger store. He then walked to the back of the restaurant and entered through the kitchen area.

He then went to the restaurant proper, hollering "freeze." Patrons began running out the door and hiding under the tables. The man walked through the restaurant and killed four people and wounded numerous others, often firing right in people's faces after they asked for mercy.

A Fayetteville police officer who was working as an off-duty guard for Kroger's, heard the shots and, after calling for backup, entered the restaurant and shot the man holding the gun. When another officer approached, the man with the gun raised it and the officer fired twice. Finally, an officer removed the shotgun and placed the man under arrest. He was taken to a hospital for surgery.

The Suspect

There was little doubt about who had committed the crime. The man who was arrested at the scene of the crime was Kenneth Junior French, a 22-year-old mechanic in the Army, who had obtained the rank of Sergeant E-5. He had recently moved into a trailer rented by his fiancée, Elaine Sears, and her two children. At the time of the crime, Ms. Sears and her children were out of state.

The Trial

The defendant was charged with four counts of first degree murder, eight counts of assault with a deadly weapon with the intent to kill inflicting serious injury, and one count of discharging a firearm into an occupied building. The defendant pleaded not guilty to all counts. After a request by the defendant's appointed attorney, the trial was moved to New Hanover County.

Jury selection in the case began on February 14, 1994 and the guilt-or-innocence phase of the trial was completed by the end of March. The jury then deliberated for two and a half days and returned a verdict of guilty of four counts of first degree murder on the basis of premeditation and deliberation, guilty of three counts of assault with a deadly weapon with intent to kill, guilty of four counts of assault with a deadly weapon inflicting serious injury, and guilty of other lesser counts.

The jury was then presented with testimony relaying aggravating and mitigating evidence. The aggravating evidence attempted to show that the crime was especially heinous, atrocious, or cruel; that the defendant knowingly created a risk of death to more than one person; and that the murder was part of a course of conduct which included other crimes of violence against other persons. The mitigating evidence is presented in the section about the defendant below.

Meet the victims

Willie McCormick, a cook in the restaurant, was the first person shot, when he tried to walk away from the defendant. He did not die.

Pete Parrous, the proprietor of the restaurant, approached the man and asked him not to hurt anyone. He was shot in the face and died instantly. As Mr. Parrous fell to the ground, his wife, Ethel Parrous, stood up screaming. She was killed and fell by her daughter, Connie Kotsopoulos, who began screaming and was shot in the thigh.

Wesley Cover, who had been tending to a patron who had been hit by a pellet from the shooting, asked the man with the gun not to hurt the woman he was helping because she was pregnant. Mr. Cover was shot in the head and died quickly. The woman was also shot, but not fatally.

James Kidd was covering his son and hiding in a booth. The man shot Mr. Kidd, who died almost immediately. The son was not physically harmed. Other patrons were wounded in the incident.

Meet the defendant

The following facts about Kenneth French were presented to the jury considering his ultimate sentence:

On August 5, 1993 after work, Ken French went with three friends to several bars near Ft. Bragg, consuming a great deal of alcohol before returning to the barracks around 3 AM on August 6. French got up that morning around 9 AM. He visited some friends, played with their children, got a hair cut, rented some videos and returned to the trailer where he was living. He started watching TV and drinking beer. In particular, he watched a Clint Eastwood video, "The Unforgiven," imitating some of the drinking and shooting that was going on in the movie.

At one point, he called an old girl friend, who reported that he sounded strange. He also called his mother in Florida, during which call he started crying and apologizing for not preventing the spousal abuse that he witnessed his father direct towards her. He also said he could have prevented the sexual abuse and rape of his sister by his father. His mother was so concerned that she offered to come to console him, but he said he was all right.

Ken French has no further memory of the events that then transpired, other than he remembered putting guns into his truck and he remembered shooting an older woman. French went from his trailer to a nearby party, where others reported that he drove erratically and that he was carrying several beers and a bottle of Wild Turkey and that he was hyperactive. He was overhead telling some children at the party to “shoot or kill” black people (using a pejorative term).

French continued acting strangely and alarmed those who saw him. He told a friend he wanted to go to a part of town frequented by blacks and that a black man had “raped his sister.”

Evidence presented during the penalty phase of the trial included information attempting to show that French had no significant history of prior criminal activity, that he was relatively young at the time of the crime, that he had a good reputation in the communities in which he lived, that he was a product of a violent and chaotic home, and that he accepted responsibility for the shootings.

Case study #3: Dennis Stockton

The Crime

On July 20, 1978, a young man named Kenny Arnder telephoned Dennis Stockton at his home. Arnder wanted Stockton to drive him to Kibler Valley, a remote, wooded area in southwestern Virginia. Arnder said he was scared because someone whom he feared had seen him stealing tires off a car. Stockton agreed, and drove Arnder to Kibler Valley, dropping him off at 6 PM. Stockton left, but later returned around midnight, finding a number of people who were having a party.

Five days later, Arnder's body was found in a gully near a dirt road in North Carolina, close to the Virginia border. The body was covered with branches and already decomposed, making identification difficult. Arnder's arms were stretched out in the form of a cross and his hands had been chopped off at the wrists. He had been shot between the eyes.

The Suspect

Dennis Stockton already had a criminal record and was one of the last persons to see Kenny Arnder. The police questioned him shortly after Arnder's body was discovered. Stockton readily showed the police guns he had in his house, but they were different calibers than the murder weapon. Then the police left.

Later, Stockton heard rumors about who had killed Arnder. However, Stockton did not go to the police with the information he had heard about the crime.

Two years after the crime, Stockton was in jail on other charges. He heard rumors that the police suspected him of Arnder's murder. He believed he knew where the rumors were coming from and he offered to reveal some new information to the police. The police took him to his house, where he showed them letters from a "prominent citizen" who had written to Stockton, offering him money in order to have a "rival" killed. Stockton claimed he had been given \$2,000, with a promise of \$3,000 more if he killed this rival. Stockton said he kept the money, but never killed anyone. Later, he received another \$1,000 and a letter asking him to kill someone else. Again, he kept the money, but did not act on the offer. He gave the letters to the police, indicating that the author of the letters might be the one spreading the rumors about Stockton's killing Arnder as a way of getting back at Stockton for not carrying out the murders requested in the letters. Later, the letters were lost by the police.

Finally, four years after the crime, Stockton was charged in Virginia with the murder-for-hire killing of Kenny Arnder, when another convicted felon offered to testify that he heard Stockton agree to a contract on Arnder's life.

The Trial

Dennis Stockton's trial was held in the rural town of Stuart, Virginia in 1983. Stockton was charged with accepting \$1,500 for murdering Kenny Arnder from Tommy McBride. Allegedly, McBride was angry with Arnder for crossing him on a drug deal and wanted Arnder killed as a message to others. Arnder's mother testified that the last person she saw with her son was Dennis Stockton.

Randy Bowman testified that he had been at McBride's house trying to sell some stolen goods and heard McBride offer to pay \$1,500 to have Arnder killed. Bowman testified that Stockton quickly agreed to the deal. Bowman's testimony was the only evidence directly linking Stockman to Arnder's murder. Bowman stated that he was not given any promises in return for his testimony, although he was facing criminal charges.

At the sentencing hearing, a different witness testified that he had seen Stockton kill and bury another man named Ronnie Tate in North Carolina in 1979. Ronnie Tate had also been at the park in Kibler Valley the night Kenny Arnder was last seen alive. Stockton claimed he killed Tate in self-defense after Tate had pulled a gun and threatened to shoot him. Although Stockton had admitted to this killing earlier and had even led police to the body, it helped establish for the jury that Stockton would be a future danger to society, and he was sentenced to death.

Meet the victim

Kenny Arnder was 18 years old when he was killed. He was the second youngest of Wilma Arnder's six children. She had raised all the children herself after her husband left her. Kenny was a tall boy, with long hair that was common in the 1970s. He was easy-going, but in his teens he started associating with a rough crowd. Sometimes he would live away from home. When his body was found, he was wearing jeans, a T-shirt with a slogan joking about drugs, and a necklace with a white stone, the same clothes he had been wearing when he was last seen alive five days before.

Arnder had known Stockton for some months and looked up to him. Mrs. Arnder recognized Stockton because he had been at their house a few times. Stockton telephoned her after Kenny was reported missing and again when his body was found. She did not doubt that Stockton was the killer, but she found it cold-blooded that someone could kill his friend.

Meet the defendant

Dennis Stockton was born in 1940 in North Carolina. He spent most of his adult life in prison, work camp, or jail. His first stint in jail came when he was locked up for passing bad checks. His parents let him stay in jail over the weekend to teach him a lesson. He was sexually assaulted by a guard. When he was 17, he was sentenced to three-to-five years in prison for two counts of passing bad checks in his parents' names. When he returned home at age 20, he was already a hardened adult.

Stockton's early years were spent in Shelby, North Carolina, where he lived with his parents in a small rented house near the cotton mills. He did well in school and had an IQ estimated between 130 and 160. He loved baseball and played whenever he could. His father was away for much of his childhood, fighting in World War II. When he returned, he was often abusive to Dennis.

Stockton played baseball on a prison team and claimed he was scouted by the New York Yankees. But he never made it to the big leagues. He became heavily involved with drugs, both using and dealing, committing arson by contract, safecracking, and carrying a gun. Police frequently sought him out as a suspect in crimes. He sported a prison tattoo, and idolized race car drivers. At one point, police claimed they had seen a human body part preserved in a jar in Stockton's house. He said he had gotten it from a biker gang and just kept it to show off at parties.

Case study #4: Walter McMillian

The Crime

On a Saturday morning in November, 1986, Ronda Morrison opened the Jackson Cleaners in Monroeville, Alabama by herself and served several customers by 10 AM. At around 10:45, some customers entered the store, but could find no one working there. They looked around and finally discovered Ronda's body on the floor. She was dead. There was no apparent blood, and it appeared the victim had been sexually assaulted. It also appeared that money had been taken from the cash register.

The local police began their investigation without waiting for experts from the state crime lab to arrive. Their search for fingerprints was hindered by the presence of so many prints from customers and by the police's relative inexperience. They did find five spent shell casings from a .25 caliber handgun. A subsequent autopsy revealed three slugs in Ronda's body, including one fired from close range. The coroner concluded that she had lived for about five minutes after being shot. No semen was found in or on her body, or on her clothing.

When an officer from the Alabama Bureau of Investigation finally arrived on the scene, there was fingerprint powder on nearly every surface and Ronda's body had already been taken to the funeral home, thus making accurate fingerprinting and a detailed examination of fibers at the scene, hairs, the exact location of the body, facial expression, the color of the victim's skin, and similar evidence, impossible.

The Suspect

Police interviewed several suspects and a reward was posted, but the crime remained unsolved for seven months. At that time, Ralph Myers, a white man with a long criminal record, was arrested for the murder of another young woman in Alabama. He was interrogated about Ronda Morrison's murder and eventually stated that Walter McMillian, a 46-year-old black man from Monroe County, had killed Ronda. Two other witnesses corroborated parts of Myers's story. McMillian was reputed to be a marijuana dealer and was dating a white woman from the area. He had a minor criminal record.

The Trial

The defense asked that the trial be moved from Monroe County because of all the publicity surrounding the case. The judge agreed to move the trial from Monroe County to Baldwin County, which had a substantially smaller percentage of black people in its population. Testimony at the trial lasted one and a half days. The evidence against McMillian consisted chiefly in the following testimony:

1. Ralph Myers said that he and McMillian drove to Jackson Cleaners on November 1. He said that while waiting for McMillian he heard popping noises, went into the store himself and saw McMillian near the victim's body with money in his hands.

2. Bill Hooks testified that he had seen McMillian's "low-rider" truck near the Cleaners on the morning of the murder and that he had seen Myers and McMillian driving away from the Cleaners. Hooks said that he had tried to give the police some of this evidence the night of the crime, after he had been arrested for urinating in public.

3. A surprise witness, Joe Hightower, who the prosecution said had only stepped forward four days earlier, testified that he, too, saw the "low-rider" truck near the Cleaners on November 1, 1986. Hightower said that he had seen the same truck many times before and that he knew it was McMillian's truck because he had been to McMillian's house to buy marijuana. His comment about buying marijuana was stricken from the record.

McMillian's defense attorney called six witnesses who testified that he was at his home on the morning of November 1, taking part in a fish-fry. McMillian did not testify. He was found guilty of first degree murder during a robbery.

The penalty phase of the trial to determine if a death sentence should be given began immediately after the guilty verdict. The prosecution put on no witnesses. The defense put on only one witness, Walter McMillian. McMillian tried to explain that he was innocent of the crime and that he did not know Ralph Myers, but the judge cut him off, since this phase was about punishment, not guilt.

In its closing argument, the state emphasized the beauty of Ronda's life and the cruelty of her murder. The defense argued that only God should decide who lives and who dies. Only once did the attorney mention McMillian.

Meet the victim and her family

Ronda Reene Morrison was a pretty 18-year-old junior college school student at the time of her death in November, 1986. She worked part-time at Jackson Cleaners, a dry cleaning establishment in the town of Monroeville, Alabama. Ronda Morrison was a popular girl who easily made other people smile. She weighed 120 pounds, but often worried about her weight. In high school, she attended Monroe Academy, the private all-white high school formed by town parents to avoid racial integration. Ronda knew few black people, and none of them well. She still liked watching Walt Disney fairy tales and she believed that basically everyone was good deep down.

Ronda was Charles and Bertha Morrison's only child, and they considered her to be a gift from God. Mr. Morrison worked at a paper mill and Mrs. Morrison worked at a garment factory. They were not well-to-do, but had a comfortable house. After the guilty verdict, they prepared a short victim-impact statement. They said, "Our life had centered around our daughter. Now that she is gone we have no goal in life." Before

submitting their victim-impact statement, they consulted with their minister at Eastwood Baptist Church. He urged them to forgive Walter McMillian, but also to demand his execution. The Morrison's wrote: "This man took our daughter's life and should pay with his own."

Meet the defendant

Walter McMillian was married to Minnie McMillian for 25 years. They had met as teenagers. When Minnie became pregnant in 1962, they were married. During their first year together, they almost starved, with Walter working as a field hand for \$14 per week. They lived in a sharecropper's shack.

Walter often sought better work to support his family. Sometimes Minnie went with him, at other times she stayed in Monroeville. He suffered some work related injuries and eventually came back to Monroeville and opened his own land clearing business. On the side, he sold marijuana. One of his customers was a white woman named Karen Kelly. They became romantically involved. In the midst of her own legal troubles, Kelly had accused McMillian of another murder. McMillian's arrest record consisted of one conviction for possession of marijuana, for which he was fined \$100; one charge of selling marijuana, which was dropped; and one charge for cutting another man with a knife outside a nightclub, for which he was given a year's probation.

It was very difficult for Minnie to raise the money to pay for Walter's defense. Her church and the local black community helped. At times, the attorneys threatened to stop working if they were not paid. Minnie was upset when she learned about Karen Kelly, but she steadfastly believed in Walter's innocence.