

Stephen and Cheryl Crowe  
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June 12, 2017

Hon. Greg Cox  
Supervisor, District 1  
1600 Pacific Highway  
San Diego, CA 92101

Hon. Ron Roberts  
Supervisor, District 4  
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Hon. Diane Jacob  
Supervisor, District 2  
1600 Pacific Highway  
San Diego, CA 92101

Hon. Bill Horn  
Supervisor, District 5  
1600 Pacific Highway  
San Diego, CA 92101

Hon. Kristin Gaspar  
Supervisor, District 3  
1600 Pacific Highway  
San Diego, CA 92101

Dear Honorable Supervisors Cox, Jacob, Gaspar, Roberts and Horn:

Statements made in Summer Stephan's *Application for Appointment of the Elective Office of the District Attorney* prompted me to write. In her application, Stephan cites the Stephanie Crowe case as one in which she "followed her conscience" and "did the right thing." She cites "facts" to support her claim. Her facts are false and her message is untrue.

Stephan's representations are disturbing because they were made under oath. She swore that "all information provided on this form by me, *including all attachments*, is true and correct." Her signature appears beneath the words: "I certify under penalty of perjury that the foregoing is true and correct. Executed on the 30<sup>th</sup> day of May, 2017 at San Diego, California."

In Part V of her attachment, Stephan devotes a page and a half to the Crowe case to showcase her prosecutorial virtues. Her main points are: (1) She inherited

the case from another prosecutor, (2) which was “extremely unfair” because “critical decisions had [already] been made,” (3) she “followed her conscience” and “did the right ethical thing,” and (4) never committed prosecutorial misconduct.

These main points are all untrue. I know what Stephan did in the Stephanie Crowe case. Stephanie was my daughter. Stephan is using my dead daughter to promote her political ambitions through falsehood and misrepresentation. I am not going to let her get away with it.

### **THE MURDER OF STEPHANIE CROWE**

My twelve-year-old daughter Stephanie was stabbed to death in her bedroom on January 20, 1998, between 10 and 12 p.m., by a mentally unstable, drug addicted transient named Richard Tuite who was roaming our neighborhood that night threatening to kill a girl named Tracy.

Three days after Stephanie’s murder, Escondido Police arrested my fourteen-year-old son, Michael. Two additional arrests followed, of Joshua Treadway and Aaron Houser. Police said they all conspired to murder Stephanie.

Michael and the two boys were innocent. Two courts, one federal, the other state, have so found. The first paragraph of *Crowe v. County of San Diego*, decided by the Ninth Circuit Court of Appeal begins:

This civil rights case arose from the investigation and prosecution of innocent teenagers for a crime they did not commit. Michael Crowe, Aaron Houser, and Joshua Treadway were wrongfully accused of the murder of Michael’s 12-year-old sister Stephanie Crowe. After hours of grueling, psychologically abusive interrogation – during which the boys were isolated from their families and had no access to lawyers -- the boys were indicted on murder charges and pre-trial proceedings commenced. *Crowe v. County of San Diego*, 608 F.3d 406 (9th Cir. 2010) at 417.

Two years after this decision, on May 22, 2012, Kenneth So, Judge of the Superior Court of the State of California, in and for the County of San Diego,

found Michael and the other boys factually innocent. Greg Moran, Union Tribune, May 22, 2012 *Brother Declared Innocent in Killing of Sister in 1998*. A finding of factual innocence is extremely rare, because it essentially requires the person requesting the relief to prove his innocence beyond a reasonable doubt.

### **STEPHAN WAS NOT LATE TO THE CASE**

Stephan claims she was late to the case. She swears:

*The facts ... are that another prosecutor ... in an entirely different division from mine brought murder charges against three men and presented the case to a grand jury and obtained an indictment. Six months later, when the case was facing significant issues, I was asked by ... DA Paul Pfingst to step in. Italics added.*

Stephan, along with her political sponsor Dumanis, have launched a public relations campaign to convince the public of this "fact." On June 3, 2017, the Union-Tribune reported that Dumanis said:

*But because Stephan was not the original prosecutor, inheriting a case that was "already a mess," it's unfair to blame her, Dumanis said. Greg Moran, DA Dumanis, Elected on Criticism of Crowe Case, Now Endorsing One of its Prosecutors as Her Replacement, Union-Tribune, June 3, 2017.*

Stephan and Dumanis both conveyed the message that Stephan "got involved ... *after the teens and been charged and the grand jury indicted them.*" Italics added.

Stephan's sworn application, as well as the public representations of Stephan and Dumanis, are untrue.

Criminal prosecutions are initiated by indictment. Indictment is the first step in the criminal judicial process. Grand jury proceedings are secret. The prosecutor calls witnesses who are sworn and testify under oath. The prosecutor presents evidence to persuade the grand jury to return a "true bill." A true bill charges a defendant with a specific crime. After a true bill is returned, the

defendant is taken before a judge (“arraigned”), informed of the charges, and asked if he pleads guilty or not guilty.

In serious cases it is not uncommon for the D.A.’s office to assign two prosecutors. That is what happened in the Stephanie Crowe case. On the *very first day* of grand jury proceedings, *two* prosecutors appeared and introduced themselves as *co-prosecutors* to the grand jurors. Their names were Gary Hoover and Summer Stephan:

### ILLUSTRATION 1: GRAND JURY TRANSCRIPT

1 SAN DIEGO, CA - FRIDAY, 02-12-22 - 11:30 A.M. - VOL. 1 2 --000-- 3 (THE COURT REPORTER HAVING BEEN PREVIOUSLY 4 DOLY SWORN BY THE FOREPERSON, THE FOLLOWING 5 PROCEEDINGS WERE HAD:) 6 THE FOREMAN: THE COUNTY GRAND JURY IS NOW BACK IN 7 SESSION. 8 OUR FIRST MATTER TO BE PRESENTED TODAY INVOLVES 9 AS POSSIBLE DEFENDANTS, MICHAEL STEPHAN CROWE, JOHN DAVID 10 TREADAWAY, AARON PAUL HOOPER. 11 AND THE POSSIBLE CHARGES: 12 COURT 1: MURDER, PC187, ALL DEFENDANTS, PERSONAL 13 USE OF A DEADLY WEAPON, PC12022(B)(1), DEFENDANTS CROWE AND 14 HOOPER. 15 COURT 2: CONSPIRACY TO COMMIT MURDER, PC182(A)(1), 16 ALL DEFENDANTS, ALL FELONYES.	1 NOW HEYDIE. 2 (NO AUDIBLE RESPONSE.) 3 THE FOREPERSON: LET THE RECORD INDICATE THAT NONE OF THE 4 JURORS HAVE WITHDRAWN. 5 YOU MAY PROCEED D.A. HOOPER. 6 MR. HOOPER: THANK YOU. MY NAME IS GARY HOOPER. THIS 7 IS SUMMER STEPHAN. WE ARE BOTH DEPUTIES DISTRICT ATTORNEY. I 8 KNOW THAT YOU HAVE HAD PRIOR HEARINGS. YOU’RE FAMILIAR WITH 9 THE ROLE THAT THE DEPUTY PLAYS IN RELATIONSHIP TO THE GRAND 10 JURORS. BOTH MYSELF AND MISS STEPHAN WILL HOPEFULLY BE 11 FULFILLING THAT ROLE FOR YOU.
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The fact that Stephan is not telling the truth under oath and that she and her political sponsor, Dumanis, are peddling a false story to the public is significant. An individual who makes a false statement of material fact on a job application may not be suitable employee, especially for a job which requires ethics, honesty, and straight talk.

### OTHER UNTRUE STATEMENTS MADE UNDER OATH

Stephan’s affidavit is not the first time she told her false story under oath. In 2002, our lawyer deposed her in *Crowe v. County of San Diego*, a case brought in federal court against multiple defendants for violating our civil rights. *Crowe v. County of San Diego*, 608 F. 3d. 406 (9<sup>th</sup> Cir 2010).

The Stephan who appeared at her deposition was a far cry from the Stephan who was cruel toward me and my husband during the case. For example, she knew that Steve and I wanted to watch all the proceedings. After all, our daughter

had been murdered and our son was accused of killing her.

At one point, Stephen subpoenaed us as an act of spite. She did not intend to call us a witnesses. She did not call us as witnesses. She subpoenaed us so she could get us kicked out of the courtroom.

The law says that a subpoenaed witness can be excluded from the courtroom. The reason is to avoid the possibility the testimony of the witness will be influenced by other witnesses.

Either side can ask that subpoenaed witnesses be excluded. Many times, the lawyer's don't ask. They use their authority in good faith, because they are legitimately concerned that the witness' testimony might be influenced.

What they do not – or at least should not do – is use this authority as a way to punish. This is exactly what Stephan did. She had no intention of calling us and did not call us. But she subpoenaed us, and got us kicked out of the courtroom.

I went to her office and confronted her. I said, words to the effect: "You are always talking about how much you care about victims and their families. We are victims. Our daughter was murdered. Is this how you look out for us? By kicking us out of the courtroom? We are victims. Why are you treating us like this?"

"Victims have to co-operate," she replied. "I can't help victims unless they co-operate. You are not co-operating."

"What do you mean? We've done everything you asked. We took off all our clothes for you. You have nude pictures of us. We gave you our blood. What else do you want?"

"I want you to admit that Michael murdered Stephanie. Otherwise, you are not co-operating."

An entirely different Stephan appeared at her deposition. She came with her mother. She asked our lawyer if her mother could sit next to her during the deposition. Our lawyer did not have to say yes. Only parties have a right to be

present at a deposition. Our lawyer granted Stephan's request. Her mother sat at her side, and comforted her between breaks, throughout the deposition.

At the deposition, Stephan told the same story she is telling now: I wasn't there from the beginning. I wasn't familiar with everything, and I didn't think it was fair for me to pick up somebody else's case.

### **STEPHAN'S CONCEALMENT OF EXCULPATORY EVIDENCE**

In addition to portraying herself as a victim, Stephan cast herself as righteous, ethical hero, especially in connection with the Crowe case:

In the thousands of cases that I have handled ... I have *never been found* to have committed prosecutorial misconduct ... This is a rare thing for a prosecutor trying and handling so many cases over so many years. Italics added.

Stephan has a way of slicing words carefully to convey an impression which bears little resemblance to the truth. She always leaves herself a way out.

For example, she will probably say that even though Stephan and Hoover appeared as co-prosecutors at the grand jury, Hoover was the first prosecutor to be assigned the case. She may have more difficulty explaining -- "[t]he *facts ... are* that another prosecutor ... *brought murder charges ...* and presented the case to *a grand jury* and obtained an indictment. *Six months later ...* I was asked by" -- but Stephan has proven herself to be very nimble when dancing around the truth.

Stephan's "*never been found* to have committed prosecutorial misconduct" is another example of careful word smithing. Although it may well be that she has *never been found* to have committed prosecutorial misconduct, she *has actually committed* prosecutorial misconduct in my daughter's murder case.

### **The Most Serious Type of Prosecutorial Misconduct**

One of the most serious types of prosecutorial misconduct is failing to disclose exculpatory evidence to the defense. Exculpatory evidence is evidence which has a tendency in reason to show that a crime was not committed or that the

defendant might not have committed it.

The obligation of prosecutors to turn over exculpatory evidence to the defense was first established over half a century ago in *Brady v. Maryland*, 373 U.S. 83, 1963. The duty to disclose was based on the principle that it is the job of the prosecutor to see that justice is done.

*Brady* was followed by a series of California Supreme Court cases interpreting the California Constitution which broadened the prosecutorial duty to disclose. A prosecutor had to disclose exculpatory evidence even if the defense lawyer had not asked for it.

The Court also plugged loopholes. It held that prosecutors could not avoid “knowing” about exculpatory evidence by being wilfully ignorant of it. For example, they could not tell the police not to inform them about exculpatory evidence. They could not tell police not to write a report. If there was no report, they had a duty to produce one. In the eyes of the law, if the police knew, so did the prosecutor, and the prosecutor had an affirmative duty to turn over the exculpatory information to the defense.

Currently, under California law, it is a felony for a prosecutor not to turn over exculpatory evidence to the defense. Section 1 §141 Penal Code.

### **Stephan’s “Most Compelling Piece of Evidence”**

From beginning to well past the end, Stephan claimed that her “most compelling piece of evidence” was the fact that Michael lied to the police about not seeing Stephanie’s body.

After the charges against Michael were dismissed, Stephan went on *48 Hours* to defend her actions and describe the evidence against Michael. She singled out the “most compelling piece of evidence”:

[T]he *most compelling piece of evidence* . . . was a statement he [Michael] made . . . The brother told his family and told the police that he woke up at 4:30 in the morning and that he turned on his TV light . . . and that he got out of his room . . . and that his sister’s door

was closed at that time and he saw nothing amiss . . . The *investigation showed that it is pretty much not reasonable* that somebody could walk out of their room at 4:30 and not see the body there ... *48 Hours*, May 6, 1999, italics added.

Some context: There were six people in the house. Steve and I were in our bedroom, Grandma Kennedy and ten-year-old Shannon in theirs, Stephanie in hers, and Michael in his. Everyone was in their bedroom before 10 p.m. We routinely closed our doors at night because we lived on a rural hillside in Escondido. There was a lot of flammable brush and trees on the hillside. The fire marshal came through and told us to close our doors at night.

Stephanie was in her bedroom, talking on her phone with a friend, at 10 p.m. Her friend's mother looked at the clock, saw it was 10, and told them to end the conversation. Therefore, Stephanie was still alive at 10 p.m. Stomach contents proved she was dead by midnight.

Michael told us and the police – voluntarily and without prompting – that he had gotten up at 4:30 in the morning, walked to the kitchen to get some painkiller, returned to his room, and had not seen or heard anything.

This, according to Stephan, was the “most compelling piece of evidence.” She said it proved that Michael was lying, which in turn proved that he was the murderer. Stephan and Detective Sweeney said Michael was obviously lying because Stephanie was in the hallway and he would have had to have tripped over her on the way to the kitchen.

I never understood this “most compelling piece of evidence.” If Michael had murdered Stephanie, why would he have voluntarily, and without prompting, tell us and the police about getting up at 4:30 a.m. and going to the kitchen? Stephan and the police had a ready answer. Michael was afraid someone had seen him up at 4:30 a.m. when he got up and walked to the kitchen. I thought that this was absurd. But it was not unusual. Stephan and the Escondido Police Department came up with a lot of foolish ideas and theories.

**Stephan's “Most Compelling Piece of Evidence” at the 707**



After Hoover and Stephan, acting together as co-prosecutors presented evidence to the grand jury and obtained an indictment, the next big hearing was the 707 Hearing. It was conducted in Juvenile Court before Superior Court Judge Laura Hammes, a former prosecutor. The purpose of a 707 was to determine whether the defendant should be tried as an adult. The 707 hearing lasted four months, at the time, the longest 707 in California history. By this time, Hoover was no longer on the case. Stephan was the only prosecutor.

A centerpiece at the 707 was Stephan's "most compelling piece of evidence." She presented it through Detective Sweeney. Stephan very carefully plotted out how she asked Sweeney questions. The result was to create a false impression. Stephan elicited testimony that Stephanie was found lying in the hallway. She elicited testimony that the hallway was 3'6" wide. She elicited testimony that Michael's door was directly opposite Stephanie's. The obvious inference was, Michael would have had to have seen her.

Stephan and Sweeney knew better. They both knew that Stephanie was not lying in the hallway. They both knew that almost all of Stephanie's body was in her room. They both knew that the top of her head was lying on the threshold of her doorway. They both knew that her door did not open onto the hallway. They both knew that it opened onto an alcove *off* the hallway. The alcove was 2 ½ feet deep, the same depth as Stephanie's bedroom closet.

Judge Hammes was frowning while Stephan was asking Sweeney about her "most compelling piece of evidence." Judge Hammes was looking at the diagram Stephan showed Sweeney drawn, her eyes alternating between it and crime scene photographs spread out on her bench. She interrupted Stephan's questions. She told Stephan and Sweeney that it did not appear that what they were saying was accurate. She said that Stephanie's "... bedroom door *does not* open directly into the hallway. There's just a little corridor before you get to the hallway." Court Record, *Crowe v. County of San Diego*, Ninth Circuit, 40JER:12-15, italics added.

Sweeney and Stephan changed their story. Yes, it was an alcove but it was a "little tiny alcove." Court Record, 40 JER9766, 154:23-24. It was only 12 to 18 inches deep. Court Record 40JER9766, 154:23-24. The truth was, Sweeney never measured the "tiny alcove" (Court Record 39JER9521, 167:6-7), and it was not 12

to 18 inches, but 2½ feet deep.

The legal issue before Judge Hammes was very narrow. She was not called upon to decide whether the boys were innocent or guilty, only whether they met the statutory criteria for being sent to adult court. She decided that they did, but in doing so, Judge Hammes made a solemn statement to Stephan. She suggested that Stephan take a very close look at the case, because if she had been sitting as the trier of fact, she would have found Michael and the boys not guilty.

Stephan did not heed the advice. She doubled down on her “most compelling piece of evidence.”

### **Stephan’s Undisclosed “Crime Scene Reconstruction”**

After the 707, but before trial, Stephan decided to bolster her “most compelling piece of evidence” by conducting a crime scene reconstruction. Stephan arranged for a “reconstruction” which would duplicate exactly the same conditions inside the house on the night of the murder to prove, once and for all, that Michael was lying when he said he did not see Stephanie’s body.

Stephan drove to Escondido and met with the other participants. Among them were her investigator P.J. Harn, and the lead Escondido Police homicide detective, Ralph Claytor.

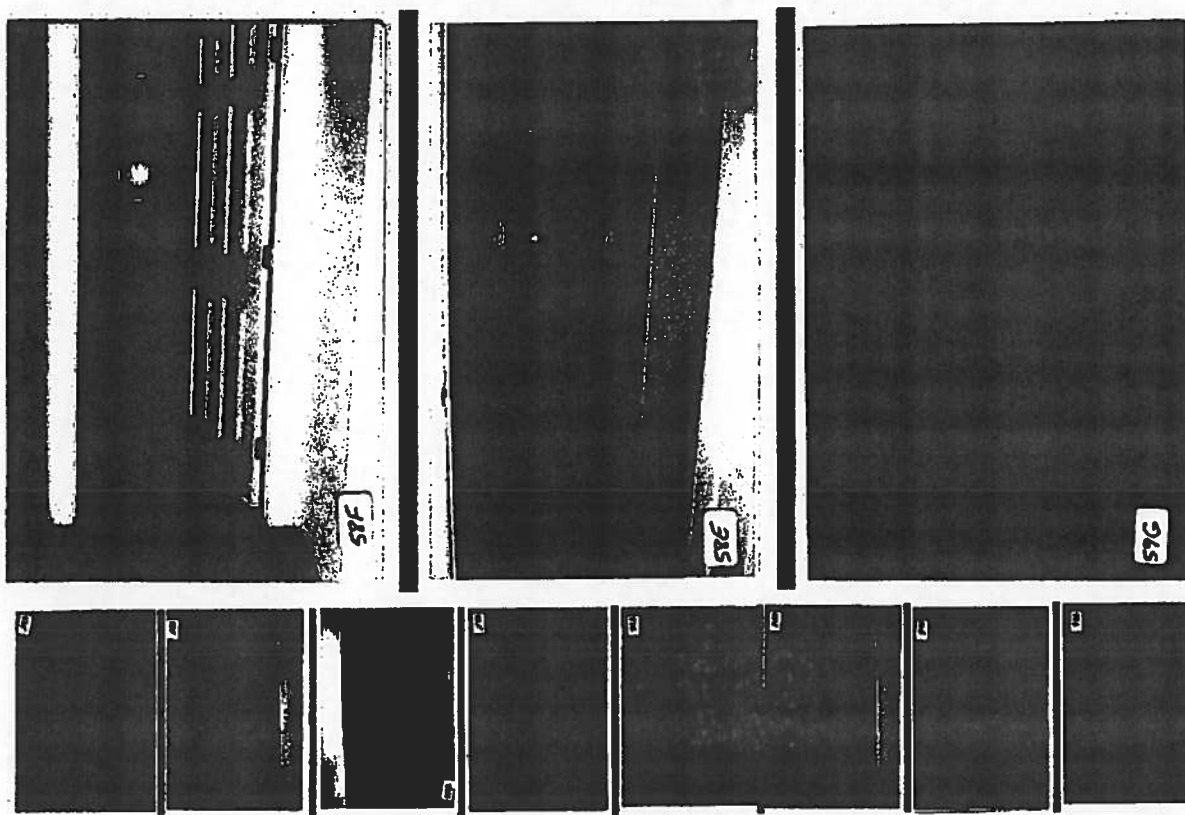
Stephan made sure that a television was placed in Michael’s room and turned on because Michael had said he turned on his T.V. before leaving his room. Stephan believed this would have provided additional light.

A female was placed where Stephanie’s body was found. A series of photos were taken. The first two were taken *with* a flash. The rest were taken *without* a flash. The two on the upper left were taken with a flash. The rest, taken without a flash, showed what Michael saw. Pitch black. Absolutely nothing.

We did not learn about this until years later, after our lawyer filed our civil rights case, subpoenaed all the evidence, and took well over a hundred depositions. He confronted Stephan with the evidence at her deposition.

Stephan admitted that she, DA Investigator Harn, Detective Claytor and others assembled at the Crowe house at night to photograph what Michael would have seen at 4:30 a.m. Stephan admitted that a female was placed in the doorway with the same lighting conditions and that photos were taken. Except for the ones taken with a flashbulb, they all came out pitch black. Court Record 40JER9725-9730; 42JER10171-72.

**ILLUSTRATION 2: CRIME SCENE RECONSTRUCTION**



Stephan admitted that the photos were exculpatory. Court Record 40JER9733. She admitted that she had an obligation to furnish them to the defense. Court Record 40JER9733. She testified that she had no memory of providing this exculpatory evidence to the defense. She testified that no report of the reconstruction was produced and given to the defense. Court Record 40JER 9731-32.

## **The Continuing False Narrative**

Mary Ellen Attridge was picking a jury in Treadway's case (which was severed from the others and scheduled to go first) when she got a call from Dr. Ed Blake. Blake was calling about his examination of some physical evidence.

Since first entering the case, Attridge had been trying to get access to the physical evidence. Stephan kept dragging her feet. Attridge got her chance when Stephan went on vacation.

The 707 took so long (four months) that Stephan took a vacation. Court adjourned while she was on vacation. Judge Hammes told Attridge that she could make good use of the time by going down to the police station and looking at the evidence. Attridge went to the Escondido Police Department and looked at the evidence while Stephan was on vacation.

Attridge saw stains on Tuite's shirt. She could not tell what they were. Tuite was a transient, so the shirt had many stains. She did not know if any of them were blood. She decided to find out.

She contacted leading forensic scientist Ed Blake, PhD., who, in addition to being an expert in examining trace evidence, was also one of the nation's leading DNA experts. Under California law, the defense has the right to examine and test evidence independently (except when it will completely destroy the evidence, then other rules apply, which was not the case here).

Attridge hired Blake to examine and test the physical evidence. When Stephan returned from vacation, Attridge told Stephan that Attridge was going to seek an order from the court allowing her to have the shirt and other items examined independently by Dr. Blake.

This is the context surrounding Stephan's assertion in her sworn application that she "agreed to test" the shirt. Her agreement was irrelevant. The shirt was going to be tested by Attridge whether Stephan liked it or not.

Stephan's statement that she "even agreed to share costs" implies a desire to co-operate and help. It was not. It was a tactical maneuver. By offering to pay

half the costs, Stephan turned Attridge's defense expert (who did not have to tell the prosecution anything) into a joint prosecution - defense expert. By paying half the costs, Stephan could find out everything Blake knew. Attridge agreed because (1) she knew Blake's findings were going to be his findings regardless of who was paying him and (2) she could cut her expert witness bill in half.

These facts prove that Stephan did not take it upon herself to delve into every piece of evidence. The truth is she did not examine the shirt, did not ask a qualified forensic expert to examine it, did not retain an expert to examine it for DNA, and resisted efforts by Attridge to obtain access to the physical evidence. The reason this key piece of evidence was looked at, examined, and tested is that Stephan went on vacation, while Attridge diligently did her job.

### **Stephan's Inaccurate Statements About Blake's Findings**

In her sworn application, Stephan says:

The results, however, could not determine whether the blood stain was caused by splatter or, as argued by defense lawyers for the transient, by cross-contamination due to poor lab practice.

This is not true. Blake told everyone, beyond any doubt, that the blood on Stephanie's shirt was spatter.

Stephan and the Escondido Police resisted this. They wanted the blood to be transfer, because if it was spatter, Tuite had to be the killer. Stephan and the Escondido Police Department's desire that the blood be transfer and not spatter gave rise to the Tripod Theory.

The Tripod Theory went like this: Stephanie was stabbed to death on January 20<sup>th</sup> between 10 and 12 p.m. Her body was discovered by Grandma Kennedy at about 6:30 a.m. on January 21<sup>st</sup>. Tuite was "questioned" by Sweeney (who did not bother to ask if he had killed Stephanie because he knew Michael had done it) at the police station. Sweeney took a picture of Tuite, wearing the shirt, at the police station. Sweeney took Tuite's clothes and put them in a bag.

The bag was examined three months later, on April 28, 1998, when it was

photographed by the Escondido Police Department. According to Stephan and the police, this is where the supposed "cross-contamination" and "transfer" happened.

According to Stephan and the police, the tripod was used to take pictures in Stephanie's room in the week following her death. Somehow, they claimed, the tripod must have picked up Stephanie's blood from the floor. (By this time the blood was hard. Plastic is ordinarily used to protect tripod feet).

According to the Tripod Theory, three months later, on April 28<sup>th</sup>, the same tripod which had been used to take photographs at the Crowe house in January was used to take photographs of Tuite's shirt on the 28<sup>th</sup>.

Stephan and the police claimed that, on April 28<sup>th</sup>, Tuite's shirt was sprayed with flouorescein (used to make blood glow). Seeing no blood, they photographed the shirt using the tripod. The Tripod Theory said that Stephanie's blood, which had been deposited, and remained on, the feet of the tripod since January, somehow got sprayed with flouorescein, which caused Stephanie's blood to become liquid, which somehow caused it to migrate to Tuite's shirt.

There were two problems. First, Sweeney took a photograph of Tuite wearing the shirt on January 21<sup>st</sup> at the police station. A forensic photographic expert positively identified the stain found by Blake in the photograph of Tuite taken by Sweeney on January 21<sup>st</sup>. It was identical in size and shape. This proved that the blood stain Blake found was on the shirt on January 21<sup>st</sup>, not three months later, on April 28<sup>th</sup>, per Stephan and the police departments' Tripod Theory.

Second, Blake stated unequivocally that the blood was spatter, not transfer. The D.A.'s Office and the Escondido Police tried to convince Blake that he was wrong. Blake invited everyone to come up to his laboratory in the Bay Area. He promised to listen to all of their points and respond to them.

Attridge, Detective Claytor, D.A. Investigator P.J. Harn, Woody Clark and others flew to the Bay Area. Clark was a highly experienced, respected D.A. who was very knowledgeable about DNA.

At the meeting, Clark and Attridge basically just listened while others tried to convince Blake that he was wrong. Blake refuted all of their arguments. He

concluded by saying: "Gentlemen, its spatter. Get over it."

On the way back to San Diego, Clark apologized to Attridge. "I'm sorry about all of this," he said. "It's obviously spatter. Tuite murdered her. The boys had nothing to do with it."

### **Stephan's Response to Blake's Findings**

Faced with the inevitable, Stephan Filed a Motion to Dismiss. It was a press release masquerading as a legal pleading. It was prepared with the help of the D.A.'s Public Affairs Department. It was forty pages long. For thirty-six, it recounted (unfairly and incorrectly) all of the "evidence" against Michael and the boys. On the last four, it reported the discovery of the blood and Blake's DNA finding. The case was dismissed without prejudice.

### **Stephan's Appearance on National Television**

Stephan went on national television to explain her handling of the case. She sat down for a two hour plus interview with *48 Hours*. Sitting nearby was Gayle Falkenthal, the DA's PR person. Stephan gave her "*most compelling piece of evidence*" speech.

*The most compelling piece of evidence ... [was] that his sister's door was closed at that time and he saw nothing amiss . . . The investigation showed that it is pretty much not reasonable that somebody could walk out of their room at 4:30 and not see the body there ... . 48 Hours, italics added.*

She *knew* this was not true. She *knew* that she had conducted a reconstruction at the crime scene under identical conditions that proved Michael could not have seen anything. She *knew* she had the photographs to prove it. She *knew* she had concealed this evidence.

She gave her "*most compelling piece of evidence speech*" with impunity, secure in the knowledge that her false statements could not be refuted. Stephan knew we – the Crowe family, the victims whom she professed to care about – did not know about this evidence that she had withheld. She knew we did not have

the photographs she had taken which proved which proved that she was not telling the truth. She knew something else. She knew that no one else who was at the reconstruction was talking. She knew they likely never would. Unless something drastic happened.

Something drastic happened. We filed a federal civil rights case in federal court. The other side fought us tooth and nail, from the district court, Ninth Circuit, and Supreme Court of the United States. We fought them for over ten years.

Our lawyer got all the records and documents and took depositions, well over a hundred of them, of people like Claytor, and Sweeney and – Stephan.

### **Stephan's Reliance on Michael's "Confession" in *48 Hours***

Stephan repeatedly relied on Michael's "confession" in her *48 Hours* interview. By doing so, she shielded herself from liability for libel. Stephan introduced Michael's "confession" in court (it was not really a confession because he did not admit that he killed Stephanie), which made it part of the court record.

Pleadings, documents, or other evidence presented in court are shielded by absolute judicial immunity, which means that no one can be sued because of what they say in a pleading or document filed with the court.

In her *48 Hours* interview Stephan skillfully conveyed the idea that Michael murdered Stephanie without directly saying so herself. She did this by referring to his "confession." Stephan was asked what motive Michael had for murdering Stephanie.

The motive for murdering Stephanie *as laid out by the confession* and as corroborated by other evidence was that Stephanie was such a delightful girl. She was an angel by all accounts. She—just to look at her face while alive is to smile. She's the kind of person that brings out everything good and touched people. She was a wonderful little girl. *Crowe*, District Court Opinion, 303 F. Supp. 2d 1050 at 1105.

Michael, Stephan said, was jealous of this angel and decided to kill



Stephanie because he hated her.

The motive *as laid out by the confession*—it's not my motive that I created. You just go by the evidence that you have—is that her brother hated her, that he hated the attention that she was getting. He hated Stephanie. *Crowe*, District Court Opinion at 1106.

But, that is not all. The motive grew. It was fueled by:

*Dungeons and Dragons.*

Stephan explained that Michael and the boys liked to play *Dungeons and Dragons*. Stephan said: "I think that the *Dungeons and Dragons* game, just looking through history, there has been several cases—several murder cases—that have been connected with people playing that game." *Crowe*, District Court Opinion at 1109.

"I don't think it's the cause of murder in any way," Stephan said, "but I think it shows us a way that minds can come to – to plan an event. And in these games, it happens to usually be an event to kill or destroy the enemy." *Crowe*, District Court Opinion at 1108. "They serve to show how someone could pull off this murder undetected." *Id.*

According to Stephan, Michael enlisted his friends in the murder. "There's a person that starts the ball rolling. And then you have people who climb onto the ship." *Crowe*, District Court Opinion at 1107.

The reporter asked, and Stephan answered:

Q. But, I mean, it is hard to believe that an older brother could hate his little sister who was, by all accounts, this angel-like child so much that he would recruit his friends, plot out a meticulous killing, carry it out. It's hard to believe.

A. It's very hard to believe ... *Id.*

Perhaps by an average mortal, but not by Stephan. It was easy for her to believe it. She went out in search of an expert to back up her theory. She found him at a shopping mall working in a game store. She called him as an “expert witness” at the 707 Hearing.

### **Stephan Knew the “Confession” Was Obtained by Torture**

At the time Stephan made her statements to *48 Hours*, she knew, or should have known, that Michael’s “confession” was extracted by using “psychological torture” which “shocked the conscience.”

The Ninth Circuit reviewed the videotapes and transcripts of Michael’s interrogations and said this:

One need only read the transcripts of the boys’ interrogations, or watch the videotapes, to understand how thoroughly the defendants’ conduct in this case “shocks the conscience.” Michael and Aaron — 14 and 15 years old, respectively— were isolated and subjected to hours and hours of interrogation during which they were cajoled, threatened, lied to, and relentlessly pressured by teams of police officers. “Psychological torture” is not an inapt description. *Crowe* Ninth Circuit at 432.

The Ninth Circuit held:

Further, defendants are not entitled to qualified immunity because it was clearly established, at the time of the boys’ interrogations, that the interrogation techniques defendants chose to use “shock the conscience.” (Citing Supreme Court and Ninth Circuit cases decided many years before Michael’s interrogation). *Crowe*, Ninth Circuit at 432.

In her sworn application, Stephan portrays herself as a victim, as well as an heroic figure. She was victimized by “media accounts” which “relate[d] to me the questionable decisions that were made at the outset of the case.” She was “confronted with an extremely unfair situation of being handed someone else’s case months after critical decisions had been made (not the standard practice in

murder cases), I followed my conscience and did the right and ethical thing.”

She was heroic because she did “the right” and “ethical” thing. She was “guided by an internal compass that did not focus ... [on] how things would look but on doing the right ethical thing.”

I have provided proof that these factual assertions are false and that the message conveyed is untrue.

### **BETRAYAL BY BONNIE DUMANIS**

When Bonnie Dumanis decided to run for D.A. against Paul Pfingst her main weapon was the way his office – including Stephan – had mishandled the Stephanie Crowe case.

Dumanis called and asked for my help. She said that Pfingst was a terrible DA and that the Crowe case proved it. She said that Stephan had botched the case so badly that it was likely the real killer would get away with murder. She said that Pfingst had failed to rein in and properly supervise Stephan.

Dumanis said that Michael’s “confession” was sickening and obviously coerced. She said that none of the things the police coerced out of Michael matched the physical evidence. She promised that, if she became DA, she would do everything in her power to see that her real killer was brought to justice. She asked if I would give her Stephanie’s picture to put on her desk. I did. She asked if I would go on television and do an ad supporting her. I did.

At the time Dumanis called me, Pfingst had recused himself in the Crowe case and turned it over to the California Attorney General. The A.G. had forced the Escondido Police Department to turn the case over to the San Diego County Sheriff’s Office. Veteran homicide detective Vic Caloca was assigned to the case.

After extensive investigation, Caloca told the A.G. that Tuite was the sole killer and that the boys had nothing to do with it. Caloca’s boss, Sheriff Bill Kolender, went on TV and said Tuite was Stephanie’s killer and that the boys were completely innocent.

The California Attorney General assigned top flight prosecutors to the case: Dave Druliner, the top trial lawyer in the A.G.'s office, with years of experience as a homicide prosecutor in Sacramento, (2) Jim Dutton, a top attorney in the San Diego office of the California Attorney General, and (3) Gary Schons, the head of the Criminal Division of the Attorney General in San Diego. They prepared the case diligently for months. A jury convicted Tuite of voluntary manslaughter.

Dumanis beat Pfingst and became San Diego's new D.A. Tuite appealed his conviction. The Ninth Circuit reversed, holding that the trial judge had improperly curtailed defense counsel's cross-examination of an expert witness about his bias toward a defense expert witness. The case was returned to San Diego for trial.

When the case was returned to San Diego, I learned from Caloca that things had taken a change for the worse. Dave Druliner, the experienced, lead prosecutor in the first trial, had a serious medical problem, and was unable to participate. His second chair, the able Jim Dutton, was retiring. So was supervisor Gary Schons. There was a new California Attorney General. A new prosecutor with far less experience had been assigned to the case. Caloca felt that unless an experienced homicide prosecutor was assigned, there was a chance the case would be lost.

Regardless of who the D.A. happens to be, for at least half a century the San Diego County District Attorney's Office has had a stable of veteran homicide prosecutors whose experience in some cases is two or three decades.

There was no reason why the case could not be taken back by the D.A.'s office. Pfingst turned it over to the A.G.. Pfingst was no longer the D.A. There was no reason why the new D.A. could not take the case back. I determined that the A.G. was very willing to turn the case back over to the D.A. I asked a person very high up in the D.A.'s office to ask Dumanis to take the case back.

She refused. She said there was no political mileage for her in it.

I have never disclosed how badly Dumanis betrayed me and my family. Like a lot of things having to do with my daughter's murder, I sucked it up. Stephan's application, together with the story she and Dumanis have been peddling in the press, caused me to come out and tell what really happened.

## **THE ISSUE BEFORE THE BOARD OF SUPERVISORS**

The issue before the Board of Supervisors is who should be appointed to serve as interim D.A. Stephan wants to be appointed because it will give her a political advantage. She will be able to run as the incumbent. She has already announced her candidacy for the permanent position. Dumanis has endorsed her. With Dumanis help, Stephan has racked up endorsements.

The Board has allotted three minutes for each prospective Interim D.A. to present their case. Two of the candidates have promised that, if chosen, they will not run for the office. Stephan has not.

The question of whether Stephan is qualified to be D.A. is something which should be decided in a contested election, after citizens have had time to hear from the candidates and consider their qualifications.

### **Stephan Should Not be Chosen**

Stephan chose to single out the Stephanie Crowe murder case as a shining example of her skill, competence, and ethics in her application to the Board.

By doing so, she made ancient history – the murder of my daughter on January 20, 1998 – breaking news. On May 30, 2017, Stephan *chose* to use her handling of my daughter's murder case to advance her political ambitions. She *chose* my daughter's murder case to prove that she was ethical and competent.

I have proved that she was neither.

Stephan *chose* to use my daughter's murder case to portray herself as a victim and cast herself as a hero.

I have proved that she is neither.

Stephan *chose* to use my daughter's murder case to congratulate herself for *never having been found* to have committed prosecutorial misconduct. By claiming this a rare achievement, she insulted and demeaned all prosecutors.


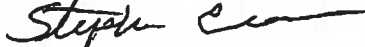
Stephan's "rare" thing statement tells us something already shown – her lack of veracity – but it also gives us insight into the inner working of her mind. Do we really want someone who thinks it is ordinary, common, usual, everyday (the dictionary opposites of "rare") for prosecutors to commit misconduct to be running the D.A.'s office?

In a recent interview, Paul Pfingst was asked by the Union-Tribune to comment on the irony that Dumanis defeated him because of the way his office mishandled the Crowe case and now Dumanis is endorsing the prosecutor who mishandled the case to succeed her.

Pfingst replied: "It's politics. I get politics. That's what politicians do."

That's the problem. It's time to get politics out of the D.A.'s office. It's time for a D.A. who is a professional lawyer, not a professional politician. Someone who understands that a prosecutor must be ethical, competent, and committed to assuring that guilt does not escape – nor innocence suffer.

Sincerely,

Cheryl and Stephen Crowe