

# Legal and Investigative Strategies for a “No Body” Homicide

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**Abstract:** In June 2002, six year old Logan Tucker disappeared in Woodward, Oklahoma. It was fourteen days before law enforcement learned of his disappearance. His mother, Katherine Rutan, told various stories to neighbors, relatives, and law enforcement. Although she was a suspect, authorities were reluctant to charge her without a body. In October 2005, the Woodward County District Attorney’s office contacted me for my opinion on the case. They then asked me to lead the prosecution. In 2006, Rutan was charged with First Degree Murder. In 2007, following a nine day jury trial, she was convicted and sentenced to life without parole. This article discusses the facts of the Logan Tucker case along with the legal and investigatory aspects of a “no body” murder investigation and prosecution.

**Keywords:** no body murder, corpus delicti, circumstantial evidence of death, proof of death

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## Introduction

Logan Tucker was last known to be alive on June 23, 2002. His body was never found. His mother, Katherine Rutan, was a suspect. However, due to the circumstances of the case, law enforcement did not become aware he was missing until fourteen days after he was last known to be alive. In October 2005, I was asked by the Woodward County District Attorneys office to review the facts. I did so, and told them I believed it was a strong case. I was then asked to serve as Special Prosecutor and lead the prosecution. I accepted the offer. By this time, Rutan had remarried and was known as Katherine Pollard. She was arrested on the charge of First Degree Murder. A.J. Laubhan, a Woodward County assistant district attorney, and I prosecuted the case. Following a change of venue, a nine day jury trial was held in Woods County, Oklahoma. Pollard was found

guilty and sentenced to life without parole. In March 2009, the Court of Criminal Appeals affirmed this conviction in a 5-0 ruling.

## Case Summary

In March 2002, Rutan contacted the Tulsa Hotline and said she wanted to hurt her children. Tulsa police responded, and when she repeated these threats, they took both Logan and his younger brother Justin into custody. Three days later, a judge returned the children to Rutan. During the time the children were in custody, Rutan posted personal ads on the internet and “met” Michael Petty, a prison guard in Ft. Supply, Oklahoma. After a few dates, she packed up and moved to Ft. Supply, telling Petty she had been fired. She and the boys lived with Petty for about ten days, and then he arranged for her to move in with Melody Lennington, who lived in Woodward and



was also a guard at the prison.

Rutan told everyone that Logan was a fire starter. After moving in with Lennington, an incident occurred where Justin and Logan were caught trying to light a cigarette. Logan had the cigarette. Justin had struck the match. Despite the facts, Rutan attempted to have Logan arrested. She told everyone who would listen, including Petty, that Logan had been caught trying to burn down Lennington's house. Because of the stories she already told about Logan and fire, Petty told her that Logan could not live with his friends, family, nor would he ever live in a house with Petty. Rutan then tried to have Logan put in a mental hospital, and when that failed, she contacted DHS to try and terminate her parental rights to both children.

The upcoming weekend, Petty was going to a motorcycle rally. Rutan was upset that she could not go due to the fact that she could not get a babysitter for Logan. Over the years, and throughout many relationships, she complained that Logan was preventing her from living the life she wanted to live.

At about 11:00 p.m. on June 22, 2002, Melody Lennington answered a phone call from Petty who was at the bike rally and called to talk to Rutan. Lennington then went back to sleep. At about 3:00 a.m. the next morning, Lennington heard Logan scream. Lennington waited a few minutes, then got up and found Rutan in the living room. She inquired about Logan and Rutan said he was sick and she had put him in the back room. This was the last time Logan was heard alive.

The next morning at about 6:00 a.m. Melody found Rutan still awake and again inquired about Logan because she needed to go into the back room. Rutan asked her if Logan had interrupted her sleep that night.

Rutan then said she put Logan in the basement. The basement consisted of concrete walls and floor, and had an old mattress and box springs on the floor. It housed a water heater, some storage areas, and had electrical lighting. Although Lennington did not think the basement was a proper place for a sick child, she left because she was on her way to work.

Around noon that day, one of Lennington's adult daughters stopped by the house. She noticed Logan was gone. She asked Rutan where he was. Rutan said that the Department of Human Services (DHS) had come and taken him and she had just missed them. Over the next few days, Rutan would repeat that story to several neighbors and friends. She also told people that he would not be returning until he was eighteen.

Later that day, Rutan went to Petty's home. His mother, who lived next door, observed her putting a large amount of plastic and a shovel in the trunk of her car. She had Justin with her, but not Logan. Rutan went and visited with Mrs. Petty, and told her the DHS story. She had numerous scratches on her legs, which she explained to Mrs. Petty had been caused by her and Justin walking in the brush looking for wildflowers. During this conversation, Justin pointed out that Rutan had something orange on her shirt. After Justin mentioned this, Mrs. Petty saw it as well, and Rutan told them it was candle wax.

Rutan's adoptive parents tried to speak with Logan. They had numerous phone conversations with Rutan. She told them Logan had been taken by DHS and that her parental rights were to be terminated. Rutan asked several of her friends to call her parents and pretend they were with DHS or a mental facility, inform them that Logan was fine, but that he could have no contact with family members. None of these people would do it. Rutan's parents told one of



their sons, Mickey, what Rutan was telling them. He did not believe it. He contacted law enforcement on July 7 to request a welfare check.

When law enforcement arrived at Lennington's home, Rutan told Lennington to tell them she was not there. Lennington instead told them she was in the house. Rutan told the officers that Logan had been picked up by her brother Brian, his girlfriend, and another man on June 23 to go on a camping trip. Within hours, law enforcement learned of the "DHS story" Rutan told her neighbors and Lennington.

Rutan was asked on July 8 to come to the sheriff's office. While she was there, Lennington consented to a search of her home. In the basement, deputies found spilled orange candle wax on the basement floor and on the bed located in the basement. They also recovered a large wad of tape from a bucket. The tape had orange candle wax on it.

The FBI located Brian and his work crew, and through interviews and motel records, were able to confirm that on June 23, Brian and his girlfriend were with the work crew checking out of a hotel in Maryland and traveling to and checking into a hotel in Virginia.

Rutan contacted law enforcement and told them that her brother Mickey had called and left a message on the answering machine. Officers went to the house and listened to the tape, which said that Logan was fine and they were going camping. Rutan allowed the officers to take the tape.

A few days later, after it was published in the paper that Logan Tucker was missing, a man came forward with a story. He said that he was in the parking lot of a convenience store when a woman he did not know came up to him. She whispered as though she had lost her voice. At her re-

quest, he made a phone call to a number she provided and left a message that Logan was okay. The tape was played and the man identified it as his voice. He later identified Rutan as the woman who asked him to leave the message.

Logan's younger brother, Justin, was four years old at this time. He was interviewed regarding Logan's whereabouts. He would only say that Logan was never coming back, that he was with his uncle, and that talking about it made his "heart hurt." Eventually he was taken to Oklahoma City for a forensic interview. He made a few statements regarding plastic, and being out on trips with his mother.

On the way back, the DHS workers stopped in Woodward to gas up. They bought Justin a soda and some candy. He began to talk about roly poly hunting, which he had previously discussed with the workers. Since they could not take him back to the shelter until he finished his pop, they said they would go hunt roly polies. They told Justin he would have to decide where they were going. As they were driving, Justin told them to "turn here." When asked why, he said it was where his mother had turned. He then told them to go until the road turned white. They continued and the road turned onto a very white gravel. He told them his mother stopped where the trees were down. When they passed two downed trees, he told them to turn around. Justin identified this as being the place where his mother had stopped. Justin and the workers got out of the car to look for roly polies. Justin told them his mother went into the field with a shovel. They found dig marks where it appeared the earth had been turned over with a shovel. Justin saw "milk weed" sap, and said that the last time he saw Logan he had that on him as well as bugs. Justin then became very upset and wanted to leave.

Justin was then interviewed by the FBI



on three occasions. During these, he recounted that Logan was sick, was not moving, talking, or crying. He said Logan had tape wrapped around his eyes and mouth, and that his mother had put the tape there so he wouldn't cry. He said she put food in his mouth before he taped it. She carried Logan to the car and they drove out into the country. He showed how Logan was sitting in the car, which was in a slumped forward fashion. He said his mother carried Logan out into a field along with a shovel. When asked what the shovel was for, he said it was to bury Logan. When asked what bury meant, he said to throw dirt on him.

Law enforcement learned Rutan moved into an apartment complex in Woodward. They put a male undercover in an apartment there with a cover story that he worked in the oilfield. It did not take long for Rutan to find him and they visited several times. His apartment was outfitted with audio and video surveillance. During one conversation, he asked her what she would do if she was charged. She said she would flee to Canada because she had seen on TV that they would have to drop the death penalty in order to have her extradited. When asked what motive she would have, she said that Logan was "the cause of every problem in her life." She also told him that her attorney knew enough to hang her. When the undercover helped her clean her apartment, he took a few cigarette butts she had smoked and turned them over for DNA collections. In other conversations with the undercover, she said she really "f--ked up" by trying to get friends to call and make fake phone calls, and that her attorney said she only had to worry about two cops, Monte Clem and Butch Hutchins, because they were the only ones smart enough to "put it together." Unfortunately for her, Monte Clem was the lead investigator on the case.

Months later, the Oklahoma State Bureau of Investigation lab unwound the wad

of tape. They found over 300 hairs on it, including hairs that appeared to be eyebrow hair, and a small drop of blood. They had obtained the biological father's DNA by consent. They did DNA analysis on the hair and blood. A lab at North Texas University analyzed the results and found the blood and hair belonged to an offspring of Rutan and the biological father to a certainty of 99.999%. It should be noted that Justin was a half brother, who had a different father. Logan Tucker was the only biological child of Rutan and his father.

When the Woodward DA's office decided we were going to proceed without a body, and that I was coming in, law enforcement was not thrilled. Many officers believed no case should be filed until a body was found. The DA's office asked me to send a "resume" setting out my experience in murder trials. Eventually, we held a meeting in Woodward attended by many officers from many agencies in which I set out exactly how I was going to go about proving this case, proving Logan was dead, what the defense would be, and how I would defeat that defense.

As a prosecutor, I urge investigators to understand that in every case we must prove a certain number of elements. In a case where we have a body, we must prove the identity of who did it, under what circumstances, with what intent, in what county, and on or about what date. In a case with no body, we must also prove death. There is no difference. It is not a "super" element. It is just another element that the investigation must entail. To that extent, the investigation is different. But it is not insurmountable. My best advice: If the body isn't there, don't expect you will find it. Start immediately as though you are going to have to prove a death.

## **Prosecuting a "No Body" Murder**

Historically, courts did not require that



the body of the alleged victim be found in order to establish the corpus delicti of the crime of murder. This proposition was recognized as early as 1705. Early courts made this abundantly clear in the language of their rulings:

“By the ‘corpus delicti’, subject of the crime, is not meant that the subject of the crime must be so extant as to fall under the senses; but that the loss sustained is felt and known. As for example: in the crime of murder, though the body cannot be reached, yet particular loss is known.” Captain Green’s Trial, 14 How. St. Tr. 1199 (Scot. Adm. 1705).

The federal courts of the United States also rejected the rule requiring that a body be found as early as 1834. In United States v. Gilbert, 25 Fed. Cas. 1287 (1834), the court stated:

“A more complete encouragement and protection for the worst offenses of this sort could not be invented than a rule of this strictness.”

To establish corpus delicti, the government must only prove that a crime has been committed. Identifying the defendant as the person who committed that crime is not required in establishing the corpus delicti. United States v. Wilson, 529 F.2d 913 (10th Cir. 1976); Commonwealth v. Elder, 451 A.2d 236 (Pa. Commw. Ct. 1982).

Since these early rulings, prosecutions for murder without the body of the victim resulting in convictions have occurred on a continuing basis in numerous states. Many such cases are cited in the References section at the end of this article. These courts have followed the rationale provided by the federal courts, that a murderer should not be entitled to an acquittal on the basis that he was able to dispose of the body. “That

is one form of success for which society has no reward.” People v. Manson, 139 Cal. Rptr. 275 (Cal. Ct. App. 1977). No state in the union requires that a body be found in order to convict a defendant of murder. As the cases cited above clearly show, courts have repeatedly held that a first degree murder conviction can be based entirely on circumstantial evidence.

The history of “no body” murder cases in Oklahoma begins in 1913. In Nettie Brown v. State, 132 P.359 (Okla. Crim. App. 1913), remains of a body were found but forensic knowledge was not developed at that time to identify it as the victim’s. The Court stated:

“Even under the strictest rule of common law requiring identification of the body of the deceased, this was never necessary where the deceased had been killed by being burned to death. **We are not willing to establish the doctrine in Oklahoma that there can be no conviction for murder in any case unless the body of the deceased is recognized and identified by direct and positive evidence. Such a rule would make murder safe and would place a premium upon the most vile and brutal kind of assassination.** All the murderer would have to do to escape punishment would be to so mutilate and disfigure the body as to make identification and recognition impossible. **Whatever the rule in other states may be, this Court will never consent to the establishment of a doctrine in Oklahoma which would result in such monstrous consequences.**” (emphasis added)

The Court of Criminal Appeals has upheld this position, reaffirming that the clear law of the State of Oklahoma is that a body is not required for a first degree murder



conviction, Arnold v. State, 803 P.2d 1145 (Okla. Crim. App. 1990); Rawlings v. State, 740 P.2d 153 (Okla. Crim. App. 1987).

From reading the cases cited herein, one can develop a “pool” of the different types of circumstantial evidence upon which courts have upheld convictions for murder despite the absence of a body. These cases are replete, for example, with instances in which the most compelling evidence was the defendant’s inconsistent statements regarding the whereabouts of the deceased. This “pool” can then be used by investigators to direct them towards certain types of evidence, and can be used by prosecutors as a measuring stick for determining the strength of their cases.

In State v. Hicks, 495 A.2d 765 (Me. 1985), the evidence presented included the victim was heard screaming, was seen later that morning sitting in an awkward position, the defendant’s behavior that morning was peculiar, and the defendant made inconsistent statements about the victim’s location. There was no body, no certain time of death, no certain means of death, no eyewitness, no confession, no murder weapon, and the bloodstains found were not conclusively the victim’s as DNA was not yet being utilized.

In State v. Nicely, 529 N.E.2d 1236 (Ohio 1988), human blood of the victim’s type was found on the defendant’s pants, and in the victim’s car. Some of the victim’s belongings were found weighted in a creek. There was no body, no certain time of death, no certain means of death, no eyewitness, no confession, no murder weapon, and the bloodstains were not conclusively the victim’s as DNA was not yet being utilized.

In Rawlings, 740 P.2d 153, an Oklahoma case, human blood was found in a car and plane rented by the defendant. There was

no body, no certain time of death, no certain means of death, no eyewitness, no confession, no murder weapon, and the bloodstains were not conclusively the victim’s as DNA was not yet being utilized.

In People v. Bolinski, 260 Cal. App.2d 705 (1968), the only evidence was that the defendant was found in possession of the victim’s car and credit cards. He claimed the victim picked him up while hitchhiking. There was no body, no certain time of death, no certain means of death, no eyewitness, no confession, no murder weapon, and no forensic evidence such as blood or hair.

In People v. Scott, 1 Cal. Rptr. 600 (1959), the defendant’s wife was missing. He claimed she had left him. He was “pleased and satisfied” that his wife had left him, and he spoke ill of her. Her glasses and dentures were found buried near her home. There was no body, no certain time of death, no certain means of death, no eyewitness, no confession, no murder weapon, and no forensic evidence such as blood or hair.

In Hurley v. State, 483 A.2d 1298 (Md. Ct. Spec. App. 1984), the victim’s daughter heard her scream and saw her lying on the floor of the defendant’s office and the defendant made inconsistent statements regarding the victim’s disappearance. There was no body, no certain time of death, no certain means of death, no eyewitness, no confession, no murder weapon, and no forensic evidence such as blood or hair.

In Williams v. State, 629 S.W.2d 791 (Tex. Ct. App. 1981), the defendant lived with the victims, gave inconsistent statements regarding their disappearance, and human blood and hair were found. There were no bodies, no certain time of death, no certain means of death, no eyewitness, no confession, no murder weapon, and the hair and blood were not conclusively the



victim's as DNA was not yet being utilized.

In Commonwealth v. Smith, 568 A.2d 600 (Penn. 1989), the body of one victim was found, but not the bodies of her children. The mother's pin and hair were found in the defendant's car and home, and the defendant's comb was found under the mother's body. The only evidence regarding the children was that they were last seen with the victim and never found despite an intense search. As to the children, there were no bodies, no certain time of death, no certain means of death, no eyewitness, no confession, no murder weapon, and no forensic evidence such as blood or hair. The court held that there was sufficient circumstantial evidence to create a jury question as to whether the defendant had killed the children.

A review of these cases shows that despite a wide range of facts patterns, the consistent holding of all these courts is that neither the body of the missing person nor the exact time and means of death is necessary to establish the corpus delicti necessary to sustain a murder conviction. Scott, 1 Cal. Rptr. 600. Therefore, it is unquestionable that the prosecution need not show the exact time or means of death.

In comparing any investigation to the above cases, both investigators and prosecutors can see which elements of circumstantial evidence were relied on by courts in upholding murder convictions. These cases, all upheld on appeal in regard to the issue of no body being found, show the varying evidentiary facts upon which these courts found the evidence to be sufficient. Most of those cases were upheld based on three or four of these evidentiary facts. In the Rutan Pollard case, eleven of the facts these courts listed as being sufficient evidence were present:

1. Presence of victim's blood.

2. Presence of victim's hair.
3. Victim heard screaming/crying when last known to be alive.
4. Defendant was with victim when last known to be alive.
5. Defendant has an injury which she said came from victim that morning.
6. History of unstable relationship between victim and defendant.
7. Defendant's inconsistent statements about victim's whereabouts.
8. Evidence that victim is unlikely to be voluntarily gone.
9. Defendant expressed relief or satisfaction that victim is gone.
10. Cadaver dog alerted on defendant's car.
11. An extensive search failed to locate the victim.

Therefore, the Rutan Pollard case contained far more evidentiary facts to indicate death, and the defendant being the individual who committed the murder, than the above cases, all of which were upheld on appeal.

Additionally, the Oklahoma Court of Criminal Appeals abandoned the test requiring the circumstantial evidence "exclude every reasonable hypothesis but guilt." In Easlick v. State, 2004 Ok. Cr. 21, 90 P.3d 556 (Okla. Crim. App. 2004) the court held that the proper test for the sufficiency of circumstantial evidence is whether, after reviewing the evidence in the light most favorable to the prosecution, any rational trier of fact could find the essential elements proven beyond a reasonable doubt.

In a Memorandum of Law filed in the case, I concluded:

"The State therefore submits that not only does ample evidence exist from which a rational trier of fact could find the three essential elements required by law beyond a reasonable



doubt, but that the evidence is overwhelming. Appellate courts in other bodiless murder cases have listed the types of evidence which supported those convictions. While those contained three or four elements, the instant case contains eleven elements. The defendant, through her actions and proven lies, has eliminated all possibilities other than the death of Logan Tucker by her hand. The defendant should be bound over for trial so that a jury can render the justice she so richly deserves.”

### **Theme of Trial at Closing**

The language from the early cases provide good fodder for a case theme and opening and closing arguments. Are we to make murder safe? Are we to reward a murderer for his stealth? If he can dispose of his victim he will not be convicted? Is that what you would have the law be? The defendant is counting on you to reward him for being able to hide the evidence of his crime: the body of his victim. By using this approach, you turn what some perceive as a weakness in the case into a strength. You are not hiding from the fact that you have no body; you are putting the blame squarely on the person who caused the body to be unfound.

### **Investigating a No Body Murder**

I start with the clear admission that I am not an investigator. However, through the experience of prosecuting murder cases without a body, I have learned the methods which should be followed, and the areas which are useful, in order to prove death without a body. As stated above, a successful “no body” prosecution will be made possible by investigators, not prosecutors.

The first rule is simple. Unless there is a body lying at the feet of an investigator, the case should be treated as a no body murder from the start. We all assume, unfortunat-

ly, that a body, or better yet a live victim, will turn up. By doing so, we lose many opportunities to discover facts which are not always obtainable later. For example, in the Rutan Pollard case, there were photographs taken of the bathroom, the bedrooms, the closets, etc. However, what wasn't done was questioning of those who lived in the home and an in depth inventory of what was in the house.

For example, one of the photos showed how many toothbrushes were in the bathroom. In as much as the defendant claimed she sent Logan off on a camping trip, it would have been useful to know who those toothbrushes belonged to. If one of them was Logan's, why was it not sent with him if she was telling the truth? Unfortunately, the owner of the house was not asked who the toothbrushes belonged to until I asked her five years later. By then, she had no idea.

It cannot be stressed strongly enough: if you don't have a body, proceed as if you will never have one.

The second rule is equally simple. Successful prosecution without a body is possible. As shown in the cases cited above, it has been done for over two hundred years. If you understand it from this prosecutor's point of view, there is no reason to fear it. My position is that in every case, a prosecutor must prove certain elements. These elements are set out in the law, and are passed to the jury in the form of jury instructions. In a murder case, death is one of these elements. It is not a “super element.” Proving it is no different than proving any other element.

The vast majority of investigators have all successfully investigated a crime wherein no one saw the defendant commit the act. Yet it was proven through circumstantial evidence that he was the person, beyond a reasonable doubt, that committed the crime.



Likewise, most investigators have been able to prove a crime was committed when some element, such as intent, was proven by circumstantial evidence. They could not open up the head of the suspect, look at his brain, and determine his intent. Instead, they gathered the circumstances surrounding his actions, from which a jury could determine his intent.

Proving death is the exact same thing, only it is done by investigating areas which are not usually explored in cases where a body is found. Circumstantial evidence will be gathered from different areas of the victim's life. When combined with the actions or circumstances of the suspect, these are used to present a strong circumstantial conclusion that the victim is dead.

## **Evidentiary Areas to Prove Death the Victim's Life**

### *Habit Evidence*

Use of habit evidence is to establish that the ordinary things victim did in life ceased to occur, thus suggesting that he or she is dead. Examples are going to school, work, church, doctor's appointments, filling prescriptions, and grocery shopping. This evidence, while it is used to show that the normal life ceased on date of disappearance, also establishes for the jury the character of the victim, i.e., that he or she is not the type to voluntarily disappear. In today's world of technology, how telling is one's cell phone? If a prosecutor is able to show the jury that a person used his or her cell phone fifteen to twenty times a day for months or years, making calls or sending text messages, and that since the date of the disappearance that phone has never been used, the message to the jury is clear.

### *Personal Belongings*

It is important in a "no body" case to immediately search the residence, vehicle, and work place of the victim and make a de-

tailed list of all items found. Establish that the victim left behind his or her car, bill-fold, purse, makeup, clothes, toothbrush, hairbrush, luggage, photos, and any items that can be established to be dear to the victim. After one of my no body trials, several jurors stated that these personal items were the most convincing evidence that the victim had not left on her own, not due to the fact that one could not live without these, but why would one choose to?

Many of these facts can also be used to defeat a possible defense. For example, the defense claims the person left on his or her own volition. If the investigation can show that all the closets and drawers are full of the victim's clothing, no suitcases are gone, and no personal hygiene items are gone, it flies in the face of reason that the person just up and left without so much as a stick of deodorant.

A simple way to think "outside the box" is to consider everything you would pack if you were going to go on a two week vacation. Locate as many of these items as you can. The jury will hopefully be made up of rational folks who will quickly come to the conclusion that no one would leave home voluntarily without these items.

Family members and co-workers should also be interviewed about the contents of the victim's house and office. The purpose of this is to learn whether or not there were any items so dear to the victim that they would never have left without them. If these items remain, that is one more indication that the victim did not leave voluntarily.

While it may seem trivial at the time, the amount of clothes left behind can be telling. If a child is gone, and there are fourteen pairs of underwear left in his room, most jurors are not going to believe he was sent on a two week trip. Likewise, most jurors have an idea of what amount of cloth-



ing others have based on how much they own themselves, unless the person is in a completely different financial bracket. Therefore, inventorying the number of pair of shoes, shirts, pants, etc., may be a beneficial investigative tool.

Again, the point of this area is not that no one could leave all that behind, but the logical conclusion that no one would voluntarily leave all their belongings behind if they were never coming back.

### *Family relationships*

Every living family member of victim can be called to testify as to the last time they had seen or heard from the victim, and as to how often they saw or heard from her prior to the date of the disappearance. This can be used to show the victim was close to certain family members and would have no reason to never contact them, unless of course they are unable to.

### *Friends*

The investigator can gather information on the victim's relationships with close friends, regularity of contact before disappearance, and when the last time they saw or heard from the victim. As with the family members, the purpose of this is to show that as of the date of the disappearance, the victim has not contacted persons with whom he or she would normally interact. These friends will then become witnesses.

### *Financial*

The victim's financial activities are a good source of circumstantial evidence from which a jury can infer the person is dead. Additionally, regular payments on their debt also tends to show the person was responsible in their personal life and would not likely be the type to just disappear voluntarily.

1. Debt - Investigators can locate all debt payments made by victim up to the

date of the disappearance, and the regularity of the payments. We can then establish that no payment has been made since the disappearance. Examples: Car payments, pharmacy bills, note payments, credit card payments, cell phone bills, insurance of all types, etc. An investigator can just think of all the payments he or she makes every month, and have a good idea what to look for.

2. Income - Locate all sources of income, such as pay checks, student grants, income tax refunds, etc., that have not been picked up since date of disappearance. This area can be used to show that the victim had money owed to them. The inference is that a person would not voluntarily leave without picking up the money.

3. Bank transactions - Locate history of bank accounts, such as checking, savings, ATM, etc., to show the regularity of use before disappearance and the absence of activity after disappearance. If safe deposit box exists, show nothing was withdrawn, and obtain search warrant to discover if valuables have been left behind.

4. Credit cards - Present history of use of cards such as Visa, Mastercard, gas cards, and Sears card, to show no activity since date of disappearance.

### *Personal Relationships*

Present evidence that the victim was married, engaged, involved, etc., that she had no known plans to leave, were planning a vacation, anniversary, party, or anything the victim was looking forward to doing in near future. In all relationships, such as family, friends, and personal, seek to establish things the victim was looking forward to, as well as establishing that he or she had no known reason to leave voluntarily.

### *Goals/Plans*

Present evidence the victim always wanted to be a teacher, was to graduate soon, had pre-enrolled for next semester, recently met with an academic adviser regarding a



career, was about to be promoted, took a new job, or had a new relationship. Anything that the victim was excited about or looking forward to and would not have voluntarily missed.

## Confronting the Disabled Defense

The defense may try to argue the victim could be hurt, unconscious, have amnesia, laid up in a hospital somewhere, or simply does not want to be found. To confront this:

1. Enter victim's name and description in NCIC.
2. Register victim with International Missing Persons Register.
3. File a missing persons report.
4. Send missing persons flier to all hospitals, mental institutions, police departments, etc., in the state and in surrounding states. If victim has previously lived in another state or area, or has strong ties to one, include that area.
5. Use media to spread the word to local, state, and national news of missing person with a photo. Contact shows such as America's Most Wanted to get publicity.
6. Establish that information and the photo have been widely distributed and the victim still was not found. Caveat: you may get a sighting from someone and must be willing to run this lead out and be able to eliminate or discredit it.
7. Run NCIC on victim's driver's license to show no traffic violations or other charges have been filed since the date of disappearance.

## Conclusion

This is not a conclusive list of the areas which can be investigated. The unique facts of each victim's lifestyle may provide areas which point to the conclusion of death. I suggest that investigators discuss the victim's life, habits, likes and dislikes with his or her family and friends in an effort to learn more areas to look into.

## Acknowledgements

This case would not have been possible but for the dedication of Monte Clem. Monte devoted many hours over the years on this case. Between the preliminary hearing stage and the trial stage I was eating dinner in Woodward with Monte and several others involved in the case. I had gone to Woodward to do some trial prep. By this time Monte had left the sheriff's office and was in his first few days as an investigator for the medical examiner. During the meal, Monte laughingly said something about "good luck with YOUR case!" I told him that he could not leave me hanging just because he switched jobs. Early the next morning, Monte suffered a heart attack. He was flown to a hospital, where emergency procedures were performed. However, he then suffered a devastating stroke, and passed away. There should be no mistake. But for Monte Clem, Rutan would be walking the streets today.

After Monte passed away, Butch Hutchens, an investigator for the Woodward County District Attorney took over as the lead investigator. He spent countless hours running down leads I felt we needed. He did a superb job. During trial Butch sat at counsel table with A.J. and I, a Woodward County assistant district attorney. Sadly, Butch passed away shortly after the trial.

I never speak or write of this case without mentioning Monte Clem. I often say I merely finished what he started. I truly believe this. In any case, but especially a no body murder case, the difference will be made by investigators. Those who can think outside the box and are not afraid to view a case from a different angle can deliver justice to a victim whose body is never found.



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