

New Evidence in Chelsea Baby's Death May Upend Murder Charge

By Mark Davis Valley News Staff Writer

Chelsea -- Previously unreleased evidence suggests that a 21-year-old Chelsea man charged with murdering a 1-year-old baby has been wrongfully accused, and the real killer is still at large nearly two years after the infant's death, a defense attorney wrote in a court filing yesterday.

Alex Stolte has spent 19 months in prison awaiting a trial on a second-degree murder charge, but extensive DNA evidence gathered from Stolte and Kyleigh McDaniel, whom he was babysitting at the time of her death, has exonerated Stolte, attorney Dan Sedon said yesterday.

Investigators, Sedon said, have no credible evidence against Stolte, who has maintained his innocence from the beginning and cooperated with police.

"The State's case was based on the hope or even expectation that further interviews would elicit a confession or that forensic testing would conclusively prove that he had committed the crime," Sedon wrote in a motion filed in Orange Superior Court. "The subsequent course of the case, however, has made it alarmingly clear that there is no evidence against Alex Stolte at all, and that the State's case now is reduced to pure speculation based upon circumstances The evidence of guilt is not great, in fact, the evidence of guilt is non-existent." The revelations came in a 16-page motion court filing in which Sedon asked Judge Harold Eaton to re-examine the case and abandon a ruling holding Stolte without bail. A hearing has been scheduled for tomorrow in Orange Superior Court.

Orange County State's Attorney Will Porter, who filed the charge, did not respond to a request for comment yesterday.

Stolte had been dating Kyleigh's mother, then 20-year-old MacKenzie McDaniel of Andover, N.H., and was babysitting the infant while McDaniel was at work on March 17, 2010.

In a statement issued last night, the McDaniel family said they were aware of the motion and support the authorities.

"Our family will continue to trust the justice system in Kyleigh Mae's death and know that justice will prevail against her murderer," said the statement, provided by Janine McDaniel, Kyleigh's grandmother. "Our main focus and concern will always be Kyleigh Mae's justice. It has been a horrific time for our daughter as well as the rest of the family, but we know that the police, detectives, our coordinator, as well as the District Attorney's Office are working their very best in this case. Their professionalism and compassion for Kyleigh Mae, our daughter, and our extended family, has been exceptional."

Stolte, who had spent some of his teenage years homeless in the Concord area before moving in with his mother shortly before his arrest, has been held without bail in Northern State Correctional Facility in Newport, Vt. since March 2010.

"He is handling it remarkably well," Sedon said in an interview. "He has got a lot of faith that the system is going to work for him."

In his motion and in an interview with the *Valley News* yesterday, Sedon launched a broadside attack against nearly every portion of the prosecution's case, arguing that the forensic evidence, combined with recently completed interviews with investigators, show that there is no evidence to justify even charging Stolte with murder, let alone to convicting him.

An autopsy, which concluded that Kyleigh died of trauma to her head, also found evidence that the baby had been sexually assaulted, including a hair found inside her vagina, a detail publicly disclosed for the first time yesterday. However, DNA testing concluded that the hair did not come from Stolte.

Moreover, specialists from the Vermont Department of Public Safety lab and the Federal Bureau of Investigation lab tested the sheets and bedding where Kyleigh slept, along with Stolte's and Kyleigh's clothing, hair, blood, bodily fluids: There was not a single piece of biological or DNA evidence connecting Stolte to the death, according to Sedon's motion.

Additionally, police never found a murder weapon, never articulated a motive and never found any significant inconsistencies in any of the statements he provided them, said Sedon in his motion.

"Increasingly, it's a miscarriage of justice that (Stolte) be incarcerated any longer," Sedon said in the interview. "A lot of this should have caused police to look at the evidence again. He has been steadfast about his innocence, and I don't think people were listening."

The defense does not dispute two crucial police findings: Stolte was home alone with Kyleigh for almost the entire evening, and the injuries she suffered would have quickly led to her death.

The evidence, Sedon said, now points instead to a startling theory -- that an unknown intruder snuck into the home, while Stolte was upstairs, killed Kyleigh and escaped undetected.

"The theory of an unknown intruder is not only not far-fetched, it explains it best," Sedon said in an interview. "That's the theory that explains the evidence best."

Police affidavits, Sedon's motion and other court documents give the following account.

MacKenzie McDaniel, left for work at 3 p.m. for her job in Lebanon, leaving Stolte home alone with Kyleigh, who was suffering from a minor cold, but had no other known medical problems.

Around 5 p.m., Eileen Bailey, Stolte's mother, came home from work. She spent an hour inside the home, saw Kyleigh in the crib with no apparent problems, and left around 6 p.m.

Stolte said that he spent much of his time on the first-floor, surfing the Internet and calling friends, while periodically checking on Kyleigh, who was in a crib in the basement.

Around 9 p.m., Stolte had a phone conversation with a friend, Kameron Miranda. Miranda later told police that Stolte seemed in "good spirits," and even put Kyleigh on the phone to say "a few words."

Shortly after the call and after he carried her to a padded playpen, Stolte noticed that one of Kyleigh's eyes was drooping. He called McDaniel at work, concerned.

She told police that she thought he was overreacting and "freaking out." McDaniel told Stolte it was likely related to Kyleigh's cold, and told him to watch over her.

Stolte went back upstairs, called some friends and communicated online with people.

Around 11:30 p.m. Stolte said went back to the basement to check on Kyleigh. He found that she was not breathing, called 911 and said that he administered CPR until paramedics arrived.

Kyleigh was taken in an ambulance to Gifford Medical Center in Randolph, where doctors pronounced her dead upon arrival. She was found to have suffered skull fractures and a broken leg.

Stolte followed the ambulance in a car driven by a paramedic. Within two hours, state police began to interview him.

Beginning at 1 a.m. at the hospital, police interviewed Stolte on five different occasions throughout the night and into the next afternoon, for a total of several hours.

Stolte repeatedly insisted that he had been home alone with Kyleigh.

"This did not happen tonight, accidentally or by mistake," he told detectives.

In a recent deposition, police acknowledged that there was "no appreciable difference" in the information Stolte provided in any of the five interviews. Stolte even offered to take a polygraph test -- that was apparently not done -- and voluntarily surrendered his cell phone and his Facebook password.

Police pulled phone and Internet records -- Stolte's story about spending much of his time online and on the phone checked out.

In interviews with investigators, people who talked to Stolte on the phone that night described him as "upbeat," and happy to be caring for Kyleigh, whom he called "his daughter." (Stolte is not the biological father of Kyleigh).

Authorities arrested and charged Stolte on a largely circumstantial case -- he was the only one they knew who was around her.

"Kyleigh McDaniel died of blunt impact to the head -- death would have been fairly quick," Porter, the state's attorney, said during Stolte's arraignment on March 19, 2010. "The only person during that time who had access to her is the defendant."

Several days later, Judge Thomas Devine ordered Stolte held without bail.

“The evidence is circumstantial, but it is substantial nevertheless,” Devine wrote in a five-page opinion. “The evidence therefore strongly supports a finding that the child's injuries occurred ... during a period of time in which the child was in the defendant's exclusive care. There is strong evidence that (Stolte) was the only possible source of the injuries.”

In the interview at his Chelsea law offices, Sedon said that police had essentially developed tunnel vision, and they failed to pursue any leads that did not point to Stolte.

For example, investigators that night found that the door to the basement, only 12 feet from Kyleigh's crib, was unlocked. However, they did not swab for fingerprints on the outside windows or doorknobs, did not search for footprints or a possible weapon outside, and they did not search for any trace evidence on the basement floor, according to Sedon.

“They admit there was never any other theory,” Sedon said. “They were banking on the fact that once there was biological evidence recovered, it was going to seal the deal. The police have a hard job. I'm not faulting police. They reached a conclusion based on their instincts that the evidence failed to (bear) out.”

Stolte had a troubled life long before he was connected to the case. Before returning to Chelsea to live with his mother, he had lived in the Concord area. He was a star lacrosse player for Merrimack Valley High School, but also spent several years homeless and indulged in drugs, he told the *Concord Monitor*.

“I want to get out of here,” Stolte told the *Monitor* in April 2009. “I want my own spot. I want my own accomplishments.”

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