

# LAW WEEK

## COLORADO

# Top Women Lawyers 2014

## *Kathryn Stimson*



SHE LEFT THEM in tears. After 90 minutes of laying out the tragic story of Edward Montour, Kate Stimson left many of the jurors, her co-counsel and the rest of the courtroom quietly weeping.

It was the culmination of exhaustive preparation for Stimson, who was part of the defense team for Montour, a death penalty inmate who had pleaded guilty to killing Eric Autabee, a Limon prison guard.

Montour was facing the death penalty for killing Autabee, and Stimson's opening unfolded an epically tragic story — "a tragedy the likes of which they couldn't comprehend," she told them.

It was true.

As the trial was set to begin, Montour's defense team, which included Stimson, David Lane, Hollis Whitson and Kathy McGuire, was set to prove that he was wrongfully convicted of one of the crimes that the prosecution would argue justified use of the death penalty.

Montour's story is a certifiable maze of twists and turns that began when he was convicted of killing his young daughter in 1998. It includes a stint in what many once described as one of the most notorious prisons in the country, where Montour was

deprived of medication that helped him manage his mental illness. It was in that prison that Montour killed Autabee, a crime he freely admitted to — a crime for which a Douglas County Court judge sentenced him to the death penalty; it was a penalty that Montour welcomed.

That sentence was overturned in violation of a U.S. Supreme Court case that provides that only a jury may sentence a defendant to death.

Montour's case then began to wend its way through the system again, so that a jury could impose Montour's final sentence. In 2008, the state named criminal defense attorney David Lane as Montour's counsel.

Two years later, as Stimson was launching her own criminal defense practice asked Lane to lunch so that she could ask him how she might get involved in death penalty work.

As events unfolded, Lane asked Stimson if she'd like to help him with Montour.

"I asked her if she wanted to get involved in the worst death penalty case I'd ever seen," Lane said. "And she didn't hesitate."

It was a decision that would expose Stimson to the case of her career. She'd graduated from the University of Denver Law School in

2005, and she began working with the Public Defender's Office just days after graduation. She'd interned with the office during law school, and she was carrying 320 plus cases as she began studying for the bar. It was a rigorous training ground, with up to four trials a day set and studying for the bar at night.

Stimson worked for the state public defender for three years before leaving to pursue the varied cases that federal public defense work can offer. Six years out of law school, she was ready to launch her own criminal defense practice, where she planned to get two-thirds of her cases from state and federal appointments and one-third from private clients, she said. Little did she know that one of her first cases would become all-consuming.

As the team prepared for the death penalty trial, it divided various aspects of the case — Stimson was charged with investigating Montour's original conviction, which she believed from the get go had problems.

"My hope from the get go was to reverse his underlying conviction," she said. As part of a restorative justice project, Montour had met with the Autabee family, who had forgiven him for the killing. "It breathed humanity back into (Montour)," Stimson said.

"He no longer wanted to die."

His legal team was determined to peel back the layers on his case to find the holes. The hope was to have doctors review the X-rays to confirm or deny the original cause of death, which hinged on getting access to the original X-rays. Stimson got ahold of them as voir dire was set to begin. As she helped the team comb through thousands of questionnaires from the 3,200 plus jury pool, she was also coordinating with Ivy League trained, board certified pediatric radiologists who could review the film. As she began receiving opinion after opinion that there was no way the baby could have been murdered, Stimson knew she had to act — she reached out to the coroner's office to request that they correct the death certificate. They agreed just days before trial was set to begin.

"We were still ready to proceed with trial," she said. "I couldn't believe we were going to go forward with it," but the prosecution insisted on continuing.

As she prepared for her opening argument, Stimson realized she had an opportunity to use all the rage and heartache she felt over the tragedy that had been Edward Montour's life and the injustices he'd been victim to; she had a chance to share his story.

"I felt like it was this huge injustice that needed to be told. It was the most important thing I could do in my career — saving this man's life. I just laid it all on the line."

From those who saw it, she did just that.

"Unequivocally, no exaggeration, Kate gave the best opening statement I have ever heard in 34 years of practicing law," Lane said.

And after her opening statement and the cross examination of two witnesses, the prosecution extended a deal, life in prison — It was all Montour needed to hear. He agreed in seconds, and he and his entire legal team wept as they realized it was over. And while it may not have been a fair result, it was a good one, Stimson said.

"Being a public defender/criminal defense lawyer is to stand up for second chances, to fight the system, to believe in the positive side of the human spirit coupled with the most important basic legal principles; liberty, fairness and justice," Stimson said. "You have to tirelessly believe that people can change, and you have to believe that you shouldn't be judged by the worst thing they've done." •

— Meg Satrom, Esq., [Meg@CircuitMedia.com](mailto:Meg@CircuitMedia.com)