
UNDISCLOSED SEASON 2: **THE STATE VS. JOEY WATKINS**

EPISODE 10: **OUT OF CHARACTER**
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Rabia Chaudry:

In prosecuting Joey Watkins for the murder of Isaac Dawkins, the prosecutor, Tami Colston, was kind of stuck. She didn't actually have any physical evidence tying him to the crime. Instead, she had to rely on convincing the jury that in the past, Joey had shown hostility towards Isaac, and that there had been something called 'prior difficulties' between them.

Hi, and welcome to episode 10 of *Undisclosed*, 'Out of Character'. My name is Rabia Chaudry. I'm an attorney, a fellow at the US Institute of Peace, and the author of *Adnan's Story*. Of course, I'm here with my colleagues, Susan Simpson and Colin Miller.

Susan Simpson:

I'm Susan Simpson. I'm an associate at the Volkov Law Group and I blog at *The View From LL2.com*.

Colin Miller:

I'm Colin Miller. I'm an associate dean and professor at the University of South Carolina School of Law, and I blog at *Evidence Prof Blog*.

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Colin Miller:

In 1813, Jane Austen published her novel, *Pride and Prejudice*. The protagonist, Elizabeth Bennet, begins the novel thinking she can tell, right after meeting a person, or maybe even *before* she meets him, that he is full of pride or full of prejudice. With regard to Mr Darcy, Elizabeth believes him to be arrogant and merciless, after hearing and believing that he has cheated George Wickham out of his inheritance. It is only after learning more about Darcy and Wickham that Elizabeth is able to put aside her prejudice – her pre-judgement – and see Mr Darcy for who he really is. This helps explain why Austen initially titled her novel, *First Impressions*.

There's something else, however, that Elizabeth says early in the book that ends up ringing true. Quote: "The distance is none when one has a motive." Elizabeth is speaking about the 'climb every mountain' ethos in which no obstacle is too tall in life when you have a dream, a goal, a motivation. But the quote also applies in criminal courtrooms every day. And in a way that relates back to Elizabeth's first impression of Mr Darcy. Motive, means and opportunity are often thought as the holy trinity of a murder prosecution. Now, this is a slight misnomer, because motive actually isn't an element of the crime of murder. That said, it is something the prosecution certainly wants to prove to close the gap between doubt, and guilt beyond a reasonable doubt.

In some cases, that distance is literal. The problem of proving the defendant killed his ex-girlfriend's new boyfriend, despite the fact that they had broken up months earlier, or the problem of placing the defendant at the crime scene when witnesses claim he was at his house too late to make it to the site of the shooting. In such cases, the prosecution would love to rely upon prior friction between the defendant and the victim as a surrogate for evidence connected to the crime itself. Typically, however, character evidence is inadmissible, because you want the jury to convict based upon evidence of the crime at issue, and not based upon the defendant's prior bad acts. That said, courts have carved out an exception when those prior acts involve both the defendant and the victim. As the Supreme Court of Georgia noted in rejecting the appeal of Devonia Inman, another GIP client:

While motive is not an essential element in the proof of the crime of murder, the State is entitled to provide evidence to establish that there was a motive, and evidence which is relevant to an issue in a case is not rendered inadmissible by the fact that it incidentally puts the defendant's character in issue.

This type of character was at the very center of the prosecution of Joey Watkins for the murder of Isaac Dawkins, but as Yeats noted in his *Second Coming*, "Sometimes the center cannot hold, and the ceremony of innocence is drowned."

[4:30]

Susan Simpson:

The state faced a *big* problem in prosecuting Joey Watkins. It didn't have much evidence that he'd actually shot Isaac. To make up for this lack of evidence that Joey did do it, they instead made a two-step case that: *One*, Joey would have shot Isaac, given the opportunity, and *two*, there wasn't anyone else who would have shot Isaac. Therefore, they say, since Isaac had, in fact, been shot, Joey was necessarily the shooter.

Rabia Chaudry:

This two-step plan didn't let the State totally off the hook. It would still require evidence that Joey would, in fact, have shot Isaac given the chance. And at the very start of the investigation, it looked like the State was off to a great start. Evidence that Joey had shot at Isaac on a previous date was fantastic evidence that he would have been able to shoot Isaac on January 11th. But after the Panama City Incident fell apart, the State's case for showing that Joey would've done it was left just as thin as the case showing that he did do it. That is, until Stanley Sutton came along. Sutton couldn't do much to fix the lack of evidence showing that Joey did it, but what he succeeded in doing was convincing friends of Joey and Isaac to make statements they had never made before, about Joey's hostility towards Isaac.

Colin Miller:

Now, as I noted before, typically the prosecution can't present character evidence against a defendant, that's evidence of prior bad acts unconnected to the crime charged. That said, if the prosecution wants to provide evidence under the exception allowing evidence to prove motive, it can file a notice of character evidence it wants to introduce. And in this case, when the prosecution filed its notice, it listed six prior difficulties between Joey and Isaac that it claimed formed the motive in this case. It also pointed out that it had more than double the number of – quote, unquote – "similar transactions". These were prior acts by Joey that did not involve Isaac, and we'll get to those later. But returning to those prior difficulties, the prosecution claimed it had half a dozen examples that it could use to prove this animus between Joey and Isaac and a reason for Joey not only to want to harm Isaac, but also to kill him.

[6:36]

Susan Simpson:

The first category on Tami Colston's notice for prior difficulties stated the following:

During the time period between June of 1999 and January 2000, the victim, Isaac Dawkins, was harassed by the defendant, Joey Watkins, on numerous occasions. This forms the basis of the charge of stalking contained in the indictment. Mr Watkins threatened Isaac Dawkins and told others he was going to "get him". Although these incidents are evidence of prior difficulties, and are evidence of the crime of stalking, and are not similar transactions, the State places defendant on notice that it intends to introduce all prior threats by Joey Watkins against Isaac Dawkins, as well as specific incidents where Joey Watkins attacked Isaac Dawkins or chased him with a vehicle. Some of the specific acts are as follows...

Rabia Chaudry:

So, here is the limiting instruction that the judge gave to the jury in Joey's trial. And this is so the jury can think about prior difficulties and similar transactions as they are presented by the

prosecution and decide for themselves whether they met the bar. And here's what the judge said:

I instruct you that before you may consider any other transaction for the limited purpose I have referred to, you must first determine whether this accused committed the other transaction. And, if so, whether any such act was similar enough to the crime charged in this indictment so that proof of another transaction, in light of the limited purpose for which it has been presented to you, would tend to prove an element of a crime charged in this indictment.

So, let's now look at the prior difficulties that were alleged by the State.

Susan Simpson:

First up involves Isaac's dog. According to the notice, between June of 1999 and August 1999, Isaac Dawkins' dog was shot between the eyes while in its pen at the Dawkins home. The dog was shot with a .22 caliber weapon. The victim's dog was shot because Isaac Dawkins was dating Brianne Scarber. We've already mentioned before that at trial Tami Colston alleged that Joey had killed Isaac's dog, at some point prior to the murder, although it's a little bit fuzzy when. And how jailhouse snitches were used, in part, to link Joey to Sally's death. Sally being Isaac's black and tan coonhound. And, we'll be getting into this a lot more in the future, but for now, I just wanted to point out what a mess the State's prior transaction notice was, even for this very first event.

I have no idea, for instance, why Colston wrote that the dog was shot between June of '99 and August of '99. Because none of her witnesses testify to this. Eventually, a few seemed to decide it happened probably around October 1st, but Colston was well aware of that long before this notice was written, and I'm not sure why she gave these different dates instead. And there's also the fact that the notice doesn't even identify *who* shot the dog. Just that it had been shot and that it was because Isaac was dating Brianne, but that can't be true because all the witnesses seem to claim that the dog was shot after Brianne and Isaac had broken up. And then there is a *very* strange comment about how Sally had been shot with a .22 caliber weapon. But here's the thing: Sally's body was never actually found. It was never recovered, no bullets were ever tested, it was *never* inspected in any way. So, how was Colston claiming to know that a .22 caliber weapon was used to kill her?

[10:06]

Rabia Chaudry:

So, the second incident that's noted as a prior difficulty on the notice given by the State was the Checkers incident. And we discussed this at length in Episode 3. But let me read to you:

Between June of 1999, and January of 2000, Joey Watkins was in his vehicle and was harassing Brianne Scarborough [sic], who was in a vehicle with others in downtown Rome. Isaac saw the harassment and approached Joey Watkins. Joey Watkins told Isaac Dawkins to come to his house. Isaac did. Joey Watkins went to the window of Isaac's vehicle and started hitting him through the window.

Now, based on the prior transaction notice, it looks like Colston decided to go 100% with the version of the story told by Brianne. No one other than Brianne says that that happened, and every else who was there agreed it happened actually in a totally different way. Then again, Colston couldn't even figure out *when* this happened, or at least couldn't narrow it down beyond a six-month timeframe. So, maybe she didn't realize that Brianne's story was an unsupported outlier. But, again, before Sutton took over the case, this was the only story that anyone had ever mentioned involving Joey and Isaac having a physical altercation. It's the only one that Isaac's best friend, Jay Barnett, ever mentioned, the only one of any Isaac's ex-girlfriends ever mentioned, and only one Joey's friends ever mentioned.

Susan Simpson:

The only one, that is, aside from the Panama City Incident.

But, at the time that Moser handed over this case to the Floyd County Police Department, this was the only time he'd ever heard of, from any witness, or any friend, any family member, of Isaac and Joey having a fight. And, it wasn't really much of a fight. What we know of it is, again, Isaac and Joey encounter each other, they were cruising out on the street, Joey says, "Well, yeah, you wanna fight, follow me back to my house." Isaac follows Joey, they get there, they have a long stand-off, neither really does much, Joey tries to punch Isaac but hits the truck instead, and then Isaac bails and goes to meet friends at Applebee's. So, it's not really a similar transaction if you're comparing it to murder.

[14:47]

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Colin Miller:

Now, while the Checkers incident wasn't really similar to the crime at issue, this next one listed on the notice arguably was. And, I'm reading from the language of the notice:

During the same period of time, Adam Elrod, Travis Camp, and Joey Watkins were on Highway 27, north of Mount Berry Square Mall during the time Isaac was dating Brianne. Isaac was with Jay Barnett in a white truck. Joey Watkins saw Isaac Dawkins and chased Isaac down the road. Isaac got away from Joey on this occasion.

Now, to put this in context, Adam Elrod was a former classmate and friend of Joey's. On direct examination, Adam testified that he recalled an incident from around September 1999 in which Joey was chasing Isaac down Highway 27 by Armuchee. According to Adam, he was in his pickup truck with his friend Travis Camp when he saw Joey flying past him in hot pursuit of Isaac. Adam claimed that Joey then, quote, "Swerved over to Isaac, but he slid his tires so hard that night that it left flat places in his tires." And according to Adam, Joey was driving a 1985 silver and blue Chevy Silverado and, quote: "I know it was Joey's Silverado."

During the defense case, however, defense attorney Rex Abernathy called Dale Camp, Travis' father, and according to Travis, Joey's father did have a 1985 silver and blue Chevy Silverado at his dealership. But he sold it to Dale on November 7th, 1998. And there's no need to take Dale's word in this – the defense actually produced a document showing that Dale took out a loan on the vehicle on that same date ten months before the supposed incident described by Adam. Moreover, according to Dale, he had never loaned the Silverado to Joey, and it would have been parked at his job at Associated Distributors at the time of the alleged incident.

Abernathy's last question to Dale was, quote: "So if someone testified that they saw Joey in September 1999 driving your truck, chasing somebody up the road, that wouldn't be true, would it?" Dale's response, "No, sir, that would not be true." But it wasn't just Dale who denied this event. It was also his son, Travis. Now, recall, according to the story told by Adam, Travis was in the vehicle with Adam at the time that he saw this chase taking place between Joey and Isaac, and here's the long and short of the defense attorney's direct examination of Travis:

Question: Did you have an occasion around September, August, September of 1989, to be in a vehicle with Adam Elrod on US Highway 27 in the Armuchee area and see either Joey Watkins or Isaac Dawkins pass you?

Answer: No.

Question: Did you have an occasion to see Joey Watkins chasing Isaac Dawkins in a Silverado?

Answer: No.

Question: Were you ever in a vehicle at that time, to the best of your knowledge, with Adam Elrod?

Answer: No.

Question: Have you ever seen Joey Watkins chase Isaac Dawkins in any occasion?

Answer: No.

[17:41]

Susan Simpson:

At any rate, it's no surprise that this whole story about seeing Joey chase Isaac on Highway 27 North, it's no surprise it came from Adam Elrod, because Adam Elrod has *tons* of stories. I mean, usually it's not the same story two days in a row, but, he makes up in quantity what he lacks in consistency. And Adam's stories are never held back by the fact that the people these stories are about never agree with Adam about how they occurred or usually even if they occurred. I mean, Adam, for instance, is the source of the story about Joey buying a gun from the 'scraggly man' down in Cedartown, and Adam's the one who has all kinds of bad acts that supposedly Joey had done, or people that Joey had tried to beat up. How Joey has *no friends*, although, he's also one of Joey's best friends, that's why Joey told him stuff. So...? But Adam's also the first person, and for a long time only person, to come forward with claims about hearing Joey threaten to kill Isaac. Although a few others have said they heard Joey say, a couple of times, while Isaac and Brianne were dating that he was going to – quote, unquote – "Whoop Isaac's ass", no one ever that Joey had threatened worse than that. Until Adam started to say it.

[18:51]

Detective:

Let me ask you another thing: Have you ever heard Joey ever say, 'I'm going to kill Isaac'.

Adam Elrod:

Oh, "I'll kill that sonofabitch." I've heard that come out of his mouth a few times. When he called us, uh, me and Todd... When he come to Todd's house that one time... After he found out all the stuff about Brianne and Isaac... He had said that... To me, I couldn't tell you how many times.

Detective:

When do you think he said he's going to kill Isaac. He told you several times...?

Adam Elrod:

He's just stupid. He was so obsessed with this girl. I don't know why. I mean, she's not that much to look at.

Detective:

Yeah.

Adam Elrod:

I mean, she's a pretty girl, but... I mean, they grow on trees like that every day.

Detective:

But you said he was so obsessed with Brianne, and hated Isaac, and you heard him say he's going to kill him how many times?

[crosstalk]

Adam Elrod:

Several times.

Susan Simpson:

Now, Adam claims, like I said, that he's not even really Joey's friend. But he's somehow heard Joey threaten to kill Isaac several times? Even though, before Adam, not a single person had ever heard this. Paul Allen, for instance, never heard Joey threaten to kill Isaac. Neither did Jay Barnett. Or Chad Redden. Or Clay Burkhalter, or Brianne Scarber, or Aislinn Hogue, or Erica Evans, or anyone else. With one noticeable exception we'll get into later from a woman

who claims that Joey threatened to kill Isaac once before Brianne and Isaac had ever dated. But other than that, Adam Elrod is the *only* person on Earth who says that he heard Joey threaten to kill Isaac. Why? Well...

[20:22]

Susan Simpson:

As far as I can tell, the worst liar is Adam Elrod.

Joey Watkins:

Yes.

Susan Simpson:

Because... [laughs] Or not even... I mean, he's just-- He's even worse than Josh Flemister.

Joey Watkins:

Right.

Susan Simpson:

Adam just like-- [sighs] I can't even find a source for his stories. Like, for everyone else, they'll give a story, and I'm like, okay, this is this event here. And they're talking about this thing that happened in real life and giving it a twist this way. For Adam, it's just-- What is that boy talking about?

Joey Watkins:

Right. Adam is a compulsive liar. Adam is a pathological liar. He will tell a lie and then make himself... He'll make himself believe it so he doesn't screw up when he's telling a story to someone else.

[21:25]

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Rabia Chaudry:

So, when Adam tells the story about Joey chasing Isaac on 27, he puts two other witnesses there. Travis Camp and Jay Barnett – Isaac's best friend, who was supposedly in the truck with Isaac. Travis obviously doesn't support Adam's story, but how about Jay? Well, not at first. In his taped statement in June, 2001, just a couple of months before Joey's trial, Jay initially denies that Isaac had ever told him about any run-ins with Joey.

[21:47]

Detective:

Had he ever mentioned that he had run-ins with Joey Watkins before?

Jay Barnett:

Nuh-uh.

Detective:

Never mentioned to you?

Jay Barnett:

Nuh-uh.

Rabia Chaudry:

This answer makes sense. Jay obviously never told Detective Moser about any of these incidents, and as Isaac's closest friend, it's hard to imagine why he would've held back that kind of information. But a little while later, in that same interview, Jay changes his mind. Isaac apparently *did* tell him about Joey chasing him.

[22:12]

Detective Moser:

Had he ever threatened to kill him or anything in your presence?

Jay Barnett:

Hmmm. Not in my knowledge. Just threatened to whip his ass... Stuff like that.

Detective Moser:

Did Isaac ever tell you about the time he chased-- Any chases, that Joey chased him or anything?

Jay Barnett: *Yeah, he said Joey come up behind him several times... And had tried to run him off the road... And Isaac had-- Isaac had started... Uh, carrying a gun in his truck around the same time that... All of this stuff started happening.*

Rabia Chaudry: Still, Jay is clear: Isaac may have mentioned being chased, but Jay had never been with him when it happened.

[22:50]

Detective: *But there's no other incidents you know of, other than Isaac telling you that Joey had chased him down several times trying to run him off the road?*

Jay Barnett: *No, not that I'd been with him.*

Rabia Chaudry: Then, during the trials though, something changed. Jay suddenly *did* recall being with Isaac when Joey was chasing them on Highway 27 North. Just like Adam Elrod had said.

[23:09]

Lawyer: *Alright, now, Jay, was there a third incident that happened up on Highway 27 North?*

Jay Barnett: [pauses] *Yes.*

Lawyer: *What happened there?*

Jay Barnett: *Joey kept pulling in front of Isaac, slamming on his breaks, getting up beside him, trying to run him off the road... Just kept doing that for... Probably for... It seemed like a long time, but it was probably only five minute-- Five to ten minutes. He kept pulling in front of him, slamming on the breaks, trying to get him to hit him... And trying to get him to follow us, and everything else.*

Lawyer: *Did he have somebody with him then? Joey?*

Jay Barnett: *I can't tell. He had tinted windows, so it's hard to tell unless he had the windows rolled down. I never saw the windows rolled down I don't think.*

Lawyer: *About what time did this happen, roughly?*

Jay Barnett: *I want to say this was in-- In the winter...*

Lawyer: *So that was well after he broke up with Brianne?*

Jay Barnett: *Yeah, he was already dating somebody else at that time.*

Susan Simpson: Okay, so kind of just like Adam Elrod said. The gist is there. It's roughly similar, it's clearly talking about a Highway 27 North chase, but... Adam and Jay still don't agree on most the details. Still, if this happened, if, like Jay says, there was an incident involving Joey's truck trying to run Isaac's truck off the road, why didn't Jay ever mention it to Detective Moser? Why did Jay, in fact, deny that anything like that had happened when Stanley Sutton asked him about it in his taped interview? And, if Jay had been with Isaac when Joey had threatened both their lives by trying to run the truck off the road, why didn't Jay remember anything about it until after Adam Elrod had told Stanley Sutton it had happened?

Rabia Chaudry: Well, I mean, I'm just thinking, and in his first interview, he did change his mind. And that was apparently before Sutton got the information from Adam, right?

Susan Simpson: *Long* after. So, for some reason, Jay, even though he's Isaac's very best friend, and like, they were together all day every day. All day, from the sounds of it, from what Jay says. He's not interviewed on tape until April 2001. So that's like, what? Fourteen months after Isaac's death? Now, it's worth nothing that by the time of trial, Jay himself was actually a Floyd County Police officer. But, when he talked to Moser, and he talked to Moser a bunch, when Moser had the case, he never mentions this. He never talks about these 'chases'. He never talks about-- Everything that, aside from the Panama City incident and that fight after they didn't meet at Checkers.

Colin Miller: I just find the whole thing so weird. Because, if we're breaking it down, Adam says: "I'm in my pick-up truck with Travis Camp and I see Joey in this Chevy Silverado." And yet that Chevy Silverado he's talking about belongs to Travis' father. The father says, "Joey would have never been driving it" and Travis says "I'm not in the pick-up truck when this happens, in fact, I never saw anything like this." So I don't know... It's almost like a blender where there's these odd facts and I don't understand how they come together but it's just a bunch of mush instead of something really solid that the jury can hang their hats on, here.

Susan Simpson: I mean, it's really hard to break down who's talking about what. Because you have variations on a theme, and it's only after a lot of digging you realize that two people were talking about the exact same event in a certain statement, and then just to make things worse, you have Adam who's just making up stuff off the cuff. Which no other witness talks about. No other witness has ever heard of, except possibly at trial when they suddenly recall it. So trying to make Adam's stories fit with the rest of the various collection, it wasn't fun. It was hard! Like, I have a very large file with details on every single statement we have about each of these events and... Just trying to figure out who's talking about what is never straight forward. Because, again, like Jay, their statements initially say stuff didn't happen. Until we get to trial, when suddenly they say it *did*.

[27:11]

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Colin Miller: Now, the fourth incident listed in the notice of prior difficulties reads as follows:

In the summer of 1999, Adam Elrod, Joey Watkins, Clay Burkhalter, and DJ Gammon were together on Highway 140. Isaac Dawkins came by with Paul Allen. Joey Watkins again chased Isaac Dawkins down. The police stopped the vehicle Joey Watkins was in and arrested several of the people inside for the underage possession of alcohol.

Now, this one did take place in the summer of 1999, and Adam and Joey, Clay and DJ *did* get arrested for underage possession of alcohol. But that's pretty much where the similarities with reality end. Basically what happened is that Joey's girlfriend at the time, Shay Highfield, had a barbecue at her place, and Joey and a bunch of friends were there. Paul Allen, who had previously dated Shay was not invited, but he showed up anyway. He drove by, and when he saw Shay and Joey outside, he threw some firecrackers at them and drove off. So, Joey and Shay ran inside yelling about it and Clay jumped in his truck to chase Paul, and he was joined in his truck by Joey and three others who piled in, with the truck then taking off. Here's what Joey's friend, Clay, told Sutton in his interview about this event:

[28:19]

Detective Sutton: *Were you with him one night when him and you and Adam Elrod, several other people, were in a truck and chased Paul Allen and Isaac Dawkins down on Highway 140?*

Clay Burkhalter:

Yes, sir.

Detective Sutton:

Do you know when that happened?

Clay Burkhalter:

It was the-- It was last summer, the summer of '99... And when Joey came in the house, it was, to my knowledge, that was Paul-- Just Paul Allen by his self, and that... Paul had done something to Joey and Shay Highfield on her four-wheeler... Was at her residence, and that-- I knew-- he said it was Paul, so we chased him... Came out on the Old Dalton Road and turned left onto Highway 140.

Detective Sutton:

Whose vehicle were y'all in?

Clay Burkhalter:

It was my Nissan pick-up.

Detective Sutton:

Okay, what were y'all chasing?

Clay Burkhalter:

Paul Allen's black Camaro.

Colin Miller:

So, as he says in his answer, "To my knowledge it was just Paul Allen by himself." So, why is this evidence of Joey stalking Isaac? In fact, it doesn't seem like anyone even knew Isaac was in the car with Paul, and I'm not really convinced he was even along for the ride at all. Paul testified that Isaac had been with him that day, but he agrees that there was no reason to think that anyone else knew about it.

So, here's Paul testifying at trial:

Susan Simpson:

Question: Did Shay and Joey even know Isaac was in your car?

Answer: I have no idea.

Question: Alright. Now you said when the truck was chasing around, no one was yelling Isaac's name. Were they? They were just yelling your name?

Answer: Yes, sir.

Rabia Chaudry:

So, *why in the world* does this get turned into evidence that Joey killed Isaac? Well, unfortunately, Adam Elrod was also one of the guys who hopped into the truck to chase Paul. And even though everyone else seems to have forgotten that Isaac had anything to do with this event, Adam remembers that the whole point of it was to chase Isaac. Sutton's notes from March 2000 say: "Adam Elrod stated to Sutton that they were chasing after Isaac." So, that's the story Tami Colston decides to use in prosecuting Joey. Which was a big mistake. Because by the time Adam was interviewed on tape, in December, he'd actually forgotten the story he was supposed to run with.

[30:36]

Detective Sutton:

You talked about how he chased him on Highway 140?

Adam Elrod:

Yeah, whenever-- Whenever that was. We was-- It was summer time, 'cause were was swimming, cooking out. Paul Allen-- hHm and Paul Allen was together...

Detective Sutton:

And what kind of car were they in?

- Adam Elrod:** Um, Clay said they was in a black Camaro. And that's guy-- That's Paul, all day long.
- Detective Sutton:** Yeah.
- Adam Elrod:** And they had thrown something out in the yard and was shooting firecrackers. Well, Joey was on the four-wheeler to start with. Well, I was facing the back of my truck out and go out the driveway, and Clay said, "Come on, we'll just go in my truck." I jumped in the cab, DJ jumps on back, Justin Cooper's on back, and Joey gets on back. We're going down 140, we passed the first bridge after you leave Shay Highfield's house. We was running 80, 85 mile an hour.
- Susan Simpson:** In fact, by the time trial comes along, Adam has forgotten about the chase at Shay Highfield's house altogether. Colston tries to prompt his memory, but Adam's got nothing. Poor Colston. This time she can't even blame Adam's screw-up on Detective Moser.
- Colin Miller:** Yeah and this actually forms a partial basis for Joey's appeal after his conviction, because Tami Colston, we can tell from her notice, is claiming that Isaac is at the heart of this interaction and was the reason for the chase, and as you can see, Adam at trial has conveniently forgotten the story. And so when the defense is arguing for new trial, they write the following in their brief:
- Specifically, the State over Watkins' objection introduced bad acts of Watkins during a barbecue. The State is assured the court that this incident involved Watkins and the deceased. However, the testimony actually presented at trial showed that the deceased was not involved in any way in the alleged incident. But, as a result of the introduction of said testimony, unfavorable and highly prejudicial character evidence was introduced against Watkins when it should have been excluded altogether.*
- Susan Simpson:** What I like about this story from Adam is that *not only* is he going ahead and saying that, you know, Joey wanted to kill Isaac or chase Isaac or run him off the road, but he just throws the rest of the crowd under the bus, too. He's like, "Oh yeah, Clay Burkhalter, DJ Gammel, they were also trying to chase Isaac off the road that night." So... Adam does *not* limit his defamation, to just Joey. He's happy to claim that *anyone* would want to kill Isaac.
- Colin Miller:** Right Susan, because, according to this story, it's *Clay* who takes off to chase Paul and Joey just piles in, right? So he's not even the one who's instigating this, he's just joining in with Clay who's taking up the chase.
- Susan Simpson:** Yeah, he's in the back of the truck, like, standing up. And they're yelling at Paul because Paul drove by and he threw firecrackers at him. I mean, Paul eventually claims that Isaac's there in the Camaro with him, and maybe he was, I have no way of saying he wasn't... But there certainly isn't any evidence of that, until we get to Adam. And even Paul agrees. If Isaac *was* with him when they went to throw firecrackers at Joey and Shay, no one else knew about it.
- Colin Miller:** And I also struggle to see how this really is proof of anything in this case, because the State isn't alleging that Isaac did anything to Joey. And in fact, this incident doesn't involved Isaac doing anything to Joey, it's Paul throwing firecrackers at Shay and Joey. And I mean, naturally, someone's going to react, and there's not actually any violence that occurs here, it's just they're upset, and maybe they drive after him. But, yeah. I don't really see how all this relates to the allegations against Joey at trial.

Susan Simpson: Yeah, and this is not relevant either to anything about Joey, but I did like how, in cross-examination, Paul's trying to play this off as he just happened to be passing by Shay's house when they started chasing him and the defense points out that that's not actually the way Paul would want to go home unless he was, you know, wanting to be seen there.

Rabia Chaudry: I did not have a similar, like, teenage year-- Like, is this just that there's not enough to do in Rome? Or, I don't know. Is this teenager behavior that I just never engaged in? I am amazed at how much back and forth... And even though they're not serious altercations, they're just kind of constantly just kind of just messing with each other, these guys.

Susan Simpson: I was talking to Tandi the other night, and she was like, "Well, there were only two options for us, it was to go to the parking lot at Mount Berry Square, or to go to the parking lot at Home Depot." Those are your weekend excitements for Rome, Georgia, apparently. If you're a teenager.

[36:52]

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Rabia Chaudry: So, the next prior difficulty that the State brings up is an incident about Brianne's mom's minivan. And here's what they write:

During the spring or summer of 1999, Joey Watkins saw Isaac Dawkins' truck at Brianne Scarber's house one evening and shot at Isaac Dawkins' truck.

Now, on September 12th, 1999, Brianne's stepfather did file a police report stating that, over night, the back window of the family's minivan had gotten busted out. Joey got blamed for it, of course, but there was never any suggestion that Isaac was involved in it in any way. Until, of course, again, surprisingly, Adam Elrod came along.

[37:27]

Susan Simpson: *So, in September, '99, he back windows of her mom's van got, like, blown out or broken in the middle of the night.*

Joey Watkins: *I had nothing to do with that.*

Susan Simpson: *And they blamed you for it, obviously.*

Joey Watkins: *They blamed me for everything.*

Clare Gilbert: *Adam Elrod says that the two of you were together and that you threw rocks at the window.*

Joey Watkins: *Adam's a damn liar.*

Rabia Chaudry: Brianne herself had actually never mentioned Isaac being involved with the van windows thing, but at trial, she runs with Adam's story:

[38:09]

Lawyer: *Adam Elrod was a friend of Joey's, right?*

Brianne Scarber: *Mm-hmm.*

Lawyer: *And he told you-- He came to you and told you he was sorry for what, then?*

Brianne Scarber: *Yeah, told me, he was like: "Look, I'm sorry for-- For Joey and I'm sorry that I was ever friends with him." He was like, "But I was with him when he did that."*

Lawyer: *Did what?*

Brianne Scarber: *He busted-- They-- He-- Joey shot out, um... My mom's window with a... Slingshot.*

Lawyer: *When did this happen?*

Brianne Scarber: *[long pause] It was when me and Isaac were going out, so sometime this summer.*

Susan Simpson: But, on cross-examination at Joey's trial, Brianne took it further, and claimed, for the first time, that this incident was not just something that Joey had done... It was something done because of his jealousy of Isaac.

Question: I guess-- And there was never during all these June through September-- That anything that ever had happened while you were out with Isaac that Joey did to you, is there? That you're aware of?

Answer: My window to my van got shot out.

Question: I am talking about when you were out with Isaac and there was some type of public confrontation or something. The two of you together?

Answer: Well, Isaac was at my house that night.

Rabia Chaudry: Isaac's best friend, however, seems totally unaware that this is the official version of event. Because he gives a much different version of where Isaac was when this all happened:

[39:21]

Lawyer: *Alright, do you know of any other incident that Isaac and Joey had?*

Jay Barnett: *No. I know that a few times, I was at Brianne's house, you know? I'd be with Isaac or something, and she'd call or page him. And then she'd want him to come out there like right then because she said Joey had been calling, making threats to her and everything else. And she wanted Isaac to come out there right then. And one time we got out there, and her-- And I think the back of her mom's van or something, the windows were all busted out in it. It was like, after we got there.*

Susan Simpson: And it's worth noting that Joey's trial is actually not the last time that the van windows thing gets brought up. In fact, in 2006, while filing charges against Joey in Troup County, Brianne brings it up again. This time to an investigator there. Although, unsurprisingly perhaps, this time the story has a new twist to it. From the investigator's report, it says:

Brianne advised me of one more report that was made when someone shot at her mother's residence in Rome, Georgia. Brianne stated that police officers found Joseph Watkins in the area, but no charges were filed against him in the case. Brianne stated that Joseph Watkins lived on the other side of town at that time.

And in case it needs to be clarified: No, that didn't happen. Joey was never connected in any way to the van windows things until *after* Isaac's murder.

Yeah, I don't know why Brianne decides to wait until 2006 to start improving the story, but it probably would have helped Tami Colston if she'd thought to make that up at trial.

[41:06]

Colin Miller:

Well, it could have, right? But it could have also blown up in their face because they could've actually checked to see whether there was actually any interaction between Joey and the police. And there wouldn't have been, right? This could have definitively refuted that claim.

Susan Simpson:

See, you say that... But-- And it makes sense, but that hasn't applied to other cases where claims like that were made.

Anyway, it's clear from what Jay Barnett says, because he recalls this incident, he recalls being with Isaac when Brianne says, "Hey, someone shot out the windows from my van, come and protect me, quick." So, clearly he was not at Brianne's house that night, like Brianne testified.

[41:52]

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Colin Miller:

This, then, takes us to the final prior difficulty listed in the State's notice, and it reads as follows:

In September of 1999, Joey Watkins chased Isaac Dawkins up Highway 27 North. He tried to run Isaac Dawkins off the road because Isaac was dating Brianne Scarber.

Now, we're going to refer to this as the 'Black's Bluff Road incident'. And this final prior difficulty is hard to pin down. But at trial, Jay identifies this transaction as an incident that occurred out on Black's Bluff Road. Here's what he said before trial, though, in his first statement to Sutton:

[42:24]

Jay Barnett:

We were going through town again, and this time we were-- It was on a shorter avenue in front of the Dwarf House I believe... And... Just out of circumstance, I guess, we got up beside a red Firebird and we didn't know it was... Nobody in particular until we got up beside them. And we were in Isaac's truck again then, and we got up beside them and the next thing we know is that they were staying right beside us.

And then I happened to look over and... They'd rolled down the windows and I could see it was Joey and Kevin Pool. And uh, they just kept on kind of staring at us. And, you know, then me and Isaac, we recognized who it was, so we was looking back at them and uh, we stayed like for probably five minutes, just going through traffic beside each other. And then, uh, Joey turned off and as they were turning off, you know, they shot us a bird and everything and we didn't think nothing else about it, we went on-- I think we was going to Walmart that night.

And another time, we'd been in Isaac's truck and Joey had said something about wanting to go meet and fight... So we'd followed Joey out to Black's Bluff Road through South Rome and went to Black's Bluff Road and he pulled over on Black's Bluff Road, and uh... So Isaac pulled over right behind and Isaac was driving Isaac's truck and Isaac got out, and when Isaac got out, Joey sped off. And then, you know, we didn't follow him any more. We just got back in the truck and left after that.

Detective Sutton:

Was Joey by himself then?

Jay Barnett: *I couldn't tell. His windows were so dark.*

Detective Sutton: *When did this happen?*

Jay Barnett: *Uh... This was probably about-- This was after him and Brianne had already broken up.*

Detective Sutton: *Who, Joey?*

Jay Barnett: *No, this is after Isaac and Brianne had already broken up or quit talking or whatever.*

Detective Sutton: *Well, what-- What was all this problem stemming over?*

Jay Barnett: *Brianne Scarber.*

Susan Simpson: There may be a reason to wonder, though, about how good Jay's memory of this event really is. Because Joey's cousin, Kevin Pool, was with Joey that night. And although Jay seems to recall someone being with Joey... Well, who that person was-- Jay seems to need a little bit of assistance.

[44:41]

Detective Sutton: *Okay, and was anybody with him during that time?*

Jay Barnett: *Adam Elrod was in the back and then, I then... I think... Uh...*

Detective Sutton: *[whispers] Pool.*

Jay Barnett: *Kevin Pool, I think, was in the back also.*

Susan Simpson: Apparently, there's something about cops and witnesses named Jay, but if you listen carefully, you can hear Stanley Sutton in the background there, when Jay forgets the name of Kevin Pool, whispering softly to remind Jay what to say next.

[45:12]

Jay Barnett: *Adam Elrod was in the back and then, I think... Uh...*

Detective Sutton: *[whispers] Pool.*

Jay Barnett: *Kevin Pool, I think, was in the back also.*

[45:31]

Colin Miller: Now, at the trials for both Joey and Mark Free, Jay drops the part of the story about Joey inviting them to a fight and straight up admits that he and Isaac began pursuing Joey after Joey and his passenger, Kevin Pool, flipped him the bird. Now, here's Jay testifying at Mark Free's trial:

[45:47]

Lawyer: *Now, tell us about another incident that started out on Shorter and ended up on Black's Bluff.*

Jay Barnett: *[pauses] Okay... [clears throat] We were in Isaac's truck and we were going down Shorter towards the Walmart and everything and... We seen Joey's car pass us and... They, uh... We just didn't really think nothing else about it and we just kept seeing them more that night and they got up beside us and... Shooting us birds and... Just kind of mouthing back and forth to*

us and then... We wound up following them, they kept motioning with their hands for us to follow them, so we kept following them and then... Isaac finally got tired of following them on Black's Bluff Road and pulled off. And then Joey stopped and then Joey took off and that was...

Lawyer: *Alright. Did Joey have anybody with him?*

Jay Barnett: *He had somebody with him, I think it wa, uh, Kevin Pool.*

Lawyer: *Why did y'all follow him?*

Jay Barnett: *Just.. Same thing as before, just to get it over with. Tired-- We was both--*

[crosstalk]

Lawyer: *Was Isaac getting tired of this harassment?*

Jay Barnett: *Very much. We both were.*

Lawyer: *And was it all over Brianne?*

Jay Barnett: *Yes. I think so. 'Cause Isaac never had any problems with Joey beforehand.*

Lawyer: *Did Isaac have any other enemies?*

Jay Barnett: *No.*

Rabia Chaudry: But Kevin and Joey remember things going down differently than Jay does. Jay says he has no idea why, when Joey and Isaac pulled their trucks over on Black's Bluff Road, Joey suddenly sped off after Isaac got out of his truck and walked towards them. Joey and Kevin however, remember there was a very specific reason.

[47:24]

Joey Watkins: *But I went and got Kevin that night, or that afternoon – it wasn't evening, it wasn't night – and I picked Kevin up. Kevin and I were going to get something to eat. And when we came to Old Dalton Road, we came to the, you know, where you turn left to go by the mall? To go back toward Rome, coming off Old Dalton onto 27? I turned off, and as soon as I turned off, Isaac just so happened to come behind me. And he followed us through town, followed us-- We went to... I think it was a Hungry Harvey across from People's Finance in Rome. We went to that gas station, and I pulled over and Kevin was like, "Just pull over and let's get this over with." And Kevin's, you know, he's younger than me, he's my younger cousin, but he's-- Kevin's always been real big. Kevin's like, at the time was probably, I don't know 6'2", 280 almost, he was big.*

But Kevin was like, "Let's just get this over with. Just go on and, you know, do what you gotta do and let's be done with it." [coughs] So I was like, "Okay, whatever." So, they pulled through and they kind of flipped us off. It was Isaac and Jay again. They kind of flipped us off. And Kevin was like, "You know what? I don't like Jay anyway." You know, he was like, "I'll take care of Jay." And I was like, "No, let's just avoid this if we can." So Kevin was like, "Alright, let's just go to my momma's house." So his momma lived on Black's Bluff Road, so... My aunt Ginger.

So, we go down by where the old prison is. We took the back way. We went down Bluff Road, and they followed us. So, I said, "You know what, I'm tired of this." I looked at Kevin and I told Kevin, "I'm tired of this shit." So, I stopped right down the road from the Black's Bluff Prison. And I got out of the car, and he – Isaac – kind of pulled up maybe ten yards from my car. And he jumped out, and I was like, you know, "What's up? Let's get this over with." And he's like, "Alright, we gonna get it over with." So he goes into the back of his truck, and he grabs a bat

out of the tool box. It looked like a bat. It was a bat or crow bar or something. But when he grabbed that, Kevin was like, "Man, let's get in the car."

So, we got back in the car, and we left, pulled off. I said, "He don't want to fight." And Kevin was like, if he don't want to fight, let's forget it. So, we pulled off, he followed us all the end of Black's Bluff Road, and we turned right, I believe he turned left. And that was pretty much it. That was the whole incident.

Susan Simpson:

Yeah, and Jay, at trial, denied there was a crow bar or a bat involved.

Joey Watkins:

Jay is a bold-faced liar. With my reputation, and you guys knowing who I am, do you honestly think I would have turned away from him if he wouldn't've pulled a bat or a crow bar on me? I would've got that over with, and it would have been done and he would have left me alone. When he grabbed that, I got back in the car. 'Cause I didn't have anything on me, I didn't have a bat or nothing in my car. I mean, what do I look like trying to fight this guy with a bat? Or a crow bar, or whatever he had in his hand. I would've got this over with.

Susan Simpson:

And that leads to a kind of uncomfortable fact about this whole case: The only two confirmed encounters between Isaac and Joey, the only two times that we have multiple witnesses agreeing that Isaac and Joey encountered one another, aside from the ones that were only recalled a year and a half later at the trial, were the Checkers incident and the Black's Bluff Road incident. And both times, by Jay's own admission, Isaac had been the one following Joey.

[51:21]

Susan Simpson:

In the Checkers incident, at least, we know for a fact that Joey was egging-on Isaac. And it's not like Joey was some innocent bystander. I mean, the two met somewhere in a parking lot, had words, and planned to fight, and Joey drove home, perhaps thinking that surely Isaac wouldn't call his bluff and follow him. But Isaac did. And in the second incident, Joey may have been taunting Isaac into following him, although Jay's the only source for that claim, and he kind of flip-flops on that point, and seems to indicate at one time that really, all that had happened is that Joey had flipped-off Isaac as he drove by and then Isaac and Jay had decided to follow. Still, Joey is clearly an equal participant in both these encounters. But, if Joey was an equal participant, that means Isaac was, too.

[52:15]

Colin Miller:

Yeah, at trial, the relationship between Joey and Isaac gets portrayed by the State as predator and prey with Joey as the wolf and Isaac as the lamb. Now, it's true, Colston acknowledges, Isaac may literally been following Joey during these events, but that's only because Joey was baiting a naive Isaac into positions where he could make a deadly strike, and Isaac was unknowingly following Joey's plans.

[54:45]

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Rabia Chaudry:

In her closing, Tami Colston says:

Now, the defense would have you believe that because Jay Barnett tells you on – and truthfully, good boy, Floyd County police officer – we followed him. That it was Isaac stalking Joey. But every witness who was there, that is not still good friends with Joey Watkins – except for Erica Evans, who said, "I don't remember what was said" – but everybody who was there, Adam Elrod, Jay Barnett, and Isaac – bless his heart, can't speak – they told you it was Joey going, "Come on. Follow me. Follow me."

Because the defense was afraid of a jury backlash, they actually didn't focus much on the fact that Isaac was the one following Joey in different incidents.

Colin Miller:

Yeah. And that's the difficult position for defense counsel in any murder trial, and certainly it was the case here, is: You don't want to speak ill of the dead. It's for fear of jury backlash, right? I mean you have a person who is being killed, you don't want to be blaming the victim. And you definitely risk a jury turning against you if you're trying to claim that that victim had any culpability, either in his death, or as in this case, in these prior incidents.

[55:57]

Joey Watkins:

You know, I don't want to turn the tables and sound like, "Oh, I'm 'Mr Didn't-do-nothing-wrong,' or I'm an angel, or anything. 'Cause I wasn't. I was a young punk. I mean, I thought I was invincible, you know? But, Isaac was kind of-- I don't know, I guess you would say, he was kind of obsessed with me, as far as scared that I was going to get back with Brianne. And he was at me a lot. You know, as far as like, messing with me, saying things, calling the shots, do this, doing that. But in the trial, they didn't want to bring this out. Because they said that it would make it look like it was 'poor me.' You see what I'm saying?

Susan Simpson:

Mm-hmm.

Joey Watkins:

We don't want to point the finger at him because he's the one that got shot and he's dead and he can't defend himself. We're not gonna bring all these points up. Even though he came to my house, he followed me, you know? And did all this stuff to me. You know, they turned the tables and made it look like I was chasing him.

Susan Simpson:

And to be clear, it's not like Isaac was some big bully, running around town trying to intimidate poor Joey. That's not how it was. But, on the other hand, it wasn't as if Joey was running around town, essentially a wolf with his pack, stalking Isaac until he was dead.

Rabia Chaudry:

Colin, I want to ask you: If we're talking about admitting legally into evidence or at a trial, prior bad acts or similar transactions or... I mean, for the defendant, can the same thing be done for the victim in the case? Different rules? Doesn't matter?

Colin Miller:

Yeah. There's something known as the 'Mercy Rule'. And what it says is, usually character evidence can't come in to show the defendant's sordid character, but the defendant can, so to speak, open Pandora's Box and attack the character of the victim. Which allows, then, the prosecution to respond in kind and to attack the defendant's character. Now, in this case, what we see going on is the prosecution's claim is: "We're not saying Joey is generally a violent person, we're not using propensity character evidence, we're showing specific prior transactions between Joey and Isaac which show his motive to harm Isaac." The problem that I see as we look through these six examples is, there has to be *some* quantum of proof even to get this before the jury. And it seems, even with each of these examples, there's not even that quantum of proof that would show a jury could reasonably look at this and find: "I think that these were incidents that involve Joey at all in some cases, and involved Isaac at all in other cases". And so that's the problem that I see here is there's just such a paucity of proof here that really this is something that the judge should have screened out and never should have allowed to read to the jury.

Susan Simpson:

But it *is* a confusing mess. And having the jury sit there for a week and having all these friends of Joey get up and testify about a bunch of like – to someone who didn't grow up in Rome and this atmosphere – kind of shocking events, even that don't involve Isaac. Yes, that's going to prejudice them against Joey. Because I'm sure our listeners *now* are like, "What the hell is this Joey dude up to?" But the point is, what Joey was doing was not of a character that would

suggest murder. Because that's what it comes down to. Brianne had a lot of other boyfriends. Joey never killed any of them. What was different about Isaac? What was the murderous rage that was present here? And there's no evidence of it. There's no reason to think that Joey was acting any differently from every other male peer testifying in this case.

[59:53]

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Rabia Chaudry:

So there were a lot of things claimed at Joey's trial about what he'd done to Isaac and many of them seemed shockingly violent. But what Tami Colston and what the defense failed to illustrate to the jury was this: That the majority of these claims and all of the worst ones, certainly, only came into existence after Stanley Sutton began his investigation. All of Isaac's family and friends failed to mention any of these events to the Rome Police Department for nearly two months. In Moser's letter to Sutton after the case passed on to Floyd County, he summarized the evidence that the Rome Police Department had found. With regards to the evidence Moser had collected concerning Joey's hostile acts towards Isaac, he had only the following to say:

During the course of talking with friends of Floyd Medical Center, information was gathered that Joey Watkins was a possible suspect due to past alleged problems between Isaac and Joey. These problems included verbal confrontations and where Joey allegedly shot Isaac's dog as well as pulling a gun out on Isaac back in summer of 1999.

After seven weeks of investigation, seven weeks of interviewing Isaac's friends and family on numerous occasions, this is the sum total of the evidence Rome Police Department obtained concerning the bad things Joey had supposedly done to Isaac. That's it. Let's break that down. Here's what Moser's investigation learned:

Susan Simpson:

One: Isaac and Joey had verbal altercations. No surprise there... They *had*. They'd mouthed off to one another and everyone agrees on that. Although, these were apparently minor events since no one seems to recall a specific incident, they just know that it happened.

And *two:* A one-time physical altercation. This would be Moser referring to the Checkers incident. The one that didn't happen in Checkers but where Isaac and Jay followed Joey back to his house. When they got there, Isaac never got out of the truck to fight but both Joey and Isaac mouthed off at one another, and at some point Joey tried to punch Isaac through the truck window but, from most accounts, basically got more of the truck than he did Isaac.

Colin Miller:

Three: Joey allegedly shot Isaac's dog but the key word here is *allegedly*. In fact, the only reference in Moser's notes is his note about Brianne saying that Isaac hadn't thought that Joey had done it, and although presumably others had told him the opposite, Moser doesn't seem to have found any other credible, or at least not credible enough to put in his reports.

Finally, *four:* Pulling on gun on Isaac in the summer of 1999. Going back to Episode 1, that's the Panama City incident. Quite simply, didn't happen.

Susan Simpson:

Given what would ultimately happen in Joey's trial, given what evidence would be presented against him, I don't want the significance of this report to be missed. Because if everything said at trial was true, about how Joey had attacked Isaac all the time and threatened to kill him, and tried to run him off the road, and many of Isaac's friends had in fact witnessed it personally, then why did not a single one of them come forward to tell Moser about *any* of it? Why did they only begin to talk once Sutton began to question them?

[1:03:10]

Rabia Chaudry:

The State wasn't content to show the jury all the terrible things they alleged that Joey had done to Isaac. They realized they needed to go further. They needed to show that Joey was an all around terrible person. And so began the long, cumbersome task of presenting to the jury all the times he, as a teenager, had gotten into scuffles with others. As if that was actual evidence of murder. Of course, it didn't matter that most of these incidents were totally made up.

Next time on *Undisclosed*.

[1:04:12]

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Susan Simpson:

So are you guys tired of hearing us read out portions of the transcripts of what happened in Joey's trial, instead of letting witnesses and attorneys speak for themselves? Yeah, we're tired of it too. That's why we've gotten some help. Mike Caplan and Sarah Brewerton-Palmer of Caplan Cobb, an Atlanta law firm that specializes in trial and appellate litigation are representing *Undisclosed* in a motion before the Floyd County Court seeking access to the trial tapes from Joey's trial. Sarah and Mike moved the court to permit *Undisclosed* to copy those tape recordings because a recording of what transpired in a public court is a public record, that the public has a right to access. As does the defendant who was imprisoned for life on the basis of what was said in that audio. As previous case law from the Supreme Court of Georgia has held:

In this state, the public and the press have traditionally enjoyed a right of access to court records. To preserve this right, this court and the Council of Superior Court Judges have adopted a rule that presumes the public will have access to all court records. All court records are public and are to be available for public inspection unless public access is limited by law or by the procedure set forth below.

Now, the procedure set forth below have *never* been invoked in denying *Undisclosed* access to those trial records. It's also worth noting that this actually isn't Mike Caplan's first time being involved in a case featured in a podcast. He represented Justin Chapman, whose case was covered in season one of *Breakdown*, from the *Atlanta Journal Constitution*. Chapman was convicted of murder after his duplex burned down in 2006 and his neighbor Alice Jackson was killed in the blaze. His conviction was overturned last year, though, due to the prosecution's failure to hand over evidence which would've impeached the testimony of the jailhouse informant. Recently in June, the State announced it would not be refiling charges against Justin Chapman. And now Mike and Sarah will be helping *Undisclosed* to obtain the trial audio that Floyd County refuses to disclose. A huge thanks goes to Caplan Cobb for their assistance in this matter and we look forward to seeing what arguments Floyd County plans to make as to why the public cannot hear what happened at Joey's trial.

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