
UNDISCLOSED SEASON 2: THE STATE VS. JOEY WATKINS**EPISODE 17: INFORMANTS AND WIRETAPS**
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Rabia Chaudry:

In the past many weeks, we have gone over how Stanley Sutton, lead investigator in the murder of Isaac Dawkins, went about, very deliberately, creating a case against Joey Watkins and Mark Free, in the face of totally non-existent evidence, including pressuring their own friends to turn against them. Sutton had another potential source of evidence though – the jailhouse. Any time someone is put in jail or prison, it opens up the very dangerous door of other inmates becoming ‘snitches’ in exchange for something from the authorities.

Hi, and welcome to this week's *Undisclosed: The State vs. Joey Watkins*. My name is Rabia Chaudry, I'm an attorney and a fellow at the US Institute of Peace, and I'm joined with my colleagues Susan Simpson and Colin Miller.

Susan Simpson:

I'm Susan Simpson. I'm an attorney with the Volkov Law Group. And I blog at *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 his book, *In Cold Blood*, Truman Capote notes how the Kansas Bureau of Investigation was coming up empty in its search for the killer of four members of the Clutter family before they caught a break. A jailhouse snitch claims that his former cellmate, Richard Hitchcock, might have been the murderer, with Perry Smith as his possible accomplice. Capote then sets the scene of lead detective Alvin Dewey returning home to find his wife Marie preparing dinner. Without a word, he hands his wife a manila envelope. Capote writes that “Her hands were wet. She dried them, sat down at the kitchen table, sipped her coffee and opened the envelope,” which had Hitchcock and Smith’s mugshots. Meanwhile, Dewey had sent one of his agents, Harold Nye, to Hitchcock’s home at night, where he used subterfuge while talking to Hitchcock’s parents, leading to them unwittingly corroborating many of the details in the account of the jailhouse snitch. Capote writes that “Nye shut his notebook and put his pen in his pocket, and both his hands as well, for his hands were shaking with excitement.”

As Patrick Keefe wrote in the *New Yorker* article, *Capote’s Co-Conspirators*, “It’s a captivating episode—tense, atmospheric, and grounded in the kind of filmic detail that makes *In Cold Blood* so memorable: Marie drying her hands, Nye pocketing his. The sequence is also, in most of its particulars, fiction. As the *Wall Street Journal* revealed last month, a cache of long-lost records from the Kansas Bureau of Investigation depicts a starkly different version of events: Nye did not venture to the farmhouse alone, at night, or under false pretenses. In fact, three members of the KBI made the trip. They did so during the day and spoke only with Hitchcock’s mother, and there was no ruse. They told her precisely why they were calling. It’s hardly news that *In Cold Blood* was less “immaculately factual” than its author liked to boast. Capote’s grandiose pronouncements about how he had invented a new literary form, the “nonfiction novel” amounted to a reckless dare.

It’s a dare taken by prosecutors every day. It’s well established that testimony by jailhouse informants is unreliable, with the Innocence Project reporting that such testimony is “one of

the leading causes of wrongful convictions nationwide". And yet, in the absence of a more traditional confession, a purported jailhouse confession is one of the few ways that a prosecutor can craft a coherent narrative that will convince the jury of the defendant's guilt. But what happens when such a narrative conflicts with the other evidence, and when it conforms with law enforcement's mistaken beliefs about the crime?

Rabia Chaudry:

In this case, there are too many jailhouse informants for us to cover them all on the podcast – which is kind of a shame, because a lot of the ones we can't cover here have pretty fascinating stories in their own right, about how they got involved in the investigation in the first place, or what they claimed to have heard, or how the police responded to their stories.

But out of the *dozens* of jailhouse informants, only six made the cut as trial witnesses. We've already discussed two of them: Joey Samples, who was the only jailhouse witness to testify at the trials for *both* Mark and Joey, and David Jones, the friend of Corey Jacobs that was recorded on the wire, and came up with a story about Mark being passed out in the backseat of Joey's car at the time of the murder. In this episode, we'll discuss three more jailhouse witnesses: One who testified only at Mark's trial, one who recanted before trial, and one who was a last-minute no-show for unexplained reasons.

Colin Miller:

On August 13th 2000, Mark was arrested for the third time that year, once again on a probation violation. All of Mark's arrests had been for things like failing to pay a court fine, or missing a meeting – the kinds of mistakes you can't make if you're on probation. Then on August 19th, a guy named Todd Beckstein was transferred from Maryland to the Floyd County Jail, and became Mark's new cellmate. The following day, on August 20th, Mark confessed to Beckstein about his involvement in Isaac's murder. Or at least that's what Beckstein tells Stanley Sutton two days later, during his first interview with the Floyd County police. Beckstein is then interviewed two more times that week, with a tape-recorded interview finally conducted on August 31st.

[05:18]

Todd Beckstein:

The first night I was in there – there was some problems concerning Mr Free and several of the other inmates that were trying to gang up on him. I took Mark Free's side and backed his-- Backed him up so that he wouldn't get beat up and from that time on Mark took me into his confidence, and proceeded to tell me about a murder that him and a friend, Joey Watson, had committed – and asking me for advice on it.

Stanley Sutton:

Okay, now you said "Watson," uh, his real name is Joey Watkins.

Rabia Chaudry:

A couple of the informants gave this same confession backstory – that Mark had been about to get beaten up by some guys who were scarier in the jail, and then after they'd protected him, he was so grateful, he started confiding in them about the murder that he'd committed. It sounds good in theory, like the way a confession might take place in a movie, but to us it sounds like more proof that these guys barely even knew Mark at all.

Because from everything else, from the case file and from what witnesses have said, Mark wasn't one to turn down an offer to fight. And he could more than hold his own. Mark doesn't deny that – when he was told about David Jones' and Todd Beckstein's claims about how they'd befriended him, he laughed. And the cops seemed to have known it was absurd, because Mark's reputation for being a willing and ready fighter was part of their usual spiel about Mark and Joey's guilt for Isaac's murder. According to Beckstein, though, the same day he protected Mark from other inmates, Mark told him this:

[06:40]

Todd Beckstein: [sighs] *To my understanding, Joey tried pulling up beside uh, Isaac and Mark was trying to flag him to pull over and Isaac wouldn't, 'cause Isaac didn't know him. Uh, Joey then got close enough and-- And to where Isaac could see it was Joey and got him to pull the car over. And that's when-- When Isaac pulled the car over.*

Stanley Sutton: *Did they both of them get out of their vehicle? Their truck?*

Todd Beckstine: *What Mark said is, Joey got out first – went up to the passenger side – as he was going up to the passenger side Mr Free got out-walked up-- I mean he went up to the driver's side. Mr Free walked up on the passenger side-- Joey got Isaac's attention by talking to him and uh, Isaac had the back of his head turned this way out-- Out-- turned to the left so that he could talk to uh, Joey and that's when-- When Mark shot him, he fired two shots.*

Susan Simpson: But that's not how any of the witnesses to Isaac's wreck saw it happen. Beckstein is saying Isaac pulled his truck over to speak to Joey through his window, while Mark walked up and shot twice through the passenger side window, but every witnesses to the wreck saw Isaac's truck cross through the median and then two lanes of traffic before hitting the ditch and then flipping over in the woods. Those things seem kind of mutually exclusive, with how Beckstein describes the murder, but he found a way to explain it.

[08:01]

Todd Beckstein: *They pushed-- First they pushed the car off, back on the highway-*

Stanley Sutton: *They push it off with a truck or push off with their hands?*

Todd Beckstein: *They pushed it back on the highway by hand, then they got the truck behind it, Mark lined it up and put the car in drive and the truck started pushing it and Mark jumped in the bed of the truck.*

Stanley Sutton: *Alright, now who was pushing the vehicle then-- Isaac's vehicle?*

Todd Beckstein: *Joey was driving.*

Stanley Sutton: *Joey was driving-- So they pushed Isaac's vehicle when he was in the truck dead. Or shot.*

Todd Beckstein: *Yes sir.*

Stanley Sutton: *Alright and then-- And, you said that your boy, Mark Free, jumped in the back bed of the truck.*

Todd Beckstein: *Yeah, he-- He-- There was no time for him to get in the- in the cab.*

Stanley Sutton: *Alright so he swayed back and forth and that's when-- When he wrecked.*

Todd Beckstein: *Yeah, when they backed off.*

Stanley Sutton: *Back on the 25th we was talking at the jail, you said that they expected the vehicle to do what?*

Todd Beckstein: *They-- What Mark told me is they were trying to get it going fast enough so that the car would burn up. To burn the body so that they couldn't find out that he was shot- that the body would be burned up.*

Susan Simpson: Unfortunately, Joey and Mark were not successful in pushing the truck fast enough to make it burn up and hide all evidence of the crime. According to Beckstein, Mark and Joey then drove

a bit down the highway before turning around and driving back to where Isaac crashed. Joey got out of the truck and checked on Isaac, and when Joey saw that he was dead, he freaked out and ran back to the truck with Mark. Then they sped off, and went to switch the white truck they'd borrowed from the car lot to commit the crime, so that Joey could show up at Aislinn's house in a different white truck from the one the crime had been committed in.

Colin Miller:

But surely Sutton wouldn't take Beckstein at his word, right? A story like that ought to have some form of corroboration. And Sutton claimed that he'd done just that. That he was able to investigate and corroborate Beckstein's story by saying he spoke to Ricky Bray, the tow truck driver who'd towed Isaac's truck after the wreck. As Sutton would later write in an affidavit:

Rabia Chaudry:

After concluding the interview with Todd Beckstein, Investigator Sutton realized that for Isaac Dawkins' vehicle to be pushed, the vehicle would have to be in neutral. On August 25th 2000, Investigator Sutton contacted Ricky Bray of Rabbit's Wrecker Service. Ricky Bray told Investigator Sutton that Isaac Dawkins' vehicle was in neutral when he began the towing process.

Colin Miller:

There were two huge problems with this story, though: The first of these is that Ricky Bray was not the correct wrecker to speak to. Ricky Bray was the wrecker who towed Isaac's truck into the Rome Police Department's parking deck, but he was *not* the original wrecker on the scene. That was Terry Ferguson, who you heard back in Episode 4 of the podcast. Terry Ferguson is the one who towed the truck from the scene, but his wrecker was too big to put the truck in the parking deck. And that's where Bray came in.

[10:28]

Terry Ferguson:

Some, or one of them-- I think it was Marshall Smith- somebody brought us over to the police station. 'Cause once I got there and unloaded it, me and Ricky Bray hooked to it, and we had to really drug-- Drug it into the basement. And they told us where to put it at. And then we covered the truck up. And now, two days later, I think-- I think it might've been two days later, Ricky Bray went back over there and got the truck and carried it to his storage lot.

Colin Miller:

And yes, the truck likely *was* in neutral when Ricky Bray saw it, but that's only because Terry would've put it in neutral to tow it in the first place. The *second* problem is that if the truck *had* been in neutral, that would have contradicted Beckstein's story, not confirmed it. That's because Beckstein told Sutton that Mark had described to him how he'd put the truck in *drive* before pushing it off the roadway.

[11:15]

Todd Beckstein:

Mark turned around put the car in drive and they pushed it with the truck. Mark jumped in the back of the truck, he said once the car was going so fast it started weaving in front of them, they couldn't keep the truck lined up and the car went off the road and crashed into a tree.

[13:20]

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Susan Simpson:

And then there's another little detail uncovered by Clare when she got Sutton's notes. Something that, to *me*, calls into question whether Beckstein had been a plant from the very beginning. And that's the fact that on August 21st, Sutton's notes have a small notation: "August 21, 2000 – Sutton talked with Ricky Bray at Rabbit's towing". But August 21st is one day *before* Sutton is supposed to have learned of Beckstein's existence. On August 22nd, that's

when Sutton goes in to talk to Beckstein, and he gets the whole, 'pushed-the-truck-into-a-tree-to-make-it-explode' story.

So... *Why* would Sutton have been interviewing Ricky Bray on the 21st? That would only make sense if Sutton had already known what Beckstein was going to say ahead of time. But combined with the other oddities with Beckstein's story and background, Clare and I had both wondered the same thing: Was Todd Beckstine deliberately planted in Mark's cell to be a snitch? We have no way to prove it, but it makes more sense than any other theory we can come up with. And the GBI had used Beckstein as a snitch before – something Sutton would later discuss with a GBI agent, and include in his wiretap affidavit.

Rabia Chaudry:

But all of these thousand-and-one problems with Beckstein's story are kind of beside the point. No matter how many extra errors Beckstein added in, the basic premise of the story is so ridiculous that Sutton had to *know* it was a lie.

And, at the preliminary hearing, the defense tried to take this tactic in cross-examining Sutton. Sutton however, refused to give in, and continued to defend Beckstein's story. Here's the exchange from the preliminary hearing:

Colin Miller:

Question: Well, my question is, it doesn't fit the evidence, does it?

Answer: I'm just telling you what he gave. Mark Free told him that, so I'm just relaying what he said.

Question: I understand. And I'm asking you as an investigator, I say, it doesn't fit your evidence, does it?

Answer: Well, it's possible. It's very possible. Anything is possible. It could have happened that way.

[15:15]

Rabia Chaudry:

Although Sutton went back and interviewed Beckstein six or seven times about what Mark had been telling him while they were locked up together, Mark eventually got released from jail on October 5th. Which meant Beckstein could no longer inform the police about what Mark had been saying. Or, well, it *would* have meant that. But Sutton thought Beckstein was so important that, despite him having a pending charge for felony escape, for walking out of a detention center where he was being held on a previous charge and then leaving the state, Sutton was able to pull some strings and get Beckstein released.

[15:44]

Lawyer:

Have you been promised anything in order to come in and testify?

Todd Beckstein:

No, sir, the only thing that was, uh, talked about was after several conversations with, uh, Detective Stanley, Stanley, uh, Sutton. He said he would maybe try to get me out of the jail. Which he did. But this was after we'd already talked numerous times.

Lawyer:

And you'd already made the statement?

Todd Beckstein:

Yes, sir.

Rabia Chaudry:

But, as Beckstein assured the jury at Mark's trial, him getting released from jail on his felony charge wasn't what had motivated him to come forward.

[16:18]

Lawyer: *Had that influenced you in coming forward?*

Todd Beckstein: *No, sir.*

Lawyer: *Well, why did you come forward?*

Todd Beckstein: *[sighs] Sir, I done some wrong things in my life. But, uh-- I'd never hurt nobody in what I've done.*

And the way that Mark bragged about the way Isaac looked, the way his head snapped when the bullet hit him, the way he looked when he went up and checked the body... He was actually proud of it. He was-- It turned my stomach, to the point that I did something I've never done before in my life. And I turned-- Turned informant. Because it was-- It was that grotesque.

Rabia Chaudry: *Which isn't true, by the way. Beckstein had a documented history in Georgia of being a jailhouse informant. But once Beckstein was back on the street, the Floyd County Police Department booked a hotel for him, and got him set up with a wire so he could go record a conversation with Mark, in the hopes that Mark would say something incriminating to his buddy from jail. But the wire... Well, it didn't go very well for the cops.*

Susan Simpson: *When Beckstein showed up at Mark's house, and knocked on the door, Mark apologized to him and said, "sorry man, can't talk now". Mark said his attorney had told him to stay away from everyone he'd been with in jail, because they were getting questioned by the cops. And Beckstein told him that was bullshit – if he'd been a snitch, wouldn't the police have arrested him already? But Mark told Todd, "It's nothing personal" – he's just doing what his lawyer said to do. "Sorry." And that was the end of that.*

Rabia Chaudry: *So after a couple of minutes of being shut down by Mark, Beckstein got back in the taxi, and returned to the hotel where the police were waiting.*

[17:59]

Mark Free: *In that time, they had got another inmate from the jail to come to my house, like I said, in the taxi cab. And had him roomed up at the Days Inn. And come to find out he was wired. I mean, I got statements on that, too.*

Clare Gilbert: *And that's Beck-stein?*

Mark Free: *Todd Beck-stein, Beck-stein..*

Susan Simpson: *The fake spy stuff cracks me up.*

Clare Gilbert: *Yeah, showing up in a--*

Mark Free: *In a taxi. "Hey, man, what's up? How you know where I live?" "Oh, man, you told me before." "No, I don't think so."*

Susan Simpson: *Was he acting weird?*

Mark Free: *He was just trying to act all friendly like, I'm your best friend, help me out. You know? I'm like... And then he started questioning me about-- I mean immediately, I'm talking after thirty seconds-- He's asking me about the murder. I said, "I can't talk to you about that. My lawyer said not to talk to nobody. You gotta leave." So, he gets in the taxi and leaves.*

- Clare Gilbert:** *I can't believe they sent him to your house in a taxi cab.*
- Susan Simpson:** *It's the most surreal! [laughs]*
- Clare Gilbert:** *He should have at least come walking up the road.*
- Mark Free:** *I know, then he said, "Hey, man, I was in the neighborhood, I thought I'd try to find you, or hit you up or something."*
- Susan Simpson:** *Of course your first thought is going to be 'this man has a wire on him and he's trying to get some dirt on me.' You're just like, what is with that dude?*
- Mark Free:** *Right, right. Yeah. And I know you from jail. We ain't best friends. We're not brothers. Sorry, it don't happen like that.*
- Susan Simpson:** *Get back in your cab and go away.*
- Mark Free:** *That's it.*

[19:38]

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Colin Miller: While we have no records of it, it seems like the Floyd County Police freed a few other of Mark's cellmates to do exactly the same thing. If so, we have no copies of the tapes made, but Beckstein's wire mentions two others that got released when he did.

Susan Simpson: During the wire, when Beckstein goes to Mark's house to talk to him and try and get him to say something incriminating, they mention other guys they were in jail with. In particular, they mention guys named Ricky and Gene. And Todd Beckstein says, "Yeah, we all got out the same day."

Colin Miller: Yeah, and what Beckstein said on the wire matches perfectly with Sutton's notes. On October 14th, Sutton's notes read, quote, "Investigator Sutton had to babysit with Todd Beckstein." And "Gene S. getting out of jail. Stated he knew Mark Free and would help us." And scrawled above that is another name: Ricky H. So the three mentioned on the wire, the three who were housed closest to Mark at the jail, were all mysteriously released from jail on the exact same day, and then mysteriously showed up asking Mark and Joey a lot of questions.

Those three, though, were far from the only people at the jail questioned. On October 10th, five days after Mark got released on his probation violation, Sutton's notes read, quote: "Interviewed 32 inmates at jail in reference to Mark Free." As you can probably tell, then, when it comes to investigating Joey and Mark, Sutton would spare no expense and leave no stone unturned.

[21:07]

Rabia Chaudry: Todd Beckstein *did* testify at Mark's trial, although notably, Fred Simpson, the prosecutor, only had Beckstein tell the part of the story that involved Mark shooting Isaac. He left out the part about pushing Isaac's truck across the road so it would wreck into a tree. Right after Beckstein testified about the shooting, prosecutor Simpson changes the subject to something else, and smoothly omits the whole 'pushing the truck to make it explode' thing. That part did come up briefly on cross examination, but the sheer insanity of Beckstein's whole story is still oddly understated.

At Joey's trial, though, there was barely *any* mention of Beckstein. Actually, Joey's defense was prohibited from bringing it up:

Susan Simpson: *Question: Mr Shiflett, now when you were corroborating what Mr Beckstein said, you know what he said, don't you? What Mr Beckstein's story was?*

Answer: Yes, sir, some of it, yes, sir.

Question: He said that--

Colston: I'm going to object to this, Your Honor.

The Court: No, we're not going to get into--

Colston: Your Honor, first of all it's irrelevant because this is testimony against Mark Free, the co-defendant. He was the one that was in jail with him. Second of all, it's total hearsay. Mr Beckstine, since he's not a witness in this case, it's totally irrelevant and hearsay.

Rabia Chaudry: But the real importance of Beckstein's story, at least in October of 2000, wasn't so much his use as a trial witness. It was his use as a witness that could support a wiretap order. With all other leads coming up empty, Sutton decided that the best way to get proof of Joey's and Mark's guilt was to get a wiretap on their phone lines. And so Sutton decided Beckstein could serve as a probable cause that was necessary for a wiretap warrant to get obtained.

In an affidavit, under penalty of perjury, Sutton told the court that, during his interviews with Beckstein at the end of August, Beckstein had told Sutton about numerous calls he'd witnessed Mark making to his friend, David Brown. And Beckstein said David would then call to Joey so the three of them could talk on a three-way call. Sutton had followed up by pulling toll records of all calls made from jail payphones during the time period that Mark was locked up, and also the toll records for David and Joey's homes. Sutton described the results in his affidavit, stating:

Colin Miller: *BellSouth subscriber information indicates that fifteen calls were made from one of the four pay phones located in G-Block at the Floyd County Jail to the residence of David Brown. In addition, BellSouth subscriber information indicates that three calls from the pay phones of G-Block at the Floyd County Jail were made to the residence of Joey Watkins.*

Rabia Chaudry: That proves Beckstein's story, right? Well, no, not at all. In fact it seems like pretty strong proof that Sutton knowingly lied in his affidavit, because Sutton knew from those records, or should have known, that everything Beckstein had told him was a lie.

[23:39]

Stanley Sutton: *Uh, also when I first interviewed you on the-- On the 22nd you had mentioned that uh, that Mark calls Joey. That-- That Mark Free calls Joey Watkins at the jail.*

Todd Beckstein: *Yes sir.*

Stanley Sutton: *How does he call him?*

Todd Beckstein: *They don't call Joey at the jail, Mark's the one in jail, he calls Joey at home.*

Stanley Sutton: *That Mark is in jail, and he calls Joey at home.*

Todd Beckstein:

Yes sir.

Stanley Sutton:

How does he call him?

Todd Beckstein:

Through three ways-- Through David.

Stanley Sutton:

He told you that?

Todd Beckstein:

Yeah, I was by the phone when he did it one night-- Yes.

Stanley Sutton:

Alright, and he-- You was by the phone when he called uh, David's house through three-way and got Joey?

Todd Beckstein:

Yes, sir. Because David also made a three-way call for me first.

Susan Simpson:

But between August 19th and August 22nd, there *are* no phone calls from any jail payphones to either Joey Watkins or David Brown. Zip. Nada. And the rest of the calls that Beckstein talks about? The ones he told Sutton happened after the 22nd? All the ones Mark was supposedly making during this time period? Well, from the phone records, none of them could have happened either. For instance, only three calls from jail payphones were made to Joey's phone number, and all of them were made on September 18th, 2000, long after Beckstein's statement to police.

And, out of the 14 calls from jail payphones that were made to David's phone in that time period, none of them match a time when a three-way call could've been made to Joey's line. So, these three-way conversations that Beckstein describes – Beckstein couldn't have witnessed them.

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Colin Miller:

Now, the court found Sutton's affidavit to be sufficient, and so a warrant was issued for a wiretap on Joey's house. For 19 days, teams of officers from the Rome and Floyd County Police Departments, and also apparently an FBI agent, would sit and monitor Joey's phone line. And for 19 days they would hear nothing that supporting Joey's or Mark's guilt in Isaac's murder.

And that's not because Joey and Mark were too clever to use the phone to discuss sensitive matters – because they weren't. Despite acknowledging at one point that their attorneys and others had warned them not to discuss the case over the phone, they promptly ignored that warning, and spoke to each other on the phone dozens of times, discussing the police investigation and how the cops were trying to build a case against them.

We don't have copies of the tapes – Floyd County says it can't provide those to Joey's attorneys. So, all we've got are the listening post logs and Colston's return on the wiretap. From what we know, 1,257 calls were intercepted, of which 50 were classified as 'evidence calls' – that is, calls, quote: "related to the conspiracy alleged in the Investigative warrant and attached affidavit, involving violations of Georgia's murder statute." In the return, someone has made a list of 22 of those calls, with a brief discussion of those contents. Then, in the margins, someone has gone down and given an assessment of how useful each call is to the case.

Susan Simpson:

And in every case, the verdict was the same. The notations read:

Not helpful

Not helpful

Not helpful

Nothing

Not helpful
Not very helpful

This is despite the fact than many of those calls are, from the description, calls that you would expect to be a prosecutor's goldmine. Like call #56, "Joey and Mark about being suspects and the interview of Mark by Sutton and Shiflett". Or call #659, "Mark, Joey and Tim talking about Todd Beckstine being a snitch". Or call #563, with Joey asking Mark about what he'd said to their attorney, or call #610, "Mark Free talking to Joey about case."

[27:15]

And despite having been warned throughout the investigation about the possibility of a wiretap, Mark and Joey were discussing things one probably wouldn't be discussing if they thought there actually was a wiretap on the phone. Like about how Mark was going to hook up a friend for a pot sale, or Joey making threats to kill Stanley Sutton. The latter, by the way, were presumably not serious threats. From context, or as much context as can be seen from the return, they were of the loud-mouthed, trash-talking, non-serious variety, not actual death threats. The notes say, for instance, "Joey telling his dad that he is sick of Stanley Sutton – dash – threatening Sutton – dash – dad hangs up on Joey".

And a little later, after Joey learns of Sutton questioning Kelli, a call about, quote: "Joey telling mom that Sutton has fucked with him for the last time – ready to kill him." It seems possible, though, that this final description of the call was designed to make it seem more serious than it was in reality, because an earlier draft, an earlier brief description of the contents of the call, describes the call as, instead, quote: "Not going to put Kelli through it. Joey makes somewhat of a threat about Stanley". And that's followed by three question marks.

So 19 days, with at least two law enforcement officers on the wiretap for 24/7, and the best they got was Joey making "somewhat" of a threat about Stanley Sutton, and him complaining about how Sutton was ruining his life. That is a *massive* amount of resources for Rome and Floyd to have spent on a single case just to come up empty.

I wish we could hear those calls, though. No, they likely would not have been admissible as evidence, so it wouldn't have made a difference at trial, but how often do you get to listen in on a private conversation between two co-defendants as they discuss the murder they're accused of? Because while we don't know *exactly* what exactly Mark and Joey said to one another, we know that nothing that's said indicated that they were guilty. So the police must have convinced themselves that Joey and Mark were putting on a show for their benefit, both of them feigning innocence to one another despite both knowing they were guilty.

Which is kind of a hilarious idea to me, because I know this isn't an objective assessment, it's more 'dairy-cow eyes' kind of stuff, but I just don't see them being capable of that kind of subtlety. Mark is a blunt, no-nonsense kind of guy, and Joey has no discernible filter. For them to improv a 22-minute conversation about the case in which they *pretended* innocence... I mean, they could've done it, I guess. Maybe. But you'd think that hearing that performance would have at least caused the investigators to second-guess themselves at least a little. But it didn't. It just made them look for alternative ways of building their case, like finding more snitches.

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Rabia Chaudry:

While the vast majority of the snitches in the case claimed it'd been *Mark* they'd heard confessing, there were also two that claimed *Joey* had confided in them, when he was jailed following his arrest for murder: Winford Reese Ellis and James Paul Cooley. Both were supposed to testify at Joey's trial, but a monkey wrench was thrown into the prosecution's case when, right before Joey's trial, Reese Ellis changed his mind. "Joey *didn't* confess to me," he said, "I made that whole thing up." I just wanted to see if you guys would give me a better deal.

But, Tami Colston assured the jury, there was no reason to disbelieve what he'd said before. Ellis was telling the truth when he said Joey confessed to him, and another jailhouse informant can verify it. In her opening arguments, Colston said:

Susan Simpson:

Winford Reese Ellis, you are going to meet him. He is an inmate at Floyd County Jail, and James Paul Cooley, he is an inmate at the Floyd County Jail. There were rewards posters put up, and they were put up at the jail. That was to get people to come forward if they knew anything.

And also you have got people that are going to say, "Well, I wanted-- I told the truth-- I didn't tell the truth. I didn't." Winford Ellis is one. He gave the police a statement. He gave the police a statement that he was in the cell with Joey Watkins, and Joey Watkins told him about this crime. He gave several details. Y'all will get to hear it first hand, live and in technicolor, and then James Paul Cooley will come in and he still says it is the truth. He hasn't been tried yet.

I don't know what to tell you, but the devil is in the details again.

Rabia Chaudry:

The first statement, though, from January 23, 2001 was a big old 'nothing-burger'.

[34:03]

Winford Reese Ellis:

Just like I said, I wrote Jeff a letter that said that I had some information about the Free case. Free and, uh, Watkins case and that I'd like to talk with Stanley Sutton about it. The only reason I knew he was the detective was 'cause I heard Joey talk so much about it.

Investigator:

Okay. What has Joey Watkins told you about this murder?

Winford Reese Ellis:

Uh, just that time that he said if they wouldn't of done it, they wouldn't be in this mess. Other than that, I've heard him-- I've heard him tell all kinds of stories as to how it could've happened or who might've done it or somebody else had a motive to do it. But--

Investigator:

When he said "If we hadn't have done this, we wouldn't be in this mess." What was your first response to him?

Winford Reese Ellis:

I just, I didn't say anything to him, I was like this. And that was basically the end of it. I went back out there and started playing cards again. But uh... If this is evident of the way he acts, they're guilty anyhow, you know? Because-- He just thinks he's going to get out of it.

Rabia Chaudry:

Ellis had no details, no corroboration, just a story about Joey saying once "Well gee, if we hadn't done it we wouldn't be in this mess now." Two weeks later, though, Ellis wrote to the police again, saying that this time he had a *much* better story to offer:

Colin Miller:

Yeah so we don't have the audio from Ellis' statement, but here's a portion of it:

Um, well it-- It started the other day. I'm not sure of the exact day, it was a couple a days ago when uh, he come to my room and he was happy, he was kind of laughing. He we telling me that they was out diving in Swan Lake all day you know try-- You know dragging the lake and diving the lake and his comment to that was, "it's in a lake but it's not that lake".

And then yesterday when I-- I-- After I wrote the letter, after I talked with him he was just- his- he- said his girlfriend's left him so he kind of had a bleeding

heart I guess, and we was playing cards and talking and I'd kind of told him a little about my situation and he was telling me about you know, Isaac Dawkins and him and Mark and he said that they'd seen him at a gas station and they turned around and they chased him down and when they were out of view of any cars he said as they were coming around, that Mark just... POW!

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Rabia Chaudry: Swan Lake is the lake beside where Mark's family lived, up north of Rome. In early February, a few days before Ellis' second interview, the lake had been searched, after someone made an anonymous call to Tami Colston and said that the gun used to kill Isaac had been tossed there. The search wasn't successful, however, and it's possible the police were feeling an itty bit sensitive about how it'd gone.

[36:43]

Susan Simpson: *And then a new snitch, this one from Joey says, "Oh yeah Joey was laughing at that cause he threw the gun in the lake but not that lake."*

Mark Free: *Yeah okay I remember that now. Matter of fact, one of the detectives dropped their gun in the lake, searching through it.*

Susan Simpson: *Oh, like unintentionally?*

Mark Free: *Yeah.*

[laughter]

Mark Free: *Had to go recover it. It's like, I don't know. Sutton and all them, they remind me of the three stooges, or something. They're all trying to enter the door at the same time or I don't know.*

Rabia Chaudry: And then, despite Ellis' new and improved and court-usable statement, Ellis backed out. He recanted. In May, he was convicted on his pending rape charge, and sentenced to ten years in prison, and he changed his mind about testifying against Joey. Said that he made it all up. And in June, a couple of weeks before Joey's trial, he was interviewed by a defense attorney, and Ellis tells him it had all been lies.

[37:35]

Bill O'Dell: *He made a comment: "It's in a lake, but it's not that lake." Did he ever make that statement to you?*

Winford Reese Ellis: *All lies.*

Bill O'Dell: *He also told you that he and Mark Free chased down Isaac Dawkins and that Mark shot him and gave you some particulars concerning that and admitting his guilt. Did he ever say those things to you?*

Winford Reese Ellis: *No, sir.*

Bill O'Dell: *How did you know about all these particulars?*

Winford Reese Ellis: *I read the transcript from his preliminary hearing.*

Bill O'Dell: *So you had access to the preliminary hearing transcript?*

Winford Reese Ellis: *Yes, sir*

Bill O'Dell: *Alright.*

Colin Miller: In his second statement, the one where he'd actually known a couple basic facts about the case, that was because he'd been able to read the transcripts from Joey's preliminary hearing. Kind of a crazy story – when Joey had been in the shower, leaving his things unguarded, Ellis had been able to take the transcripts and read them. And so that's how he learned some of these basic facts about the case.

Now according to Ellis, he hadn't been promised anything in exchange for his testimony. The cops weren't lying about that. They'd just done him a few favors, here and there.

[38:41]

Bill O'Dell: *Now, prior to you being interviewed, were you given any promises or anything?*

Winford Reese Ellis: *No, I wasn't promised anything.*

Bill O'Dell: *Were you given any type of special treatment?*

Winford Reese Ellis: *Mm... Just the one time when he came to talk to me and he took me, like I was telling you about, for a ride.*

Bill O'Dell: *Took you where?*

Winford Reese Ellis: *Took me to Wendy's. Had me a pack of cigarettes waiting in the car.*

Bill O'Dell: *Were you cuffed during this visit?*

Winford Reese Ellis: *No, sir.*

Bill O'Dell: *So you just went on a joyride to a fast food place?*

Winford Reese Ellis: *We just rode around.*

Bill O'Dell: *Okay. Why did you tell Stanley Sutton and Bill Shiflett these things?*

Winford Reese Ellis: *I-- I guess because I was wanting to see if I could get a deal and getting out.*

Colin Miller: So aside from the frosty here and there and the occasional packs of cigarettes, he hadn't been given anything directly. The cops had told him they couldn't make him any promises, they'd just see what they could do. And then, after he was sentenced, he said he'd made it all up, he wasn't going to testify against Joey anymore.

Now despite having recanted, Reese Ellis actually testified at Joey's trial. Prosecutor Tami Colston warned jurors that he was going to lie, and played a recording of his prior statement, insisting *that* was the truth, and it had been entirely predictable that he'd lie on the stand:

Susan Simpson: *I knew Reese Ellis was going to lie. He had already given a statement to the Defense that he was – "Oh, I lied to the police back then. He had already told them.*

Colin Miller:

But, she said, pay careful attention to the things he said before. They're proof Joey really did confess to him, it's just that once he learned the Prosecutor's Office wasn't going to give him a deal after all, he felt bad about snitching on Joey.

After Ellis' testified, Colston then played the tape of Ellis' second statement. *That*, she said, was the truth, and his testimony under oath was a lie, and we know this because of the details from what Ellis said. For instance, Ellis had known that Josh Flemister, Joey's friend who had confessed to the police, hadn't been with Joey when the shooting happened. But since Sutton had claimed in the preliminary hearing transcript that Josh's confession wasn't false, how could Ellis have known otherwise? In other words, we know Joey confessed to Ellis, because Josh Flemister had only been able to falsely confess based upon details Joey gave him, and Reese Ellis had only been able to know that Josh's confession had been false because of the details that Joey gave *him*.

And then, Colston argued, there were all those details that Ellis *hadn't* known – details that would have made his story really convincing if it had been false. She asked Ellis, for instance:

Susan Simpson:

Okay. If you would have remembered what was in the preliminary hearing and there was testimony that a woman had heard two shots fired, would you not have-- Would that not have been an important fact to tell the officers?

Colin Miller:

In fact, at one point, Colston even tried to call into question Ellis's testimony by suggesting that, if he were relying upon the preliminary hearing transcript, his story would've sounded more ridiculous. "Well," she asked, "do you remember anything in the preliminary hearing about, like, pushing a truck?" And Ellis said "Yes", or maybe the detectives told him about it. So Colston quizzed him on why he didn't use that story instead – if he'd made the whole thing up, why'd he tell them about the shooting happening after a chase, instead of telling them about the pushing story? And Ellis told her that, "Well, because it didn't sound as good as the one about them driving up beside him."

[42:03]

Rabia Chaudry:

And then there's James Paul Cooley. On February 6th, three days after Ellis gave his second statement to the police, *another* guy from Joey's cellblock came forward. James Paul Cooley told the Floyd County officers that Joey had confessed to him too – and that, actually, he'd happened to overhear Joey confessing to Ellis as well, and could corroborate Ellis' story.

[42:21]

Investigator:

What made him confide in-- In you and tell you this?

James Paul Cooley:

Uh, I really don't know. He had told another person that was in a cell next to him about it and I heard them talking about it.

Investigator:

Do you know who that person was?

James Paul Cooley:

Uh, Winford Ellis.

Investigator:

Okay.

James Paul Cooley:

And uh--

Investigator:

Could you hear them talking about it with each other?

James Paul Cooley:

I could hear them through the vent. 'Cause my room's right next to Joey's and I could hear 'em through the vent.

Investigator: *Uh-huh, okay.*

James Paul Cooley: *And I walked over and talked to them about them you know, searching the lake and just told him, I said "I know it's in Lake Weiss I heard you saying it was in Lake Weiss" and uh, he just opened up and started telling me.*

Rabia Chaudry: *Cooley says that, basically, once he'd confronted Joey with the knowledge that he'd overheard Joey telling Ellis about tossing the gun in Lake Weiss, Joey had decided he might as well confess everything else to Cooley as well.*

But there's one problem with Cooley's story. Okay there's a lot of problems, but even from the beginning, there's one huge one: Cooley claims to have confronted Joey about him confessing to Ellis that he'd tossed the gun in Lake Weiss. But Ellis never said that Joey told him that. In fact, Ellis told the police just the opposite – that Joey had never mentioned anything about what lake it might've been in, just that it was in a lake but not Swan Lake.

Ellis did say that he'd learned from another guy in jail that Joey had been to Lake Weiss the day after the murder, but never he heard a word about it from Joey himself. Cooley's apparent ability to verify Ellis' story was no accident, though. In fact, according to Ellis, that had been the plan from the beginning.

[43:48]

Winford Reese Ellis: *So. You know, he come up with this idea that, you know, they kept bugging me about, asking me what I know, I kept telling them I didn't know nothing. Talking about Paul Cooley and a couple of other guys. And I kept telling them, you know, 'cause me and Joey were together all the time and we just hung out together, we didn't mess with nobody else really. And they kept telling me that I knew something, that I knew something, I kept telling them I didn't.*

Bill O'Dell: *They being Paul?*

Winford Reese Ellis: *Yeah, Paul.*

Bill O'Dell: *Was his attorney with him?*

Winford Reese Ellis: *No. We would just talk it when we was in the blocks and he told me... He come up and they came up with this idea, they knew I had read the preliminary hearings. But Joey didn't let nobody else read it, just me, and um, come up with a thing, that, you know, come up with a story and the deal was that when I told them the story then they would get-- Paul Cooley would verify it, because he knew exactly what I was going to tell them. And he was going to go to Stanley Sutton then and tell them he had over heard Watkins tell me this stuff.*

Bill O'Dell: *Okay. So then he was going to kind of back-up what was being said to you?*

Winford Reese Ellis: *Yeah.*

Bill O'Dell: *And this was Cooley's idea?*

Winford Reese Ellis: *Yeah. And from I understand he did that, told them that he had heard me.*

Bill O'Dell: *Did he tell you that?*

Winford Reese Ellis: *No, because I got moved out of T-block not long after that.*

Bill O'Dell: *So you don't know it was a fact that he actually talked to the police or not?*

Winford Reese Ellis: *That's what Stanley Sutton told me.*

- Bill O'Dell:** *Oh, so Stanley told you that Cooley talked?*
- Winford Reese Ellis:** *Told me that he had talked to somebody else that verified my story.*
- Rabia Chaudry:** So, according to Ellis, Cooley's statement, like his own, was derived from the transcripts of Joey's pre-trial hearings. And the story Cooley gives backs that up. Like Tami Colston says, the devil is in the details. And so many of the details Cooley knows have Stanley Sutton as their only source.
- [45:39]
- James Paul Cooley:** *They took Joey's truck, went to the car lot, picked up a car which he'd had the keys to he got earlier that day. Dropped his truck off there and they were going to-- Out to Floyd College I guess it is-- And going to follow him home. They running behind and they saw him at the uh, BP Station right past Floyd College.*
- Investigator:** *Mm-hmm.*
- James Paul Cooley:** *So they pulled in there, followed him out of there-- Uh, followed him down 27 'till uh, there was no cars in sight and said as they were going around passing him they shot at him twice.*
- Susan Simpson:** But what Cooley said about running into Isaac at the BP station, well, that's not something *any* other witness had said before. The only other time it has ever been suggested that Joey encountered Isaac at the BP is – you guessed it – by Stanley Sutton at the preliminary hearing.
- Colin Miller:** Yeah so according to Sutton at the preliminary hearing, quote:
- On the next time we interviewed him we had learned in talking with two individuals that Josh Flemister had confided to them about his role or his involvement of the killing of Isaac Dawkins with Joey Watkins.*
- After doing a taped interview with these two ladies, we in turn interviewed Josh Flemister on November the 11th. His statement was that he was with Joey Watkins and he was with Mark Free the night of January the 11th and they were looking for Isaac Dawkins.*
- They saw Isaac Dawkins on 27 South near the BP Service Station and the Golden Gallon. They turned around on him and proceeded to catch up with him.*
- Susan Simpson:** But what Josh had *actually* told the police was that they'd encountered Isaac at the store next to the Hardee's, directly across from Floyd College. The BP is north of Floyd College, on the same side of the highway, and Sutton misspoke in his testimony, when he said that Josh had identified the BP as the spot where they encountered Isaac.
- And yet Paul Cooley managed to include this inaccurate detail in his statement. Which gives us two options: Either Sutton had incorrectly said "BP" when he testified at the preliminary hearing but just so happened to be coincidentally *right*, and Joey later confessed to Paul Cooley this detail... Or else Paul Cooley had gotten that detail from the preliminary transcript and had then parroted that detail back to Sutton.

I'm going with the latter, because that wasn't the *only* misstatement from Sutton's preliminary hearing testimony that found its way into both Cooley's and Ellis' statements. For instance, both Cooley and Ellis make a similar claim that no other witnesses ever mentions:

[48:04]

James Paul Cooley:

Followed him down 27 till uh, there was no cars in sight and said as they were going around passing him they shot at him twice.

Susan Simpson:

And from Ellis' second statement:

Colin Miller:

They turned around and they chased him down and when they were out of view of any-- Any cars he said as they were coming around him, that Mark just 'pow'.

Susan Simpson:

But this thing about being out of sight of any cars, it isn't true. There were at least three witnesses in southbound cars at the time of the shooting, and more importantly, the only real eyewitness, Wayne Benson, who testified that he *saw* the moment Isaac's truck left the road. There's no reason for Joey to have confessed to waiting until they were out of view before doing the shooting, because that's not what the shooter *did*. But it *is* what Sutton said at the preliminary hearing.

Quote:

Colin Miller:

Well, to my understanding talking – I mean, listening to Moser and talking with the other investigators, they had passed, and the red light caught him at Walker Mountain and 27 South. And the vehicles in question was at a high rate of speed and beyond his eye-sight until he came over the rise and then he seen Isaac's truck over in the wooded area.

[49:15]

Susan Simpson:

Sutton got it wrong. Benson *was* in sight when the truck left the road. And Sutton's mistake is mysteriously repeated back by two jailhouse informants with access to the transcript of the hearing where Sutton made the error.

And there are other errors in Cooley's story too. Ones that couldn't have come from Joey directly.

[49:31]

Bill Shiflett:

Well, Paul, I appreciate you talking to me. Um... I'm going to turn the tape recorder off now, the time is now about 1:45 pm.

[break in audio]

Bill Shiflett:

Okay the tape recorder's back on – it's about 1 :46.

Um, Paul if you will, tell me uh, about uh, a conversation you had with-- With uh, Joey Watkins about Isaac and uh, a female friend of his.

James Paul Cooley:

Yeah, he said that uh, Isaac came over to his house one night because Joe had been calling Brienne – I don't know her last name – had been calling her and giving her a hard time 'cause she was seeing Isaac and not Joe. Joe broke up-- She'd broke up with Joe or what not- and

Isaac came over and told him to stop calling, you know, stop harassing and threatening them... And Joe threatened to you know, beat him up or whatever and Isaac spit in Joe's face and then they got in a fight and Joe lost-- And it hurt his pride 'cause he's a Watkins.

And that was the reason uh, he went back after him to shoot him. And he said he thought it was uh, six months was plenty a time where the finger wouldn't be pointed at him.

Bill Shiflett:

So he said he waited that long so that the finger wouldn't be pointed at him?

James Paul Cooley:

Yeah.

Susan Simpson:

Cooley's claim should've made the police drop him as a witness immediately. Because Cooley's story about *why* Joey shot Isaac isn't true, can't be true, and isn't something Joey ever would have confessed to. The night Isaac came to Joey's house had *nothing* to do with Joey calling Brianne, it was because Isaac and Joey had had words while they were cruising in town. And Joey and Isaac hadn't even fought. Isaac had refused to get out of the car and it ended there.

But if Joey was the kind of guy to be so enraged by losing a fight that he'd spend six months plotting a murder to reclaim his damaged pride, why would he have lied to Cooley about losing a fight that never even happened? But what's interesting is this story is that it could *not* have come from the preliminary transcript either. Which means the cops had to have been giving Cooley at least some of the information themselves, which he would then repeat back to them.

[53:27]

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Rabia Chaudry:

Ultimately, the jury didn't hear from Cooley at trial, although they heard about what he *would* have said, if he had testified. Colston told the jury during opening arguments that she would be calling Cooley after Ellis, to have Cooley verify Ellis' story. She also convinced the court to let her introduce the dead dog issue on the basis that she'd call Cooley later to link it all up, to connect Joey to the dog's death.

And then, just before Reese Ellis testified, she told the court again she'd be calling Cooley after Ellis. But she didn't.

Susan Simpson:

And I can't help but wonder if it's because of an exchange that occurred at the very end of Ellis' testimony, during cross-examination by defense attorney Bill O'Dell.

O'Dell asks:

Do you have any personal knowledge of Paul Colley snitching on anybody else, not just—

And then Colston objects. O'Dell says, "Okay fine, if we're going to hear from Cooley, I'll get it from Cooley himself." And they move on. Ellis' examination ends and... Supposedly, Cooley is going to be called next, but Colston says, "Oh I want to call Bill Shiflett instead, we'll get to Cooley later." She never does, though.

Colin Miller:

Yeah, Cooley never took the stand. Never said Joey had confessed to him. He never connected up Joey to the dead dogs like Colston promised the judge he would do. And maybe that's because Ellis *did* have personal knowledge of Cooley snitching on someone else, and Colston thought if it got out, it'd destroy the credibility of *all* her snitch witnesses.

When Ellis and Cooley had hatched up the plot to try and get better deals by turning State's evidence on Joey, there was actually a *third* man in on the deal. When Sutton asked him about who else might be able to help, and might be able to get a deal, Cooley told them a guy named Kevin Moyer might also know a thing or two.

And when Reese Ellis was interviewed by defense attorney Bill Odell, he elaborated even more on Moyer's role:

[55:08]

Winford Reese Ellis: *Well, there was another guy that was in there for murder too, and he was trying to kind of get in on it too, but--*

Bill O'Dell: *Do you remember who that guy is?*

Winford Reese Ellis: *Kevin Moyer...?*

Bill O'Dell: *Kevin Moyer? That's a name I have heard of Okay.*

He and Cooley co-conspirators?

Winford Reese Ellis: *I mean. No, no.*

Bill O'Dell: *Or are they-- They are on different murder cases?*

Winford Reese Ellis: *Yeah but there's a-- It's really weird because the things I know too about the other case, now they've got somebody else locked up for the one that Moyer did, which is the guy that Paul Cooley conspired to murder.*

Colin Miller: If that's sounds confusing, it's because it is. But in January of 2000, Moyer and Cooley were locked up together on separate charges, Moyer for the murder of his roommate, Roger Dale Coots, and Cooley for the attempted murder of a his business partner, Johnathon Swinford. Swinford had survived, though. So Cooley wanted revenge on the guy he'd tried but failed to kill, and, meanwhile, Moyer knew the police had him dead to rights on his murder charge, but wanted to get leverage to reduce his sentence.

The solution kind of sounds like something straight out of the movie *Strangers on a Train*: Moyer would implicate the guy Cooley had attempted to kill in the murder of Moyer's roommate, sending Swinford to jail for life. A win-win arrangement, right? Cooley's victim would get locked away forever and Moyer would get a reduced charge as a cooperating accomplice.

Rabia Chaudry: It all sounds so childish and transparent, but it worked. Here's the article from the March 28th, 2001 issue of the *Rome News Tribune*:

Police arrested a third man Tuesday in connection with the September 2000 murder of a man whose decomposed body was found in a Rome field, officials at the Floyd County Police Department said.

Investigators now say Johnathon Swinford, 21, was the primary aggressor in the beating death of Roger Dale Coots, who was 54. Craig Kevin Moyer, 24, was arrested September 28th after leading authorities to the body, which was found in a field on East 19th Street.

Moyer told police he killed Coots during a 'domestic altercation', but authorities now believe Moyer may have been covering for Swinford. Investigators believe

Swinford killed Coots in an argument about drugs. "We knew there was someone else involved," said David Stewart, an investigator on the case.

Dallas Battle, another investigator, said Moye was afraid of Swinford, but it was information from other sources that led the authorities to Swinford. Swinford has been charged with murder and possession of a firearm during the commission of a crime. "Moye was willing to cover for him," said Battle. He said Swinford became a suspect about six weeks ago.

Susan Simpson:

Luckily, in this particular case, the police eventually decided to drop the charges against Swinford. But not until they'd arrested him for the murder and labeled him as the "primary aggressor" in the front page of the *Rome News*. And at some point, though, they finally *did* seem to realize that Kevin Moye and Paul Cooley had played a fast one on them.

It gives you a sense, though, of how enticing a lure it is for the cops when they find someone who says they can testify against the cop's lead suspect. Often – too often – as soon as they have a witness who claims to have firsthand knowledge about how the murder happened and says that they'll be willing to testify on the stand, common sense goes out the window, and the desire to corroborate and preserve the cooperating witness becomes paramount. So much so that, even should that witness later recant *everything* they said, the prosecutor might still put the witness on the stand. Because playing a tape-recorded statement of a witness implicating the defendant for the crime is often powerful enough that it can outweigh even testimony from that *same* witness saying that he'd made it all up.

Because, like Tami Colston told the jury about Winford Reese Ellis in *this* case, such witnesses have reason to lie on the stand. But what they told the cops... *That* was the truth.

Rabia Chaudry:

Do you believe it to be the truth? And that is your call and your call only. But let me tell you something: Reese Ellis has a motive to lie to you today, and that motive is contained in that certified copy of his conviction where he was mad as the devil because a few weeks ago he was convicted of rape, and he was treated like everybody else that would be convicted of rape and he got serve time, and he is on his way to Jackson to the prison down there for the next ten years at least.

And he is mad at the State. He didn't recant before that. He was his cellmate, his cell buddy, and he told you some things in that first statement and you heard that first statement that there is no way he could have known except for Joey telling him. He said, "Well, I read it in the transcript of the preliminary hearing." Give me a break.

[59:47]

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Rabia Chaudry:

I can't pretend to be surprised anymore when I come across similarities between wrongful conviction cases. There is a *definite* pattern. There are, as exoneree Jeff Deskovic has said, red flags that are common to wrongful convictions.

In today's episode you may have caught one that we also found in Adnan's case – and that is the development and *changing* of witness stories depending on what the police know. And when the police get some things wrong, the witness gets it wrong. And when the police then correct the information, the witness corrects it. Its often a sign of the police feeding a witness information.

In this case it is important and very notable that Cooley *only* had information that Sutton had. And when Sutton got it wrong, like where Joey was initially identified, Cooley also got it wrong.

Not much different than in Adnan's case, when Jay got his timeline messed up because the police had an incorrect cell phone tower map, and that he later changed his statement after they corrected the map.

And here's *another* common feature in wrongful convictions – because as I've always said, it takes nearly *everything* going wrong to end up in this situation – and that is how well the accused is defended by his or her attorneys.

Next time, on *Undisclosed*.

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