
UNDISCLOSED SEASON 2: **THE STATE VS. JOEY WATKINS**
EPISODE 20: **THE ALABAMA HIGHWAY: PART 2**

POSTED: **DECEMBER 12, 2016**

Rabia Chaudry:

Last week we began our discussion on the other little blue car. And Heath Wilson, the man driving it, that was linked to a different shooting in Rome not far from, both in time and proximity, Isaac's shooting.

There's more to this story, though, and that's the investigation done about the altercation that Heath was in – about when it allegedly happened and what Heath and his passenger and then-girlfriend Tracy Dunn had to say about it in court and to the police themselves.

Hi, and welcome to Episode 20 of *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 as always, 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:

Around the same time that the British press was spreading misinformation about Napoleon being short, allowing the 'Illusion of Truth Effect' to take root, it spread fake news about the Frenchman's defeat years before he met his Waterloo. This led radical journalist William Cobbett to write a story in an 1807 edition of the *Weekly Political Register* about how he had used a smoked or red herring as a decoy whose strong scent would deflect hounds chasing after a hare. This itself was a fake story, with Cobbett using it as a metaphor for how the British press was distracted by Napoleon and took their eye off of important domestic issues.

But, according to Cobbett, it was mere transitory effect of the political red herring. For on the Saturday the scent became as cold as a stone. Although Cobbett's hunting story was false, he kept repeating it, and then his son did the same. As a result, consistent with the illusion of truth effect, people the world over believed that this was an actual hunting practice.

Soon literary critics co-opted the phrase to describe the process of authors such as Sir Arthur Conan Doyle introducing people and information that would distract the reader from the true perpetrator of the crime at hand. Since then, the concept of the 'red herring' is at the heart of pretty much every episode of police procedurals and a key plot device used in movies. And sometimes in movies like *The Usual Suspects*, it's the *only* plot device.

Using a red herring, however, is kind of like walking a tightrope. The author needs to first convince the audience that the red herring could have committed the crime and then convince the audience that the evidence falsely implicating the wrong guy was a case of smoke, but no fire.

This is what the State tried to claim it terms of the possible involvement of Heath Wilson and the death of Isaac Dawkins.

So were they successful? At least in the figurative sense, the jury's still out.

[03:22]

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Rabia Chaudry:

Just to refresh your memory: On January 14th 2000, Heath Wilson was arrested for shooting at a truck owned by a man named David McDaniel after a road rage incident. The event itself allegedly took place a few days earlier, though, on the night of January 11th.

Now, David had been trying to get his truck between Heath's car and *another* car he was harassing, one that was driven by his girlfriend, Ashley Parton. And as they weaved amidst each other on the Alabama Highway, what sounded like gunshots were fired. Heath began following David's truck and tailed him all the way to a gas station – the Golden Gallon.

Another witness to the altercation, who also heard the gunshot being fired, named Scott Reinhart, also ended up at the same gas station, because he followed Heath there. David apparently got out of his truck holding a tire iron, or something of the sort, and it seemed like Heath tried to run him over, but failed, and then he left the parking lot.

The last time David McDaniel saw Heath was after they pulled out of the Golden Gallon and got stopped at a red light.

Here's what Heath testified to that happened then:

[04:26]

Heath Wilson:

I was in the right lane.

Prosecutor:

Which lane did he get in?

Heath Wilson:

It was in the left lane.

Prosecutor:

So he wouldn't have been following you if he was in the lane beside you, would he?

Heath Wilson:

No, ma'am.

Prosecutor:

And what'd you do?

Heath Wilson:

I opened my car door, because my window did not roll down and I asked-- I said, "What?" And he told me-- He said, "Go on." And that's when it was over. I got back into my car as soon as he did that, and left.

Colin Miller:

Heath said that from there he went straight to a friend's house, which was only a third of a mile from the intersection they were at. When they got there, his friend's mother told him to go back to Heath's house and to call 911 from there.

In his direct testimony Heath *does* mention the 911 call. It's the only evidence we have really about who made those calls and what they were about. But it's only a quick aside brought up on direct, and the prosecution never once mentions those calls in its case.

[05:20]

Defense Attorney:

When you got back and told somebody about it, you were upset about it?

Heath Wilson: *Yes sir, I was pretty shook up. I mean there was a lot of commotion going on and...*

Defense Attorney: *You told your mama?*

Heath Wilson: *Yes sir.*

Defense Attorney: *And your mama did whatever she did about it?*

Heath Wilson: *Yes sir.*

Defense Attorney: *About contacting people. But you didn't do it, your mama did it, is that right?*

Heath Wilson: *Yes my mom called 911.*

Defense Attorney: *Okay.*

Colin Miller: Now from the SALI records in Heath's file, we do know that two 911 calls were made around 8:00 pm but apparently that was the end of it. Tracy also mentions in the 911 calls in her interview with Moser. She says that once they got to the friend's house, quote: "We talked to Heath's friend's mom there named Beth, and she told us-- We told her what happened and she told us to go to his mom's house, so his mom could call the police."

Now Moser doesn't follow up any on that, but there *are* a lot of unanswered questions here: Why would Beth tell Heath to go to his mom's house and call 911 there? Why not call 911 right away from her house? Or if nothing else, call his mom from Beth's house and let *her* know to call 911. Except call 911 about *what*? It's hard to imagine what those 911 calls could be about, because if Heath's mom had actually reported a shooting, 911 should have dispatched an officer out there or noted it in their log somewhere. They didn't.

Anyway, according to Heath and Tracy, after these calls they drove back east in the Alabama Highway to where Heath's grandmother lived just behind the Walmart, and they spent the rest of the evening watching *Who Wants to be a Millionaire* until it was time for Tracy to go home.

Three days later, though, Ashley and David discovered the bullet hole in the back of David's truck. On the evening of January 14th, after filing a police report that morning about the shooting, Ashley saw Tracy and Heath again, this time while she was at work at the Walmart off the Alabama Highway.

[06:58]

Prosecutor: *What happened the night you saw them in the Walmart? Who did you see in the Walmart ?*

Ashley Parton: *Tracy and Heath Wilson.*

Prosecutor: *Okay.*

Ashley Parton: *And there might have been another guy with them. I don't really remember exactly how many people was there.*

Prosecutor: *Do you remember where you were when you saw them?*

Ashley Parton: *In Electronics.*

Prosecutor: *Okay, and where were they?*

Ashley Parton: *Walking by.*

Prosecutor: *Okay, did you initiate any contact with them or speak to them or anything?*

- Ashley Parton:** *I didn't speak to them.*
- Prosecutor:** *Okay. Did they initiate any contact with you?*
- Ashley Parton:** *Nn-nnh. I just looked up and seen them. And they kept laughing and making faces over there. They walked by two or three times.*
- Prosecutor:** *They walked by you two or three times?*
- Ashley Parton:** *Well, I was in Electronics. They walked by the department two or three times.*
- Prosecutor:** *Okay. Did you see-- Ever see any of them going into the Sporting Goods department?*
- Ashley Parton:** *I saw them walk into Sporting Goods, but I didn't follow them.*
- Prosecutor:** *Okay.*
- Susan Simpson:** Ashley called her mom, who called the police. Meanwhile, though, while still at Walmart, Heath and Tracy headed over to the sporting goods section where Heath tried to buy ammo for a 9mm handgun.
- [08:02]
- Female Witness:** *A fella came up to the Sporting Goods register and tried to buy some 9mm shells. Arthur Lynch was waiting on him. I was standing beside Arthur. And, uh, he wasn't 21, so Arthur did not sell him the bullets.*
- Susan Simpson:** So Heath and Tracy left. But they came back a little while later, this time with Heath's friend Joe Gonzalez.
- Female Witness:** *About two to three minutes later, um, they all Hispanic walked up and we sold some 9mm bullets to him. And, uh, the party, uh, Mr Wilson and a girl were standing aside.*
- We looked up and-- And saw them standing there after we had refused to sell them the bullets.*
- Susan Simpson:** So, Heath got the bullets from his friend Joe, and he and Tracy went back to Tracy's place where, later that evening on the 14th, he was arrested.
- You heard officer Jesse Adams describe at the end of Episode 7 what happened when he picked up Heath that night, about how Tracy had initially brought out the wrong gun – her dad's gun – before, when Jesse Adams challenged her on this, bringing out the 9mm.
- And you heard about how when Heath was placed in the cop car, he said, "If something happened with that gun, it doesn't belong to me, it belongs to a friend.
- Well, I should back up for a moment: We're *pretty* sure all of that happened on January 14th. But the paperwork is kind of a mess. Some of the arrest records say that Heath was arrested instead on the 15th. But we think that's just an error. Like how half the paperwork has the wrong Social Security number for Heath on it. Or how there are two different incident reports for the Alabama Highway shooting with two separate Floyd County Police Department case numbers.

So, we've got two different police reports with two different case numbers and both clearly relate to the Alabama Highway, but no idea why they're both filed or who filed them or what's going on.

[10:03]

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Rabia Chaudry:

Just like with the date of Heath's arrest, the paperwork is also unclear about the *time* that all of this occurred. As many of you pointed out last week, in the initial newspaper articles about the Alabama Highway and the 27 South shootings, the Alabama Highway shooting is reported as taking place between 8:00 and 8:30 pm. Whereas the 27 South shooting was around 7:20. The *Rome News Tribune* likely got that time from the initial incident report. Or investigator Jerry Boyd's affidavit for arrest. Both of which report the 8:00 to 8:30 pm time.

[10:33]

Clare Gilbert:

So it looks like what probably happened is Jerry Boyd received information from Ashley Parton and David McDaniel on January 14th, 2000. I don't know if they came in or called or what. But that information probably conveyed by them, was probably that the incident occurred back on January 11th, 2000, sometime between the hours of 8:00 and 8:30.

Why they said that and then later changed to 7:00 to 7:30 in their written statements, I don't know. Why their written statements appear to be written at home, or at least not at the police department, I don't know that either. It may be that they called or came in, conveyed what happened to Officer Boyd...

Rabia Chaudry:

And Jerry Boyd's notes of his interview with David McDaniel from what appears to be the first time he spoke to David *do* have the time 8:30 written down twice. Which would explain why the initial arrest warrant said the time of the incident was 8:00 to 8:30. Because that's what David and Ashley said when they came in to report the shooting.

But later on, or at least by the time of Heath's trial *all* of the witnesses agreed with the suggestion that the shooting had happened somewhere around 7:15 - 7:25. Although David McDaniel doesn't remember exactly how that change came to happen.

[12:02]

Clare Gilbert:

So they're talking to you about times about the other shooting. Do you remember any link between that being like, could your times have been off...? You know, you're saying 8:00... 7:00.

Jerry Boyd:

I remember a conversation about what you just said. I mean, you know. You know, if I mentioned a time, I mean, could there have been a little room for error, you know? And I don't know what my response was back then, but I remember, you know, they were asking specifically about time.

I remember they actually at one point discussed a little bit about when they were asking about the other individual. They were asking about times and there were discussion about whether there was enough time. And I don't remember even where the other shooting happened so I-- This is clearly just what I heard.

Like I said, it seemed like it was a hush-hush conversation, but they touched on the time. They, you know, were dancing around the times quite a bit.

Rabia Chaudry:

Here's what still doesn't make sense, though: Even before Ashley and David found the bullet hole and came in to speak to the police, why weren't the police pursuing the shooting

themselves? Why did it take for Ashley and David to come in for any investigation into this to get started. Because on January 11th, 2000, Isaac was fatally shot. The police had a major homicide case that they had Rome City and Floyd County swarming all over it trying to figure this thing out, and no one thinks to check into the *other* highway shooting reported to 911 that night? Seriously?

Because if the police had just looked at the dispatch logs from that night they would have seen the report of the blue Honda with possible shots fired. So why didn't anyone check into that? Not to mention Heath's mother also supposedly reported a highway shooting. So why didn't no one go out and talk to Heath and Tracy about *that*?

For whatever reason, it didn't happen. On the 14th, most likely, Heath was arrested and charged with counts, three of them felonies. The next morning after his arrest, his girlfriend Tracy went to David McDaniel's house to speak to him about the case. She tried to convince him that they had *not* fired a gun, that it had been the car behind them that had done the shooting. David told her that the case was under investigation and that she needed to leave. He never heard from her again.

Later that afternoon, Heath was bonded out and a year and a half later on July 3rd 2001, the very next day after Joey was convicted of Isaac's murder, the Floyd County DA arraigned Heath for charges arising from the Alabama Highway shooting. The trial date was set a number of times, but because of continuances, Heath didn't go to trial until January 11th 2002, two years *after* the shooting.

After a three day trial, he was acquitted on all charges.

[15:44]

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Colin Miller:

Now last week you heard Detective Moser testifying at Heath's trial about how Heath was never a suspect in Isaac's murder. Moser testified at Joey's trial, too, about the timelines of the shootings at the Alabama Highway and 27 South and how they ruled Heath out as a suspect. Although, we still don't have audio for that yet. Because the Floyd county DA is fighting tooth and nail to prevent the audience from being able to hear these witnesses speak for themselves. So we'll have to read it for you.

Here's Tami Colston Detective Moser:

Question: Investigator Moser, did you do anything else other than looking at these times between the Alabama Highway shooting and the Isaac Dawkins, first believed be a wreck, but then shooting? Did you do anything else to look to see if there was any connection between the two?

Answer: Yes.

Question: What did you do?

Answer: Well I talked with-- I talked with, sort of, people about this incident. Including law enforcement, and including one of the witnesses to the incident, and determined the whereabouts of the gentleman involved in the Alabama Highway incident.

Where it took place and what the matter of the incident was, what was going on and why it occurred. And then followed up with the timesheets, our time logs to indicate the time difference between the incident on 27 with Mr Dawkins and

the incident on the Alabama Highway, who turned out to be involved in that incident.

Question: Alright. And what did you learn in your investigation?

Answer: That the incident on the Alabama Highway, it was in no way related to the incident on 27 South.

Question: Why not? How can you say that with certainty?

Answer: By direct testimony, by time evidence, and by circumstances regarding or surrounding both of the situations.

Colin Miller:

When Moser said there was direct testimony that supported his conclusion that Heath was not involved, it seems like he was talking about two witnesses in particular: Tracy Dunn who Detective Moser interviewed on January 20th and Officer Dora Shropshire, who was patrolling that area of west Rome the night in question.

Here's Detective Moser answering Tami Colston's question about it:

Question: By direct testimony, you're talking about what?

Answer: We are talking about a witness that was at the scene, another officer with our agency, he was talking to a complainant at 7:28 with McDonald's about the incident out at the Alabama Highway, and also by timeframe distance-wise, from Highway 27 South to the Barker Road area.

Question: The officer was talking with the complainant and had just occurred at 7:28?

Answer: An officer was talking to a complainant. I don't know who that person was at 7:28 at the McDonald's.

[18:12]

Colin Miller:

Officer Shropshire, who was assigned to west Rome that night was talking to someone in a McDonald's. And the fact that officer Shropshire talked to that witness means that Heath Wilson couldn't have been on 27 South. And yet Detective Moser never bothered to even learn who that witness was.

Seems like an odd choice, and no one from the FCPD bothered to learn who that witness was *either* while investigating the Alabama Highway shooting, again, seems very odd. Because the only other place *anywhere* that this McDonald's thing comes up is from an undated page of Detective Moser's notes that do reference the McDonald's issue briefly. They say, quote: "Heath timeframe not matching. Dora talking to witness McDonald's during time of incident."

Now the best I can figure, Detective Moser is saying that Dora Shropshire was speaking to a witness to the Alabama Highway at McDonald's at 7:28 pm and therefore Heath couldn't have been on 27 South.

But so much about this doesn't make any sense. Even aside from the question of who this witness could possibly *be* and why that witness is totally forgotten, we have other issues: For instance, how could Shropshire have been speaking to a witness to the Alabama Highway shooting at that time. According to the radio logs at 7:23 pm Dora Shropshire was investigating a reported robbery at a bakery off the Alabama Highway. Now we mentioned that in last week's episode, but what we didn't mention was this: The bakery was directly next to where Tracy Dunn claims the shooting happened. If that shooting happened prior to 7:25,

like Moser claims, wouldn't Shropshire have heard it? Or if she didn't hear it, how was she able to catch up to the shooting later? Or if she left the bakery before the shooting how did a witness find her at the McDonald's when based on the supposed time of Jerry Rhode's call, the whole chase and altercation with David and Heath would still be going on at that time.

Basically, we have a lot of questions and a lot of confusion, but also a lot of reasons to be skeptical about Detective Moser's decision to use this unknown McDonald's witness to exclude Heath Wilson.

Because none of it makes any sense. And Moser didn't record any details that might allow us to make sense of it. And although we've tried, we can't find Dora Shropshire, so we have no idea whether she knows anything more about what happened at the McDonald's.

Susan Simpson:

At any rate, Moser testified even aside from the times making it impossible for Heath to do both shootings, that there is another reason to think Heath hadn't done the Highway 27 South shooting. Despite the superficial sounding similarities, Heath's car actually didn't match the one Wayne Benson had seen that night.

Here's Moser's testimony to that effect:

Question: Did it have-- Now, did you look at Mr Benson's statement to determine whether or not Heath's car had any similarities to what he told you about?

Answer: Yes.

Question: And did it have the chrome-- Fancy chrome wheels that he told you about?

Answer: Not that, no.

Question: Did he mention antenna on the back of the car?

Answer: Yes he did.

Question: Did you see an antenna on the back of Heath's car?

Answer: No. Not that I recall. No.

Question: Nothing that would call your attention to it?

Answer: Nothing that associated the same type of vehicle that Mr Benson observed there on 27 to associate it with Mr Wilson's car, no.

Of course what Moser didn't *explicitly* mention in his testimony was that he also never showed a photo of Heath's car to Benson so that Benson could judge for himself.

I don't think that Joey, back at the time of the trial, really had many thought about Heath Wilson and the question of his possible involvement back in the 27 South shooting. There's always been a bunch of theories in this case, and his attorneys back then seemed to waffle mostly between Paul Allen and Joey Boyd to be their, quote-unquote: "real culprits" in Isaac's murder.

And although Heath *was* brought up at Joey's trial, it doesn't seem like even the defense considered him a viable suspect. But there are so many unanswered questions here that need to be answered one way or another before Heath's involvement can be comfortably ruled out.

[22:10]

Joey Watkins:

Over time as I keep hearing this, and several people had told me about Heath, you know? And, you know, there's an old saying, you know, "Where there's smoke there's fire." And if this guy, you know this guy was already acting like a lunatic on the road and shooting at people, and you know this... I mean, why-- Why didn't you look deeper into this guy?

Clare Gilbert:

Well that brings us to our second interview that we had. We talked with Wayne Benson. And Wayne Benson had been given a whole book full of different photographs of different cars that he might have potentially seen that night. And Benson basically says, "None of these are the car..."

You know we went through the whole interview, he would not allow it to be recorded, but there were three people there. It was me, Susan, and a licensed investigator named Larry Davis. And at the end, we showed him a picture of color-- Several colored pictures of Heath Wilson's car and Larry showed them to him and was like, "I just want to show these and let me know if you've seen-- If anything strikes you about these cars." And he kind of set it up in a way where, he wasn't even suggesting that these were all the same car

Susan Simpson:

When Benson was very careful and looking over the photos that Larry showed him, the image of the front of the car he rejected. He noted that he had never seen it from that angle anyway, so it meant nothing to him.

But the other photos, the ones that Detective Moser had taken from the rear and from the sides, those caused Mr Benson to stop. At one point he said, "Well, this is really close, but it's not the same necessarily, because the car I saw had this antenna..." But then he kept flipping through and got to a photo of Heath's car that *did* show the antenna on it. And Mr Benson got quiet again.

"Well," he said, "that antenna looks like it could be the same after all."

[24:28]

Clare Gilbert:

So yeah, the more he looked at it, the more kind of confident he became that that may well have been the car that he saw that night. And then he kind of started getting weird, like we had, like, tricked him or trapped him, or--

Susan Simpson:

Found a loophole, he thought we found the magic loophole.

Clare Gilbert:

That's what he said. That by getting him to say "That's the car", it looks a lot like the car he saw that night, we thought that we had found a way to get you free, or something.

Which was a strange reaction. But point being, that kind of just reaffirmed that he felt that that very much could have been the car.

And it turns out that, I think we've mentioned, I know I've mentioned it to you before that the police never did show him that car. The police never showed Wayne Benson a picture of Heath Wilson's car that night. And we all talked it over afterwards and we think that probably the reason for that is because Moser had convinced himself that Heath couldn't have done the shooting because the times were too tight.

And so if he believes-- If Moser honestly believes Heath could not have done the shooting then, to have a witness, your only eyewitness, say "Well this is the car I saw" creates bad evidence in Moser's mind. Because it can't have been the car.

But rather than fully investigating the whole 'Heath Wilson' thing, he just kind of assumed that those times were right. And so that's kind of what we're looking into now.

Joey Watkins:

You know there are several ways to get from 27 to out by that Kawasaki shop? You know there are like several roads and several duck-offs and several ways? S

So, I don't know if they timed all of those ways. But there are side roads, there are all kinds of roads you can go down. I think it's Floyd Springs, there. You can go down Bluff Road, you can go down beside the fire station. There are several ways.

Susan Simpson:

There are a lot of possible ways to get from the Rec Center on 27 South to back up again to the Kawasaki shop on the Alabama Highway.

But not too long ago, a new bypass was put in. And the most direct route is probably a lot quicker now, or at least it would be quicker for someone who drives at a normal speed on back roads, and not someone who would be driving stupidly, like Heath seems to have been doing that night.

So there's no possible way to try and recreate the drive now. And we thought for a long time that no one from the State had tried to do so either back then. When Clare and I spoke to Jerry Boyd, who was the lead investigator from the Floyd County Police Department on the Alabama Highway shooting, he told us that he didn't think that Heath had anything to do with Isaac Dawkins' murder.

But he did seem to think that Heath had done the Alabama Highway shooting and said that Heath's problem had been that the people he had been shooting at turned out to know him.

Though Jerry Boyd also mentioned he caught hell from Heath's mama for pursuing the case against Heath and that shooting.

Still, Jerry Boyd said, even though he didn't think Heath had been involved in the mess on 27 South, as for whether or not the drive between Highway 27 and the Alabama Highway *could* have been done, well he didn't know all the details of it but they way *he'd* heard it, yeah it could be.

He wouldn't tell us who had done the drive test. He said he didn't want to give us a name and then turn out to be wrong about it if his memory was off, but as he recalled another officer *had* done the drive, had timed it, and done it within the time allowed.

Rabia Chaudry:

Detective Moser who was from the Rome Police, though, thought the opposite.

Here's what he testified to at Joey's trial:

Colin Miller:

Question: Have you had experience in driving from this area where this, the Kawasaki shop and out to Highway 27 in the area where Isaac Dawkins went off the road before?

Answer: Yes.

Question: And is it physically possible to make it in the time between the 20 West, the Isaac Dawkins shooting and the West shooting?

Answer: In my opinion by no means. It takes me an average of 15 minutes. There again you have, as you know, it seems like Rome has 5,000 red lights and you have about 4,000 of them going down shorter avenue and Turner-McCall.

Rabia Chaudry:

But what Moser is describing isn't the right route. That's if you're going the slow way around – east through downtown Rome.

There's another route. One that may not have had any red lights at all. That route takes you west along the back roads and down to Walker Mountain. As for how long it would take, well the roads have changed so much there now that it's not really possible to do an accurate recreation. Like Susan mentioned, there's a bypass in place now and the route has changed entirely. Still, I think even under the best of conditions and with the stupidest of driving, it would take at least 10 minutes. Which doesn't fit with the handwritten records from the Rome-Floyd E-911.

And although the defense tried to impeach the reliability of those records at trial we don't think the defense won that battle.

This is from Joey's trial with Rex Abernathy cross-examining Floyd County Police Chief Bill Shiflett:

Colin Miller:

Question: Do you recall a couple of weeks ago when I was over there looking for the records?

Answer: Yes sir.

Question: And do you recall what was the young lady's name at 911 that came in looking for the Floyd County Police Department cards that were missing?

Answer: Jennifer Conway.

Question: Jennifer Conway? And you recall I went out to where they keep these records looking for the originals and they told me they didn't have them...? Do you recall when I was over at the office looking for these records?

Answer: Sure. Yes sir.

Question: And do you recall you all telling me that Stanley Sutton had the original cards?

Answer: No sir. I didn't tell you that.

Question: Did you talk to Ms Conway over at 911?

Answer: I did.

Question: Alright. And when you and her had the conversation, did you receive information that the Floyd County Police Department 911 cards were missing and they didn't have them at 911.

Answer: She told me that the original hold box for the day was missing and that she couldn't find them and that she didn't know where they were. And we had copies of it but not the originals.

Question: And pursuant of that information did you go out to the records and check out there?

Answer: Did I? No sir, I didn't.

Question: Did Mr Sutton go?

Answer: I don't think so. The only one that ever went to the records was you, that I know of. We checked the logs to see who has been out there and you were the only one that had been there. So that is all I know.

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Rabia Chaudry:

This bit of testimony seems familiar in that something *very* similar happened to Clare a year ago, when she was trying to get records from the Floyd County Police Department. Sutton's notes had gone missing again. And when Clare tried to find out where the missing files were, she was told that the only person to have been in possession of them was, well, her.

The missing files turned up again, eventually, and no, Clare did *not* have them. But Chief Shiflett's insinuation at Joey's trial that the *only one* who had accessed the 911 records was Joey's attorney, sounds familiar.

And then there's this: Jennifer Conway, the 911 dispatcher who told the defense and the Floyd County officers that the box of 911 records was missing, was very helpful when Clare had questions for her. And volunteered her time to help with reconstructing the 911 procedures that were in place back in 2000.

But she also made no secret that she had her *own* opinions on Joey's case:

[32:03]

Clare Gilbert:

I spoke to four witnesses on Tuesday, and also Jennifer Conway. And Jennifer was helpful explaining it all to me. And she was the one who told me about the SALI printout, and she was going to help me decipher it. We're talking, and blah, blah... We talked for quite a while and then she says, "You know, I need to see it. I need to see it to be able to figure it out because these numbers aren't making any sense to me right now."

So I took a picture of it and I texted it to her, and she probably responded about less than five minutes later and her response was, "When the call came in on Line 1..."

Susan Simpson:

Mm-hmm.

Clare Gilbert:

"This is the three-letter code that indicates the trunk line..."

Susan Simpson:

Mm-hmm.

Clare Gilbert:

"Anyhoo... Good luck in your search. I personally hope Joey Watkins rots in prison."

Which is a very strong feeling to have 15 years after the case, in fact, when you weren't connected with the case. [laughs]

Rabia Chaudry:

Jennifer Conway is married to a Floyd County Police Officer who investigated Joey's case. So we can only guess that's where her strong feelings come from. But those sorts of small-town connections make it hard not to wonder: Is it possible Jennifer Conway could have tried a little harder to find the 911 dispatch records? If she *hadn't* wanted Joey to rot in prison?

On the other hand, she went out of her way to help Clare understand the 911 records when she didn't have to.

However it is the box became unavailable or wasn't found, the defense *did* bring up the missing records in its closing arguments. Here's what Rex Abernathy told the jury:

[33:49]

Colin Miller:

It is very troubling to me. It is very troubling to me that they would come in here and Mr Sutton would not take the stand and answer questions about all these telephone records, all these 911 records and all of these logs and all of these things. It is troubling. It is troubling to me, and this is the last time ladies and gentleman, the last time, anyone is going to get to talk to you about Joey Watkins.

Rabia Chaudry:

In Colston's closing, though, she stressed that the defense's harping on the missing 911 records was just a ploy that the jury shouldn't give in to. Sure, there are not Floyd County dispatch cards for, say, Isaac's wreck, and sure the entire box of records is missing, but don't listen to the defense counsel. Those records probably just don't exist in the first place:

Susan Simpson:

Now he made a big to-do about some missing cards from the county. I want to ask you something. Why would there be a county card to begin with? This wreck happened in the city.

They dispatched a call on the log and then said "10-22", which means "disregard". There's nobody hiding anything. It is a red herring, it is a smoke screen. It is designed to divert you attention from the truth of this case.

Rabia Chaudry:

So the prosecutor argued that the fact that the defense brought up the missing evidence was an attempt to mislead the jury from the truth. And that there was no evidence that the missing evidence meant anything.

But the State's failure to secure basic records meant it was impossible to ever reconstruct an accurate timeline. And according to Tami Colston, if the defendant points out that there were critical missing records it's because he's guilty and wants to confuse you.

In fact, in a different part of her closing, Tami Colston made essentially the *exact* same point about the defense's decision to even bring up the Heath Wilson issue at all:

Susan Simpson:

The Alabama Highway shooting... After we show that that was something that was looked at from the get-go, and that the officers talked to the people involved and compare the bullets to the gun used in the Alabama Highway shooting, and drove out and found out that it was totally impossible to get from Kawasaki shop to where it happened in the five minutes remaining.

And you will see that on the logs, too, from the Kawasaki shop to there. Did you hear them say anything else about the Alabama Highway shooting? Let me explain something: It is something you don't have to be a lawyer to understand, and I think you probably already understand it. It is called a smokescreen, a red herring. Something that they throw out to try and divert your attention from the facts of this case.

[38:11]

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Colin Miller:

As much as we want to find those dispatch records and as much as we suspect the full records from the night of January 11th would go a long way to telling us what really happened in the

case, I think the search for them has gone as far as it can go. Because if that missing box of records was found again after Joey's trial, it would no longer exist now anyway. In search of any scrap that could be found about the dispatch record's fate, Clare spoke to Greg Helms at the Floyd County Retention Center:

[38:35]

Greg Helms: *There's no law in the state of Georgia that says how long you have to keep a record. The only thing is the record have to be so they have public access, as long as they are kept. The Georgia Archives goes through and they compare the laws that connect to those records. How long are they needed for legal purposes? And then that's how they set their retention periods.*

Clare Gilbert: *Okay.*

Greg Helms: *And it's a group including the attorney general and all of those that get together.*

Clare Gilbert: *So we're basically in a humongous warehouse...*

Greg Helms: *Mm-hmm.*

Clare Gilbert: *With just rows and rows and rows and rows and rows of shelving, going up to the very tall ceiling with totally organized boxes. All the same, all on shelves, all clearly numbered and this is where you store all those things.*

Greg Helms: *This is where we store all those records. All those records sent to us get stored in this building.*

Colin Miller: *Stored, that is, until the retention period is over and the records are scheduled for destruction. Not 911 dispatch cards and radio logs have a six-year retention schedule, which means if everything went as it was supposed to, all those records were destroyed back in 2006. And a destruction notice would have been made documenting that.*

Now, the destruction notices themselves have a seven-year schedule, which means that the notice that the dispatch records had been destroyed would itself be destroyed in 2013. So that's not available either.

[40:01]

Clare Gilbert: *So, we don't even know at this point since the destruction notices have been destroyed, whether the box was here and destroyed.*

There is a chance it had been checked out and not returned...?

Greg Helms: *There may have been a chance that-- A lot of times they didn't check out the whole box, they would check out the cards.*

Clare Gilbert: *I see.*

Greg Helms: *And so it was either the box or the cards. But if they checked out the cards, there may have been two or three cards on that incident.*

Clare Gilbert: *Mm-hmm.*

Greg Helms: *That came in as calls that came into 911 about that incident. Well, I don't know where, you know-- They would of had to send cards back and we would put them back in the box, so a lot of times that's what she would do with them. She would order just the cards.*

Clare Gilbert: *I see.*

Greg Helms: *Instead. Them boxes were heavy. They were a load to carry back and forth.*

Clare Gilbert: *So 'she' being Jennifer Conway at 911?*

Greg Helms: *Right.*

Colin Miller: So at this point our only hope of finding them is if they were checked out once, long ago, and somehow never found their way back into the box. And even with the very slim odds something like that *did* happen, that doesn't give us any direction on where to look for it now.

So setting aside the question of when all this happened, what else do we know about the Alabama Highway shooting?

Moser testified at Joey's trial that he talked to two witnesses about it. One was officer Dora Shropshire who supposedly talked to an unknown witness to the Alabama Highway shooting. The other was Tracy Dunn, Heath's girlfriend, who was 16 at the time.

That interview, at least, was recorded, and while we don't have the audio, we do have a transcript. Tracy told Moser that Heath had borrowed the gun a friend at work, some guy named Barry. But he had only gotten it on the same day that he was arrested, and that's why he had been at the Walmart ammo for it. That was the first and only day she had ever seen Heath with a gun.

When Detective Moser asked her if she had been out on the Alabama highway at about 8:30 pm, she corrects him, "No," she says, "It was about 7:15 pm":

[41:03]

Rabia Chaudry: *It was about right in there and, uh, Heath, uh, got into the turning lane-- Yes, that was wrong, but that's beside the point. Okay he got into the turning lane and he started passing people in the turning lane, and the girl of the-- She was in the green Cavalier, a new one, her name is Ashley. Um, she got in front of us and slammed her brakes on so he slowed down. She got back out over and we passed her.*

Back going down a little bit, and uh, we ended up getting behind her again, and Heath was kind of riding up behind her car, and she was slamming on her breaks and flipping us off, and it was going back and forth like that.

And then right there between like around the Tan-N-Zone and the cemetery and all of that, we heard two gunshots come from behind us. Me and Heath thought it was somebody probably shooting up in the air to get everybody to quit, to get us to quit fighting, and you know, all that junk. And we thought they were shooting up in the air, me and Heath didn't know what was going on. And, uh, we kept going down the road and she eventually-- We were in the right lane when that happened-- When the gun-- The fires-- The gun was shot in the right lane.

And when we got to the red light right there at the gas station where the Kroger is, we stopped right there and Heath opened the door and through his hands, and she kept going, uh, straight holding onto the wheel going straight, and she didn't look away, and then the light turned green.

Colin Miller: They kept driving up to Redmond Circle and went to the Golden Gallon where they had had the altercation with a semi driver before finally driving away again:

Rabia Chaudry:

So he turned right at a Golden Gallon right beside where, right beside CVS, and Heath opened up his door to David and he he was in his truck and threw up his hands like, you know, what or whatever, and David shook his head, "No" and locked his door. And that's when we went over to his friend's house.

Colin Miller:

Tracy said that they went to Heath's friend's place, quote: "About five 'til eight, or 8 o'clock, between five 'til eight, and about ten after eight, somewhere around in there."

But that can't be right. Heath's friend lived only a third of a mile from where they last saw David, which means they would have been there right after the Alabama Highway altercation ended. And the whole drive from the Kawasaki to Beth's would only take six to ten minutes depending on how much time the little stop at the Golden Gallon took. If Tracy is right about them being at Heath's friend's place at 8:00 pm, it changes everything. Because it means that the whole thing took place about a half an hour *later* than the State claims.

Susan Simpson:

And Tracy was never interviewed again and wasn't called as a witness at Heath's trial, so she never gave another statement. After her January 20th 2000, interview with Moser. We were really interested in hearing from her now. What did she remember about that night? Could she corroborate the story Heath gave at his trial? S

o back over the summer Clare and Aimee from the Georgia Innocence Project went up to Tracy's house north of Atlanta and spoke to her.

On the drive back they called me to give me an update in how it had gone:

[44:47]

Clare Gilbert:

Okay. So we showed in her neighborhood. We knocked and she answered right away. She had two big dogs, and she came outside on the front porch and it was the-- And it's been, like I said, 101 degrees today, and it was about, what... 4:30, or 5:00? And the sun was beating down on that front door. And we stood out there, no shade, with the reflection of the front door for 45 minutes. Everyone was just dripping sweat. It was really gross.

And she seemed very friendly. Like she came out like "Hi, how are you?" Like, she didn't know who we were, but she was very nice and chatty, and so we told her, we're from the Georgia Innocence Project, and gave her background.

Aimee Maxwell:

First she didn't seem to have any recollection-- I mean any idea what we were talking about. Nothing clicked with her. And then Clare started talking about that somebody had been shot. And then she goes, "Oh," she goes, "I was in the car with that boy." And I said, "Heath Wilson?" And she said, "Yes, Heath."

And that's when she started remembering about the first part of the story. She-- Nothing about Joey's story really clicked with her, as far as her remembering, "Oh yeah, I remember that incident."

Clare Gilbert:

Right. Because we both a little bit shocked by that, because we thought that she would immediately remember, but she claims to not know much at all, if anything about the Highway 27 shooting.

Susan Simpson:

Tracy told them that she had never heard anything about the Highway 27 shooting, it was just the Alabama Highway shooting she knew about, and that's because she was present for it.

[46:41]

Clare Gilbert: *She immediately started by telling us that they were the ones who were shot at that night. She and Heath were. And she told us Heath did not have a gun and that-- And then she said, the only gun he had was my daddy's gun when he was arrested that night. So, that's not true.*

Aimee Maxwell: *Right.*

Clare Gilbert: *And she probably knows that's not true, so that--*

Aimee Maxwell: *And we came back to that.*

Clare Gilbert: *And when we came back to it, she, you know, we just said, "Well, you know, we know that he was arrested with a 9mm." And she was like, "Yeah. Yeah, yeah."*

So, I don't know if it's that she was making an intentional misstatement or just misremembered.

Susan Simpson: *Tracy did remember a rough sequence of events about what happened that night:*

[47:43]

Clare Gilbert: *So her story basically was that she was with Heath that night, she thinks that she may have been at Heath's mom's house by herself without Heath. And that would not have been unusual. And that Heath came and picked her up at his mom's house. She said that they went from there onto Alabama Highway. Then she said that Heath's-- That the windows in the car did not roll down, and that the, that they had heard what... Two shots.*

Aimee Maxwell: *Well, she said that she heard a gunshot, and um, I asked her, did you hear the gunshot with the windows up. And I think that made her a little bit wary, and then when I asked, "Well weren't you scared with the gunshots?" and she was like, "Well, should I get a lawyer?" So Clare managed to back her down at that point.*

But I don't know that she-- Because Clare asked her if she said- you said in your statement you heard two shots, and she said "Yeah, that's 16 probably right, I don't remember."

But what she said about the windows was that they were the roll-- You had to manually roll down the windows. And that they didn't even have the handles to roll down. And then late in the conversation Clare said, "Well, some witness saw the passenger arm out the window," and she didn't have anything to say about that.

Clare Gilbert: *And she was explaining like how could Heath could have shot anybody, you know, the windows didn't even roll down, we didn't have a gun that night. He didn't have a gun that night. She didn't see him with a gun until that night when he was at her dad's house.*

Aimee Maxwell: *And she said she never saw him with a gun except that one night at her dad's house.*

Susan Simpson: *That bit about the car window not rolling down is strange, though. Because like Clare told Tracy, there was a witness, Scott Reinhart, who testified that he saw a hand out the passenger window at the time her heard the shot, which doesn't make a lot of sense if the passenger window was broken.*

And although Heath did testify at his trial on cross-examination in a sort of throw-away manner that his window had been broken and couldn't roll down, like you heard at the beginning of the episode when he was describing what happened after the Golden Gallon. That's the only time it's ever brought up.

Because, if this *was* true, if Heath's window really *couldn't* roll down, then why wasn't that a central feature of the defense's case? Why did it only come up on cross-examination without any supporting facts or testimony? Because Heath's defense attorney put together a strong case given what he had to work with. And he seemed to prepare for the trial, and more than competent.

So, why would he have ignored this crucial detail about the driver's window being broken like Heath claimed? Why wouldn't he had raised it as proof that, no, Heath *couldn't* have done the shooting, because he couldn't even have opened his window?

As for the passenger side window... Well, Tracy's statement to Amy and Clare is the first and only time that I've seen that claim come up. And it directly contradicts the testimony from Scott Reinhart.

[51:11]

Police Officer: *During that split second when you heard the sounds, you saw a passenger on the erratic side, in the erratic driver's car, with a hand out the window. That's the split second when you heard the pop, pop?*

Scott Reinhart: *Yeah officer, they were at the same time.*

Police Officer: *Okay.*

Susan Simpson: *Maybe Scott was wrong about seeing the hand, but it still doesn't explain why Heath's attorney never tried to challenge this at trial. Anyway, whether the window or *windows* worked or not, according to Tracy, there wasn't any *gun* that night, or at least, there wasn't any gun in their car. Another driver that night *had* had a gun and tried to shoot them. Or maybe he tried to shoot someone else, and they got in the way in some kind of fight or another. But it hadn't been them shooting, it was someone else shooting at them, or at someone around them.*

[51:57]

Aimee Maxwell: *She kept talking about somebody's father being mad and driving a semi? I assume it's the semi that pulled in behind them, but I don't know what you're talking about.*

Clare Gilbert: *She seemed to have a sense that Ashley Parton's father drove a semi, which he did, but that he was also on the road that night. But, I think she's mixing it up with, with Ashley Parton's father's friend, who was on the road that night.*

Aimee Maxwell: *Yeah.*

Clare Gilbert: *But she was like, "We actually thought that maybe we'd got caught in the crossfire of some like family dispute that was going on." That was her kind of explanation for what was going through their head, because she's adamant that they did not do the shooting. That Heath did not shoot anyone that night.*

Susan Simpson: *And this wasn't the only time that Tracy seems to have suggested there was some kind of family feud going on. I've talked to other people in the case, who knew Tracy, and according to them it wasn't Ashley's family that Tracy suggested had been involved, it was members of David McDaniel's family, who may have been involved somehow.*

But she's always maintained that it was she and Heath that were in danger by the shooting and that the cops were so focused on Heath as a possible suspect that they never even cared

about that she and Heath had been shot at that night. And Tracy is adamant that Heath had nothing to do with *any* shooting. On the Alabama highway or otherwise.

[53:18]

Clare Gilbert: *And she was like, if he did, I don't know anything about it, and it was certainly not when I was in the car. Like he did not tell me anything about that. He wouldn't have told me anything about that, and I can tell you, when I was in the car with him, nothing like that happened. We were on Alabama Highway and there was not a gun in the car.*

Aimee Maxwell: *And he didn't act sketchy when he came to pick her up. She said that he's not that kind of guy. You know, that she's said that he's, you know, got himself into a lot of trouble, he, you know, ran with a bad crowd, but she would not have thought him capable of murder.*

Clare Gilbert: *And I asked her, I said, you know, he clearly has meth problems. Did he have the meth problems then? And she basically said yes.*

Aimee Maxwell: Yes.

Clare Gilbert: *And I said, well could it be that it's not so much his personality that might lead to that as, you know, on some kind of crazy meth high with a bit of a rage problem and a gun that could shoot off accidentally. And she didn't totally disregard that, but it wasn't like-- It was kind of like it's not beyond the realm of possibility, but it's not like she knew anything about that. Like I honestly believe that if Heath was involved, she had absolutely nothing-- She was not also in the car.*

Susan Simpson: Overall, Clare thought that if Heath was a potential suspect, he had to have done it at a time when Tracy wasn't around.

As for what happened *after* the shooting on the Alabama Highway, well, I had managed to convince myself that Tracy would at *least* be able to resolve the question of the 911 calls from Heath's house that night. After all, in her interview with Moser, she'd referenced them and talked about how the police had been called. So, she for sure had known about the calls, at least back then.

And after Aimee and Clare spoke to her, I was excited to hear their update on what those 911 calls had been all about in the first place:

[55:19]

Clare Gilbert: *She had no recollection of calling 911.*

Susan Simpson: *Goddamn it!*

Clare Gilbert: *And she said she also doesn't have a distinct memory of going over to Beth's house after this incident. But said it wouldn't surprise her at all, because they went over there a lot.*

Susan Simpson: So, no luck there on the 911 calls. Tracy was a credible witness, though, and 16 years ago, her memory on these points undoubtedly been a lot better. She would have made a good witness at Heath's trial, which is kind of strange in and of itself, because Heath's attorney decided not to call her as a witness.

[56:12]

Clare Gilbert: *If he's got her statement then her statement says that they didn't do it, so why wouldn't he call her to testify?*

- Aimee Maxwell:** *Right!*
- Clare Gilbert:** *It's not like he rolled over on this case. I mean Heath fought it and won. Maybe he knew the family and didn't want to bring her into it, or something...?*
- Aimee Maxwell:** *I don't know.*
- Clare Gilbert:** *But he didn't call, he didn't call any of these alibis as a witness.*
- Susan Simpson:** *Prior to trial, Heath did send in a list of eight defense witnesses with Tracy first on it, but no one on the list was called. For some of those witnesses, it's obvious why Heath had listed them. But there are a few names on it we don't recognize. And one in particular has always stood out to me: It lists the name Bridget, and no home address. Instead, it gives a work address. Golden Gallon, 3070 Cedar Town Highway.*
- And Golden Gallon wasn't involved in the Alabama Highway shooting, so maybe that's what this is here for. Maybe that's what Bridget could have been a witness to.*
- But what stands out to me is that the Golden Gallon listed on this defense list, it's not the Golden Gallon near the Alabama Highway. It's the Golden Gallon directly across from the entrance to Floyd College, where Isaac would have been pulling out onto 27 South the night he was shot.*
- But then again, maybe that's just where Bridget was working at the time of the trial. And it's just a coincidence that it's the one near where Isaac had been that night. Unfortunately, although I've tried leaving messages for Bridget and some of her family members, I haven't heard back. And at this point I have to assume it's just a coincidence. Still, I'd like to know why exactly Heath wanted to list her as a witness to the defense and where she had been working back in January of 2000.*
- Colin Miller:** *The only witness the defense ended up calling at Heath's trial was Heath himself:*
- [58:11]
- Defense Attorney:** *On January the 11th let's start, say around 6:30 or so. Where were you in the evening?*
- Heath Wilson:** *At about 6:30 I was leaving my mom's house, because they were going to Los Portales to eat.*
- Defense Attorney:** *And your mom lives where?*
- Heath Wilson:** *Off of Alabama Highway on Pine Crest, just right before you get to Coosa High School.*
- Defense Attorney:** *Okay. And is this the same Pine Crest street that Mr Joey Rhodes who testified lives on?*
- Heath Wilson:** *Yes sir.*
- Defense Attorney:** *Do you know Mr Rhodes?*
- Heath Wilson:** *No sir.*
- Defense Attorney:** *Okay. Does he live near you?*
- Heath Wilson:** *Yes sir.*
- Defense Attorney:** *Okay. You left your mom's residence, and where did you go? Let's talk about your route. Tell me where you first went.*

- Heath Wilson:** *Well, we first went over to my girlfriend's house on Burnett Ferry.*
- Defense Attorney:** *[crosstalk] And where does she live?*
- Heath Wilson:** *It's on Burnett Ferry.*
- Defense Attorney:** *Okay.*
- Heath Wilson:** *And we stayed over at her house and we ate supper. We were waiting on my parents to get back home from Los Portales. And we left her house, went back to my mom's house.*
- Defense Attorney:** *Okay, so you went back out to the Coosa area?*
- Heath Wilson:** *Yes sir.*
- Defense Attorney:** *So you know what time it was?*
- Heath Wilson:** *Probably about 7:15.*
- Defense Attorney:** *Okay. So you get out there and what happens?*
- Heath Wilson:** *Mom wasn't home yet.*
- Defense Attorney:** *Okay. So what do you do?*
- Heath Wilson:** *We turned around and left. We just went riding around. Thought about going to see a friend in Garden Lakes.*
- Colin Miller:** *So Heath and Tracy headed east toward town, but at some point they ran into Ashley and things got a little tense between the two cars.*
- [59:31]
- Heath Wilson:** *I was driving at a higher rate of speed than everybody else, and I mean, I was speeding. And I come up behind her, and when I did she hit her brakes on me.*
- And I got kind of upset and I got over, and I was going to try to pass her in the turning lane. And when I did she swerved over in the turning lane and hit her brakes. And I mean, I got a little more upset.*
- And we were going back and forth, and she was shooting me birds, I was shooting her birds... I mean, we were antagonizing at one just as much as the other.*
- Colin Miller:** *According to Heath, there was a little while after his first encounter with Ashley that the shots were fired:*
- [1:00:07]
- Defense Attorney:** *At any time did y'all get in front of the 18 wheeler?*
- Heath Wilson:** *Yes sir.*
- Defense Attorney:** *Okay. And about where was that?*
- Heath Wilson:** *It was about at the Kawasaki shop.*

- Defense Attorney:** *Okay. At that point in time, did you hear anything unusual?*
- Heath Wilson:** *Uh, yes sir.*
- Defense Attorney:** *And what did you hear?*
- Heath Wilson:** *I heard one gunshot, or what I thought was a gunshot at the time.*
- Defense Attorney:** *Okay.*
- Heath Wilson:** *And I cut my radio all the way down, and as soon as I did, I heard another one. And I thought someone was shooting at me.*
- Defense Attorney:** *Okay. Where were you?*
- Heath Wilson:** *I was a little past the Kawasaki shop, maybe four seconds doing 55 miles an hour past it.*
- Defense Attorney:** *And where was Tracy?*
- Heath Wilson:** *Tracy--*
- Male voice:** *Not Tracy, Ashley.*
- Heath Wilson:** *She was in front of me.*
- Colin Miller:** *Despite the gunshots, Heath was still mad and unwilling to give up his argument with Ashley. Shortly after the shooting when they hit a red light across from a Texaco station, he got out and confronted Ashley.*
- [1:01:02]
- Defense Attorney:** *Did you stop at the red light? Did everyone stop at the red light?*
- Heath Wilson:** *Everybody stopped.*
- Defense Attorney:** *Did you get out of your vehicle?*
- Heath Wilson:** *Yes sir I did.*
- Defense Attorney:** *And what did you do?*
- Heath Wilson:** *I stepped out of my vehicle and asked her what her problem was.*
- Defense Attorney:** *Okay. Did you use choice words?*
- Heath Wilson:** *[pause] They weren't very choice.*
- Defense Attorney:** *Well, they were vulgarity?*
- Heath Wilson:** *They were rude. Yes sir.*
- Defense Attorney:** *So you got back in the car and you go up and let's get back to where we were. David and you are 'yeah-yeahing' from Sam's Club around to the Golden Gallon.*
- Heath Wilson:** *Yes sir.*
- Defense Attorney:** *Is that an accurate statement?*

Heath Wilson: Yes sir.

Defense Attorney: Okay.

Colin Miller: After a three day trial, Heath was found not guilty on all accounts arising from the Alabama Highway shooting. Without talking to the jury we can never know *why* they decided the way they did, but Greg Price, Heath's attorney, was able to raise a strong defense on the basis of the number of inconsistencies in the State's case.

Because he was right. There *were* a lot of things in the State's case against Heath that didn't make a lot of sense. For instance, the testimony from Joey Rhodes and the 911 call that he made was a mess.

[1:01:57]

Greg Price: *They rehabilitated-- Or tried to rehabilitate Mr Rhodes by bringing in the 911 lady, Dan Cullom's wife, Cindy Cullom, to testify about the 911 sheet that they had.*

But it's-- And they're saying that's consistent – he was talking on the phone, therefore he said it. They wrote Kawasaki on the 911 sheet.

But you know what's more important about that? Remember all of the conflicts that Miss Cullom? She said that Mr Rhodes said that they were chasing him, and that he was trying to avoid them, to evade them or something was the word. And that there were three or four shots!

Is that a conflict? Yeah it's a conflict! Is that corroborate or rehabilitate Mr Rhodes? No. Mr Rhodes said it was about 1,000 feet back. First he says it was a rail track, then he says that-- They rehabilitated, and he says the Kawasaki place. I ask him, "Are you telling the truth today?"

I guess I should have gone on and said about what you testified to today, and he said, "Yeah I'm telling the truth."

So if he's telling the truth today about the Kawasaki shop, what's the Kawasaki notation on the 911? Why the conflict in what he says happened and what 911 says that he told them after?

Colin Miller: And it's not just 911 that Joey Rhodes' story conflicts with. In fact there's not really a single part of the State's case that remains consistent across all the witnesses, because Joey Rhodes' story just doesn't match with what anyone else described.

[1:03:28]

Greg Price: *Okay. Here we've got Ashley, Heath, and Mr Rhodes. Mr Rhodes didn't even recall the pickup truck-- A pickup truck. He didn't even have a pickup truck in this scenario. If you'll recall, he also said that he was immediately behind Heath Wilson, or as he called him, "the erratic driver".*

Colin Miller: And if Rhodes was *behind* Heath, then how could Scott Reinhart *also* be behind Heath. There are other problems too: Joey Rhodes couldn't remember where exactly the shot occurred and couldn't remember seeing Heath interacting with other cars that night. He said Heath was in the left lane when the shots occurred, when all of the other witnesses say it was the *right*.

He testifies that all the cars just got out of Heath's way. There was no chasing of Ashley. In fact the only interaction Rhodes saw between Heath's Honda and another care was a curious event that literally no other witness ever saw happen:

[1:04:15]

Greg Price: *You saw a car pull into a service station?*

Joey Rhodes: *Yeah.*

Greg Price: *And then the crazy driver pull in behind it?*

Joey Rhodes: *Yes sir.*

Greg Price: *Okay.*

The only service station I can recall between the Barker Road railroad tracks and Coosawattee, that I can think of, and you correct me if I'm wrong, would be that-- Used to be a Favorite Market, now it's a Texaco right there at Huffaker? Is that the one that they pulled into?

Joey Rhodes: *Yes sir.*

Greg Price: *Let's talk about that for a second. Now can you describe the car that pulled in first?*

Joey Rhodes: *I can't describe the car, there was a lot going on.*

Greg Price: *A white car? Was it a GM, big, road boat, or was it a...?*

Joey Rhodes: *No, I think it was a small car.*

Greg Price: *Small kind of car. Import.*

Joey Rhodes: *Yeah.*

Greg Price: *And then the crazy driver pulled in behind it or, in front of it?*

Joey Rhodes: *Behind it, and then the white car pulled back out so then the Honda pulled back out too.*

Greg Price: *So we're talking about-- Did that person try to get out the white car, did it try to get up to the store and get up and go into the store? Did you see that?*

Joey Rhodes: *I think they was just trying to turn off of the highway, because they didn't, you know, they was just trying to get out of the way of the people.*

Greg Price: *Okay.*

Joey Rhodes: *And then they pulled out.*

Greg Price: *Okay. I'm going to describe and you tell me if it's wrong.*

Joey Rhodes: *Yes sir.*

Greg Price: *I'm not trying to put words in your mouth.*

Joey Rhodes: *Yes sir.*

Greg Price: *The white car pulls into the Favorite Market, does it stop at the pump area? Or does it just keep--*

Joey Rhodes: *No.*

Greg Price: *On going through?*

Joey Rhodes: *I'm pretty sure it keeps on going through.*

Greg Price: *And then pulls--*

Joey Rhodes: *Pull around--*

Greg Price: *And then pulls around and goes back onto the road?*

Joey Rhodes: *Yeah.*

Greg Price: *Okay.*

Now the crazy driver pulls in behind him and pretty much follows that same path?

Joey Rhodes: *Yes.*

Greg Price: *Okay.*

Rabia Chaudry: What Rhodes was describing was *not* the Golden Gallon incident. Rhodes never saw that part. It was at the end of everything. Three miles away, and after Rhodes had gone off in a different direction from everyone else in the case.

But Ashley Parton, David McDaniel, Scott Reinhart, Heath Wilson, and Tracy Dunn all agree, *no one* pulled into the Texaco like Joey Rhodes describes. They also agreed there were no little white cars involved in any of this. All of them describe, instead, some variation of seeing Ashley merge into the center turning lane to turn towards the Texaco, but then Heath turned into the turning lane behind her, causing her to merge back right and continue along the Alabama Highway.

So did Joey Rhodes *really* see the same event that everyone else did? Or could he have just misremembered a gas station chase scene that never occurred? It wasn't just the conflicts between the witnesses that helped the defense case, though. The confusing mess of claims about the forensics or lack thereof also helped to jumble matters.

Like the decision to impound Heath's car. Apparently for GSR-testing. Detective Moser from the Rome Police Department and lead investigator on the 27 South case said he had nothing to do with any of that:

[1:07:09]

Detective Moser: *I didn't have anything to do with towing or requesting that vehicle be impounded.*

Greg Price: *Well, I'm just asking you are you-- Were you familiar with the fact that the vehicle was removed from forensics?*

Detective Moser: *After it was impounded, yes.*

Greg Price: *And the forensics that was made-- That was going to be done on the vehicle would relate to firearms?*

Detective Moser: *Oh, let me back up. I-- I wasn't familiar as to why it was impounded as far as the forensic part.*

Greg Price: *Okay.*

Detective Moser: *I had nothing to do with that. It wasn't towed with that-- And to be honest with you, that it wasn't a part of my investigation at that point. So I don't-- I don't have an answer for you.*

- Greg Price:** *Okay. So you did not-- But you don't know if anyone else in the joint cooperative investigation would have ordered a forensics exam for powder burns on the vehicle?*
- Detective Moser:** *No sir. I don't know. It wasn't part of mine, and I wouldn't have this-- The only thing I do was take a picture of it.*
- Greg Price:** *Okay. Let me ask you. In your experience over the years as an investigator... There is a procedure by which you can ascertain whether or not there are flash marks or burn marks, or powder burns as we lay person would call it, by using certain tests. Is that correct?*
- Detective Moser:** *That's correct.*
- Greg Price:** *And in fact, certain cartridges have, in cooperation with the FBI certain, what we call 'rare earth' items, like, uh, antimony and even arsenic added to the particular pattern, so there can be some identifying tracers? Is that correct?*
- Detective Moser:** *Yes sir. By um-- Each individual will manufacture that cartridge.*
- Greg Price:** *And, and, what is expelled from, from a revolver, let's use a revolver, has a discharge that not only comes from the end of the barrel, but also from any other crevice that's available for any of the powder to discharge from?*
- Detective Moser:** *That's correct.*
- Greg Price:** *And that's usually why they do hand swabs and things like that?*
- Detective Moser:** *Yeah, blowback from the cylinder of a revolver, you know the cylinder, the round thing, it would expel from there also.*
- Greg Price:** *Okay.*
- Rabia Chaudry:** *And Jerry Boyd, from the Floyd County Police Department and lead investigator on the Alabama Highway case, said that he had nothing to do with it either:*
- [1:09:15]
- Greg Price:** *Now there are forensics test that can be done to-- To determine lead from bullets.*
- Jerry Boyd:** *Yes.*
- Greg Price:** *But that was not ordered in this case?*
- Jerry Boyd:** *No sir.*
- Greg Price:** *And there are tests that can determine for the purposes of finding powder?*
- Jerry Boyd:** *Yes sir.*
- Greg Price:** *On vehicles, if a gun's been shot outside of a window of a vehicle.*
- Jerry Boyd:** *Yes sir.*
- Greg Price:** *In fact they did that in the Dawkins case, didn't they?*
- Jerry Boyd:** *I don't know. I didn't have anything to do with that case.*
- Greg Price:** *In fact they did that-- They impounded his vehicle for two weeks to have that done didn't they?*

Jerry Boyd: *I can't say. I don't know sir.*

Greg Price: *But you know there were no-- During the time period that he didn't have his car, you don't know of any tests that were done on it?*

Jerry Boyd: *No sir. No I don't.*

Greg Price: *To the best of your knowledge there were no tests done?*

Jerry Boyd: *As far as I know there wasn't.*

Greg Price: *Nobody took the time to do any tests on the bullet, alleged bullet hole on the back of the pickup, or the gray Honda for powder burns to determine whether or not he was telling the truth when he said he didn't do it?*

Jerry Boyd: *No sir there wasn't.*

Greg Price: *What we have is the word of the two teenage people that said that he's the one that did it, they knew him and he was the one.*

Jerry Boyd: *Yes sir.*

Rabia Chaudry: Now, it's possible that defense attorney Greg Price was just 'throwing shade' everywhere here. That he had no idea of any forensic testing that was being done. And that he was just basing his questioning off of what his client had told him.

Because Heath said he was told that GSR-testing *was* done:

[1:10:47]

Greg Price: *How long did they keep your vehicle before they released it to you?*

Heath Wilson: *It was about 13 or 14 days.*

Greg Price: *Okay. And, uh... What was your understanding as to why they kept it so long?*

Heath Wilson: *Because they said that they had to run powder tests on the side of it to see if I was the one that shot the gun on the Alabama Highway that night.*

Susan Simpson: It's not that I'm inclined to take Heath at his word here, but on the other hand, why would Heath *lie* about this? If it really didn't happen, what possible benefit is there to him in making it up?

That's what I struggle with here, because this lie wouldn't be strategic, it wouldn't be helpful, and at best it would risk undermining his credibility in front of the jury. Just when he needed it the most.

And also seriously, why *didn't* the cops do GSR testing here on Heath's Honda? We know that the Rome Police Department took swabs of Isaac's hands for GSR testing while in the hospital, but they forgot to take that into the lab for testing, or even to log it into evidence. It only turned up in 2014 when Rick Latta from the Georgia Innocence Project went to review evidence and when he found it, it hadn't been sent in for testing at all. It was just stuffed in the back of a three-ring binder and forgotten.

Is it possible that something like that *here* happened with the GSR testing from Heath's Honda?

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Colin Miller: There are also other things that Heath claims happened that the investigator say didn't. Like his interrogation on the night of the arrest:

[1:12:13]

Greg Price: *How many investigators actually talked with you that night?*

Heath Wilson: *There were three in the room throughout the night.*

Greg Price: *And how long did they talk with you?*

Heath Wilson: *About two and a half hours.*

Greg Price: *Okay. Did they ask you to sign a waiver so that you would talk with them and release your rights under Miranda?*

Heath Wilson: *Yes sir.*

Greg Price: *And did you sign that?*

Heath Wilson: *Yes sir.*

Greg Price: *And did you talk with them?*

Heath Wilson: *Yeah.*

Greg Price: *And did you deny the fact that you shot at Ashley Parton and David McDaniel?*

Heath Wilson: *Yes sir, I did.*

Greg Price: *Okay. They talked to you about the Dawkins case, too, didn't they?*

Heath Wilson: *That was the most of the conversation.*

Greg Price: *Okay. Did you ever have a transcript made of your interview or do you know if there was one made?*

Heath Wilson: *No sir I was told that--*

Greg Price: *Well, don't say what you was told-- Did you ever see an interview transcript?*

Heath Wilson: *No sir.*

Greg Price: *So you don't know whether or not they recorded or statement or not?*

Heath Wilson: *Not really. Well, I know--*

Greg Price: *Was there a tape recorder?*

Heath Wilson: *There was a tape recorder on the desk and he pressed the button on it, but--*

Greg Price: *Do you know if it worked or not?*

Heath Wilson: *No sir. I have no way of proving whether or not--*

Greg Price: *You have not seen the tape or the transcript since then have you?*

Heath Wilson:

No sir.

Colin Miller:

Again why would Heath lie about this? If it's untrue, he has to know that they are three police officers who can impeach him. Who will testify that he was lying. That there was no interrogation, and no recording.

Which is exactly what happened:

[1:13:26]

Police Officer:

Probe division, officer Jesse Adams had brought him, Mr Wilson, into the station. Uh, and, and investigator Boyle was off duty. Talked to him on the phone and, uh, he asked us to uh, follow up on his investigation.

Prosecutor:

Alright. Did you actually meet with Mr Wilson?

Police Officer:

Uh, yes.

Prosecutor:

Okay. And at the time that you met with him, did you have-- About how long did your entire meeting with him take place?

Police Officer:

I would say 15, 20 minutes, 30 minutes at the most.

Prosecutor:

Alright. And when you met with him, was there any sort of a tape-recorded interview, or a lengthy interview of any kind done with him?

Police Officer:

Um, no.

Prosecutor:

Why not?

Police Officer:

Uh, like I said, when we got to the station, the patrol officer already had him there. Uh, we went in, myself and investigator Stewart, introduced myself. I read him his rights and talked to him briefly, asked him if he knew anything about the incident. Uh, he denied it, uh, we talked a few more minutes. He just denied having any knowledge of the incident, uh, so there was nothing to record or note. No further action would be taken at that time.

Susan Simpson:

I've got to say it's *really hard* not to believe Heath on this one. And hard to believe that there wasn't an interrogation, because Heath was already charged in an aggravated assault case and certainly had knowledge of that one – the Alabama Highway one. It's just he claims it was someone else doing the shooting. And since he waived his rights and agreed to speak, why on earth would the cops *not* speak to speak, and not lock him into a statement? And better yet, *record* it?

The homicide case was clearly a priority, but aggravated assault is still clearly a violent crime. And I don't understand why the police would have decided not to investigate it when they had the suspect sitting right there in front of them happy to talk.

Colin Miller:

Clare didn't understand it either. So she went to talk to the prosecutor at Heath's trial to try and figure out if maybe she remembered why the interrogation was dropped. Even though Heath had agreed to it.

[1:15:51]

Clare Gilbert:

Then the other thing was I wanted to talk with Martha Jacobs. She is the DA who tried the Heath Wilson case. And she said it was a three-day trial. She got that by looking on her computer. She hardly remembers anything from the trial. She had small kids at the time. She was the only prosecutor in the courtroom. They assigned a second prosecutor shortly thereafter, so she was having trials all over the over the place. And she just doesn't remember much about it at all.

She thinks it was routine for them to take a waiver, a Miranda Rights waiver, but not then interrogate. However, they did seem to think it would be odd that there was no notation that he waived his rights and then refused to talk, or lawyered-up or something. It doesn't make sense that he would waive his rights and agree to talk and then not talk and there not to be any notation of it.

So they didn't come out and say that was strange, but they kept looking for further stuff in the file. They didn't-- They-- I keep saying 'they', because Leigh Patterson was in the room for much of the time, but I was really talking with Martha Jacobs.

She didn't remember anything about the 911 call. She doesn't even have any independent recollection of whether the witnesses testified. I think that's it.

Leigh Patterson does not like the Georgia Innocence Project. She told me several times that she doesn't like the Georgia Innocence Project. She told me she's very upset that we are looking into this case: "Poor Stanley Sutton, he's in a nursing home and he can't defend himself" and we just took advantage of that opportunity to bring the case forward now, and I kind of made a face like, "Mm... That's not right."

And she basically said, yeah the victim's, the defendant's family was saying that she says that she knows he's guilty and she knows he did it, because she's a lawyer who handled the appeal in the case.

So she is not by any means, I mean she's cooperative enough, she just not, um, on our side. So... uh, on Georgia Innocence Project's side.

Colin Miller:

As for Heath's trial, there are no firm conclusions that can be drawn from the supposed lack of interrogation, or the questions about whether or not GSR testing was done. Still, I wish Joey's attorney's had used these troubling questions in the same way Heath's attorney did in his closing arguments.

[1:18:15]

Greg Price:

Lack of evidence is not a red herring. It's an issue for you to utilize, and to determine whether or not there is proof beyond a reasonable doubt into the explanation of every reasonable hypothesis, except the guilt of my client, Heath Wilson.

Rabia Chaudry:

But lack of evidence isn't *positive* evidence either. And that's why the Heath Wilson issue is so confounding in Joey's case. Because Heath Wilson was so quickly ruled out on the basis of evidence that doesn't seem robust enough to support the State's conclusion, no real investigation was ever done.

Which means for the most part, we're left with a strange coincidence of a car that looks like Heath's being involved in two shootings on the same night.

[1:18:56]

Joey Watkins: *I try not to be-- You know, me of all people, I try not to be close-minded and I try to be open. Because I don't want the wrong person locked up for this.*

Susan Simpson: *Mm.*

Joey Watkins: *Because you know, I've been down a hard time, and know nothing about it, so. I don't want to push and get the wrong guy locked up. But it's just, you know? I mean it's just all of this is, I mean, you figure if the call logs, because back when this was happening they were saying 7:15... Alright?*

Susan Simpson: *They say all kinds of stuff.*

Joey Watkins: *Right, you figure, you said it takes 11 minutes to get...?*

Susan Simpson:: *I don't know because we can't even do the test again because the roads are all changed.*

Joey Watkins: *But if you say 11 or 12 minutes then all these discrepancies in time, that gives him plenty of time to get to point A to point B. And what of the coincidence-- What's the chances of this happening on the same night, the same car, the same description--*

Susan Simpson: *What are the chances you'd pass by where Isaac wrecked?*

Joey Watkins: *That's true too.*

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Rabia Chaudry: Even if all the timing issues fell away and we could prove conclusively that Heath could have been on Highway 27 South that night, that's very different from having evidence that shows that he actually was.

Still, there's still one piece of evidence we *do* have to consider. Even though Detective Moser ruled out Heath almost immediately, his interview with Tracy Dunn wasn't the last time Heath's possible links to the Dawkins case were investigated.

One year later on March 23rd 2001, Stanley Sutton went and interviewed Heath Wilson himself. This wasn't related to the Alabama Highway shooting, though, Sutton wasn't involved with that. This interview was just for the Dawkins case.

And last year when the full police files in this case were shown to a defense attorney for the first time, Sutton's notes of this interview were in there.

Here's what they said:

[1:20:46]

Susan Simpson: *Friday, 1200 hours. Investigator Sutton talked with Heath Wilson, Pine Crest Drive. In reference to Isaac Dawkins. Heath stated he was on 27 South. He didn't shoot Isaac. He doesn't know Isaac or the two suspects.*

Rabia Chaudry: Heath was on 27 South, according to Sutton. Heath denied being involved in shooting Isaac, but according to Sutton's notes, Heath *did* acknowledge being on the same highway as Isaac that night. When, where, or why? – Sutton's notes didn't record that.

So they leave a lot of unanswered questions, but the biggest questions are this: Why did Sutton write down that Heath said that he was on 27 South that night, and why didn't Sutton tell anyone else about it?

We've been asked quite a bit about why we believe with a fair amount of certainty that Joey Watkins is innocent. Well, other than the incredible discrepancies in the State's case, and the flimsy evidence they based it on, there's something kind of major that everyone missed. And kind of an amazing plot twist, the same evidence that Susan Simpson proved could not be used as evidence of guilt against Adnan Syed may be the same evidence that actually proves that Joey couldn't have killed Isaac. The cell phone records.

Next time on *Undisclosed*.

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