

UNDISCLOSED, the State v. Adnan Syed

Episode 5 - Autoptēs

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[0:34] Rabia Chaudry On February 9th, 1999, Hae Min Lee's body is found in Leakin Park. She's discovered in a shallow grave, her body turned on its right side, covered by dirt, leaves, and large rocks. She's taken to the Medical Examiner's Office the same day to conduct an autopsy, and later that month, in the early morning hours of February 28th, Jay leads the detectives to Hae's car, which has been abandoned within a couple of miles from the burial site.

Now, the story told by Jay and then adopted by the State as the theory of the crime is this: that on January 13th, Hae Min Lee left school around dismissal time at 2:15 p.m., she was killed in her car by Adnan by 2:36 p.m., her body was put in the trunk of her Nissan, and then she was buried around 7 p.m. that same day by Adnan and Jay.

Now, in any investigation, the crime scenes and autopsy should yield evidence that supports the State's case. In this case, the crime scenes are the burial site and Hae's car. The question then is this: whether clues from the crime scenes and the autopsy report line up with the story that was offered by Jay and the prosecution. Today, we'll find out.

We're going to start with the car, which was the alleged scene of Hae's murder. Now, there are three major things we have to examine when it comes to the car: first, the condition of the car itself and its surrounding location; second, whether or not Jay had personal knowledge of the car and its contents; and third, the relationship of the car to the State's narrative of how Hae was actually killed.

[2:15] Susan Simpson Hae's car was found in the early morning hours of February 28th, 1999. After his first interview, Jay got into a car with detectives Ritz and MacGillivray, and they drove down to the southwestern district of Baltimore, where they found Hae's car back behind some row homes in a grassy area. Although Jay apparently led the cops to the car after his interview, in the taped portion of the interview itself he doesn't actually describe where the car was located or what the cross streets were or how the cops could have found it on their own. This means that that part of the discussion must have happened before the tape recorder was turned on because there's no way the cops finally get their star witness, have him say, 'Oh, I know where the car is,' and then don't ask him for two hours to describe where the car was located.

[3:00] Rabia Chaudry Yeah, I could see it makes sense that, um, they must have gone over his story before turning on the tape, uh, because that's really what they're looking for at this point. The body's already been found. But what we actually mentioned earlier was that Jay actually had told the cops in his statement that he had gone by the car before in his normal routine, so it is kind of odd that he was unable then to identify exactly where the car was.

[3:21] Susan Simpson And, in fact, they referred to the car as being on Edmundson. In reality, it was several blocks south of that. The problem is, though, actually, we have two different locations listed for where the car was found: most of the reports say 300 Edgewood, which is the place that was used at trial, but there's one report that identifies the location of the car as 600 Edgewood, which would, in fact, be off of Edmondson Avenue. And that's interesting because it kind of fits more with other statements that Jay has made, like his statement that the false trunk pop location on Edmundson was four blocks away from where the car was left. Well, it's only four blocks away if the car was actually on Edmundson itself and not south of it like the cops say at trial.

[4:00] Colin Miller The whole thing is troubling to me because the main thing that makes a lot of people think that Jay was involved is him telling the cops where the car is. And if that's recorded--we've played the audio, and you can sort of hear what's going on. Here, apparently, we're relying upon the fact that Jay told them the location in the pre-interview, but we have no notes on that. There's no recording. And so, these different locations, 600 Edgewood versus 300, is that the cops making that up? Is that Jay? You know, what's the context exactly? I wish we had that information.

[4:30] Susan Simpson Well, actually, the 600 Edgewood report, the one that lists that as the location, is a report of Jenn's interview. I don't know what to make of that because she says she has no idea where the car is, so it's unclear why a police report of her interview would list any location for the car, let alone the wrong location.

[4:46] Colin Miller The only mention of 600 Edgewood ever is in Jenn's interview?

[4:50] Susan Simpson It's in a report of her interview.

[4:51] Colin Miller Okay.

[4:52] Susan Simpson So when the cops did the summary of what she said, they include a statement saying the car was found at 600 Edgewood.

At the time that Jay leads the cops to the car, the car has been there for six weeks, so presumably people in the neighborhood who were parking next to this car and driving past it every day would have seen it there. However, the cops didn't talk to anyone in the neighborhood, so we have no idea if they noticed it or not or if they'd seen the car being moved in that time period. They didn't knock on a single door or leave a card on any car nearby to ask those people if they'd witnessed anything.

[5:26] Colin Miller Yeah, and they easily could have because we found in the files that, actually, one of the detectives who went to the scene drew a diagram of the parking area and wrote down the license plate numbers of all the cars surrounding Hae's car.

In addition, we have some photographs, including one that we have that's going to be linked on our website, and there's a weird thing about that photograph because if you look at it, underneath Hae's Sentra the grass appears to be pretty green. Now, if you recall, the theory here is that the car was ditched there on January 13th. It's found on February 28th, so it's both the winter, and it's supposedly there for about six weeks. And it seems hard to explain how, the car sitting there for six weeks, the grass underneath the car would be green and not showing any signs of wear and tear.

[6:15] Susan Simpson And it's not just the grass under the car that bothers me; it's the grass on the car, specifically, in the wheel well. It's green, too. You can see it. So, that grass got kicked up into the car's wheel wells when it drove in there. It's been not connected to the ground; it's been sitting there for six weeks on the side of the car, and it's still green.

[6:34] Colin Miller Yeah, and the detectives say they didn't move the car at all before they took the photos. So the photo that you see on our website if you go there, that is the condition of the car, the placement when they found that car.

[6:44] Rabia Chaudry So this could mean that the car, in fact, was moved to that location much more recently than six weeks, right?

[6:52] Susan Simpson Yeah, and I wish they'd looked into it by just asking someone nearby.

[6:55] Rabia Chaudry But what about the condition of the car itself? To me, the fact that, you know, there's been ice storms, there have been other storms since this car was apparently ditched, the car looks remarkably clean on the outside to me.

[7:04] Colin Miller Yeah, I mean, it looks to me like a car that's been parked inside for a while and has only recently been put there, but I'm not an automotive expert so I can't really say that. I mean, listeners can certainly look at the photo themselves and draw their own conclusions.

[7:17] Susan Simpson Again, it's something that could have been verified back then, and there's no way to verify it now. But by simply asking a neighbor to the car had they seen it, these questions could have been resolved.

[7:34] Susan Simpson The inside of the car was processed later that morning down at headquarters. In fact, the cops didn't really do anything at the crime scene. They took the four photos, and they loaded it up and took it back to the headquarters, but they waited until they got there to take soil samples, so no samples were taken at the 300 Edgewood Drive [sic] location,

which isn't ideal police work. If you're going to take soil samples for comparison to try and prove the car was at the burial site or linked to some other location, you want to take the soil samples where you find the car, don't want to move it around, don't want to tow it around and then take soil samples and hope that somehow they haven't been contaminated.

So, the cops' processing of the car was lacking in other ways, too. In the vehicle processing report, the detectives failed to fill in several important questions about the car's condition. For instance, in the section where it asked whether or not the car's doors were locked, they don't even check anything. They don't say whether it was locked or not. Same goes for whether or not the ignition was locked. They simply don't answer it. They also don't record things like how much gas was in the car, where the seats were positioned, or anything else that might have helped them in concluding who last drove the car.

[8:42] Colin Miller Yeah, and those things are important because we know in this case Adnan was about 6' tall. Jay was 6'4". Hae, depending upon the accounting, between 5'6" and 5'8". So, you know, depending upon how far back that seat is, that could tell us a lot about who the last person was or wasn't to drive that car.

[9:01] Susan Simpson They did take fingerprints of both the contents of Hae's car and the external portions of the car, and they found Adnan's prints on several items, including on a card in the trunk, a card in the glove compartment, and on some floral paper in the back seat.

They also found about twenty-something prints that were never matched to anyone. We don't know who those prints were. We don't know if they were related to the crime. We don't know if they came from Hae's family. But at trial, prosecutor Kevin Urick decided to tell the jury in closing arguments that every single print found in the car came from Adnan. This is false. It didn't happen. There's lots of prints in there that we have no idea who they came from. I don't know if he simply forgot the evidence or what, but his statement to the jury--that all the prints came from Adnan and it's clear he was the one in the car last--isn't true.

[9:47] Colin Miller Yeah, and this was covered a bit also in *Serial*, and just to make this clear, there is this map that's found in the car. The way that both Urick and Murphy try to relay it to the jury is that Adnan's fingerprint is on the map that contains Leakin Park. That's not true, and in fact, when Urick gave an interview to *The Intercept*, he tried to make the same claim, and *The Intercept's* printed a correction saying, no, that's not right. His palm print was on the back cover of the entire map book, but his fingerprint absolutely was not on the page that contained Leakin Park.

[10:21] Susan Simpson And it's worth noting that the map doesn't even contain the portion of Leakin Park where Hae was buried.

[10:25] Rabia Chaudry But it does contain, like, so many of the surrounding areas that Adnan and Hae were normally in.

[10:30] Susan Simpson Like Woodlawn High School.

{10:31} Rabia Chaudry Right.

[10:42] Susan Simpson Because of the incomplete processing report and because of the lack of details about the condition of the car, what we know about the car raises more questions than it does answers, for instance, the ignition collar.

We know from descriptions of the photographs that were taken of the car that it's missing, but this is never mentioned in any of the prosecution's reports, never mentioned at trial, never brought up again. But ignition collars don't just fall off. It had to have gone somewhere, and it was missing for a reason, but no one seemed interested in why.

[11:12] Colin Miller Yeah, and let's break that down. So, an ignition collar--think about the ignition for a car. It's where you put your key in to start the car. Around the area you put the key in, there is a circular ring--at least there was on a Nissan Sentra--and the reason why you would take off the ignition collar is to get to the wiring there around the ignition, and it's either to fix the car, a problem in the steering column, or to hotwire the car. And so there's a decent chance because there didn't appear to be other items taken from the car--it wasn't sort of a theft of the car--that this was her killer, that someone who killed her for whatever reason didn't have the keys and was popping off the ignition collar to try to hotwire the car to move it to another location.

[11:57] Susan Simpson So, that brings us to the contents of the car. Now, Hae's car was kind of messy. It had lots of items in it, some dating back months. She apparently used her car as her locker and had a lot of stuff hanging around in there. It's clear not all the stuff in the car is related to the crime or has any relevance in the investigation, but there's one thing that they didn't find that probably should have been there if the State's story is correct, and that's the bag of Hot Fries that Inez Butler says Hae bought just before she left campus on January 13th, 1999. Now, if the State's theory is correct, Hae never left her car again, so anything she brought with her into the car should've still been there. They weren't.

For our purposes, though, what's most interesting about the car contents is what Jay knew about them because if Jay was involved in the murder and did help Adnan cover it up, he should know details about the crime, right? Like where the car is. Okay, apparently he took them there. But he should also know things about the car and things about the murder that evidence of can be found at the car or at the crime scene.

There's a common theme running through all of Jay's knowledge about the car. To show this, let's start off with what Jay says Adnan told him about the crime itself. In Jay's first interview, he says that Adnan told him exactly two details about the murder and how it occurred: he says, first, that Adnan told him that he left Hae's shoes in the car, and second, he says that Adnan told him that during the murder, Hae had kicked off the windshield wiper lever. Adnan didn't tell Jay anything

else according to Jay--not how he got into the car, not where the murder took place, not how he got her into the trunk--nothing other than these two facts that Jay tells the cops.

The funny thing about those two details, though, is that they are based directly on the visible contents of Hae's car. If someone had looked into the windows of Hae's Nissan, they would have seen her shoes sitting in the open in the back seat of her car, and they would have seen the broken wiper lever dangling down. In that first interview, there's nothing that Jay knew about the crime that anyone couldn't have known if they'd simply looked into the windows of Hae's car. There's nothing in his knowledge of the car or the crime scene, which would have required him to actually be there.

[14:21] Rabia Chaudry But that changes between the first and the second statement that he gives to the police, right?

[14:26] Susan Simpson It changes quite markedly, and Jay's evolution between the first and second interviews is probably the most striking when it comes to the contents of the car because, in the first interview, his knowledge of what's in the car is either very limited or very wrong, and in the second interview, suddenly and mysteriously, he can give a very accurate recollection of what was in the car.

So, we know what Jay got right about the car's contents--well, sort of right. I mean, he did get the fact that Hae's shoes were on the back seat right, but whether or not he got the broken windshield wiper lever, we'll get to that, and that's a complicated story on its own right. Still, looking at the rest of the car's contents, we can see what Jay got wrong from his first interview as compared to his second one.

As a brief aside, all the remaining details that Jay knew about the crime--not just about the car but about everything involving the murder itself--consist of the following two facts: first, a description of the burial site, and second, a description of the clothes that Hae was found wearing. However, Jay said he'd seen images of the crime scene on a news report, which means he would've known what the crime scene looked like whether he was involved with the murder or not. This means that the only detail Jay knows about the crime in interview one is what clothing Hae was wearing at the time of her death. That's it. Of course, the cops also knew what Hae was wearing when she was found, so it's easily possible that any information that Jay had about that could have come from the cops directly.

[15:50] Rabia Chaudry So, was there something that particularly happened between the first and second interview that would cause changes to his statement?

[15:57] Susan Simpson Yeah, well, they now know what's in the car. They don't process the car until about 4 a.m., 5 a.m. on the 28th, so after the first interview. At the time of the second interview, however, it's been two weeks, and they've had lots of time to look over the evidence list and to try and figure out whether it matches what Jay told them, and it doesn't actually.

Let's start with the things that were in the car that Jay never mentioned.

First, we have the map, the one with fingerprints on it that we talked about earlier. It was found in the back seat, underneath Hae's backpack, so [it] wasn't visible to anyone who simply looked at the car from outside. And Jay never mentions it in the first interview.

Second, we have the blood-stained T-shirt that was found--probably, according to most reports, anyway--in the driver's seat wedged into a crevice. It became part of the prosecution's narrative at trial because there were blood stains on it, but the blood stains would not have been visible to someone who simply observed the car casually or didn't actually inspect the T-shirt itself.

What's interesting to me is that when the cops asked Jay about the map and the bloody T-shirt during the second interview, Jay's responds for the first and only times in his interviews with "I don't know" to both those questions. Those are the only two times the cops bring something up and Jay can't give an answer. I mean, I find that interesting. I don't know if you guys do. Maybe it's not, but to me it's interesting that the only time Jay can't give an answer to a question is when it's something that the cops didn't know about in their first interview and only discover in between because those items were buried underneath other objects.

[17:28] Rabia Chaudry Right, but I guess, to me it's like, okay, if by the second interview he's including details that were found after the processing, why wouldn't he just say, "Oh, yeah, the shirt, I know"? I mean...

[17:37] Susan Simpson Well, he doesn't actually add in new stuff. He corrects stuff that he got wrong, but he doesn't just add in new items that were never mentioned at all in the first interview.

[17:45] Rabia Chaudry Hmm...

[17:46] Susan Simpson In fact, most the details that change are things that Jay did talk about but got wrong. I guess the problem is he can't suddenly be like, "Oh yeah, I remembered Adnan telling me, 'I got lost, and I used the map'" because why didn't he mention that before?

[18:00] Rabia Chaudry Oh my God, but I think Jay can say whatever the hell he wants and--

[18:02] Susan Simpson But he can't. He can't, though. I mean, obviously, he lies a lot. He changes his story a lot, so it does seem sometimes like he's just lying and saying whatever, but he's not. The cops do realize they have impeachment problems, and they *are* trying to keep his story roughly consistent with what he said in the past, or when they change it, they want to explain why he changed it, like with Cathy--oh, he lied to protect her. But they really aren't just totally rewriting the scenario from scratch. Where they can avoid doing that, they do.

[18:32] Rabia Chaudry Now, I'll play devil's advocate here, okay?

[18:34] Susan Simpson Mm-hmm.

[18:35] Rabia Chaudry If we're to accept Jay's story that he was never in Hae's car, according to his story, right? Adnan was in this car; Jay drove Adnan's car the entire time. He might've seen her car from the outside, but that was it. So, in a way, tha--I kind of understand why he would only know details of the car or the contents of the car from, like, what you could kind of see from the outside, like a cursory view. Um, what that might not explain is then how that changes in the second interview.

[19:01] Susan Simpson And what it doesn't explain is how he knew things in the first interview that turned out to be wrong, like the purse. In the first interview, Jay says that after Adnan abandoned the car at the Edgewood Drive [sic] location, he got out of Hae's car and brought her purse and her wallet back with him to his car. Of course, they eventually find the purse somewhere in Hae's car in the backseat. It's not in an obvious location. It's not in the photographs, but they find a purse and they find its contents without a wallet. So, why did Jay say that Adnan brought her purse back from the car when it's clearly still sitting there?

[19:35] Rabia Chaudry ...because you couldn't see it from the outside. Like, it wasn't apparent, right? From the [inaudible]

[19:39] Susan Simpson Yeah. Notably, the purse is not actually itemized in evidence, so the only record of it is from when Gutierrez went in to look at the evidence herself, and she took a note and said in the back seat car contents the purse was included.

And in the second interview, after the cops would've learned that, yes, her purse was still in the car, there's no longer any mention of it. Jay completely forgets that he previously listed the purse among the contents that Adnan had removed from Hae's vehicle.

[20:04] Rabia Chaudry Well, I don't know if he forgets it, but I think he conveniently leaves it out because he got that detail wrong.

[20:08] Susan Simpson And here's probably the best example of this phenomenon: the red and blue nylon jacket, the windbreaker.

In the first interview, here's what Jay says about that jacket. He says, 'We were walking back to the gravesite...'

[20:22] Jay Wilds

...I seen her jacket on the ground.

Detective Ritz

What kind of jacket was that?

Jay Wilds

It was blue and red.

Detective Ritz

Was it a nylon jacket--

Jay Wilds

Yeah.

Detective Ritz

...cloth jacket?

Jay Wilds

It was, it was nylon. [inaudible] type.

Detective Ritz

Where exactly was that on the ground?

Jay Wilds

Um, in the, in the walkway, in the path...

[Jay's first police interview, p.15]

[20:36] Susan Simpson So, on the way back after burying Hae's body, they see the jacket again.

[20:40] Jay Wilds

...finished the hole and put Hae in there face first.

Detective Ritz

[...]if we can just back up for a second, Jay. The jacket was on the ground, and you said it was red and blue--in the walkway. Did anybody pick up the jacket?

Jay Wilds

Oh, he picked it up. He picked it up.

Detective Ritz

What did he do with the jacket?

Jay Wilds

Threw it, um... um, just [inaudible]

[Jay's first police interview, p.15]

[21:00] Susan Simpson So, we have Jay saying that Hae's jacket was thrown into the woods or possibly maybe buried with her, although he backtracks from that, and this would explain why the cops never found her jacket presumably. Problem is, once they process the contents of Hae's car, they find a jacket, and it's in the trunk of her car, but its presence in the trunk calls all of Jay's story into question. Why is he describing how Adnan threw the jacket away into the woods if it's still sitting there in the trunk when they open it up?

[21:28] Rabia Chaudry Right, it's a very specific part of the story. It's not like, uh--I mean, it's a really specific detail, right?

[21:33] Susan Simpson I mean, Jay explains to the cops why they never found her jacket because Adnan threw it into the woods, and this goes back to what I was saying earlier about how the cops really can't just totally wholesale rewrite Jay's story and how they try and adapt it in more subtle ways because in the second interview, the jacket's still part of the story. This whole scene still happens with Adnan and Jay walking back to the burial site and seeing the jacket on the ground, but it's no longer Hae's jacket in the second version. It's just a random jacket that they just happened to find and happened to throw in the woods, not Hae's at all. Nothing to see here.

[22:04] Jay Wilds

...get out of his car, uh, bring the shovels. He asks me to help him bury her. Ah, we argue. Um, he throws dirt on top of her, and she was already--I'm sorry. Um, we, we, we pull back into the parking lot, and on the way back there, there's a coat laying [sic] on the ground. And I said, "Whose coat is that?" And he picks it up and he, like, flings it way back in the woods.

[Jay's second police interview, p.32]

[22:28] Susan Simpson And once again we have a classic Jay apology after he skips part of the story that the cops wanted him to tell. In this case, it's the part about the jacket. The way Jay starts to tell it, he and Adnan simply walk back to the grave and start throwing dirt into the gravesite. He then says, 'Oops, sorry!' Apparently, he's been tipped off that he missed something, and he goes back to describe the jacket and how they pass as they're walking in. Only this time, unlike in interview one, Jay doesn't know whose jacket it is and neither does Adnan. In fact, it's no big deal at all. Adnan casually tosses it into the woods, and that's that. So much for the jacket.

When the cops get to Hae's car and open the trunk, they find a field hockey stick, a lacrosse stick, an umbrella, some papers, and this red windbreaker jacket, but it's not taken into evidence. It's not actually itemised, and it's never described anywhere in the files. They totally write it out of the record, and it's not part of Jay's story when they go to trial.

[23:24] Rabia Chaudry It's almost like they know that if Gutierrez goes back to Jay's first statement, she's going to find what he said about that red jacket. But they have the red jacket, so they need to make it go away. It didn't exist. I mean, my theory is that there was no jacket, and--

[23:39] Susan Simpson because it was sitting in the trunk the whole time.

[23:42] Rabia Chaudry Right, right...

[23:50] Rabia Chaudry We talked about the broken windshield wiper. It seems like he kind of didn't get that right either, right, Colin?

[23:56] Colin Miller Yeah, and this leads to something I found pretty shocking. Certainly, after listening to *Serial*, I had no idea that this was the State's contention at trial. If you recall, the State's contention is that Hae is driving her car up to the concession stand; Inez Butler sees her get out; that's when she gets the Hot Fries and the drink; and s--that in this very compressed time frame, she is killed by 2:36 p.m. and is strangled in her Sentra.

What I didn't realize from *Serial* and didn't realize until I saw the closing argument is, at trial, the State builds a case where Adnan is in the driver's seat and Hae is actually in the passenger seat of her car, and that explains Jay's story that Hae kicks off the windshield wiper wand in the car while Adnan is strangling her. But it's very complicated, and let me try to just break this down in the easiest way to explain this story of what happens with this broken lever.

In his initial interview with police, Jay says that Adnan told him, while he's strangling Hae, Hae kicks and breaks the windshield wiper lever in the car. Now, if you look at a 1998 Sentra, which was Hae's car, you had the steering column, i.e. the steering wheel. On the left is the turn signal lever that would signal a turn left or right; on the right is the windshield wiper lever, which obviously controls the windshield wiper. And so Jay's saying in the initial interview she kicked the windshield wiper lever. The detectives go, they find the car, they take photos of the steering column, and their claim is the photos show that the windshield wiper lever is broken. However, later they realize the photos don't really show that. It could just be the windshield wiper lever in the down position. Problem is, at this point in time, they have released the car to the custody of Hae's brother, who has taken it to a body shop that is owned by Hae's uncle, and so this is released on March 7th. The police go to the body shop on March 16th, and they take a video of the broken lever. Now, the problem is, we don't have copies of either the photographs or the video, so we're just sort of relying upon the word of the police that, in fact, this is broken. And there's a problem with that because later the police think, 'Well, even the video's not good enough. Let's take off the windshield wiper lever. Let's send it to the Trace Analysis Unit, and let's have a fracture examination.'

Now, a fracture examination is, when something is broken, it should have broken edges. So if you break a stick, you should be able to compare the edges on one side to the other and say, "This used to be one stick." Well, the same thing with a lever. You should be able to say, "If this is

broken, there are broken edges.” Well, it’s sent to the Trace Analysis Unit, and the determination is there are no broken edges. In other words, the windshield wiper lever is not broken.

Let’s go to trial now. So, at trial we have the detective who took the video. He testifies the windshield wiper lever on the right of the steering column is broken. Jay, however, testifies that Adnan told him Hae kicked the signal on the driver’s side, i.e. the left side of the car. Let’s then go to trial two. At trial two, the detective again testifies the windshield wiper lever is broken, but now he says the lever’s on the left of the steering column. Jay testifies again that Hae kicked the turn signal, which, again, is on the left of the steering column.

Then fast forward to closing and, again, as I said, in closing argument, Kathleen Murphy, the prosecutor, says: ‘We know Jay has consistently said the windshield wiper lever is broken. It had to be Hae in the passenger seat because that’s the only way she could have kicked this lever on the right of the car, and so that proves the case. You know, who else would be driving the car except for Adnan in this case? Since that proves our case here, Hae was in the passenger seat. She must have kicked the lever.’

But, again, that’s problematic because the fracture examination showed the windshield wiper lever wasn’t broken, and so I did a blog post about this and got a response, interestingly enough, from Hae’s brother. And so Hae’s brother is the only one in the family who has commented on this case, and so let me read from the comment that he posted in response to my blog post:

“I am almost 100% sure [that] it was the [sic] turn signal lever. I remember [it] pretty well because I was supposed to drive her car back home. But since the turn signal lever was HANGING/DANGLING, my grandpa drove it home. I was a new driver and was uncomfortable driving it without a turn signal.” – [/u/brotherofhae](#)

Uh, so where does that leave us? I honestly have no idea. What seems clear to me is the windshield wiper on the right of the car, that lever was not broken. The State’s theory of the case makes no sense. Was the turn signal lever on the left broken? Possibly. Hae’s brother’s recollection seems to be pretty vivid. Um, but I don’t know what to make of it. I mean, I don’t know. Susan and Rabia, what do you think about this broken lever and what it means about the State’s case?

[28:32] Susan Simpson Well, someone commented, I think, in response to your post that most cars, yes, have the turn signal on the left and the windshield wiper on the right, but some cars do have the windshield wiper on the left-hand side. And, in fact, the kind of cars that the cops were driving in Baltimore are those types of cars.

[28:49] Colin Miller Yeah, so, I mean, if you’re going along with the theory that the cops told him this lever was broken and he’s repeating that, that would make sense, but yeah, I mean, otherwise it’s, it’s so tough to--it’s so dense, this material. Was anything broken?

[29:01] Susan Simpson Was it dangling down?

[29:03] Colin Miller Right.

[29:03] Susan Simpson Because it bugs the hell out of me that we don't know which or if *any* of the levers were broken.

[29:09] Rabia Chaudry They wouldn't have shown a video if nothing was broken in the car, right? They wouldn't have shown a video at trial of nothing broken. Something had to have been visible to the jury for them to be showing a video to begin with.

[29:18] Susan Simpson But the car had been in a body shop for a week at that point, so...

[29:21] Colin Miller That's the thing, too, it's--yeah, why's it in a body shop? The only damage we're aware of in the car is this allegedly broken lever. So, yeah, it's like what had happened in the interim? It's, it's there for--what was it--I guess, March 7th to March 16th, so about nine days. Has anyone looked at the lever? Have they worked on it? Is it in the same condition then that it was when the car was found? So, like, I don't know. That's--there's chain of custody issues, again, in terms of what's the condition of the lever then versus now. I mean, it's--the State wants it to be the windshield wiper lever on the right, but according to Young Lee's recollections, the trace analysis report based upon the fracture examination, that windshield wiper lever on the right is not broken. It's not damaged in any way.

[29:58] Susan Simpson Jay doesn't say he ever saw this windshield wiper lever or that he personally had knowledge it was broken. He says this info came from Adnan. But if Jay's story is true, I feel like Adnan would have actually known which it was because he's got a body in the trunk and he's driving around without a turn signal in this car. I mean, that would have to cause some stress. You don't want to get pulled over for failing to indicate under those kind of circumstances, and yet Adnan tells Jay instead that the windshield wiper's broken and said the turn signal?

There's other reasons, too, to think that the whole idea that Hae was killed in her car didn't happen. In addition to the broken lever, there are two other pieces of evidence that the State used to support its argument that Hae died in her car. Um, they tell the jury, 'Well, we know she died there because of these reasons': the first is the bloody t-shirt found in her car, and the second is the Don note, which was found in her trunk and is proof that she died before she got a chance to go wherever she was going.

But none of these things actually show if she was killed in her car, and the State did nothing to find evidence that could have shown she really was either killed in her car or had her body kept in the car after her death. In fact, there's never any forensic testing done to show that either Hae was killed there or that the body was in the trunk. They don't even test the back liner of the car. They do seize the liner of the trunk from Adnan's car, and in fact, in one of their reports, they claim that

Adnan's car was used to transport Hae's body, which is weird because Jay's stories never include that detail, so who knows where that came from. But there's never any testing of the soil samples taken [sic] her car. There's never any testing of the hair found in the front driver's seat and the front passenger seat of her car. There's never any forensic testing of the trunk, the front seats, the liners...

[31:43] Colin Miller Yeah, and it's, it's so frustrating because we mentioned in the last episode that they had cadaver dogs going around Woodlawn because they were looking for the body and--if you've followed cases like the Casey Anthony case--they very easily could have had these cadaver dogs sniffing the liner, the trunk, etc. to determine whether there, in fact, was a human body that was in that trunk for any period of time.

[32:06] Susan Simpson And that brings us to what's, to me, the most blatant lie told by the prosecution at trial, and that is Murphy's claim in closing arguments that the sporting equipment had been moved from the trunk to the back seat to make room for Hae's body, and that's how we know that her body was kept in the trunk.

In fact, all the sporting equipment was still in the trunk. It's still back there with the umbrella, with the jacket, with the letters. I don't even know how she could make that claim because th--it's just wrong. She's claiming that someone made room for the body in the trunk of the Sentra, which, one, is factually incorrect and, two, shows the problem with the idea that Hae's body was in the trunk in the first place because all that stuff was still in the trunk, and a Sentra's not a big car. It's hard to see how she could have fit in there, assuming someone could've actually individually transported her body from the front or passenger seat to the trunk in broad daylight. Assuming that they get it there, how'd they fit it in there with all that stuff still there?

[32:58] Colin Miller Yeah, I mean, the rear passenger compartment in the '98 Sentra was 48 inches, so you would imagine about four feet for that trunk, Hae between 5'6" and 5'8". It's, it's tough to see anyone strangling her in the car and then transporting her and being able to fit her into that trunk of that Sentra.

[33:17] Rabia Chaudry But there's another really important reason that that doesn't make sense. Now, remember there are at least two crime scenes according to the State at this point, right? We have the burial site and we have the car. Both are really important supporting the State's narrative, but if we take a closer look at the autopsy report, what we see is, in fact, nothing about these crime scenes--not the burial site and not Hae's car--supports the State's theory.

Now, a note to our listeners: what we are going to discuss next might be a little bit difficult to listen to for some of you. It can be disturbing to some people, but it is immensely important. It is important not just to figuring out whether or not the State's narrative was true, but it's important in terms of figuring out what really happened to Hae. And that is the autopsy report. So, we're going to go into some details about the body, about the autopsy, about what the medical exam showed,

and we wouldn't be doing this and we wouldn't be going so much in depth on this if it wasn't vital to understanding what happened to Hae on January 13th.

[34:33] Colin Miller I got the chance to talk to Dr. Leigh Hlavaty about the evidence we have in this case. She's the Deputy Chief Medical Examiner for the Wayne County Medical Examiner's Office in Detroit, Michigan. She's also a Clinical Assistant Professor of [Anatomic] Pathology at the University of Michigan. She graciously agreed to review the autopsy report for Hae Min Lee, the autopsy photos, and the testimony by the Medical Examiner who conducted the autopsy.

Before we start, a few caveats: first, the autopsy photos are black and white, and they're fairly low resolution. Second, unfortunately, the State's file doesn't include any photos of Hae's body as it was found in Leakin Park and before it was disinterred. One last note: sound quality on Dr. Hlavaty's end isn't great. We're sorry about that, but we thought that what she had to say was so interesting that it was worth hearing her say it in her own words. During our conversation, we talked about one of the autopsy report findings, which I found to be especially odd, and that had to do with the hemorrhages that were found on Hae's head.

Let's listen to my question and Dr. Hlavaty's response. Again, I apologize for my recording equipment and the quality of sound on her end.

[35:38] Colin Miller

The autopsy report for Hae Min Lee says that she had a focal right temporalis muscle hemorrhage, and she also had a focal right occipital subgaleal hemorrhage. And so, what do those two things mean?

Dr. Hlavaty

Well, the temporalis muscle hemorrhage is a bruise in the muscle that is located above your right ear, that is visible after your scalp is reflected. So it's the muscle that's located between the scalp and your skull. And the right occipital subgaleal hemorrhage is a bruise that is actually on the undersurface of the scalp itself, on the right back of the head. As to what these mean, we have to think again about the lividity pattern in the head because when blood pools in the scalp due to body position, it can sometimes mimic these sub-scalp hemorrhages. Uh, in this case, because there's this full frontal anterior lividity, these bruises on the right side and the right back of her head mean that these are two blunt force impacts to her head that she sustained while she was alive.

Colin Miller

Obviously, you don't have the full evidence to be able to see the extent of these hemorrhages, but based upon the description in the autopsy report, do you think these hemorrhages are consistent with blows that could have rendered Lee either stunned or unconscious?

Dr. Hlavaty

Yes, it is possible that she could have been momentarily stunned or rendered unconscious with one or either of these blows.

[37:09] Colin Miller I asked Dr. Hlavaty about whether these head wounds could be consistent with what the State argued during its closing argument, which again, was that Hae was sitting in the passenger seat of her car when she was killed. She told me it was possible. It's also possible that Hae was in the driver's seat. It's also possible that Hae wasn't even in her car. According to Dr. Hlavaty, the wounds are consistent with any broad flat object striking her head with enough force. That could be a fist. It could be a hand. It could be a dashboard. It could be a window. Any type of broad flat object you can imagine would be consistent with those head wounds.

[37:52] Rabia Chaudry I think when I first, uh, understood the importance of the hemorrhaging and how it would have led to Hae being incapacitated, I mean, it terrified me in a different way, uh, in terms of imagining what actually happened to her. You know, it's one thing if, let's say, there's an argument or in the heat of passion, somebody ends up getting killed because they're strangled. And we see this sometimes in movies or film where, you know, one person grabs another person around the neck. It's an entirely different scenario if somebody has been knocked out and then strangled, right? That's so much more deliberate. It's not heat of passion, necessarily. It also means that the person is lying prone on the ground when they're being killed, and the imagination just envisions it very, very differently at that point, that this is somebody who is already out cold and the person wanted to finish them off.

[38:42] Susan Simpson It seems more intentional to me, too. At first, I was wondering why the State wouldn't argue that because it does support the premeditation case as opposed to the heat of passion, but it goes back to Jay not having it part of his story.

[38:54] Colin Miller Yeah, and it's interesting to me. I mean, it's, it's, it's sad, but in looking at research and studies on strangulation, what you most typically find are nail marks and other injuries not from the actual assailant but from the victim because they're trying to get the hands off of their throat. And there are no signs here of a struggle on behalf of Hae, and Hae, again, fairly athletic, 5'6" to 5'8". And you would think that she would fight back but not if she was rendered unconscious or stunned based upon the blows leading to these hemorrhages, and so it certainly seems like this wasn't just a strangulation. This was something where the person hit her pretty hard a couple of times at least before we had the act of strangulation.

[39:34] Susan Simpson And she had no defensive wounds at all. And I just don't--

[39:37] Colin Miller Right.

[39:37] Susan Simpson ...but that she wouldn't have fought back, especially if she was killed in a car. That's already a awkward position or a hard position for that to happen, and fighting back could have helped her. I don't believe that she wouldn't have fought back.

[39:47] Rabia Chaudry Yeah, and a car's a pretty close space, so you know, we're not talking about an open space that even if she fought back there wouldn't have been damage, necessarily, to see. In a car, if you are fighting physically, there has to be m--more damage that's apparent. I had a quick question, Colin, or, or both of you. Um, in your talks with people, you know, who are medical examiners or pathologists or whatever, are they just basically taking the conclusion that she was strangled from the report, or can they look at the description of the body itself and also come to the same conclusion? Like, do we know for sure she was even strangled, I guess, is my question.

[40:19] Colin Miller I, I've had at least a few people say they reviewed the materials, and without hesitation their conclusion is that this was a strangulation.

[40:28] Rabia Chaudry Okay, okay.

[40:29] Susan Simpson It was interesting to me to talk to medical examiners about it because their approach was so different from a legal approach and how they evaluated it. And they'd say, "Well, yeah, it was strangulation. Probably. I mean, we can't rule out anything else, but until we have another proposed mechanism, we'll go with strangulation." So...

[40:45] Rabia Chaudry That's odd.

[40:46] Susan Simpson Medic--yeah. So, medically, these injuries do not rule out another type of death, but they're fully consistent with strangulation, so they're going with that.

[41:02] Colin Miller I also spoke with Dr. Hlavaty about something that's always bothered me about the State's theory about the act of strangulation and how it fit into their narrow time frame in which Hae was supposedly killed. Here's my question, and here's her answer:

[41:15] Colin Miller

So, in this case, the State had a pretty tight timeline because they were trying to claim to the jury during closing argument that in the immediate aftermath of school, Lee was taken to a Best Buy and was strangled in the parking lot before her assailant made a phone call from the Best Buy pay phone at 2:36 p.m. And as part of the case made to the jury during closing argument, the State said that her murderer strangled Lee for about 10 seconds, producing death. Is that consistent or inconsistent with your understanding of the time that it takes to fatally strangle someone?

Dr. Hlavaty

That is definitely *inconsistent*. Strangulation is a multi-step process that takes several minutes of pressure on the neck. At first, there's the period of struggle where the grip on the neck cannot be constantly or tightly maintained. Now, admittedly, the length of this struggle is going to differ in each case and is, thus, unknown. And that's because it will depend on the size and the strength of the victim and the assailant, uh, whether or not the

victim was restrained in any way, or whether the victim was incapacitated either by any trauma, uh, any drugs in their system, or by any underlying medical condition. Now, in this case, the two blunt force impacts to her head could have incapacitated her and, thus, shortened this struggle period. But, eventually, in all strangulation cases the victim is overwhelmed. Uh, and, and consciousness is, is usually lost within seconds, um, although it's usually under 30 seconds. Uh, 10 is really a sort of arbitrary number. After consciousness is lost, the pressure then has to be maintained tightly and constantly for an additional two to three minutes in order for death to occur because that's how long your brain cells can last without oxygen before they die. So if pressure was placed on the neck and then released after the loss of consciousness, the victim will regain consciousness on their own. There are studies out there in the literature about near-strangulation victims that support this. Now, clearly, there is a point of no return where the centers of your brain that control your heart rate and your breathing are affected by the lack of oxygen, and resuscitation is needed in order to prevent death. Uh, but this point of return is variable because it will depend on each person and is, thus, unknown. But these near-strangulation studies support that that point of no return is much closer to the minutes-end than, uh, the seconds-end.

[43:51] Colin Miller I also asked Dr. Hlavaty about the finding of rigor mortis in this case because it seemed inconsistent with my basic understanding of the time frame for rigor mortis.

First, I asked her to explain what rigor mortis is and how it works.

[44:04] Dr. Hlavaty

Rigor mortis is the stiffening of the body's muscles that occurs after death. Uh, it's actually a chemical process that occurs to the body after death because the body is no longer able to make the ATP needed to break the actin-myosin complexes within muscle cells. I know that's a little too techie there for the audience but, uh, it becomes evident about two to four hours after death, and it starts in the smaller muscle groups like the jaw, and then it will spread to the arms and the legs. Uh, it takes up to eight to twelve hours to become fully developed. Fully developed means that the body is completely stiff. It will remain fully developed for about eight to twelve hours, and then it will take an additional eight to twelve hours to, uh, disappear or for the the body to become flaccid again. And it will disappear in the same order of muscles as it appeared. Now, if you happen to manipulate the body after rigor mortis is fully developed, meaning, say, you turn the head or you bend a limb, you break the rigor in that part of the body, and then that part of the body will go limp. And, again, the time frame is just a guide. It is just as temperature dependent as lividity, and if it is really warm, the appearance and disappearance of the rigor mortis will be accelerated, uh, and if it is significantly colder, then it will be delayed.

Colin Miller

Hae Min Lee's body was found on February 9th, 1999. The State's claim that she was killed and buried on January 13th, 1999, and according to the State, when Lee's body was

disinterred, her body still had some rigor. And that rigor was easily broken, probably due to temperature, according to the Medical Examiner. Now, if Lee had, in fact, been dead for almost a month before she was found, did these findings about rigor mortis make sense?

Dr. Hlavaty

Well, the cool temperatures do complicate the estimate of time of death because it delays all the changes that we see in the body and we use to make that estimate. And cold also does make the body stiff all by itself. I mean, the most extreme example of this would be freezing of the body if the temperature was cold enough. So, in order to assess whether the stiffness is due to rigor mortis or the cold, we really need to consider the other changes we see on the body, namely, those that are the evidence of decomposition. Decomposition is where the body starts to, uh, break down itself, uh, from the inside by the release of intracellular enzymes and the normal bacteria that is within your gut, and decomposition occurs after rigor mortis has passed. So, we see skin slippage on the body, and skin slippage is something that happens in decomposition. So, because we see evidence of decomposition, this means that the rigor mortis had to have already have been passed, and therefore, the stiffening that we see in the body has to be due to the cold temperatures. Frankly, nothing else makes sense.

Colin Miller

Okay, and that takes us then--you mentioned skin slippage a bit. So if we're returning to skin slippage, yeah, if you could go into a little bit more detail about exactly what skin slippage is in a dead body?

Dr. Hlavaty

Skin slippage is the sloughing of the superficial layers of the skin off of the body, and it occurs early in decomposition. Uh, in temperate conditions, it starts around the two to three day mark. Usually, it starts as the formation of what looks like a blister, and then when the roof of the blister ruptures, the skin then sloughs off the body, and it can make the body surface that is left very slimy to the touch. Skin slippage happens at any point where there is contact with the body, whether it be someone physically moving the body or something in the environment contacting the body. So, in a case like this you would expect the skin to slough or slip off of the body simply because it was buried in a shallow grave, so any parts of the environment that the body would have been exposed to, like rocks, would have caused skin slippage. Also the skin would slip from being disinterred or dug up, from being transported to the morgue, uh, and then once at the morgue, being undressed, photographed, and examined. So, all this would be any time something contacted the body. It would cause the skin to slough or slip off.

Colin Miller

If we looked at the autopsy report in this case, it notes that Lee had, quote-unquote, "generalized skin slippage". And so after you looked at the, again, the black and white

photos, uh, from the autopsy, what are your conclusions about the amount of skin slippage in this case?

Dr. Hlavaty

I think that the amount and the distribution of the skin slippage on the body is exactly what you would expect, uh, for a body that was buried in a shallow grave for about three to four weeks and then disinterred and examined.

[48:54] Rabia Chaudry So, the way the prosecution presented the autopsy report at trial made it seem like Dr. Korell's findings provided firm support for their theory of the case even though in reality the autopsy report provided, at best, only ambiguous support for some parts of the theory and, at worst, completely contradicted other parts of it. There's one final point about the autopsy results the prosecution never brought up at trial, and that's the Medical Examiner's findings about livor mortis.

[49:19] Colin Miller Dr. Hlavaty and I talked about this other element of the autopsy photos from the report. First, I asked her to explain exactly what livor mortis is.

[49:27] Dr. Hlavaty

Livor mortis refers to the red-to-purple discoloration of the skin, uh, that you see on bodies after death. It is a physical process that occurs after death wherein the blood settles within the dependent areas of the body based on gravity, meaning if you die on your back and are left in that position, the blood will then settle into the back half of your body. It's a process that becomes visible or evident about two to four hours after death, and it can take up to eight to twelve hours to become most prominent or visible and to fix. Now, fixation happens when there is breakdown or hemolysis of the blood within the blood vessels that occurs after death, and so if a body is moved after lividity is fixed, the lividity will not shift and re-settle into the new body position. So, if the body that was on its back was then flipped onto its stomach after fixation, the lividity would remain on the back half of the body. Now, this eight to twelve hours is merely just an estimate or a guide because, like all of the changes that happen to the body after death, it is very environmental and temperature dependent. And this guide of eight to twelve hours was based on what they call temperate conditions, meaning about room temperature, 60 to 80 degrees. So if the time frame, uh, if the temperature is warmer than that, the--this time frame could be accelerated, and if the temperatures were colder, then the time frame could be even more delayed.

Colin Miller

Okay, and the autopsy report for Hae Min Lee says that her body had fixed frontal lividity. Is that consistent with what you saw in the autopsy photos?

Dr. Hlavaty

Well, the five black and white photos that I viewed of the body taken at the morgue, because they were black and white and because of the changes of decomposition and dirt

that [inaudible] on the body in some of those photographs, honestly, I cannot tell the lividity pattern based on those photos alone. However, [inaudible] the report and the Medical Examiner testimony were very clear that this was anterior, or frontal, lividity. So, knowing that and looking at the photos, there's no variation in the shading of gray from the left half of the body to the right half, uh, so the, the photographs would, therefore, be consistent with fixed full frontal, or anterior, lividity.

Colin Miller

Okay, and if we turn then to the State's theory of the case at trial, their claim is that Hae Min Lee was killed at 2:36 p.m. and thereafter pretzeled up in the trunk of her Nissan Sentra for the next four to five hours. Would that be consistent with the finding of fixed frontal lividity in this case?

Dr. Hlavaty

No. Uh, absolutely not. Uh, to get fixed full frontal lividity, that would mean that the body would have to be face down and left in that position in a temperate location for up to eight to twelve hours in order for the lividity to fix. Uh, if the body was put into the trunk of a vehicle or pretzeled up and then transported and then even buried on its right side within a four to five hour window, the lividity pattern on the body once it was disinterred would be consistent with the burial position, meaning it would be on the right side of the body, and that is *not* the case here.

Colin Miller

According to the autopsy report, when Hae Min Lee's body was found in Leakin Park, she was found buried on her right side, and the State's contention at trial was that she was buried in Leakin Park in the 7 o'clock hour, based upon cell phone pings, about four to five hours after death. Would that be consistent with the finding of fixed frontal lividity?

Dr. Hlavaty

No, if she was indeed buried within four to five hours of death, again, considering a temperate location, then the lividity pattern would've fixed after burial, and it would have been on the right half of her body and not fully frontal.

Colin Miller

If we combine these three findings about lividity, rigor mortis, and skin slippage, what's your best guess overall about how much time passed between the death of Hae Min Lee and her burial?

Dr. Hlavaty

Well, I think that there's two more things that we need to, uh, consider, before estimating the time of death. Uh, one would be the burial of the body and the other would be the examination of the brain. Burial itself delays all of the changes that occur after death that we already talked about. There is a published rule of thumb that says that one week

exposed to air is equal to about eight weeks buried in dirt, uh, and certainly my experiences here in Detroit have shown that to be, uh, actually pretty true. The other is the examination of the brain itself. In strangulation, the head gets congested and filled with blood because pressure on the neck prevents the blood from draining from the head. Ordinarily, in strangulation victims who are starting to decompose, the head actually decomposes at a slightly faster rate than the rest of the body. If that was the case, the brain would not appear normal and have a good demarcation between its gray and white matter structures as this one did. So, based on the fact that this is full, fixed frontal lividity, that the rigor mortis had passed, that we're seeing general skin slippage in a body that was buried in cold temperature and internally did not show evidence of decomposition, I think that this was a body that was left face down for up to eight to twelve hours before it was buried and that she was buried likely within eight to twenty four hours of her death.

[55:05] Susan Simpson This is not just one medical examiner with this opinion. Between Colin and I, we've talked to I don't know how many doctors now, and they've all said the exact same thing: there is no way she was buried at 7 o'clock if she was killed at 2:30 or 3.

[55:20] Colin Miller There's also no way she was in the trunk of her Sentra for four to five hours after she was killed because she would not have fixed frontal lividity in that case.

[55:29] Susan Simpson So, this isn't kind of a judgment call or a questionable area. The doctors are pretty much unanimous on this point.

[55:35] Rabia Chaudry So, going by the medical evidence, the earliest Hae could have been buried is eight hours after death because the temperature on the afternoon of the 13th was in the 50s, which means this: that after Hae was killed, her body was kept somewhere face down, flat, for at least 8 hours before being moved to Leakin Park. There was a third potential crime scene, the place she was killed and her body was kept. Where did that happen?

[56:00] Susan Simpson The importance here cannot be overstated. The State's case could not have happened. It's a fantasy; it's all make believe. None of that could have happened because Hae was not buried at 7 o'clock, which means their whole case, the whole issue with the cell phone records that show that Adnan was in the park at 7 o'clock--I mean, even assuming the records do show that--all they show was that he was near some place where crime was not happening.

[56:22] Colin Miller It breaks down to a few things, right? I mean, either this is a complete fabrication and Jay has no involvement whatsoever, or on the other hand, Jay is telling the truth but for some reason, despite Adnan committing this murder, this entire story that's created and sold to the jury, bears no tangible relationship to reality.

There's not the trunk pop. She's not in the trunk for four to five hours. She's not buried in the 7 o'clock hour. The Leakin Park pings are meaningless. Jenn's testimony about calling and getting

someone in Leakin Park during the burial at 7:09 and 7:16--that's wrong. I mean, there's, there's nothing in the State's case that makes any sense given the objective medical evidence.

[57:06] Susan Simpson So, maybe the State did know about the livor mortis issue and that it was a problem. And there are some indications that they were aware of it. So why didn't the Medical Examiner talk about it during either her direct or her cross-examination at trial?

[57:19] Colin Miller Yeah, this is something that's interesting to me. So, we have the Medical Examiner in this case. She was involved in a prior case; the case was *Wiggins*. And in that case--was also a murder case and a body was found, and the lividity was completely fixed when the body was found. When contacted by the defense team, the same Medical Examiner in Adnan's case said, 'Well, the victim could have been killed as soon as four hours before the body was found.' She was thereafter corrected by her superior who said, no, that's not right. As we've said today, it takes at least eight hours for lividity to fix. And, in fact, this case was appealed all the way up to the Court of Appeals of Maryland, and on the exact same day the Medical Examiner performed the autopsy on Hae, the Court issued its opinion, and in its opinion it noted the incorrect testimony by the same Medical Examiner and noted the finding that lividity takes at least eight hours to fix. So, this is certainly something during the autopsy, the testimony, etc. This Medical Examiner knew full well that there's no way Hae would have had fixed frontal lividity if she was buried in Leakin Park four or five hours after her death on her right side.

[58:31] Susan Simpson And this is more of a subjective call, but reading the transcripts, it seems like she's trying awfully hard to avoid giving that answer. I don't know if you feel the same, but the way she answers Gutierrez's questions, she, she does so correctly, but she never gives the information that she easily could have that would have explained why the State's case can't be true.

[58:50] Colin Miller Yes, she's very equivocal, and a big part of the problem is Gutierrez doesn't pin her down. And we've talked about ineffective assistance in the context of not contacting Asia McClain. I think even more egregious here is Gutierrez's failure to properly cross-examine the Medical Examiner or, certainly, get her own medical examiner to look at this evidence because it's as clear as day. I mean, so, we, we've had all these people we've talked to. Every single person concludes there's no way Hae's body was buried in the 7 o'clock hour. It would have been 10:30 or later. The lividity doesn't match it; the State's case is bunk.

[59:25] Susan Simpson To me, the only question left is, whether or not Urick and Murphy knew this.

[59:29] Colin Miller Well, I mean, that's part of the problem, right? I mean, as I said in the introduction to the Medical Examiner, we don't have the photos of Hae in her burial position, and, in fact, the prosecution didn't turn these over to the defense. All they did was they allowed Gutierrez to go and observe them for a short period of time, but they refused to give her those photos to consider and possibly hand over to someone to look at more closely.

[59:55] Susan Simpson Eventually, they did. She had to write them several times. She wrote them and said, 'We want copies of the photos.' And each time they'd say, 'Nope, we don't have to give them to you.' And, she finally wrote back and said, 'Look, in every case I've ever handled or seen handled, the prosecution gives copies of photos to the defense. I don't know why you won't respond to my questions about seeing them; I don't know why you won't tell me when I can see them.' And at that point, eventually, Urick does say, 'Okay, look, here are two hours. You can come to my office and look at them then.'

So, she did get to see the photos, but she got to see them for two hours. She did not know at that time what the State's theory was for the burial time, and she didn't have copies go back and check later. And what I also find interesting is that two weeks after that, Urick writes to Gutierrez again, and he says, 'Oh, by the way, I just found that about a quarter of the photos of the crime scene weren't actually available for you when you came that day. If you want to come see them again, let me know.' And I have no idea if Gutierrez ever actually did that. So who knows what photos were left out during the initial examination?

[1:00:54] Colin Miller What we do know is the autopsy said she was buried on her right side. That should have been enough for Gutierrez to be able to either on cross-examination point out this clear inconsistency or have her own expert--given the amount of money she was paid--to come into court and clearly say, 'The State's case makes no sense. This is not at all how the murder or burial took place.'

[1:01:16] Susan Simpson You know, and it's possible the State realized this and realized someone's going to figure it out because Jay's changed his story again, and he now says the burial was closer to midnight, which is actually closer to the evidence.

[1:01:28] Rabia Chaudry He only said that this past December in *The Intercept* interview. And I thought about that a lot. I thought, wow, it's really, really odd to me that he would go and publicly talk about the fact that he lied in his statements and in two trials that Adnan buried Hae around 7:00 p.m. It makes no sense; it also completely destroys the utility of the cell phone stuff, which is what the State used to corroborate his story. So why would he do that?

I have a theory about this and that is this: that Jay's interview for *The Intercept* was set up by the same attorney that, uh, Urick retained for him 16 years ago, Anne Benaroya. Anne Benaroya is the one who contacted the reporter for *The Intercept* and arranged the interview. So, if I'm a lawyer and I have a client and I'm arranging an interview, you better be damn sure that I know exactly what my client's going to be saying. Now, this same reporter also got a [sic] interview with Urick, so I'm assuming some level of contact, communication, corroboration between these people. So, then if I'm Jay's lawyer, why am I telling him that it's okay to totally change your timeline? And I think what might have happened there is that somebody realized this, that the cell tower evidence is useless anyways at this point--and we'll explain in a future episode why--but what they have to deal with is medical evidence, which is irrefutable. And based on the medical

evidence, that burial couldn't have happened at 7. It's got to be moved to midnight. Somebody told Jay to say that, and he said it.

[1:02:55] Colin Miller Rabia, that's a fair point and I might agree with you, but--and this is, perhaps, the problem with anything when you're having a statement by Jay is that--even this new story doesn't match because in the new story the trunk pop is this closer to midnight, which means the body's presumably been in the trunk for several hours. That doesn't match lividity. And Jay also says that when Adnan arrives at his grandmother's house closer to midnight, he calls him on his cell phone and there's, there's no call that's, that's made to Jay at any point in that time frame, and so, yeah, I mean, it could be they're trying to match the lividity evidence, but there's sort of additional problems created by *The Intercept* interview.

[1:03:33] Susan Simpson Well, they couldn't have match it better. Given the state of the case at this point, there's no way Jay could have told a story that actually matched the evidence.

[1:03:39] Rabia Chaudry You know, a l--uh, somebody from law enforcement reached out to me a while ago to say that, you know, generally speaking, when a body is moved from one location to another, which is what it seems like happened here, um, it's done because, you know, the killer wants to make sure there's no association between the place that the person was killed and where the body's found because, obviously, the place where the person was killed is going to then tie the murder to the killer themselves. So, you know, I would assume that that means that wherever Hae was actually killed and then kept for eight to ten hours before she was buried had to have been somehow tied to the killer, you know, their home, their place of business, something that would implicate them.

[1:04:16] Colin Miller Obviously, the State's theory is wrong, and Jay's testimony and statements are wrong. Let's just try to break it down and say, okay, even if we're ignoring all of that, is there any way Adnan does this? Well, we know he went to track. He says it; Jay says it. The coach gives testimony and statements that are consistent with seeing him on the 13th. Is there any way that Adnan could have done this in a way that doesn't match up with the trial story?

[1:04:40] Susan Simpson I don't see it. I've tried to put it together, and I can't. The pieces will not fit.

[1:04:44] Colin Miller How does he get to track, right? I mean, he would have to, basically, get a ride, kill her, deposit her body somewhere, and then what?

[1:04:52] Susan Simpson And why would Jay lie about it all? If he actually knew how Hae had been killed, why not tell the cops, 'No, you got it wrong. Here's how it actually happened?'

[1:05:07] Rabia Chaudry Someone commented online that the closest we can come to Hae telling us what happened to her is her autopsy report, and what her autopsy report tells us is nothing like what the State or their star witness told Hae's family and alleged at trial. One thing

that I cannot stop wondering is how it's possible for seasoned detectives like Ritz and MacGillivray and a seasoned prosecutor like Urick to not notice some of the most obvious discrepancies here.

The police saw the position of Hae's body. They saw the lividity in her body firsthand, not through pictures. Now, given the hundreds of homicides they'd investigated, did they not see the difference in her position and the lividity? Did they not realize that she had to have been moved there after being face down somewhere else for at least eight hours? Did neither the police or prosecution ever question why the car was externally clean, despite having been through ice and snow storms, and why there was green grass underneath it and in the wheel well? Were they so focused on their prime suspect, Adnan, that they ignored these obvious conflicts between the story they offered and the evidence of the crime scenes and autopsy?

It may have been that they had a star witness and they needed to find a way to make his story work. So these discrepancies had to be ignored, and they had to have a way to corroborate his story. After all, they had nothing linking Adnan to the crime but Jay, right? Well, Jay and one more thing, the cell phone evidence. Next time on *Undisclosed*.

[1:06:31] Many thanks to Ramiro Marquez for our theme music and photography, to Christie Williams for creating our website, and to Ballookey, who designed our logo. Our production consultant is Rebecca Lavoie, a true crime author and host of the podcast *Crime Writers on Serial*. Dennis Robinson is our producer. You can follow us on social media on Facebook and Twitter. Our Twitter handle is [@Undisclosedpod](https://twitter.com/Undisclosedpod). Please tweet us your questions and comments using the hashtag #Undisclosed.

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