

UNDISCLOSED, The State v. Joseph Webster
Episode 1 - Cain and Abel?
July 29th, 2019

Colin Miller: It's one of the most famous stories in history: the story of Cain and Abel. Taking up a mere 16 verses in the book of Genesis, the story tells of the sons of Adam and Eve: Cain, who becomes a farmer, and Abel, who becomes a shepherd. And then, as the Nat Geo special, "Cain and Abel: Brothers at War" explains:

National Geographic Narrator:

Both brothers, trying to please God by giving him thanks and offering him sacrifices. These are the first ritual sacrifices ever recorded in the Bible, as each brother makes his offering according to his own livelihood. The Bible tells us that Cain reaches out to God by offering him a sacrifice from his crops. And Abel offers God a sacrifice from his herd, his firstborn lamb. God accepts Abel's offering, but he rejects Cain's for no apparent reason.

As anyone who has heard this story knows, Cain does not take this rejection well:

National Geographic Narrator:

Cain becomes angry and jealous of his more successful brother, and lashes out. And when they were in the field, Cain rose up against his brother Abel...
And killed him.

The story of Cain and Abel is not unique: conflicts between brothers can be seen everywhere in world mythology. This new arc of Undisclosed takes on a modern twist on this historical conflict. Simply put, there is strong reason to believe that Joseph Webster has been in prison for the past decade and a half for a murder that was actually committed by his half-brother Kenny Neal. And, unlike with other series of Undisclosed, where the arc of justice has dragged on for years, due to an unexpected and unprecedented chain of events, we should know whether Joseph Webster will be a free man in a matter of months.

[2:59] Rabia Chaudry: Hi and welcome to Undisclosed. This is *The State vs. Joseph Webster*. This is the first episode in a three episode arc about a 1998 murder in Nashville, Tennessee. My name Rabia Chaudry. I'm an attorney and author of the New

York Times bestseller, *Adnan's Story*. As always, I'm joined by my co-hosts, Susan Simpson and Colin Miller.

Susan Simpson: Hi, this is Susan Simpson. I'm an attorney in Washington DC, and I blog at [TheViewFromLL2](#).

Colin Miller: Hi, this is Colin Miller. I'm an associate dean and professor at the University of South Carolina School Of Law and I blog at [EvidenceProfBlog](#).

Rabia Chaudry: When someone mentions Nashville, Tennessee, one thing likely jumps to mind:

Dixie Chicks' *Goodbye Earl*:

*She held Wanda's hand as they worked out a plan
And it didn't take 'em long to decide
That Earl had to die ...*

That's right: Nashville is the country music capital of the world. But there are other sides of Nashville. One of them is "Cashville," a name that derives from Young Buck's debut album, "Straight Outta Cashville," about slinging dope and gun violence on the mean streets of Nashville:

Young Buck's *Do It Like Me*:

*All my thugs and thugets
Walk where I walk, see what I see
Now I welcome you all to Cashville, Tennessee.
All my life, I hustle'd all night
Now I'm alright, my wrist is all ice ...*

The murder of Leroy Owens occurred when Young Buck was himself a young buck, back in 1998. In early November of that year, a guy named Robert Nicholas, who went by the street name "Big Nick" wanted some drugs. His friend, Leroy Owens, who went by "Little Nick," told "Big Nick" that he could get some drugs from people he referred to as his "cousins." Little Nick then set up a drug deal at an apartment rented by his friend, Tammy Nelson. But when the cousins came to Nelson's place, they told "Little Nick" that he still owed them money from a prior drug deal. Despite that prior debt, the cousins allowed the Nicks to pool their money to buy some new drugs, with Little Nick having the plan to dilute the dope and sell it at a profit to pay off his debt.

[4:58] Susan Simson: But then... things went sideways. It's not entirely clear what happened. One theory is that Big Nick screwed over Little Nick. In any event, Leroy Owens was NOT able to pay off his drug debt. As you might imagine, this made the cousins angry. According to Tammy Nelson, one or both of the Nicks came by about 5-6 times in the ensuing three weeks, looking for Leroy Owens, including at least one time they came by when they were in a vehicle that looked like a green Ford Explorer.

Then on the morning of November 22, 1998, Tammy Nelson paged one of the cousins to let him know that Leroy Owens was at her place. At around 11:00 a.m., the cousins showed up, and a physical altercation ensued, with Tammy Nelson saying that one of the men started hitting Leroy with a stick. Leroy then jolted out of the apartment, running out of his shoes as he ran down the street, the two men left the apartment and started driving after him in a white station wagon.

In this clip from the *Ferrier Files*, Dennis Ferrier picks up the action a couple of blocks away:

Dennis Ferrier:

November 1998, downtown Nashville, Leroy Owens is running down the street, a white station wagon pulls up, a man jumps out, tackles Owens, and beats him to death with a cinderblock. Caves his head in. One witness said the blood covered the ground like paint. But that witness didn't see a face.

Colin Miller: That witness was Fred Thomas McClain, a concrete worker who was building steps for a barbecue restaurant at the corner of Green Street & Charles E. Davis Boulevard in south Nashville. According to McClain, between 11:20 and 11:20 a.m., while he was building the steps, he saw two men jump out of a white station wagon and bum rush a guy who was running away from them. One of the pursuers actually ran into McClain, knocking his head against the serve-out window of the barbecue joint. Eventually, the bigger of the pursuers tackled the man, started hitting him in the head with an 8 inch cinder block, and asking, "Where's my money? Where's my goddamn money?" The two men then drove off in the white station wagon, and a 911 call was placed at about 11:30am, with police arriving about 5 minutes later.

One of the first officers to arrive was Sergeant Todd Henderson, who was told, quote "that a person named Todd, living at 113 Claiborne Street, he wanted to remain anonymous but did want to speak to the police." Sergeant Henderson relayed this information to Detective Brad Corcoran, who went to 113 Claiborne, which was between Tammy Nelson's place and the crime scene. Upon arriving, Detective Corcoran saw

Delun Patrick Hyde, who went by Todd, sitting on his car, crying. According to Todd, while he was cleaning his place, he saw Leroy Owens run up with one shoe off and bruises under his eye, asking if he could use his phone. Todd told him that he didn't want to be a part of whatever was going on, and Owens responded by asking if he could see a white car. Todd responded that he couldn't, and Owens started running toward Green Street, whereupon Todd did see a white gremlin station wagon racing after him.

Like Fred McClain, Todd saw two African-American men in the station wagon, and, like McClain, Todd couldn't identify either of them. But he did give Detective Corcoran one vital piece of information: He had seen the same white station wagon the night before, parked at the bottom of Lewis Street, about five to six blocks away.

[8:09] Rabia Chaudry Later, at about 7:00 or 8:00pm, Detective Corcoran and Detective Pat Postiglione went to the address described by Todd: 1245 Lewis Street. The house was owned by the grandmother of Katrina Norman and Shawanna Norman, who both stayed there with her. About six months earlier, the Gwyneth Paltrow movie *Sliding Doors* had premiered:

Narrator:

(Music) Have you ever wondered what might have been? (sound effects). Would things be different if you caught the drink instead of missing it? How much would your life change if you were ten minutes early? (Woman: Hello? ... <sound effects>) Instead of ten minutes late? (Man: Helen? Woman: If I had just caught that train I could have been home ages ago...)

The movie has led to the creation of the term "sliding doors moment," a variation on the butterfly effect about how seemingly minor moments can have a major effect on the rest of the person's life. For Joseph Webster, the detectives arrival at the Norman residence was a "sliding door moment" based on the fact that Katrina and not her sister Shawanna opened the front door.

After Katrina answered the door, the detectives asked her about the white station wagon, and she responded that she knew who owned it but refused to identify him. But while Katrina wasn't volunteering the information that they needed, the men were able to use some detective-work to tie things together. Here's Shawanna Norman, who overheard the detectives' conversation with her sister Katrina from inside the house:

Investigator:

Were you there at the house when they-

Shawanna Norman:

I was in the living room, they talked to her right at the front door. That's why I said they never even-

Investigator:

Did they come in and sit down and talk to her?

Shawanna Norman:

Mm-mm. They talked at the front door.

Investigator:

Did they take her to the station?

Shawanna Norman:

No.

Investigator:

No. How long did they stay with her?

Shawanna Norman:

Uh, it was a brief interaction. That's why I was like... and I think when they saw the tattoo on her neck, that's how they got Joseph in the crosshairs or whatever-

Investigator:

'Cause she had his name tattooed on her?

Shawanna Norman:

Yeah, she had his name tattooed on her neck. And they found out, I think they said in court she got a ticket in a car that was registered to Joseph Webster.

As Shawanna notes, her sister Katrina, who was Joseph Webster's girlfriend and later his wife, had Joseph's name tattooed on her throat, and she had gotten a ticket in his car, which, in case you were wondering, was not a white station wagon or a green Ford Explorer. This allowed the detectives to create a photo array with Joseph Webster's photo and the pictures of five other men, that they showed to Tammy Nelson the next day. Nelson picked out Joseph's pictures and said he was one of the quote "cousins"

who had sold Leroy Owens the dope. Later that day, the detectives would visit Joseph Webster's mother and get his contact information. And later that night, Joseph had a phone call with Detective Postiglione and denied being involved with the murder and denied knowing anything about a white station wagon. This call took place on the evening of November 23, 1998.

The year 1998 ended without Joseph being arrested for the murder. So did 1999. And 2000. And 2001 through 2004. Here's Julietta Martinelli reporting on Joseph's case for WPLN:

Julietta Martinelli:

The murder remained a cold case for 7 years, until Webster came up for parole in a drug sentence he had been serving. The District Attorney's office accused him of the murder.

[12:54] Susan Simpson: As Martinelli notes, in 2005, when Joseph was up for parole on an unrelated drug charge, he was finally arrested for the murder of Leroy Owens and indicted by a grand jury on June 10, 2005. His trial would then take place in late February and early March of 2006.

The State's case had only three real pieces to it. The first was Tammy Nelson's identification of Joseph Webster as one of the quote "cousins" who had sold Leroy Owens the dope. Second, there was Todd's statement about seeing the white station wagon outside on Lewis Street the night before, and third, there was the fact that Joseph's girlfriend had stayed at the house at Lewis Street with her grandmother. That's right. It's not that the police had some breakthrough or discovered new evidence in the intervening seven years. The case they presented to the jury was the same case they had developed on the same day after the murder.

And...it worked. The jury found Joseph Webster guilty and sentenced him to life in prison. But then, things took an interesting turn as four people came forward claiming that Joseph was innocent of the murder and that someone else had confessed to the crime: Joseph's half-brother Kenny Neal.

One of those people is Marie Burns, the mother of both Joseph Webster and Kenny Neal. Here's another clip from the *Ferrier Files*:

Dennis Ferrier:

Marie Burns is Joseph Webster's mother. You would expect her to say her son is innocent, but there's more to this. Marie Burns has another son, Kenny Neal. Kenny and Joseph are half brothers. And Marie will tell you, her son Joseph isn't a killer, because her son Kenny admitted he killed Leroy Owens.

Marie Burns:

My child came to me ... we was on the porch talkin'. Not one time, two or three times. He keeps sayin' that, they can't say Joseph or him. But they did. They did.

Marie Burns would submit an affidavit in support of her son's motion for a new trial. In pertinent part, it stated:

“My son, Kenneth Neal, told me that he committed this murder, but not to worry about it, as he had taken care of the problem and he felt that they could not prove that Joseph committed any murder. He also told me that him and Phillip Cotton had taken the white station wagon to the country to be destroyed.”³³

A second person who claimed that Kenny Neal confessed was Katrina Webster, and you might understandably discount her statement given that she was married to Joseph. But a third person is more neutral and a tougher witness to discount. That's Arthur Gordon, the brother of both Joseph Webster and Kenny Neal. Like his mother, Arthur Gordon submitted an affidavit, which stated in pertinent part:

“My brother, Kenneth Neal, talked to me about the murder in this case, a short time after the incident actually happened.

Kenneth Neal admitted to me that he killed a man by hitting him with a brick. He told me this at his house, which at that time was off of Murfreesboro Road on Plus Park Blvd. It turns out that this is only a matter of minutes from where the crime took place.

He told me this after I had inquired about where his white station wagon had been. He then told me that he got rid of his white station wagon somewhere out of town.

He also stated that he did not intend to kill the man.”³⁴

[16:06] The fourth person to implicate Kenny Neal was Tammy Nelson, the person who had picked Joseph Webster out of a photo array in the first place. Nelson actually recanted her identification of Joseph Webster three separate times, but she gave different reasons in her three recantations and gave inconsistent post-trial testimony in which she contradicted herself on key points and walked back parts of her recantations. But there is one important point of consistency between one of these recantations and Nelson’s post-trial testimony. In a statement dated January 21, 2009, Nelson stated the following:

Dennis Ferrier:

Tammy Nelson’s recanted testimony states, quote, “I was mistaken and identified Joseph Webster as his brother Kenny Neal in court, and it’s been weighing heavily on my heart, to where I’ve been put on medication for stress and terrible dreams.

Later, at a post-trial hearing, Nelson would testify that

“The reason, I saw a picture of—a picture of another person, his brother. And I was like – you know, when I saw the picture, I just broke down crying because I thought all these years, and then about me being in my right mind and not on the drugs like I used to be on that had me all confused. And I know now that it wasn’t – it wasn’t Joseph.”⁷²

[17:20] Colin Miller: None of it mattered. Joseph’s motion for a new trial was denied. The first three witnesses were dismissed because Kenny had apparently confessed to them *before* trial, meaning that the confessions were not *new* evidence but instead *old* evidence that the witnesses apparently didn’t report because they thought there was no way that Joseph would ever be convicted. And, as for Tammy Nelson, the judge ruled that her contradictory post-trial statements and testimony rendered her recantations unreliable, a fact that caused Marie Burns particular chagrin. Again, here’s Julieta Martinelli:

Julieta Martinelli:

Burns, Webster’s mother, says the woman showed up at her house one day.

Marie Burns:

She said, Ms. Marie, I am so sorry that I said Joseph was the one that did it.

Julieta Martinelli:

But when questioned in court, the woman always walked it back. A judge finally dismissed her as unreliable.

Marie Burns

Okay, but you took her word the first time, and sent my son away. What make you think her word was good then?

[20:39] Colin Miller: Frankly, it’s tough to quibble with either the judge or Marie Burns. Tammy Nelson does come off as terribly unreliable in her post-trial recantations, but she also comes off as terribly unreliable in her trial testimony. So, given that she was the only witness implicating Joseph Webster in the murder, where does that leave him? Well, in Tennessee and most other states, that leaves Joseph Webster in prison.

Rabia Chaudry: But what's interesting are how certain aspects of Tammy Nelson's story are consistent with Kenny Neal committing the crime with Phillip Cotton, who Marie Burns mentioned in her post-trial affidavit.

Let's start with Tammy Nelson's initial police statement about the perpetrators. Nelson said that one of the men who sold drugs to Leroy Owens had something wrong with one of his eyes, like glass or plastic on one of his eyes, with one of his eyes "going up." This doesn't describe Joseph Webster, whose eyes are normal, but it does describe Phillip Cotton, who was a friend and associate of Kenny Neal but not his half-brother Joseph Webster. Again, here's Shawanna Norman:

Investigator:

Phil Cotton, who was he messin' with?

Shawanna Norman:

Nobody. Nobody. His eye was messed up, you know what I'm saying, we were young and superficial and stuff, so he was, he was (laughs), and he was like the gopher for Kenny, he wasn't like the main person. Kenny was the one that had the money-

Investigator:

He was in charge?

Shawanna Norman:

Yeah.

And remember how Tammy Nelson had said that, before the day of the murder, one of the men had driven in a vehicle that looked like a green Ford Explorer, looking for Leroy Owens. According to Shawanna Norman, Kenny Neal would drive just such a car:

Shawanna Norman:

He had an explorer.

Investigator:

What color was it?

Shawanna Norman:

I think the Explorer was green.

Now, there's no record of Kenny Neal owning a green Ford Explorer. But Shawanna Norman has an explanation for that:

Shawanna Norman:

Kenny used to use this man's identity, this man would go-

Investigator:

What was this man's name?

Shawanna Norman:

I think it was James McLin-

Investigator:

James McLin?

Shawanna Norman:

I think he would use them names to go and get cars and stuff... or he would use the man, the man would go get the car

Investigator:

Did James McLin know?

Shawanna Norman:

Yeah, he knew Kenny was gettin' them cars, he would go with them to get the cars, yeah.

And there's corroboration for this claim. If you go to the Felony Offender Information page of the Tennessee government, "James McLin" is listed as an alias for Kenny Neal. But that's not all. Vehicle registration records show that a 1996 green Ford Explorer was registered to James McLin from February 1998 until February 1999, which includes the date of the murder on November 22, 1998.

So, all of this probably prompts a couple of questions. First, how did Shawanna Norman play into Joseph Webster's motion for a new trial? And the answer is: not at all. As noted, when detectives came to 1245 Lewis Street, it was Shawanna's sister Katrina who answered the door. The police didn't talk to Shawanna that day, and, to the shock of Joseph's investigator:

Investigator:

When they were there talking to Katrina, did they see you? The police?

Shawanna Norman:

I don't know.

Investigator:

But they didn't talk to you.

Shawanna Norman:

No, they didn't talk to me. I have never spoken to the police about this case at all.

Investigator:

Wow.

Shawanna Norman:

Never.

Investigator:

So they didn't have your information, and when you took the stand, you took the stand on behalf of the defense, on Joseph's part, so Joseph's attorney called you to the stand?

Shawanna Norman:

No.

Investigator:

Who called you to the stand?

Shawanna Norman:

Nobody.

Investigator:

Did you ever take the stand?

Shawanna Norman:

No.

Investigator:

You never testified?

Shawanna Norman:

No.

Investigator:

Okay.

Susan Simpson: A second question might be how Shawanna Norman is connected to this case. At various times, she had gone out with all three of Marie Burns's sons:

Shawanna Norman:

That's it. But you know the person who would know more might be their other brother Arthur.

Investigator:

Is he still alive?

Shawanna Norman:

Yes. And don't judge me, but I've messed with all of them. I messed with Kenny's ... (laughs)

Investigator:

(laughs) I ain't never judge you.

At the time of the murder, though, it was Kenny Norman that she was messing with:

Investigator:

What was your relationship with him? Were you involved with him romantically?

Shawanna Norman:

Yeah, I was sleepin' with Kenny (laughs). Kenny was married too, I was associates with his wife also (laughs).

And this is where we start to enter "Sliding Doors" territory because you might imagine very different outcomes for Joseph Webster and Kenny Neal if it had been Shawanna Norman, and not her sister Katrina, that had opened the door when the detectives came

calling. Let's start with the vehicle that Kenny Neal would drive over to 1245 Lewis Street to visit her:

Investigator:

1245 Lewis, down [undecipherable].

Shawanna Norman:

Yes.

Investigator:

Been down there a time or two.

Shawanna Norman:

We still have the house.

Investigator:

Do you?

Shawanna Norman:

Yes, I rent it out now.

Investigator:

Okay, so you still own it.

Shawanna Norman:

Yes.

Investigator:

Did Mr. Neal ever come and visit you there?

Shawanna Norman:

Yes, yes.

Investigator:

Is that usually where y'all met?

Shawanna Norman:

Yes.

Investigator:

You remember what kind of car Mr. Neal would have when he would come to visit you?

Shawanna Norman:

During the time when I was messed up with Kenny, Kenny had like 3 cars. He had the white station wagon with the tinted windows, he had, I think it was a-

Investigator:

Do you remember anything else about the station wagon, you said it was white and had tinted windows... any kind of wheels?

Shawanna Norman:

Yeah, yeah it had rims on it.

Investigator:

Okay, and that was his car?

Shawanna Norman:

Yes.

According to Norman, one of the days that Kenny drove the white station wagon to 1245 Lewis was likely the day of the murder, when Kenny told her about running down and attacking a man with a brick:

Shawanna Norman:

Kenny had told me that he had beat the shit out of a (inaudible) with a brick.

Investigator:

Kenny Neal told you that?

Shawanna Norman:

Yeah. But, and he said he had to chase him down, I didn't put 2 and 2 together because you know, we was young, we was havin' fun and stuff, we weren't watching the news and stuff, didn't know what was going on and stuff. He never told me that he killed the boy, you know what I'm saying?

Investigator:

Right.

Shawanna Norman:

He told me that he had to beat the shit out of (inaudible), he had to chase him down and beat the shit out of him with a brick.

Investigator:

Do you ... was the night, or the day of this murder, was that the day that he told you he chased the man?

Shawanna Norman:

I'm assuming it was, 'cause he was down to my grandmother's house with that white car and then I think he decided, I'm thinkin' it was that same night that he decided, I'm gonna give [undecipherable] to Joseph, so he left the station wagon down there.

Plus, Shawanna Norman gives an explanation for how Kenny disposed of the station wagon that lines up with the affidavit that was written later by Marie Burns:

Shawanna Norman:

They took it to, I think his name was Phil, he had a messed up eye, they took it to Phil's family's property in the country and burned it up, I do know that.

This idea that Kenny and Phil were the two men involved in the murder and the dumping of the station wagon also lined up with parts of Shawanna Norman's story:

Investigator:

Do you know who might have been with Kenny when this murder took place, when he beat this boy with a brick?

Shawanna Norman:

Phil.

Investigator:

Phillip?

Shawanna Norman:

Yeah, Phil. Because when he had told me he chased the dude down and beat the shit out of him with a brick, Phil was with him when he came to my granny house.

And while it's unrelated to the murder of Leroy Owens, there's a final part of Shawanna Norman's story that might lend credence to the idea that Kenny Neal would murder someone over a drug deal gone wrong:

Shawanna Norman:

Kenny had a Maxima, he killed a man in a Maxima. This has nothing to do with this, but he killed a man in the back seat of a Maxima-

Investigator:

Kenny Neal did?

Shawanna Norman:

Yeah.

Investigator:

Did he get arrested for that?

Shawanna Norman:

No. They were in Atlanta, when he drove back from Atlanta he came back to my granny house-

Investigator:

How do you know he killed somebody in Atlanta?

Shawanna Norman:

Because he told me.

Investigator:

He told you?

Shawanna Norman:

He said they went down to Atlanta, the guy from up here had set him up with somebody down in Atlanta to do a drug deal, and when they got to the meetin' spot or whatever, the guy that they were supposed to be doing the deal with robbed him, and he said he didn't have a chance to get to his gun, so the guy that had hooked it all up was on the backseat and he said he told him that he didn't know they were going to rob him, and he [undecipherable], and that means

shot him in the head. So when he got to my grandmother's house, the backseat was full of blood, that Maxima.

Investigator:

You saw it?

Shawanna Norman:

Yeah, yeah.

[29:18] Colin Miller: We were able to obtain the files for an unsolved murder out of Atlanta that fits the timing and description of the killing described by Shawanna Norman, and it presents the possibility that solving the Leroy Owens murder might help authorities solve another murder as well. So, why didn't Shawanna Norman come forward with any of this information at the time of trial? Well, the reason she gives is similar to the reason given by Joseph's family members:

Investigator:

Did you go for it?

Shawanna Norman:

Mm-hmm. I was there for the entire trial.

Investigator:

You testified?

Shawanna Norman:

No.

Investigator:

They never called ...?

Shawanna Norman:

We thought ... first of all, we thought ... this is what we figured, we figured there was no way in hell they could find Joseph guilty because we know for a fact he didn't do it.

Investigator:

So they rolled the dice on that and it didn't turn up?

But, according to Shawanna Norman, there's also another reason that she didn't want to come forward with information in this case:

Shawanna Norman:

And like, when I heard that Postiglione was the one that was the lead investigator, or detective, on Joseph's case, I told Joseph, I was like, " I don't know if things are gonna go your way," because Postiglione was the detective on our case. Me and my sister were both victims of a crime that was committed by Abu-Ali Rahman. He's on death row at Riverbend. Postiglione was shady during that ... and I was a kid and I remember this, and my mom was like, " He was the worst detective ever. He wanted me to do ... he wanted me to tell lies on the stand and everything." That came from my Mama, and she was the one that was actually assaulted. She was stabbed in the back. When they left her house, they left a butcher knife in her back and stuff. She said that they wanted her to lie on the stand, and everything else, just to convict this man.

While we don't know whether Detective Postiglione did pressure Norman's mother to lie in the Abu-Ali Abdur Rahman case, we do know that she is now willing to come forward and use what she says she knows to help prove Joseph's innocence:

Shawanna Norman:

I mean, I pray about it. But praying about it knowing the stuff that I know, 'cause now if somebody were to do something to my son, I feel bad for the fact that I would want them to come forward. If they knew something, to come forward ...

Investigator:

Right.

Shawanna Norman:

But then back then, we weren't thinking about that. We was thinking about old Kenny would do something to us, too, so ...

[31:02] Rabia Chaudry: What we also know is that, if it turns out that Kenny Neal murdered Leroy Owens, Joseph Webster wouldn't be the first man convicted for a 1998 crime that was actually committed by his brother. On January 11, 1998, Kian Khatibi was at Lock, Stock, and Barrell, a bar in Pleasantville, New York.

Kian Khatibi:

Yeah, so that night involved an altercation inside of a bar, it's a local town, about 5,000 people. I grew up there and my family as well. It was January, it was about midnight, a bunch of folks from college, back from school and whatever, ya know, it was about mid January, and there was a little altercation. Some guys had some beer muscles, some football players from another village, had some beer muscles inside -- they're pushing people around. Then, I was ejected and then I went home. Then later, maybe an hour or something like that -- I didn't go home, actually, I went to the store, but within the hour, these guys with the beer muscles, these two guys came out and there was a big pushing, fighting match and I got close to it, but I left to go to the train station. I didn't want to be a piece of it. And eventually one of the men was stabbed.

But while Kian had left well before the stabbing, he somehow found himself charged and eventually convicted of assault and possession of a weapon. We can then fast forward to November 2007 and interesting conversation around the Khatibi dinner table:

Colin Miller:

Yeah, well, my understanding is that your brother's confession all stems from a family dinner where your father had commented about feeling bad that you weren't there, right? What have you, sort of, heard about how that all transpired?

Kian Khatibi:

No, I mean that's correct. It was around Thanksgiving and it just was a spur of the moment, sentimental statement that was made, and family members heard it and I asked them to put that down on paper, and those were the statements that were attached to the collateral.

Specifically, after Kian's father commented about his son's absence, Kian's brother began weeping and admitted that he had committed the stabbing. And while the brother later pleaded the Fifth at a hearing on Kian's motion to vacate his convictions, the testimony of his family members about his confession was enough to exonerate Kian.

In no small part due to his experience, Kian later became an attorney, and, coincidentally, as Colin called him, he was catching a ride to meet with the head of the newly formed Tennessee Innocence Project:

Kian Khatibi:

I'm also going right now to [undecipherable] Innocence Project in New York, and out of all curious things, why you chose to call me at this moment, I'm hopping in an Uber and I'm going over there to meet with the head of the newly formed Innocence Project for Tennessee. He's in New York today. So, with that said, it just seems like things somehow lined up pretty interesting here.

And, as Kian explains, the scenario of someone being convicted for his brother's crime isn't as unusual as it might seem:

Kian Khatibi:

Sometimes I find that the biggest hurdle is that courts just need a little catalyst, a little inspiration, to make sure that they're not doing the wrong thing. And I have in other cases, where there's been siblings and claims of innocence, I have detailed letters explaining that I was in the same situation; that it was not easy to make this determination to the courts, but they did do it. They did do it, and look at me now! It was the right decision.

So, is Joseph Webster's case one of those cases in which a man has been convicted for his brother's crime, and the powers that be just need that catalyst to take them from the status quo to an exoneration? Well, what if it turned out that there were other eyewitnesses to the murder that were never disclosed to the defense? And what if there were other reasons to doubt Tammy Nelson's identification of Joseph Webster? Next time...on Undisclosed.

[36:36] Rabia Chaudry: A big thank you to everybody who makes Undisclosed possible. Thank you to our sponsors who help us put on our episodes week after week. Thank you to Mital Telhan, our executive producer, for helping keep this ship afloat. Thank you to Rebecca LaVoie, our fantastic audio producer, and also the co-host and producer of a couple of my favorite podcasts, including Crime Writers On, do not miss her podcast. Thank you to Baluki for our logo, to Christie for maintaining our website. Also a big thank you to our listeners, thanks for coming back week after week. Check us out and make sure to follow us online on Twitter, Instagram, and Facebook. Our handle is @Undisclosedpod. And, please, do not forget, subscribe to us on iTunes and rate us. Thanks so much, see you in a week.