

UNDISCLOSED, the State v. Pamela Lanier
Episode 1 - Doctrine of Chances
April 23, 2018

[0:22] Colin Miller: There's a famous formulation in the law known as Blackstone's Formulation. It comes from 18th Century English Jurist William Blackstone, who wrote that "It is better that ten guilty persons escape than that one innocent suffer." The question is whether we've created a criminal justice system that gives life to Blackstone's Formulation. According to Bryan Stevenson of the Equal Justice Initiative, the answer is "no."

[0:43] Bryan Stevenson

I mean, it's fascinating. The death penalty in America is defined by error. For every nine people who have been executed, we've actually identified one innocent person who has been exonerated and released from death row. A kind of astonishing error rate, one out of nine people innocent. I mean, it's fascinating, in, in aviation we would never let people fly on airplanes if for every nine planes that took off one would crash. But somehow we can insulate ourselves from this problem. It's not our problem. It's not our burden. It's not our struggle.

Colin Miller: Out of all the evidentiary doctrines that we have, there's one that stands out as being diametrically opposed to Blackstone's Formulation, and you can get a pretty good sense of it from a comment by Bruce Willis's John McClane in the movie *Die Hard 2*:

Bruce Willis:

Man, I can't fuckin' believe this. Another basement, another elevator, how can the same shit happen to the same guy twice?

Colin Miller: How can the same thing happen to the same guy twice? That's the gist of the doctrine of chances, in which jurors are asked whether bad luck is actually bad faith. It's the evidentiary doctrine at the heart of a trial that took place in North Carolina in 2001, but with two key differences. First, jurors were asked, "How can the same thing happen to the same woman twice?" And, second, it wasn't really the same thing at all.

[1:57] Rabia Chaudry: Hi and welcome to Undisclosed, the State vs. Pamela Lanier. This is the first in the series of 4 episodes about the case of Pam Lanier, who was convicted of the 1997 murder of her husband Dorian in Chinquapin, North Carolina. My

name is Rabia Chaudry, I'm an attorney and author of Adnan's Story and I'm here with my colleagues Susan Simpson and Colin Miller.

Susan Simpson Hi, I'm Susan Simpson and I'm an attorney in Washington D.C. and I blog at TheViewFromLL2.com.

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.

[2:34] Rabia Chaudry: Chinquapin is a small farming community adjacent to the Northeast Cape Fear River in Duplin County, North Carolina. Many of its residents have the last names Lanier and Hatcher, including several people involved in this case. On November 19, 1997, Dorian Lanier, a turkey farmer, had a seizure. The husband and wife EMT team of Harold and Pam Hatcher arrived and took Dorian to the hospital at 6:25 P.M. At 10:57 P.M. that night, Dorian was pronounced dead.

Before he died, Dorian told several witnesses, including Pam Hatcher, the same thing:

Pam Hatcher:

And I said make sure you tell the doc-- well he says I've got a sore on my hip, and he started to show it, and I was like no no no, just show the doctor, tell the doctor everything Pam's been tellin' me, then she came back in, and he said "If it wasn't for her, I would not be here tonight." He said "I did this to myself, but I'm gonna get better."

[3:29] Rabia Chaudry: In the first week of September 1997, Dorian had been injured in a bulldozer accident, and his wife Pam had been his primary caretaker for the last two-and-a-half months of his life. Dorian's deathbed statement seems to reflect three things: (1) he wouldn't have made it this far without his wife; (2) he had been self-medicating; and (3) through that self-medicating, he had done this to himself.

On the day of his death, Dorian's skin was yellow. The day after Dorian died, Dr. Charles Garrett performed an autopsy on him and determined that his body was yellow on the inside as well. The cause of death? Chronic and acute arsenic poisoning. For authorities, this set off alarm bells because there were two infamous cases of women killing men through arsenic poisoning in recent North Carolina history.

[4:23] Susan Simpson: In 1978, Rowland Stuart Turner died, and elevated levels of arsenic were found in his system. Suspicion soon fell on his caretaker, Velma Barfield.

Later, the case was covered on CNN's Death Row Stories, and here's an excerpt from that episode:

[4:38] Narrator:

The curious prosecutor began investigating. He decided to check the death certificates of all the people who had died in Velma's care. He found a pattern.

Prosecutor:

It was like a suit of cards... Acute gastroenteritis, acute gastroenteritis, acute gastroenteritis, gastroenteritis, and gastroenteritis!

[5:02] Susan Simpson: So, they exhumed the body of Velma's deceased husband Jennings Barfield. Testing then revealed elevated levels of arsenic. Velma was convicted of murdering Rowland Turner and later she became the first North Carolinian executed since the death penalty had been reinstated in the Tar Heel state back in 1977.

About a decade after that, Reverend Dwight Moore became violently ill after eating a fast food fried chicken sandwich, which was given to him by his wife Blanche Taylor Moore. After going to the hospital, it was determined that he had received 20 times a lethal dose of arsenic in his system, which was the highest the hospital had ever seen. Blanche had previously dated a man named Raymond Reid, who had also died under odd and suspicious circumstances. Here's a clip from another show, this time *Deadly Women*, talking about the Blanche Taylor Moore case:

[5:50] Narrator:

Blanche would be charged with assault and police probed further, exhuming the body of Raymond Reid. The chief medical examiner in North Carolina, John Butts, MD, exposed one of the state's most audacious murders.

John Butts, M. D.

This is graphing of the quantities of arsenic found in Mr. Reed's hair, and this tells us that initial illness was arsenic poisoning, and it also tells us that he continued to receive arsenic while he was in the hospital.

[6:23] Susan Simpson: So, after the determination was made that Dorian Lanier died from arsenic poisoning, Dr. Butts was called in to consult on the case. It turned out that Pam had a prior husband who had also died under circumstances that could be

classified as suspicious. In 1989, Pam had married Johnny Ray Williams, and the two lived in Surf City, a beach community over on Topsail Island, which is a 26 mile barrier island in southeastern North Carolina. Topsail is a narrow island with the Atlantic Ocean to the east and the intracoastal waterway on the other side to the west. And Pam and Johnny Ray had a trailer on the western canal side, with a dock jutting into the intracoastal waterway in their backyard. From all appearances, Pam and Johnny Ray had a loving relationship. Wake Forest law student Natalie Wilson talked to Pam's niece April Everett, and here's what she had to say about the relationship between Pam and Johnny Ray.

[7:23] April Everett:

The always seemed happy. I mean, he drank a lot, I do remember that. Crown, 7&7 or something like that. [Yeah] I always remembered that. But I don't remember, I mean I remember, they seemed happy too. Those were the two, I believe Pam loved them both. I think she, she was completely in love with Johnny. And then when Dorian came along, she loved him, and I think she grew to love him as much, or if not more than Johnny, but you know at first I did not think she was ever going to get over Johnny.

Natalie Wilson:

Really.

April Everett:

Yeah

[8:00] And here's Pam's own description of her relationship with Johnny Ray

Pam Lanier:

Me and Johnny got along great. If I ever had a soulmate in my life, it was Johnny.

Colin Miller:

And what makes you say that..

Pam Lanier:

Because I loved him so unconditionally, he was perfect. I, well, I kind of call him perfect, quit laughin'. He was! He was just really, he was perfect. No matter if he had drinks or not drinks, he was the same person all the time. And if I wanted to do somethin', and he had this thing, if she wants to go out, we go out together, or if I want to go out, we go out together. She don't care what I do and I don't care

what she does, but if we're going out to a place that people might talk, we go as a couple, so they *won't* talk. I mean he just kind of covered all the tracks, you know, and made sure, and we just had an easy laid back goin' relationship.

[11:09] Colin Miller: On August 20, 1991, Johnny Ray was admitted to the hospital. According to his medical records, “[o]n exam, he is confused and/or aphasic. I tend to think the latter. He finally got his name. He first gave his age correctly as 37, changed it to 36. He couldn't get the date of birth.” Dr. David Bachman diagnosed Johnny Ray with febrile (fee-bril) illness, or a fever of an uncertain cause. Johnny Ray was treated and discharged.

He had a follow-up visit two weeks later on September 4, 1991 at 2:20 P.M. According to Dr. Bachman, “[Johnny Ray] is seen emergently because his BPs (or blood pressures) are sky high. He has no further confusion. He has cut his smoking in half down to one half pack per day. He has a lot of shakiness and tremors, probably due to cutting down on the alcohol and cigarettes.” Johnny Ray was discharged later that day with a prescription for Tenormin for his blood pressure and Ativan for his shakiness.

According to Pam, throughout the day, Johnny Ray took Tenormin for his blood pressure and five Ativan pills and some Benadryl for his shakiness. She also said that he drank about a third of a 1.75 liter bottle of Seagram's. Their 8 year-old son Dustin says that, at around midnight, Johnny Ray said he was going to check the crab pots off the dock. Pam responded by telling him that he didn't need to go out, and Johnny Ray replied, “I'm going out to check them anyhow.” Johnny Ray then walked out on the dock with a glass of liquor in his hand. According to Dustin, Pam opened the back door and yelled at Johnny Ray to come back in. Johnny Ray turned around at hearing Pam's voice and then turned back around again, tripping and falling into the water.

Here is Pam's current recollection of Johnny Ray falling into the water:

[12:43] Colin Miller:

Was he out of sorts at all, did he seem normal?

Pam Lanier:

Him and Dustin went out to check the crab pots, and I asked him not to go out.

Colin Miller:

Right, so he says, around midnight, “I need to go check the crab pots.”

Pam Lanier:

Yes, he said, check the crab pots.

Colin Miller:

And what reason did you tell him not to go out there?

Pam Lanier:

Because, he had already been drinking, it was late, and Dustin was up and he was wantin' to go with him, and I didn't want Dustin out there with him.

Colin Miller:

Right. And so he goes walking out to check the crab pots, and then what happens next?

Pam Lanier:

I was coming out the door and he was out at the end of the dock, where the dock is, and he started wavering a little bit, and Dustin hollered at me, "Momma, Daddy's gonna fall!", and he did fall, and I come running out there to him, and when I got out there, we had, like a crab pot net? And he was fightin', like he was fightin' a little bit. And Johnny could swim! Johnny could swim! And I put that out there for him and he couldn't grab it, and then he went down under. I said "Come here Dustin," and I grabbed him 'cuz I couldn't see him. I grabbed him and I ran down the street to Thompson's house, I think it was Rudy Thompson? And I got him and he come back up there with me.

[13:44] Colin Miller: Pam and Johnny Ray didn't have a phone in their trailer, so, as she noted, Dustin and she ran over to the house belonging to their neighbor Rudy Thompson to call 911 and try to get some help.

I talked to Thompson about his recollection of the night of September 4th:

[13:57] Rudy Thompson

What I do remember of course is, you know, goin' down there that night. I want to say her son or somebody came up to the house and got us, and I went right down there right away, soon as they either called or came up, I... you know I don't remember who came up and got me but I went down there, I was the first one on the scene. And I was told he was right beside the pier, right beside the dock that went out into the water. And whenever I got there, I didn't see any bubbles, I didn't see any person, I didn't see

anybody in the water at all. And I looked and looked, and stayed, and I think somebody came up with some headlights or something, shined it on the water, trying to see if he was out there, 'cause that's what she was hollerin' about, that he had fell in off the dock, he had been drinkin' and everything else and he had a crab pot or something out there and he fell in.

[14:55] Colin Miller: Finally, after the Surf City Police arrived, Johnny Ray's body surfaced:

Rudy Thompson

(Sighs). It might have been an hour that we was down there, and finally we saw a white t-shirt floatin, 'bout midway of the canal. And uh, you know, I helped pull him to shore.

Colin Miller: The police report by Officer MC Sholes on the drowning suggests a more compressed timeline. It notes that a 911 call was received at about 12:08 A.M. and that Rudy Thompson retrieved Johnny Ray's body from the intracoastal waterway at about 12:30 A.M. I asked Thompson whether Pam was acting the way you might expect given the circumstances:

[15:34] Rudy Thompson:

(Sighing) I wanna say yeah. I mean, I mean, she was upset. You know, she was hollering "somebody's gotta help me," you know, stuff like that. Best I can remember, you know it's been years.

Colin Miller:

Right.

[15:46] Rabia Chaudry: The Surf City Police Department seemed to agree. There were no signs of bruises or cuts on Johnny Ray's body and no other signs of foul play. And so, in 1991, Johnny Ray's death was officially determined to be "accidental."

But now, after Dorian's death in 1998 and with Dr. Butts on board, the decision was made to exhume Johnny Ray's body to determine whether he had elevated arsenic levels in his system. According to Pam herself, the State was trying to prove that she fit the archetype, or really, the stereotype, of the black widow, who marries men and then murders them for their money. The State probably didn't need Pam's consent to exhume Johnny Ray's body, but she gave it to them anyway:

[16:25] Colin Miller:

And then what's going through your head when you learn that they're going to exhume Johnny Ray's body?

Pam Lanier:

I signed a form to do it. I told them to... when they told me that they wanted to do it, and Doug says they're talking about it, he said now we can do it this way - we can either get you to sign for it or they're gonna probably, down the road, force it if you , you know, it would be better if I picked up the phone and called and said, "Listen, she's ok with this. She signed the papers." And I signed the papers.

Colin Miller:

Right...

Rabia Chaudry: Johnny Ray's body was exhumed on January 23, 1998. By this point, the case had garnered a good deal of attention, and the exhumation was aired on the news:

[16:59] Pam Lanier:

We watched it on television. It was awful. Matter of fact, there was a clippin' about it on television. Uh...

Unnamed Male

Of the exhumation?

Pam Lanier:

Yes! Where they dug him up. Uh, Mr. Brown, the Sheriff, had donuts and coffee out there. All that was on the news. It was a BIG blow up on the news about it. And they had it on the news and he said, he told me, he said if there's one thing that they can catch you on, he said, they're gonna be back to lock you up tomorrow. He said I'll be honest, he said cause they're tryin so hard...the place was crawling with people out there at the graveyard. You would not believe how it looked.

[17:37] Rabia Chaudry: Dr. Butts performed an autopsy on Dorian's body and issued his report on March 9th. According to the report:

“A toxicological examination of tissues obtained at autopsy were negative for heavy metals by a Reinsch screen and demonstrated insignificant levels of arsenic by more specific quantitative analysis. This would rule out arsenic as a cause of his death and as an explanation for his previous episode of mental confusion.”

In the District Attorney’s press release two weeks later, he would note that:

“At the autopsy, not obvious sign of injury was identified. Toxicological examinations of tissue were conducted and no significant levels of arsenic were detected. Arsenic was ruled out as a cause of death. The autopsy did not disclose any additional findings that would contradict the previous ruling of accidental drowning as the cause of death.”

At this point, you might be wondering why we’re even mentioning the drowning of Johnny Ray...because surely it could have played no role in the prosecution of Pam for poisoning Dorian. After all, Johnny Ray’s death was deemed “accidental.” Well, it turns out...the death of Johnny Ray was the centerpiece of the State’s case against Pam Lanier. Once again, here’s Pam Hatcher, the EMT called to the Lanier house on the night of Dorian’s death:

[18:44] Pam Hatcher:

If you’ve read the transcript, if you’re familiar with it, and if you wanted to sit down and count the times Johnny was mentioned and the times Dorian was mentioned, you’ll see it’s like triple Johnny, Dorian nothing.

[19:00] Colin Miller: When I spoke to Pam Lanier’s mother Shirley, she expressed a similar sentiment:

Shirley Sanders:

We did not have the trial on Dorian. We had it on Johnny Ray.

Colin Miller:

Right. That’s what a lot of people say, yeah.

Shirley Sanders:

Uh, we never had a trial on Dorian. Never, did we have a trial on Dorian.

Colin Miller: And Pam herself says the same thing:

Pam Lanier:

The whole trial was on Johnny. It wasn't on Dorian. It wasn't on Dorian at all.

Colin Miller:

Right.

Pam Lanier:

I mean, they didn't use, um, matter of fact, Doug told me up to the point when they brought Johnny up, he told me straight up - he said when we go to court, he said, if they had not brought Johnny Williams up, he said I wouldn't even worry about this. He said, but now that they're tryin to throw Johnny in it, he said they're gonna make it look like you had two husbands to die the same way. He said, even though we know, but he said that's not the way they're gonna do it.

[20:04] Susan Simpson: So, yes - Pam had two husbands who had died under strange circumstances, but they were very different in nature. So how is it that the drowning of Johnny Ray would come to play, not just a role, but the starring role, at Pam's trial for murder for her second husband, Dorian?

In this case, the reasons trace all the way back to 1915. In January of that year, British Detective Inspector Arthur Neil received a letter with two newspaper clippings concerning the drowning deaths of Margaret Elizabeth Lloyd and Alice Smith in bathtubs. Later, it was learned that Bessie Munday had also drowned in a bathtub, and there was something that linked all three women: They had been married to George Joseph Smith. Forensic pathologist Bernard Spilsbury was assigned to the case, and you might imagine his first order of business. Here's a clip from a *Forensic Casebook* episode on the case:

"Spilsbury ordered the exhumation of all three bodies, but after thorough autopsies he was no closer to finding a cause of death. As far as he was concerned, the women were perfectly healthy when they got in the bath. There was nothing to suggest they'd been drowned by force. Spilsbury went back to his books. How could Smith have done it?"

Finding no evidence of foul play though, Spilsbury and DI Neil nonetheless pushed forward. Here's a clip from the TV show *One Moment in Crime*:

“Both Spilsbury and DI Neil were determined to prove that Smith killed his wives. The pair reenacted each bathtub scene using women who were physically similar to each wife. Using the very tubs the brides had died in, they discovered that if the women were grabbed by the legs and pulled forward, then the women’s heads immediately became submerged, causing a loss of consciousness. This was how Smith had murdered his wives.”

Or, more accurately, this is how Smith *might* have murdered his wives. The State had no actual evidence that Smith had drowned his wives in this fashion, but at Smith’s trial for murdering Bessie Munday, the prosecutor would make an unprecedented argument. The evidence of the other two drownings should be admissible under a simple theory: What’s the likelihood that the same man could have three different wives drown without any bad faith on his part? And with that, the case that came to be known as the “Brides in the Bath”, would capture the public’s imagination. Here’s more from *Forensic Casebook*:

“George Joseph Smith was tried at the Old Bailey. The Brides in the Bath murders caused an absolute sensation, grabbing the headlines of every paper and knocking World War One off the front page. As huge crowds gathered outside the courtroom, the jury retired to consider their verdict. They took just 22 minutes to find George Smith guilty of murder. He was sentenced to death, and hanged on the 13th of August, 1915.”

The “Brides in the Bath” case would also birth the *Doctrine of Chances*, which is the principle that allows evidence of the same unusual thing recurring in a person’s life to be admitted despite the absence of proof of the defendant’s wrongdoing. This returns us back to Blackstone’s Formulation, and the seeming inconsistency between it and the concept that someone can be convicted on what might just be bad luck.

[24:14] Colin Miller: A good illustration of the doctrine of chances can be found in the case of Frederick Mardlin, which I started teaching back in 2009. Mardlin lived in Michigan when his house burned down. Previous fires had damaged his home and his car, but the State had no evidence that Mardlin had maliciously started any of these fires. The court, however, allowed evidence of these fires to be introduced under the doctrine of chances. Meanwhile, Mardlin, claimed that the circumstances of the current fire suggested there was an issue with an electrical outlet in the house, but he was indigent and the court refused to appoint an electrical engineer to test this theory. Mardlin was thereafter convicted of arson.

Later, Mardlin was represented by attorneys on appeal, including David Moran from the Michigan Innocence Clinic. They retained an electrical engineer, and he confirmed that, yes, it was a problem with an outlet that started the fire. Mardlin was set free in 2012. As Moran notes, the Mardlin case is a good illustration of the potential problems with the doctrine of chances:

David Moran:

What percentage of the population will in their lifetime be a victim of an accidental fire? Uh, it's... I'm sure it's less than 1%, but it's, I'm guessing it's more than 0.1%. So, let's just take a number, just a total guess. Let's say it's 0.2% - let's say 1 out of every 500 people, will in their life be in an accidental fire. Well that means that, uh, if you just multiply 500 square, which is 250,000, then 1 out of every 250,000 people will be in 2 accidental fires. And that, you know that assumes that there's an independence of accidental fires, which there isn't. I mean some people are gonna be much more likely to be in accidental fires than other people. For example, people who are smokers are more likely to be in accidental fires than people who are not. People who live in large households, people who live with drug addicts..."

[25:48] Colin Miller: North Carolina judges are well aware of these issues. As late as 1963, the Supreme Court of North Carolina held in the case Langlois v. State:

"The sufficiency of evidence in law to go to the jury does not depend upon the doctrine of chances. However confidently one, in his own affairs, may base his judgment on mere probability as to a past event, when he assumes the burden of establishing such event as a proposition of fact and as a basis for the judgment of a court, he must adduce evidence other than a majority of chances that the fact to be proved does exist."

Parties would later cite Langlois for the proposition that evidence must be both *consistent* with guilt and *inconsistent* with innocence to be admissible. But, by the time of its 1991 opinion in State v. Stager, the Supreme Court of North Carolina had repudiated its holding in Langlois. Now, according to the court, if the same unusual facts were present in the current crime and a past event, evidence of the past event could be admitted under the doctrine of chances. Under the court's reasoning, while the past event might be consistent with guilt or innocence, "[t]he fortuitous coincidence becomes too abnormal, bizarre, implausible, unusual, or objectively improbable to be believed."

[27:07] Rabia Chaudry: The Stager case provides a classic example of the doctrine of chances. On February 1, 1988, Barbara Stager called the police after her husband had

been fatally shot in their bed with a .25 caliber Beretta. Here's a clip from the *Deadly Women* TV episode on her case:

Male Narrator:

When the first officers arrived on the scene, Barbara told them that she had removed a handgun from under Russ's pillow.

Officer:

What's happened here, M'am?

Male Narrator:

And that while she was removing it, it accidentally discharged.

"Barbara Stager":

And it just went off! It was just accidental. And I said to him....

Female Narrator:

The problem is - it's an accident she's had before...

"Barbara Stager":

And then so I got, uh, Russell's gun, ya know, he keeps it under the pillow, and I just dragged it...

Female Narrator:

With her first husband, Larry Ford!

"Barbara Stager":

And, you know, it went off!

Male Narrator:

We learned about Larry Ford's death, that set off a lot of signals, particularly when we learned that he was killed under similar circumstances. Same kind of weapon, in his house, happened in the middle of the night just like Russ...

Rabia Chaudry: Of course, the deaths of Pam Lanier's husbands were very different: Johnny Ray drowned and Dorian died from arsenic poisoning. So, what argument did the State make under the doctrine of chances? This takes us back to the archetype or the stereotype of the black widow. According to the State, Pam Lanier would marry men

and kill them for their money. The State's argument sounded like the script for a TV show, and, in this case, it actually became one.

We just played a clip from the *Deadly Women* TV show. It's hosted by Candice DeLong, a former FBI criminal profiler, whom some have called a real life Clarice Starling, referencing the lead character in *The Silence of the Lambs*. Here's DeLong describing her show:

Candice DeLong:

But in every show, we do three stories, um, and uh, they're all themed. For example, one episode might be: women who kill their children. Or another episode might be: women who get their children to kill for them. Or perhaps a story of three black widows, but all with different motivations. So that's pretty much what it's about.

[29:05] Rabia Chaudry: The theme for the Blanche Taylor Moore episode was "Revenge." For Velma Barfield, it was "Hearts of Stone." Barbara Stager's episode was called "Fortune Hunters." In 2014, DeLong did a *Deadly Women* episode on the Pam Lanier case and two other cases. And that week's theme? "If Looks Could Kill." Here's the episode description:

Beauty is only skin deep; scratch the surface and you could find an ugly soul. A gorgeous girl preys on an elderly man, a cabaret star performs a killer finale, and a farmer's wife harvests husbands. These Deadly Women get their way "If Looks Could Kill."

The episode features the prosecutor and SBI agent who handled Pam's case, and the storyline is essentially what the State presented at trial. So, let's go through the State's arguments and address them point-by-point:

Narrator:

Her first husband Johnny died in a farming accident six years earlier.

Male:

Johnny had been drinking all day, and went out to check his crab pots, and walked out on the dock, stumbled in....

[30:19] Susan Simpson: And that brings us to the prosecutor's argument while trying to admit this evidence at trial: "What is the chance that she is the only one present every

time one husband dies? [The first husband] drowns...and then Mr. Lanier, her second husband dies of arsenic poisoning.”

Now, one thing might jump out to you from what we mentioned before: Pam wasn't alone with Johnny Ray when he drowned. Their son Dustin was out on the dock with his father. The other thing, though, you wouldn't know, and it's something the jury didn't know, either- never heard. Johnny Ray wasn't Pam's first husband or even her second.

[30:54] Colin Miller:

And your first husband was Dennis Parker, who you knew from high school?

Pam Lanier:

Yes, me and him was high school sweethearts for a little while.

Colin Miller:

Okay. And so, what age were you when you got married?

Pam Lanier:

We were young. 18.

Colin Miller:

18 years old. Ok.

[31:06] Susan Simpson: The marriage was too fast, too soon, and they were too young, and the marriage got annulled:

Pam Lanier:

We were kids. I mean, basically, we were kids. I mean, I'm being honest. Cause was nice. He was really a good guy. So, I can't say anything negative about it.

Susan Simpson: And, Pam's second husband was Mack Lammonds, who is actually Dustin's biological father. That relationship started well, but Mack was a drinker, and, when he would drink, he would get violent:

Pam Lanier:

I got out of it because I didn't like being smacked every now and then. No reason, I'm not gonna be smacked around. Not when I didn't deserve it.

Susan Simpson: And assuming that you think evidence of two of Pam's husbands dying is relevant, there seems to be a clear distinction between those being her only two husbands and those being two of four husbands, but it's something the defense didn't mention at trial.

Another thing that the prosecution did emphasize was the fact that both Dorian and Johnny Ray were in a confused state prior to their deaths. Again, here's a clip from the *Deadly Women* episode on Pam's case:

Narrator:

Her first husband, Johnny, died in a farming accident 6 years earlier.

Male:

Johnny had been drinking all day, and went out to check his crab pots. And walked out on a dock... stumbled in.

[32:28] Susan Simpson: It's a superficially compelling argument, but recall what we noted before: Johnny Ray saw the doctor the same day he drowned. And that doctor said his prior confusion had cleared up and that he merely had a blood pressure issue on the day he died. Therefore, Johnny Ray's prior confused state, which, as noted, was seemingly due to the flu, had nothing to do with his drowning while Dorian's confused state was ostensibly caused by the same arsenic poisoning that led to his death. And, as noted, when Johnny Ray was exhumed, it was determined that he didn't have significant levels of arsenic in his system. Somehow, though, it was this fact, and not another fact, that was emphasized at trial. Here's another clip from the *Deadly Women* episode:

Female Voice-Over:

She told the police he was drunk, and fell into the lake and drowned.

Narrator:

The police exhume Johnny Williams' body... And the tide turns.

Female Voice-Over:

There was no alcohol in his system.

[35:49] Colin Miller: From the episode and the State's argument at trial, you'd think that the lack of alcohol in Johnny Ray's system was a surprising discovery after exhumation that cast doubt on Pam's story that he had been drinking on the day of his death. But that timeline is off. The toxicology screens were actually done in the days after Johnny Ray's death, and a report was completed on September 19, 1991, two weeks after Johnny drowned. It showed elevated levels of the antihistamine, which was consistent with Pam's claim that Johnny Ray was taking Benadryl. As we noted, Pam also said that Johnny was taking Ativan and Tenormin, which were prescribed to him earlier in the day, and the tox report notes that tox screens can't detect their presence. And finally, yes, the tox screen was negative for alcohol.

But this wasn't at all surprising to Dr. Butts, the State's expert who performed the post-exhumation autopsy. Here's the pertinent Q&A at trial:

Rabia Chaudry Narrating:

Question: Now, if the evidence should disclose the amount of alcohol we're referring to consumed by Johnny Williams at the time of his death was a third of a fifth, can you, to some degree of medical certainty, share with us your opinion regarding what you might expect to find at autopsy concerning alcohol?

Colin Miller Narrating:

He, again, a lot of my conditions that I described earlier would still apply. Depends on it was drunk at the beginning or end. But certainly, certainly with that quantity of alcohol, if it were drunk at the beginning of the period or were drunk at intervals and not all consumed toward the end, it's certainly possible there wouldn't be any alcohol in his system at the time of his death.

[37:04] Colin Miller: Dr. Butts also noted that Johnny Ray was known to be a heavy drinker and that this could mean that his liver would metabolize alcohol more quickly, making it even less likely that alcohol would have been detected on his tox screen.

So, what about Dr. Butts's conclusion that Johnny Ray didn't have elevated levels of arsenic and that arsenic didn't contribute to his death? You might imagine that the defense hammered this point home to the jury at trial. Instead, they didn't raise it at all. Why? When I talked to Pam, her sense was that the judge prevented them from introducing this evidence:

[37:31] Pam Lanier:

They couldn't bring up him being exhumed, that I had signed that, they couldn't bring that up in the trial, and I couldn't understand that.

Colin Miller:

So, your sense was that they were trying to use it, but they weren't allowed to?

Pam Lanier:

The State would not allow them to do it- is what- I was under the impression.

[37:47] Colin Miller: But, after reading the trial transcript, it turns out this wasn't the case; instead, her attorneys actually asked the judge for the evidence connected to the exhumation not to be admitted. Why? Simply put: They didn't trust the jurors. You see, Johnny Ray did have some arsenic in his liver and hair, which is completely unsurprising. We all have some arsenic in our bodies. It's a naturally occurring metalloid that's in the food we eat, the water we drink, and even the air we breathe. And, as Aaron Barchowsky, a Professor of Environmental and Occupational Health notes, those who eat a lot of seafood have higher levels of arsenic:

[38:20] Aaron Barchowsky:

If you had a big seafood meal, there are organic arsenicals that are in seafood, that are absolutely benign to humans, and just kind of go straight through you, but it screws up the assay, because unless they do the special assay to separate inorganic from organic, they can't tell whether that's benign compound or an active inorganic.

Colin Miller: This is significant because Johnny Ray worked at a tackle shop and was known to eat a lot of seafood, including the crabs he was trying to retrieve on the night that he died. Indeed, one witness at trial mistakenly thought that Johnny Ray died while out on a fishing boat. So, while Dr. Butts noted that Johnny Ray's arsenic levels were within the normal range and not the cause of his death, his levels were toward the upper end of that normal range. And so, Pam's attorneys thought that the jurors would ignore Dr. Butts's bottom line and focus on these arsenic levels to conclude that Pam could have been poisoning Johnny Ray. As a result, the jury never heard that Johnny Ray's arsenic levels were normal and not the cause of his death. Indeed, they never even heard that a post-exhumation autopsy was done, meaning that the issue of whether Johnny Ray was poisoned was a question mark rather than the dead end we know it to be.

[39:39] Rabia Chaudry: The State also claimed a couple of other similarities that we think, or at least hope, the jurors saw as non-starters. First, the prosecutor claimed that, when both Johnny Ray and Dorian were sick, Pam didn't seek medical attention for them until after being prompted by others. Now, we'll go into more detail about whether this was true for Dorian in a future episode, but what about Johnny Ray?

The State's evidence related to Johnny Ray's hospitalization on August 20th. Jay Britt worked with Johnny Ray at the tackle shop. He testified that on August 19th between 6:00 and 6:30 A.M., Pam came to his house, loudly knocked on the door, and said that Johnny Ray was sick and that she wanted him to "come and see about him." According to Jay, Johnny Ray seemed kind of out of sorts, but he was able to walk outside. Jay and Pam discussed taking Johnny Ray in for medical care, but nothing came of it.

Then, the following morning, Pam returned, again between 6:00 and 6:30 A.M. This time, she knocked very loudly at the Britt residence, said that Johnny Ray was doing worse, and asked if he could help. This time, both Jay and his wife Glyndel came. Pam said she thought Johnny Ray was in delirium tremens from alcohol withdrawal and tried to give him some alcohol. Jay said that he needed to see a doctor, and that's what was done.

So, yeah, according Jay, it was his idea for Johnny Ray to see a doctor, but it's not as if Pam was isolating her husband or doing nothing. She went over to the Britt residence two days in a row at the crack of dawn to get help for her husband, and that's what she got. And, according to Pam herself, the State's claims were a complete mischaracterization of what had happened:

[41:15] Colin Miller:

And, so when you go over to Jay Britt's house, what's your thinking in terms of Johnny Ray's state that night--

Pam Lanier:

That he can go and talk to him. Because they were really good friends, you know? And maybe he can go talk to him and maybe get him to let's go get some help.

Colin Miller:

Because you were trying to get Johnny Ray to go see the doctor and he wouldn't go.

Pam Lanier:

And he wouldn't go, and I knew that maybe he could talk to him.

[41:31] Rabia Chaudry: And then, there was the final similarity: There were life insurance policies on both Dorian and Johnny Ray, so Pam financially benefited from both their deaths. Well, that's what The State argued. Here's how *Deadly Women* put it:

[41:47] Female Narrator:

Pamela inherits Johnny's farm. And \$25,000 in life insurance.

Rabia Chaudry: This is true, but it's hard to see how this distinguishes Pam's case from any number of cases in which spouses with life insurance policies pass away. But the prosecution tried to sweeten the pot by arguing that Pam had an incentive to kill Johnny Ray because they were in financial trouble and their trailer was being foreclosed upon.

This, however, ended up kind of blowing up in the prosecution's case. Their insurance agent Wayne Anderson was called at trial, and, first, he testified that there was a \$25,000 life insurance policy but that "it was strictly Johnny Williams idea to take out the

policy and not Pam's." Second, and more importantly, Anderson called Pam and told her that the policy was about to lapse, and she responded "that money was tight and they simply couldn't pay premiums" at the time. And so, a couple of weeks before Johnny Ray drowned, the life insurance policy lapsed. Or, at least, that's what they thought.

According to Pam, she was distraught after Johnny Ray's death and didn't know how she would make ends meet on her own with two young children. But then, she got a call from Anderson:

Colin Miller:

Wayne Anderson tells you what?

Pam Lanier:

Wayne Anderson calls me and tells me he needs to talk to me. And I said, about what? Then he told me, he said, I need to talk to you. And I said, but it's not been paid for. He said, you need to listen to me, I need to talk to you. And then he told me, basically, that he picked it up because he thought, you know, we're being at the beach, and we were in a financial struggle that he picked it up and he paid. And I don't remember if he paid one, two, three- I don't even know how many he paid, but he said that it is paid. He said that you and the kids and Johnny still has life insurance. He said because me and my wife picked it up.

[43:43] Rabia Chaudry: At trial, Anderson would testify to the same thing. He was a new insurance agent who felt bad for Johnny Ray and Pam, and so he paid their premium out of his own pocket without telling them. When he called Pam to tell her what he had done, he said that she was crying and sounded sincerely surprised.

So, if it possibly wasn't any similarities between the deaths of Johnny Ray and Dorian that turned the jury against her, what could be an alternate explanation? While there are disputes over the depth of the water in which Johnny Ray drowned, there was trial testimony at trial that it was 3-4 feet deep, and Johnny Ray was known to be a good swimmer: Here's one final clip from *Deadly Women*:

Female Narrator:

If Johnny wasn't drunk, how does a strong swimmer drown in shallow water?

Blake Wallace:

That suggests to me that she was involved in the death of Johnny Williams.

[44:37] Colin Miller: What this audio clip doesn't make clear is that the the episode shows the actor pushing Johnny Ray in the water. And the voice you hear belongs to Blake Wallace, the SBI agent assigned to the case, but you can imagine jurors thinking the same thing, or really, the same two things. First, why didn't Pam jump in to try to save him? When I shared a document with the narrative of the case, here was Rabia's response:

Rabia Chaudry:

Ok this is really shady. Why didn't either of them just walk in to the water, it was so shallow. They just watched him drown in a few feet of water???

[45:07] Colin Miller: It's a natural response, and others have said something similar, even after I tell them that Pam and her son Dustin both didn't know how to swim. And then, there's the second thing jurors might have been thinking: How does a good swimmer drown in only a few feet of water? This second point in particular gave me pause.

So, on both points, I decided to reach out to John Fletemeyer, a drowning expert who has testified in a number of trials and is currently working with an Innocence Project on a case in Texas in which Kayla Day was convicted of drowning her husband. On the question of whether Pam should have jumped in the water to try to save Johnny Ray, here was his response:

[45:38] John Fletemeyer:

Rule #1, never attempt to go in after a victim. It's better one drowning than two, and so 100% they made the right decision. And we're actually doing a couple of new videos for the National Drowning Prevention Alliance, and it's the last thing we ever want someone to do, including police officers. The other thing, as a sidebar, I was contracted for two years by the United States Border Patrol. On my educational information I developed a training protocol, and that was to never allow even a Border Patrol agent, and certainly never a public citizen, even by virtue of the Good Samaritan Act, never allow them, I'd never recommend them to go into the water. Even if they're a decent swimmer they shouldn't, because they can be grabbed by the victim and they can be a victim themselves. That's just something that we highly recommend never to do.

Colin Miller:

Right, and so in this case where the wife and the son don't even know how to swim, that would be even worse for them to attempt.

John Fletemeyer:

They would be gone, they would be...

Colin Miller:

Right

John Fletemeyer:

They would be...it would be a double drowning, or a triple drowning. There's a real good case that I'm involved in in Lake Hagg, in Oregon, where a little boy was drowning and the little boy's brother went in to save the little boy, the mother went in to save the little boy, the grandmother went in, and then the older brother, and five others drowned.

This is similar to Pam's own thinking:

[47:01] Colin Miller:

And you and Dustin don't swim, right?

Pam Lanier:

No

Colin Miller:

And is that the thinking, like, in other words, does the thought go through your mind at all to try to jump in and save him.

Pam Lanier:

No, because I would have drowned. And so, Dustin was a child. No, I would not have done that.

Colin Miller:

Right

[47:18] Colin Miller: There are also a few other important points to note. It was midnight, so it was dark, and the dock area wasn't especially well lit. And second, this was the intracoastal waterway, so these weren't still waters, and there was also a

drop-off right to 8 feet depth about where Johnny Ray fell. Rudy Thompson, the man who retrieved Johnny Ray, was 5'8". He testified as follows:

[47:37] Rabia Chaudry reads:

It was about chest high because whenever I reached out, was afraid I was going to step off any minute so I just had to reach out and grab him.

When I talked to Thompson, he remembered these details:

[47:47] Rudy Thompson:

Yeah, the drop-off was at the end of the pier. In other words, right beside the dock it's kind of shallow. And then at the end it drops off real quick.

Colin Miller:

And so he was pretty close to where it drops off then, from your recollection?

Rudy Thompson:

Well when we spotted him, yeah.

[48:20] Susan Simpson: This could also answer the question of how Johnny Ray drowned because it's not hard to imagine him falling into the 8 foot water that was just a couple of feet away from the water that was chest high on a man about his height. Not to mention, in these waterways, when the tide's going in and out, the current can be swift, and easily pull you off your feet.

But let's say that the water was chest deep where Johnny Ray actually fell. Would him drowning in that depth water be surprising? Again, here's John Fletemeyer:

[48:44] John Fletemeyer:

In my earlier life I taught police officers and first responders water rescue, and the first thing I tell them to do when they see someone drowning is to yell "Hey stupid, stand up". Well I don't say stupid, but "Hey, stand up", because approximately, in open water environments, 40-50% of active drownings are in water that is not over a victim's head. And so that information doesn't come as a surprise, I don't know how tall the victim was in our case, but typically in 4 feet of water if a person is 6 feet tall, if he's at a 45 degree angle, which would be common, I could envision that being a drowning environment - I could envision that happening.

[49:31] Susan Simpson: So, that's what happens with shallow water drownings: The victim freaks out, thrashes around, and simply never gets vertical, never finds their feet. This is consistent with what Pam described. That, after Johnny Ray fell in, he thrashed around, bobbed up and down, and then disappeared under the water.

[49:48] John Fletemeyer:

Then if this is an active drowning, typically there's a period of distress which occurs before the person goes under water. That period of distress is accompanied by a long period of hyperventilation. When I say a long period, it's a couple of minutes, and as the head becomes lower and lower in the water, a victim will begin to hyperventilate, and then, ah, the air which you and I are breathing right now, which is the tidal volume, which is going in and out of the lungs. As the head becomes lower and lower in the water, as we hyperventilate, that air begins to escape. And as it escapes we become negative buoyant. And as we become negative buoyant we go underwater. At that point sometimes a victim will bob up a few times, but eventually he or she will go underwater, and at that point in time they try to hold their breath as long as they possibly can. The literature shows it can be up to 80 seconds, but my research shows it's probably much shorter than that, maybe 40 seconds. And so you attempt to hold your breath as long as you possibly can, and once the urge becomes so great, you have no other choice than to breathe, and when that happens you breathe in water, and then you go into the actual physiology of drowning, where the body chemistry drastically changes, you stop breathing, the heart will continue to beat another couple of minutes, and uh, eventually that will stop and I think between 3 or 4 minutes you go into what we call clinical death, and then at 4 minutes you still can be resuscitated, and then after time progresses you go into a stage called biological death. That's when there's significant damage to the cells, especially the brain cells. And usually about 6 minutes after submergence, you can't be resuscitated, you're biologically dead.

[51:43] Susan Simpson: According to Fletemeyer, Johnny Ray falling unexpectedly into the water at around midnight also means that there was a decent chance that this was what is called a dry drowning:

[51:50] John Fletemeyer:

There's a lot of situations where a surprise event would put you into the water, where you would gasp, and there's a phenomenon, a situation where the water touches the larynx, it will spasm and shut, and that's called a dry drowning, and

we think that happens in about 10% of the cases. And so that's something to consider.

[52:17] Susan Simpson: And then, as Fletemeyer told Colin, there are risk factors associated with drowning, with a primary one being drug or alcohol use. And while there might be questions about whether Johnny Ray was drinking or how much, Benadryl was found in his system, and it seems reasonable to conclude that he took the Ativan and Tenormin that he had been prescribed earlier in the day.

Finally, we get to the fact that Johnny Ray was wearing clothes, including the white T-shirt that Rudy Thompson remembers floating to the surface. Fletemeyer talked to Colin about his testimony about the effect of clothes on drowning in a recent case:

[52:50] John Fletemeyer:

I don't know if you have a pool, or if you're near a pool, you'd be very surprised if you take a cotton t-shirt, and throw it in the water, and the jury was surprised too, they think that by throwing that in the water it might take a minute or so for it to get saturated and sink to the bottom, but in actuality in 5 or 10 seconds it'll be on the bottom of the pool, and that's another thing that facilitates the drowning process because it gets very negative buoyant and prevents a person from maintaining their body at the surface level, and the other very significant factor in probably this case is whether or not the individual had shoes on.

[53:28] Susan Simpson: So, the clothes Johnny Ray had been wearing increased his risk of drowning, and, if he were wearing shoes at the time, that would have increased the risk even more. Rudy Thompson told Colin that he couldn't remember if Johnny Ray was wearing shoes at the time of his death, and Pam told me that she thought he was wearing shoes, but couldn't be certain about it.

But the jury never heard from a drowning expert at trial, so we're left to just speculate about what conclusions they would have reached. But there's something we don't have to speculate about.

[54:03] Colin Miller: Over the last several months, I've been researching doctrine of chances cases from North Carolina and around the country with AC Parham, who will be starting at South Carolina law in the fall. And the conclusion we've been able to draw is that there's not any other case like Pam's Lanier's case. The doctrine of chances has been used to admit evidence of multiple drownings, like in the Smith case. And it's been used to admit evidence of multiple shootings, like in the Stager case. And Pam's case

itself set the foundation for the Michael Peterson case, in which a man was prosecuted for fatally pushing his wife down the stairs and the State was allowed to admit evidence that Peterson was the last known person to see another woman who was later found dead at the bottom of a staircase years earlier.

[54:37]: Excerpt from *The Staircase*, Michael Peterson 911 call:

Operator:

911 Emergency

Michael Peterson:

1810 Cedar Street, please...

Operator:

What's wrong?

Michael Peterson:

My wife had an accident. She's still breathing..

Operator:

What kind of accident?

Michael Peterson:

She fell down the stairs. She's still breathing, please come.

Operator:

Is she conscious?

[54:49] Colin Miller: Attorneys at the same firm handled the appeals in both cases, and, for reasons we'll discuss later, the Peterson case gives us the strongest reason to believe that Pam Lanier might one day be a free woman. The Peterson case, of course, is known from the Peabody Award-winning documentary *The Staircase*.

[55:04]: Excerpt from *The Staircase*

This case is no more, or no longer, about Kathleen. Truth is lost in all of this now. Truth is of no meaning whatsoever.

On the other hand, Pam's case is primarily known from her episode of *Deadly Women*.

[55:16] Excerpt from *Deadly Women*

Her first husband Johnny died in a farming accident, six years earlier.

Months before that episode aired, Pam received a letter from Candice DeLong, saying she wanted to interview her. The letter notes how her coverage of past cases has led to “renewed legal interest in their cases and a positive response from the general public.” In the letter, she notes, “I have no interest in blindsiding you or creating a sensationalist story for the masses.”

[55:40] Colin Miller:

So I take it, ah, 2014 I know this is a touchy subject, you brought it up a little bit before, but you got a letter from Candice DeLong...

Pam Lanier:

Oh. [laughs]

Colin Miller:

She says she want to feature you in a program and she...

Pam Lanier:

She already did. [laughs]

Colin Miller:

Right. [laughs] What's your thought when you got that letter?

Pam Lanier:

When I got that letter, I was caught about it, and um, one of the white shirts, I think it was the lieutenant, she caught me, and she told me that we have, the studio is wanting to do an interview with you. I said “On what?”, and then she told me. I said “I can't make no decisions without calling home.” And I said “I'm not going to do this without talking to somebody.” She said “Well you need to make a decision soon and let me know. “ Well I went back to work, and um, I didn't get a chance to call nobody. But I did do this. My supervisor, she was my age, just two weeks difference in our age, and I said “Can I talk to you Miss Smith about something?”, and I told her, and I said “I don't feel good about it. There's something telling me not to do it.” And she said “Don't do it.” She says, “If you've got that feeling, don't do it.” So I went back and I told 'em to send it that I wasn't gonna do it. And I guess that didn't do no good. [laughs]

Colin Miller:

And you haven't seen the actual program yourself

Pam Lanier:

No, but I heard about it [laughs] I've heard it's somethin', I've been waiting for it to pop up here on television, so I'll have to fight my way the rest of the time.

[57:09] Colin Miller: The Pam Lanier *Deadly Women* episode has been uploaded to YouTube, and it currently has 265 comments. You can imagine their tone: "absolute monster;" "She is evil; she should get the chair;" "Some women are thirsty for the money that they kill to get it;" and "black widow." It's been interesting because it's made many people gun shy about talking with us about the case, including Pam Hatcher, who submitted the case to the Wake Forest Innocence Project, which is currently handling the appeal:

[57:37] Pam Lanier

Pam even was a little worried

Unnamed Male:

Oh probably because of that documentary, that so called documentary

Pam Lanier:

Everybody has seen, yes...

Unnamed Male:

I haven't. I refused to watch it.

Pam Lanier:

Thank you, because they say it can get kinda rough.

[57:43] Colin Miller: Pretty rough indeed. As we finished recording the episode, here's what Rabia noted:

[57:46] Rabia Chaudry:

I saw the episode, it was awful. To be honest, when I think about this case, I can't get those images out of my head. So yeah, it's hard for me to ...like, that's become...that's become the story.

[58:01] Colin Miller: A big part of what I wanted to do in this series was to pull back the veneer of the black widow created by the prosecution at trial and society in general when they hear that a husband has died from something other than natural causes. It was also to give Pam a chance to reclaim her story and share it with the world. So, who is Pam Lanier, and what was her relationship with Dorian? Next time, on Undisclosed...

[58:58] Rabia Chaudry: A big thank you to everybody that makes Undisclosed possible and has made this series 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 Christy for maintaining our website. A big thank you to AC Parham for helping with research on the Pam Lanier series, and also Rebecca LaVoie will be hosting our Addendum, so I'm pretty excited about that, and make sure to tag Rebecca in your questions, anything related to this case, use the hashtag #UDAddendum, and Rebecca LaVoie's Twitter handle is @Reblavoie. 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 to subscribe to us on iTunes and rate us. Thanks so much. See you in a week.

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