

**UNDISCLOSED, the State v. Terrance Lewis**  
**Episode 5 - Independence Day**  
**July 4, 2019**

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**Terrance Lewis:**

I always used to pray to have the ability one day to smell what 10 o'clock smelled like. Because for so long, again, for over 21 years, my curfew to be inside my cell, to be inside the actual building itself, I had to be in no later than 8:30. And in the summertime, you know, the sun is just now declining below its horizon at 8:30 in the summertime, so I said that to say I never, I forgot what 10 o'clock smelt like. So, its real therapeutic for me. Since I've been home, I make my way to the park around that time period. I don't have to worry about being told to go in, and that it's lockdown time. I finally got a chance to smell what 10:30 smelt like and I seen what the moon looked like.

**[1:30] Rabia Chaudry:** That's Terrance Lewis. You haven't heard from him directly before, but you have heard about his case. At the end of 2017, as part of our series on the Philadelphia cases, we covered his story over a 4 episode series. He was convicted of a murder in West Philadelphia that happened when he was 17 years old, and for which he was sentenced to life in prison without the possibility of parole.

In May of 2019, his conviction was overturned, and he came home a free man.

Hi and welcome to *Undisclosed*. Instead of an addendum episode this week, we are going to be doing a fifth episode in our series on Terrance Lewis to ring you an update in recent developments on his case. 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.

**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 EvidenceProf Blog.

**Susan Simpson:** Hi, I'm Susan Simpson. I an attorney at Clinton and Peed, PLLC, and I blog at the ViewFromLL2.

**Terrance Lewis:**

I've been out... yesterday it's been a whole month.

**Susan Simpson:**

What's that been like?

**Terrance Lewis:**

[exhales] It's been, for the first time in a long time in my life, I really have had a chance to exhale.

**[3:10] Rabia Chaudry:** Terrance spent 21 years in prison for the murder of Hulon Bernard Howard, 57 years old, who was shot in his west Philly rowhouse on August 6, 1996, after a robbery turned violent. Bernard and his girlfriend, Lena Laws, who went by the name Star, had been smoking crack that evening with two acquaintances, when three young guys had come into the house. Two of them were armed, and the four older people in the house were robbed. And then, just before they left, one of the three guys shot Bernard once in the back before fleeing the house. When EMTs arrived on the scene, Bernard was pronounced dead.

**Colin Miller:** Jimel Lawson, Jehmar Gladden, and Terrance Lewis were all arrested and convicted of Bernard Howard's murder. The entirety of the evidence against them consisted of the eyewitness identifications made by Lena "Star" Laws, who said Jimel Lawson was the man who'd shot and killed Bernard that night, and that Jehmar Gladden and Terrance Lewis had been the young guys with him.

Terrance Lewis always maintained his innocence though. And, while in his prison, he began filing habeas actions on his own behalf, pro se, trying to prove his innocence to the court. In 2009, Terrance had a hearing before US Magistrate Judge Carol Sandra Moore Wells, where he presented eyewitnesses who testified that Terrance Lewis had not been one of the three men at Bernard Howard's house that night. One of those witnesses was his co-defendant, Jehmar Gladden, who testified he *had* been present at the house -- but that Terrance had not. And Jimel Lawson, the third co-defendant, signed an affidavit saying the first time he'd ever met Terrance was at their joint trial.

And Judge Wells had believed those witnesses. She wrote in her opinion,

*The court found the testimony of these witnesses to be credible, hence, the court believes that Petitioner is innocent. Moreover, in the court's view, in light of the new evidence the Petitioner presented at the April 29, 2009 hearing, it is more likely than not that no reasonable juror would have convicted the Petitioner.*

That did not mean, however, that Terrance got to go home. Or even have a court consider his claims. As Judge Wells' opinion went on to conclude,

*Because Petitioner is barred by [the antiterrorism and effective death penalty act] from having an evidentiary hearing on the merits of [his claim], it would be futile to explore further the question of his actual innocence because his innocence, under current Supreme Court precedent, is merely a gateway to consider the merits of his defaulted constitutional claim. The Supreme Court has noted that a claim of innocence based on newly discovered evidence is not a ground for habeas relief. This reluctance to allow for substantive claims of actual innocence in habeas corpus has been justified on the grounds of the need for finality in criminal prosecutions and the disruption that it would cause to our federal system*

*This court's inability to grant Petitioner habeas relief based upon his compelling showing of innocence is frustrating. However, that is the import of [the Supreme Court's prior precedent on the issue] and, given the hierarchical structure of the federal court system, this court is required to follow [that precedent] and decline any direct habeas relief based upon Petitioner's showing of innocence.*

And so, Terrance remained in prison, with little hope of a procedural opportunity that would allow him to assert his claims of actual innocence.

**[6:05] Rabia Chaudry:** Then, in 2012, the Supreme Court ruled in *Miller v. Alabama* that imposing mandatory life without parole sentences on juveniles violated the 8th Amendment's ban on cruel and unusual punishment. Terrance, along with over 500 other juvenile lifers in Pennsylvania, were required to be resentenced.

Because Terrance had no other criminal record, it was very likely that, at resentencing, he would receive a new sentence that would make him eligible for parole at some point in the not-too-distant future.

There was just one problem, though. Terrance was *still* trying to assert a claim of actual innocence. And because the court did not agree to resentence Terrance while those actual innocence claims remained unresolved, Terrance fell into a sort of procedural black hole. His case could not move ahead, either on his claims of actual innocence or on his resentencing as a juvenile lifer.

**[7:06] Susan Simpson:** In 2017, Colin read an article about Terrance, and reached out to his attorneys about covering his case on *Undisclosed*. If you haven't listened to that

series yet, you should go back and give it a listen now. But as a recap, the biggest question in Terrance's case had to do with the Commonwealth's only evidence against him, the testimony of eyewitness Lena "Star" Laws. She had identified 17 year old Terrance Lewis in a line-up, along with 18 year old Jehmar Gladden, and a third man in his early 20s named Jimel Lawson.

Terrance has always maintained that Lena Laws got it wrong, though he has no idea why she would have implicated him in this crime.

**Terrance Lewis:**

Lena Laws - yeah, I seen Lena Laws, you know on probably two or three different occasions. Being around the neighborhood that I grew up in, I guess being a product of my environment, just hanging around the local neighborhood, I've seen her in passing. In addition to, one of my codefendants Jehmar Gladden, he had personal dealings with her. He had personal business with her. Me and Jehmar Gladden, my codefendant on this case also, we actually grew up together, this was my childhood friend. So, this is how I come to know about how she come to know about myself. But other than that, nothing more than that.

**Susan Simpson:**

Yeah, so you never had thought that she had anything against you in particular?

**Terrance Lewis:**

No, not at all. To this day, and this is just my personal belief, 'cause I still rumble and wrestle with answering that question. At times, well in the 10 plus years Mr. Laigaie was in my life, talking strategy pertaining to how we were going to litigate the actual innocence before the court, on the down time, I would ask him that personal type question, like "Why me?", I guess similar to the type of question I would personally internally ask God, like "Why me?".

**Susan Simpson:**

Yeah, as far as I could tell from the file, it seems most likely she just knew you were Jehmar's friend [Terrance: Exactly] and so she filed in her blanks in her memory with someone she knew from around him.

**Terrance Lewis:**

Exactly, and that was sufficient enough for the Philadelphia Police Department.

But given how threadbare the case against Terrance was, the credibility of Lena Laws was everything. Because she was literally the only thing. There was nothing else to implicate Terrance in this crime. So if there was evidence that Lena Laws had gotten it wrong -- well, that would have changed the entire trial against him.

As it turned out, though, there had been evidence that Lena Laws got it wrong. It's just that it hadn't been turned over to the defense.

**Terrance Lewis:**

That's what to this day really saddens me. The fact they had that piece of evidence, and still pursued me and still did not disclose it so I could actually mount a defense. You know, to prove that star witness was lying. That right there was another major blow. And mind you I just found out about that in recent times. That's something that you all guys, y'all actually unearthed for me.

**[10:30] Colin Miller:** This new piece of evidence was a sheet of handwritten notes obtained from Terrance's police file. These are the notes we referred to in our series as the Omar 60 & Walnut notes, based on the first line written on the top of the page. And although they aren't labeled, it is clear this page of notes was taken by a detective who had interviewed Denise Williams, one of the other eyewitnesses who had been in the house on the night Bernard Howard was killed.

And those notes show something that had never been revealed to any of the defense attorneys in Terrance's case. That one of the eyewitnesses to Bernard Howard's murder had contradicted Lena "Star" Laws. Denise Williams had not identified Terrance Lewis.

**Terrance Lewis:**

She actually identified another individual who was not me, but who she believed at the time was the third perpetrator. But that information, that police report, was never disclosed. That would've shown that she literally was sadly mistaken. She was wrong. She just got it wrong.

**[13:56] Rabia Chaudry:** Remember, the only eyewitness to testify at Terrance's trial was Lena Laws. But she wasn't the only eyewitness to the actual murder. There were two other eyewitnesses that had been there as well. One of the other witnesses was a woman named Denise Williams, and while she didn't testify, she had been interviewed by police. And in that interview, as memorialized in the Omar 60 & Walnut notes, Denise had described to a detective the three young men she had seen that night. She had

described a man who matched Jimel Lawson, and a man who matched Jehmar Gladden. And she had described the third man.

But the third man most definitely did not match Terrance Lewis. Because Denise said that the third young guys went by the name Hakim Sadeh Muhammed. She said this guy was on house arrest at the time, and he was wearing an ankle GPS monitor while awaiting trial.

**Terrance Lewis:**

So it couldn't have been me! I never in my life been arrested of any crime! I never, not a juvie, not a juvenile sentence, my first, I guess, run in with the law was this one right here, and yeah, they threw me to the wolves.

**[14:55] Susan Simpson:** When the federal judge wrote in 2010 that the court believed that Terrance was likely innocent, that had been based on new evidence, and new witnesses, that Terrance was able to call and present at the hearing. Procedurally, however, Terrance was deemed to have defaulted on that. His new evidence had come too late to matter.

This new evidence was important not because of what it proved about Terrance's innocence, although it did also provide strong evidence of that as well. But the Omar 60 & Walnut notes were also something more -- they were evidence of the due process violation the Commonwealth had committed in order to convict Terrance Lewis of this crime. Because, in a single eyewitness case, having a second eyewitness who was at least as credible as the first, but who contradicts the first witness's identification? Well, it's *Brady* material, hands down.

Unfortunately for Terrance though, even having this new evidence didn't change the brutal choice that faced him: Terrance could either continue to assert his innocence, and remain in prison, or he could drop his innocence claims, and be resentenced as a juvenile lifer, which would likely allow him to go home before the year was out.

**[16:00] Colin Miller:** Earlier this year, Terrance finally made the decision to forego his state level actual innocence claims, so that he could proceed with resentencing.

**Terrance Lewis:**

Yeah, that was a hard moment for me, honestly. And I did it, I'm behind it, I support it. And you know it probably was due to stubbornness: I did not want to relinquish my innocence claims. But it came a time, and I'm seeing individuals

who definitely showed reform, who definitely showed that they was rehabilitated, get a bite at the apple, to get a chance to go home and live life, and start a family. But I had to remain in jail. I had to continue to rot in jail for a crime that I didn't commit. That was a blow. That was a blow to my soul. It hurt it. I can't even begin to describe the emotions that I felt. I was angry, I was mad, I was disappointed, I was resentful, you know, at the system, because that didn't make sense to me.

David Laigaie, Terrance's defense attorney, knew that, in giving up his innocence claims, Terrance might be making a sacrifice that would get him nothing in return.

**David Laigaie:**

Well yeah, when you counsel clients, you like to be able to give them clear options. And assurance. And we couldn't give Terrance either. We basically said, "Look, we know that if we drop the state court claims that it kills our chance of ever getting relief in the state court. We believe that we can seek through habeas, relief in the federal court, but we can't guarantee it. And we can't guarantee that having dropped the claim in the state court wasn't going to somehow preclude us from relief in the federal court." We were asking him to take a dive into the unknown, and to his credit he had the courage to do that. And it ends up, we couldn't have known the ending of the story. It ends up being a very good choice, but we both know it could have ended up being as disastrous as a million other crazy things that have happened in Terrance's case to keep him in prison for twenty plus years.

And so Terrance Lewis proceeded to resentencing. A hearing date was set for May 21st, 2019.

**Terrance Lewis:**

The day of my resentencing hearing, I was moping. I was moping, I had all kinds of jitters and butterflies. Because I was informed that the judge that I was going before, Judge Barbara McDermott, that she was tough. And being as though it was a resentencing, that's the posture we were going before, she did not want to hear the claims of innocence. So thus, I would have no choice but to accept one of the factors, and for us to accept the agreed upon sentence that the Commonwealth was offering me, which was twenty to life. She wanted me, and everybody else that comes before her, to accept responsibility. So that was the Catch-22 that I was in. So we tried strategically, Mr. Laigaie, everyone from the defense team, to straddle that line with not accepting responsibility and showing

her why, with putting before her my actual innocence claim, but not harboring on it. So that was a real delicate insertion that Mr. Laigaie had put on for me. But because of that, I was scared to death.

Terrance's fear was understandable. Another juvenile lifer had recently gone before Judge McDermott for resentencing, and like in Terrance's case the Commonwealth was also agreeing to time served, but Judge McDermott had felt that the defendant hadn't taken sufficient responsibility for his crime. She'd given him additional time to serve, delaying his release.

**Terrance Lewis:**

I was prepared to do six months to a year. And when I went in there and she said, and we already knew that Judge Barbara McDermott was a detailed judge, that she reads all the material. So we figured that she was going to penalize me, like every other court penalized me, for maintaining innocence.

**[20:40] Rabia Chaudry:** As part of the hearing, Terrance's attorneys called in six correctional officers who had worked with Terrance over the years. Terrance's attorney asked them to describe Terrance: Very respectful, they said. Extremely professional, a mentor to the younger guys. Someone you could always count on. He was, in fact, a model inmate. Many of the officers testified that, in all their years in corrections, they had in fact never met an inmate better than him.

**Susan Simpson:** If this had been an ordinary juvenile lifer case, Judge McDermott said, she would have been willing to accept the Commonwealth's agreed-upon sentencing. As she said in court, "Even if Terrance Lewis did do this, another day in jail is not going to protect the community. It's not going to make him a better person. He is who he is today, so I would be giving him a sentence that would be making him eligible for parole anyways ... One way or the other, he's paid his debt. If he didn't do it, he paid more than his debt; he paid somebody else's debt."

But this, Judge McDermott realized, was not an ordinary juvenile lifer case. Before Terrance's case had come to her for resentencing, Judge McDermott had not known anything about it. But after his case was assigned to her, she began reading. And as she stated in court, "I looked at the case in preparing for sentencing today, as an experienced former lawyer and [as a] Judge[.] [A]nd I said -- there is something wrong here."

**Colin Miller:** On the day of the hearing, Terrance Lewis and his attorneys went in to Judge McDermott's courtroom expecting for Terrance to be sentenced once again on his murder conviction. Their greatest hope was that he'd be given a sentence that would make him immediately eligible for parole, and by the end of 2019 Terrance might be paroled out. On the other hand, their greatest fear was that Terrance's continued assertion of innocence would result in him receiving additional years before parole could even be an option.

The possibility of Terrance coming home right then, and as a free man, had never occurred to them.

**David Laigaie:**

Yeah, I put zero percent chance of that happening that day. It's not what we asked for, I wouldn't have expected it in a million years. It was just some kind of cosmic intervention because the only reason it happened is because Patricia Cummings and her colleague Tom Guyette of the Conviction Integrity Unit happened to be summoned to Judge McDermott's chambers that day, that afternoon, on another matter.

**[23:00] Susan Simpson:** Patricia Cummings is the new head of the Philadelphia DA's Special Investigations and Conviction Integrity Unit. She was brought on in 2018, after newly-elected DA Larry Krasner took office. Krasner had campaigned on a progressive agenda aimed at ending mass incarceration, and one of his promises had been to revamp the city's Conviction Integrity Unit -- and that required finding new leadership for the Unit.

**Patricia Cummings:**

Honestly because I'm a Texas girl, I never really thought about living anywhere where it was really cold, and the fact that I'm in Philly is a big surprise mainly to my family. But I got a phone call in December of 2017 after Larry was elected, and in that phone call I was asked if I'd be interested, or even consider moving to Philly to run the Conviction Integrity Unit for Larry. It kind of came out of the blue, but I have to say there was just this gut reaction that "Why would I not?". What a wonderful opportunity to do what I'm passionate about. I was here living in Philly probably six weeks later.

At first, it was just her and Assistant DA Andrew Wellbrock, who was the only holdover from the Conviction Integrity Unit under the previous DA. Though, at the time, the unit hadn't gone by that name.

**Susan Simpson:**

I forgot that you all used to be called the Conviction Review Unit. Was that a deliberate change to Conviction Integrity Unit?

**Andrew Wellbrock:**

Yes. [laughs] The Conviction Review Unit, it feels very reactive, and we are certainly not limited to that.

**Patricia Cummings:**

It's kind of a holistic, you know, everything needs to be done in the most ethical way, and with the understanding that we're not about obtaining convictions. We're about, as prosecutors, obtaining justice. But as far as the change from Conviction review to Conviction Integrity, we also try to be different in terms of how we actually engage in the review of the old cases. Some folks would say, and certainly Andrew did not fit into this, but some folks would say that the unit how it existed before was not serious about really doing an appropriate review into cases when claims came out. So because of that, we wanted to make sure that people understood that the new unit was really going to take it very seriously and look for the integrity in the prior conviction.

Over the past year and a half, the unit has expanded, and now has 7 attorneys. And that was definitely necessary, because word has gotten out about the changes at the Philadelphia DA's Conviction Integrity Unit.

**Andrew Wellbrock:**

The entire year of 2017, we received about 140 formal submissions, both from attorneys and from pro se litigants. We hit that number in the first 3 months of 2018, and I think by the year's end we were about 700, and already halfway through this year we're at around 450.

Andrew Wellbrock is the prosecutor at the Conviction Integrity Unit who first reviewed Terrance's case after it was submitted. He remembers why the case first stood out to him.

**Andrew Wellbrock:**

So I mean any case where it is a single eye witness and there is no other corroborating witness at trial is gonna to stick out. There were some significant inconsistencies in that eyewitness's statement versus her preliminary hearing

testimony versus her trial testimony that certainly stuck out, and then of course really the elephant in the room in Terrance's case was the fact that a federal judge had called him innocent ten years ago.

That had stood out to Judge McDermott too. The earlier ruling from the U.S. magistrate judge is part of what had caused her to dig deeper into Terrance's case when it first came to her. And why, on the day of Terrance Lewis' resentencing hearing, when she happened to see Patricia Cummings at the courthouse, Judge McDermott had decided to ask her about it.

**David Laigaie:**

But the judge summons them to talk about another matter. At the end of that discussion, the Judge said to them, you know you really should be looking into this Terrance Lewis case. And Patricia Cummings said, "Judge, we've been looking into that case for years, and we're highly troubled by that case. We believe that Terrance Lewis deserves a new trial, but we understand their strategy is to get that relief through federal court, and frankly the DA's office anticipates that habeas filing and basically is going to agree that there was a violation of due process". And so the judge took that all in and said, "That doesn't make any sense then. If you think he deserves a new trial, if Judge Wells thinks he's innocent, if all of that is true, why should I be sentencing him?"

**[28:03] Rabia Chaudry:** Judge McDermott had been troubled by what she'd read in Terrance Lewis' file, but she hadn't even known that there was an investigation into it by the DA's office. And now she was learning that not only had there been an investigation into Terrance's case, but that it had actually been completed.

As Judge McDermott would say in court later that day, this put her in a quandary. She could've done what everyone expected, and accepted the Commonwealth's recommendation of a sentence of 20 years to life. Terrance would have immediately become eligible for parole, and he'd almost certainly get it. But that would take months and months more to be done, and even then Terrance would still remain on parole, with all the restrictions and losses of liberty that entails.

Instead Judge McDermott called in David Laigaie, Terrance's attorney, for a discussion.

**David Laigaie:**

And when I finally got called back to the robing room, having no idea what was going on, the judge's question to me was "Why should I be sentencing an innocent man?" [laughs] and I said "Your Honor, I've asked that question a million times, for ten years. And sadly my answer is 'Because that's the best option we have at this moment to effect justice, which is to get Terrance Lewis out of prison ASAP. " and she said "Well, I think we can do better"

After speaking to Judge McDermott, David Laigaie went back to break the news to Terrance.

**Terrance Lewis:**

She called for a recess, after, like I said this was about after 5 o'clock, on towards 6. And she called for a recess real quick, and I went into the holding pen, and Mr. Laigaie came in, and when I seen his face...mind you, my whole journey has been nothing but heartaches and upsets, so when I seen his face, he was stunned. He had this bland look on his face, I couldn't read it, he was just like taken away by something he heard. So of course I attributed that, due to my experience, "What happened now? Like damn!" So he said "No Terrance, the judge, she wants to let you go - now."

**[30:17] Susan Simpson:** Judge McDermott had a plan. When they got back into the courtroom, Terrance's attorney would amend his petition for post-conviction relief, right then and there. It would be an oral amendment -- there was no time for paper filings. And in the amended petition for post-conviction relief, Terrance would seek relief in the form of a new trial for violation of his due process rights. The Commonwealth of Pennsylvania would join Terrance's motion, and the judge would grant it.

Terrance's initial reaction to this news was the same as a reaction I had, when I heard about it.

**Terrance Lewis:**

So I'm like, wow can that actually take place? And I was hopeful that it could be but that was like wishful thinking. Throughout my incarceration I would read cases, and you would see the power or the authority that courts are invested. They can do it if they so choose, and the parameters of law.

What happened at the hearing that was supposed to be for Terrance's resentencing isn't something anyone expected, because it's something that usually happens. Usually in innocence cases every step of the process is a complicated, lengthy, drawn out. But

there's no reason that it *has* to be that way. And in the right case, where the right stars have aligned, well, things can go a bit quicker.

**Patricia Cummings:**

It was a surprise because what it was scheduled for was the Miller resentencing, and so we didn't think that we were going to be facing a judge looking at it for the guilt or innocence issues as well, but she said she had looked at the case, it concerned her and she was willing to deal with it all at the same time, which we thought was just fabulous.

The only reason that it was even possible, though, was because of the years of legwork that had gone into the case, from all sides.

**Patricia Cummings:**

The good thing is we were prepared. Andrew had done a whole lot of work, we had talked about it as a team, and as Andrew said we had spent a lot of time talking to the defense team as well, such that we were all there and prepared to move forward.

That preparation included going out and re-interviewing all the key witnesses, including Denise Williams, the eyewitness who hadn't testified at Terrance's trial, but who in a police interview, had identified the third man involved in Bernard Howard's murder as someone other than Terrance Lewis. The CIU also spoke to Jehmar Gladden, Terrance's co-defendant, and other witnesses who were on the street on the night of the shooting

There were only two key eyewitnesses that the Conviction Integrity Unit couldn't hear from. The first was Jimel Lawson, the co-defendant identified as the man who actually shot Bernard Howard. He was in psychiatric care and unable to provide useful information. And the second was Lena Laws herself -- the star eyewitness who had identified Terrance Lewis at trial. Although the CIU tried repeatedly to speak to her, she refused to cooperate, and they never could get a statement from her.

As a result of their work though, Patricia Cummings was able to tell the court that, quote, "As a result of our internal investigation, the Conviction Integrity Unit has determined that there has, indeed, been a miscarriage of justice in that there is a strong likelihood that Mr. Lewis is actually innocence of the offense for which he was convicted."

Unfortunately for Assistant DA Andrew Wellbrock, he'd been scheduled to be elsewhere on the day of the hearing.

**Andrew Wellbrock:**

So I was a little frustrated that I couldn't be there for it, but I'm glad that the result happened when it did. I'd been working on this case for I guess almost two years at the point when all of this happened. I think almost exactly two years. I spent a lot of time reviewing paperwork, speaking to witnesses, working with defense counsel, and you know all the time hearing about what a remarkable individual Terrance Lewis was, so for him to get out, to get a chance to speak with him with defense counsel a couple of weeks ago, all of that's true. It's really the right result happened, it's a shame it took so long.

On the day of Terrance's resentencing, years of work by both defense attorneys and prosecutors finally came together, in a way that made Terrance's freedom possible. But as Terrance's attorney Davis Laigaie knows well, all of those efforts might not have been enough, if Terrance Lewis wasn't the person he is.

**David Laigaie:**

It's because Terrance, for twenty years, had kept the faith. And because for twenty years Terrance had conducted himself in such a way that the cosmos finally owed him one, and it finally paid him.

**Terrance Lewis:**

We joked at one point in time that if it wasn't for bad luck, I wouldn't have no luck at all, remember?

**David Laigaie:**

[Laughs] Oh yeah

**Susan Simpson:**

It's also frustrating and heartbreaking that even when the case is very solid, the defendant's conduct after incarceration makes it difficult or impossible to get any progress in the case and unfortunately does become part of it.

**David Laigaie:**

It's a huge part of it. Without a doubt the way Terrance has conducted himself over twenty years in prison has had a huge impact on how people, including Judge Wells, including Judge McDermott...because Judge McDermott heard

testimony from six correctional officers from SCI Huddington, all of whom extolled Terrance as a human being and Terrance as a man of dignity and respect. And without a doubt that had huge impact, and even frankly had huge impact on the victim's brother and the victim's niece, both of whom ultimately agreed on the record that it made no sense for Terrance to be in prison for this crime.

And all of that is how, at the end of Terrance Lewis' resentencing hearing, all of these things finally came together: a defense attorney that was appointed for one hearing and then chose to stay on for ten years, a federal judge who had dismissed Terrance's case on procedural grounds, but went out of her way to memorialize her findings that the evidence of his innocence was compellingly credible, leaving an indelible mark on the record that something had gone wrong here. A newly elected DA, and his newly empowered Conviction Integrity Unit, who were willing and able to reinvestigate the case for themselves. An eyewitness who had been willing to tell police about who she'd seen at the crime scene, and who 21 years later was willing to stand by her story. A sentencing judge who took the time to dig into the case, and when she could have chosen to do the easy and obvious thing, chose instead to find a way to do justice. And a defendant who, for 21 years, had committed himself to being the model inmate. That is how at the end of Terrance Lewis' resentencing hearing, no sentence was handed down at all.

**David Laigaie:**

The courtroom was packed with supporters of Terrance's, and they really didn't know what was going on. Of course they wouldn't have known one way or another, but they knew something unusual was going on because the judge was sort of going on about how thin the Commonwealth's case was, how the one witness was not someone it seemed could be really relied on, etcetera, etcetera, and when the judge finally first said that the effect of today's proceedings was gonna be that these charges were discharged, the audience went nuts as you would imagine, and the judge asked them to be quiet until we get it done. I remember she said "Look, until I say the magic words, nothing is going to happen, so please be quiet." And within 90 seconds, I orally amended the petition, she granted the petition, the effect of which was to grant Terrance the right to a new trial. The DA's office then null proc'ed the charges, meaning the charges were no longer existing charges, and the judge then discharged Terrance.

**[38:09] Colin Miller:** The court may have discharged Terrance, but that did not make him a free man quite yet. Because of how things had played out that day, Terrance's

hearing hadn't gotten started place until about 5pm that evening, and by then, it was too late for the corrections system to get anything done on its end.

**David Laigaie:**

Now the only...she couldn't, because he had been brought down by the sheriffs and whatnot, he could not walk out of the courtroom, he had to be taken back to Chester, and then, it was such an unusual occurrence the BOP took until about 2 o'clock the next afternoon to finally let Terrance go. They wanted to make sure everybody signed off on it because it just didn't seem like what should be happening in their mind. They were like, well we have to check, we have to check...

**Susan Simpson:**

[laughs] we just have to make sure this is actually the real thing...

**David Laigaie:**

..they need a letter from the DA's office....

**Terrance Lewis:**

Yeah....

**David Laigaie:**

You know, the last thing they wanted to do is set Terrance free and then have somebody say "Wait a minute, where is Lewis, how did he get out?"

**Terrance Lewis:**

Exactly...

So Terrance went back to prison, for his seven thousand, eight hundred and twenty-third night behind bars since his arrest in 1997.

**Terrance Lewis:**

It was a long night. That was a night that literally merged into morning. I didn't sleep that night. I stayed up. I sat on the edge of my bed, and I clasped my hands together, and I just shook my head for like an hour or two, in disbelief. Just shocked, and just amazed at what just transpired, and to wrap my head around the fact that I would be going home the very next morning. After 21 years. It was unbelievable. I didn't believe it! And I heard it, I was there. I witnessed it. Because I had been away for so long, that started to become like that was my

life. That's all I knew. That's all I had to look forward to. So to hear what the judge said, and knowing that that order was minutes or hours away from following, yeah, I stood up. I was up. I remained up that whole entire night waiting to be released.

**Susan Simpson:**

And then, that day you finally get processed, I'm sure that felt like forever.

**Terrance Lewis:**

[laughs] I'm laughing because, it did feel like forever, because that morning, about 5, 5:30, and I said, all right, as soon as the administration gets in, I know for a fact, because I heard what Judge McDermott said, and she gets the final say. So when 10 o'clock came and I still wasn't released, I started to call my attorneys, and by that time Mr. Laigaie was on his way up to SCI Chester. So 10 o'clock turns to 11 o'clock, and 11 o'clock turns to 12 o'clock, count time! And again I refused to be counted in there because I was no longer part of that society no longer. And after that, like Mr. Laigaie said, 2 o'clock came and I practically sprinted out that front door, to embark upon my new life.

On May 22, 2019, at 2pm, Terrance Lewis finally walked out through the prison doors at SCI Chester.

*Release Video audio, clapping, greetings*

**[42:15] Rabia Chaudry:** Terrance's family and friends were there waiting for him. Terrance's father had flown in from Arkansas to be there, and his son was there as well. Terrance's son had been born not long after he was arrested, though he's now older than Terrance was, when he first went in.

And Terrance's attorneys, Kevin Harden Jr. and David Laigaie, were there too. They represented Terrance pro bono, and for Terrance, David Laigaie was the first break he ever got in his case. Though, for a long time, it was also the last break he got.

**Terrance Lewis:**

If it wasn't for Mr. Laigaie, I would have been a lost soul. I'd have been a lost soul. Prior to Mr. Laigaie being appointed to me, for a long time, I started to develop trust issues. Because I had attorneys that came on board and just dropped the ball, you know. They just dropped the ball. Just dropped the ball. So it came a time where I wanted to litigate myself. I felt comfortable with just

litigating myself. And when I finally did reach the courtroom door after ten years and they appointed Mr. Laigaie, he stayed in my life for ten more additional years. You know, he represented me, he was court appointed, and after that he was only appointed to represent me for my habeas corpus petition, my 2254. And once that was over, once I went to the United States Supreme Court, he sent me a letter asking me, it would be his honor, his pleasure, to continue to represent me. I beg to differ to this day, it was my honor and pleasure to have him, and for him to want to be part of my life. So to answer your question, when I walked out the door, and he was there, that right there was the beginning of something truly new.

For David Laigaie, seeing Terrance walk out as a free man was the culmination of ten years of work, for a cause he chose to take on because he believed so strongly in it.

**David Laigaie:**

I always knew we'd get to this point, I just didn't know when. And at times it felt like it was forever into the future. And so I'm very pleased to have finally reached this point and again I wish it didn't take ten plus years. But lawyers, most lawyers I'll speak for, believe in the system. Understand it's flawed, but believe generally in the system. And I believe generally in the system. What frustrates me is a lot of folks aren't willing to accept that mistakes are made. [Terrance: yeah...] And in Terrance's case it shouldn't have taken 11 years after Judge Wells held that this had been a mistake, it shouldn't have taken 11 years, and some, frankly, we've dealt with some people that should have realized it earlier, but we finally got it to some people, including Judge McDermott, including Patricia Cimmings and Andrew Wellbrock and Tom Guyette, people who really care more about justice than about statistics.

And as glad as Terrance is to finally be free, he still doesn't understand why it had to take so long to get here.

**Terrance Lewis:**

I'm happy, I'm grateful, I'm elated, I'm ecstatic, and all those synonyms to those words. I'm humbled that I'm home with my family and that I can go on and pick the pieces up and move on with my life. However... I'm not going to negate the fact that what I've witnessed, and what I've experienced throughout my journey, that it didn't affect me somehow, some way. I'm not saying that I'm an angry black man, or I'm bitter. That's not what I'm saying at all. What I'm saying is, my 21 years, away from home, being wrongfully convicted, and despite me yelling at

the top of my lungs for someone to hear me, to hear my cry. And even when I proved my innocence 10 years ago, the system itself compounded the injury by keeping me in jail for an additional 10 years.

**[47:00] Susan Simpson:** I don't want to diminish all the dedication and hard work that was put in by Terrance's attorneys and the Philadelphia CIU, but at the same time it's hard to look at the past 21 years of Terrance's case and say "Yeah, here's an example of the system getting it right". And for Terrance, his ordeal has left him with darker questions about the criminal justice system.

**Terrance Lewis:**

The system... it needs fixing. I want to say that the system that we all engaging in now, that it needs fixing, as opposed to 'well no, it's designed that way. It's designed that way for its purpose and it's doing what it's designed to do'.

Terrance is free now, but 21 years in prison is not something he can just walk away from. He has spent a lifetime observing, firsthand, the injustices that our system inflicts on the innocent and guilty alike.

**Terrance Lewis:**

This is why, in turn, I can't enjoy my cheesecake. This is in turn, why I can't enjoy my shrimp in peace. This is why I can't really enjoy the sunset and the sunrise, and take a walk in the park and listen to the birds chirp and listen to the squirrels do what the squirrels do, because in the back of my mind I'm thinking about what happened, and what's on the books. These Draconian statutes and disproportionate sentences. And I feel some type a way about 'em. I just don't want to pay lip service to it. I really want to effect and try to bring about some type of change in a practical way.

**Susan Simpson:**

And this is probably not helpful, but I gotta say my instinct is like, you deserve just to live for a while. [Terrance : I know...] I mean you don't have any responsibilities for this.

**Terrance Lewis:**

But I feel obligated.

Terrance does have some ideas, though, about the kinds of catching up on life that he wants to do now.

**Terrance Lewis:**

I've never been to a beach. I want to go to the beach. I remember I used to look at TV, and whether it was a commercial, or someone was advertising, I want to live life. I've never been nowhere. I think I've been to the zoo, you know, prior to my incarceration. I've never done nothin'. Nothin'. Other than I was subject to stand in door count. All the horror stories, and all the penitentiary philosophies, I was subject to them things. So to answer your question, I want to... I've got a laundry list!

**[49:46] Colin Miller:** But for now, his goal is to find a way to become a self-sufficient adult. He's staying with family for the time being, which he's grateful to have available to him, but it does come with its own risks. So striking out on his own is a priority.

**Terrance Lewis:**

Putting myself in a position where as though I can have or establish a marketable wage. That I can remove myself from being a product of my environment, if that makes sense. Because, you know, I went back to the places where the likes of Lena Laws is, and many more of them out there. I don't... that's like one of my fears is that someone mistakenly accuses me again of committing a wrong. And instead of me being heard out, I'll be taken away again and rot away in a jail, and die in a jail. So I guess one of the things in getting in front of that, is that I would have to move from that type of environment. Does that make sense?

As someone serving a life sentence without parole, there wasn't really anything in the way of vocational training available to him. I mean, after all, what would be the point, right? It's not like having a job is something he'd ever have to worry about.

Only, now it is something he has to worry about. And for a while, after he realized he'd be getting out, Terrance thought he knew what he was doing. But that was before he was released as an innocent man.

**Terrance Lewis:**

I used to say, I'm going to go be a truck driver. I'm going to go get my CDL. And that was based upon, I knew some guys who went home as parolees, they made good money, could keep the bills on, keep the lights on, could start a family. I was thinking, what could I possibly do, at the age of 40, and don't have nothing else, no experience. I put two months, and the state was willing to pay for me to go to school for me to be a truck driver, provided I come home as a parolee.

They would send me to school, and the state of Pennsylvania, or the county of Philadelphia, they would pay the tab. But now that I have been exonerated, and I'm a free man, and I have been restored in respect to my liberation, I don't have nothing!

**Susan Simpson:** If Terrance had been a resentenced juvenile lifer, then once he was paroled he would have had support and programming options made available to him. These programming options are available to all juvenile lifers in Pennsylvania. As an exoneree, though....

**Susan Simpson:**

What does someone in Pennsylvania get after they've been wrongfully incarcerated for 21 years? What does the state of Pennsylvania give them?

**Terrance Lewis:**

They get what I have been given. A congratulations and good luck! Pennsylvania doesn't have a compensation fund. They don't have nothing that's on the books that once someone has been wrongfully convicted and exonerated they don't have no funding, they don't have no compensation for them to be handed so they can go ahead and start from that moment on and living their life and trying to pick up the pieces. They're left on their own.

So for now, Terrance is trying to figure out what comes next. He's thinking of going back to school, to study law and criminal justice. And I hope he gets a chance to do that. But I'll admit this idea gives me a certain kind of sadness as well. Because in a way, it's a continuation, sort of, of the life he led when he was incarcerated. When he had no other paths available to him.

**Terrance Lewis:**

I can't be an electrician, perhaps getting a salary \$80,000, \$90,000 a year that an electrician can possibly reach, because I haven't learned them type of skills. I was sitting idle for 21 years. The only thing that I do know, and that I'm familiar with, and that I do have a passion for, is trying to analyze case law and trying to interpret, you know what I mean, law. That's all I know. So until I am able to go back to school and get a degree behind me, this is all I know.

Now that he's free, Terrance is going to have a chance to figure out what he wants to do with his life, whatever that ends up being. And to help, a fundraiser has been set up in his name.

**David Laigaie:**

Terrance's father created a GoFundMe site for Terrance, to help Terrance buy some clothing, get his feet situated. If he does intend to enroll in college in the fall, he'll have to get his living situated. He's living with his aunt now, but you know, that's not optimal. Unfortunately unlike a lot of other states, Pennsylvania does not have a stipend for people that were improperly incarcerated. But as with a lot of things in Terrance's life, as with everything in Terrance's life, he'll make do. He'll work hard to succeed. And that's what he's started doing in this first month, he's building the groundwork for that, and again I have no doubt that that's the path he's on.

If you'd like to donate to Terrance's GoFundMe, we'll have a link up in our show notes, or you can look up the Terrance Lewis Exoneration Fund at [Gofundme.com](https://www.gofundme.com). They've set an initial goal of \$10,000 they're trying to reach, so please consider donating today.

**[55:45] Colin Miller:** Before we sign off, we'd like to provide you with an update in one of our other cases. In Season 2, we told you the story of Joey watkins out of Rome Georgia, being handled by the Georgia Innocence Project. Most recently we told you the Supreme Court of Georgia had declined to hear his appeal of the lower court's denial of his motion for a new trial. But now, Susan, we've had a change of course, right?

**Susan Simpson:** Yeah, when we left off the last update, we mentioned that a motion for reconsideration had been filed by the Georgia Innocence Project, and that was pending with the court, but I don't believe we sounded very optimistic about it.

**Colin Miller:** Yeah, as we noted in the context of the Adnan Syed case, motions for reconsideration are real Hail Mary's. They're granted less than 1% of the time, and so while the Georgia Innocence Project had filed this motion for reconsideration, there wasn't any real reason to believe it would be granted.

**Susan Simpson:** Well, we got news back earlier this week that in fact the Georgia Supreme court did grant it, and they are going to hear Joey's appeal. This is an amazing win for Joey and the Georgia Innocence Project because without this, his options at least is state court were fairly limited, it's fair to say, or entirely limited. The next step is briefing. The Georgia Innocence Project will write a brief, and presumably the State of Georgia will oppose it, and there will be a hearing on his appeal. And within

hopefully the next year, we'll have a ruling on that, and if all goes well, we'll be back to the trial court for a hearing on his habeas action there.

**Rabia Chaudry:** Well it's good to get some good news in a case we all have been holding our breath for and working hard for the last few years. Congratulations Susan to you, to the GIP, and we hope Joey will be home soon like Terrance.

Colin Miller: I'd like to thank the following people: Hannak McCarthy for audio production, Christie Williams and Nina Muster for web site management, Baluki for our logo, Patrick Cortez and Ramiro Marquez for our theme music, and Mital Telhan our executive producer. I'd like to thank our sponsor for today, Omaha Steaks, and as always you can follow us on Twitter, Facebook, and Instagram using the handle @UndisclosedPod

If you would like to donate to Terrance's exoneration fund, please go to:  
<https://www.gofundme.com/f/the-terrence-lewis-exoneration-fund>