

UNDISCLOSED, the State v. Terrance Lewis
Episode 1 - The Virtually Perfect Witness
December 4, 2017

[0:11] Susan Simpson: Imagine that you've been accused of murder. Almost a year ago, a man was shot and killed in his home, and a woman who was there when it happened says that she saw you do it. That she saw you, and two of your friends, come into her house and rob her and her boyfriend, and then just as the three of you were leaving, one of your friends turns around and shoots her boyfriend. The three of you leave the house and she calls the police, but it's too late - her boyfriend dies. She tells the police that you did it.

This witness has no reason to lie. And there's no reason, whatsoever really, to doubt the basic outline of her story. And at least in this case, there's no chance that she's the killer, or anything like that.

She's the eyewitness to the case and she says you did it. She's also the only eye-witness at your trial. Actually, she's the only evidence against you, period. There's no other corroborating evidence, no forensics, nothing like that, but then, why should there be? It was a simple, senseless crime, and the evidence against you is just as simple: she saw you do it. She's certain of it. She was right there. You did it. Case closed, end of story.

As the prosecutor will tell the jury at your trial:

"Ladies and gentlemen, I submit to you that what you are about to hear is virtually a perfect case. You had an eyewitness who knew and loved the [victim], who had a ringside seat. Who knew each of these co-defendants, and told the police immediately what happened."

Now, this case against you, although virtually perfect, still takes a while to solve, but that's only because the police didn't have your real name yet. The eyewitness knows you, she's seen you before, maybe a couple times, but she's only ever heard you called by a nickname. So the police have to go out and connect a nickname to a photo that they can put in a photo array, so that she can tell them for sure who you are, and that takes some time. But other than that, it's such a strong case that there's barely any need for police work at all. As the prosecutor will remind the jury that decides your fate:

“This is not a whodunnit. You have the eyewitness coming in saying she knows these three guys. All the detectives have to do to solve this case is to put a real name on a nickname and go and lock these guys up.”

So, all this has happened, this is what you're up against, but...you didn't do it. You weren't there, you weren't involved in the murder, and you have no idea how it is that you got brought up in this at all. You don't know why the eyewitness is doing this, why she's saying you did it. You don't know if she's lying or just wrong or what, but she is wrong. How exactly though, are you supposed to prove that? In a case with no evidence beyond the word of someone with no reason to lie, how do you prove you didn't do it? Sure, you can poke holes at her story, maybe attack her character, bring up her drug use, your attorney's can do all that. But what does that really get you?

As Terrance Lewis found out in 1999, it doesn't get you anywhere at all. On the basis of that one eyewitness with no reason to lie, he was convicted of a murder that happened when he was 17 years old, and given a life sentence he is still serving today.

[4:06] Rabia Chaudry: Hi and welcome to Undisclosed: The State v. Terrance Lewis. My name is Rabia Chaudry, I'm an attorney and author, and I'm here with my colleagues, Susan Simpson and Colin Miller.

[4:15] Susan Simpson: Hi, I'm Susan Simpson. I'm an attorney in Washington, D.C., and I blog at [TheViewFromLL2](#), and I also podcast, along with Rabia, at "The 45th."

[4:21] 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](#).

[4:37] Rabia Chaudry: It was a sticky, hot August night in the summer of 1996, just after 11pm, when the police got a call to report a shooting. The address was for a little rowhouse out on the western edge of Philadelphia, on Sansom Street, and within minutes, Officers Frank Hack, Shawn Butts, and Mariano Maddela arrived on the scene. They arrived to find a woman at the front of the house. She's frantic and screaming, yelling, "He's been hurt! He's back in the kitchen!" The officers cautiously move through the narrow rowhouse, and three rooms back, they find a man laid out on his back. He was, in the words of the report they will later write, "obviously dead." There's a gunshot wound in his stomach, and when they roll him over, they find an exit wound on his back. 57 year old Hulon Bernard Howard has been murdered. He is the 247th person to be murdered in Philadelphia that year, and so far that summer, just in his neighborhood of

Cobbs Creek alone, on the very western edge of Philadelphia, five other men have been shot and killed. The day after Bernard's death, another man will be shot and killed in a barbershop just three blocks over.

By the time the cops got to the house on Sansom Street, the only witness still around is the woman who called 911, and who met the cops at the front door, 37 year old Lena Laws, though she tells the police she usually goes by the name "Star." She's the victim's girlfriend. She's distraught, but she's willing to be interviewed. She speaks fast, though, and has some kind of speech impediment -- sometimes it's not clear if the officers understood everything she was saying.

[6:06] Colin Miller: But Star is clear on the most important fact, and that's who killed her boyfriend. The shooter, she tells them, was a man who went by "Mellow." He'd come over to their house with two other guys. Bernard talked to the three in the front of the house for a bit, but then they all came back to the kitchen where Star was, along with two of Bernard's friends who were visiting at the time. The men who'd come to the door were young, late teens or early 20s, and they were armed. One of them fired a sawed off shotgun into the ceiling, and another went around turning out the pockets of everyone in the house, robbing them. And then, when it was over, the one called Mellow shot Bernard, and all three of the men ran out of the rowhouse.

Star told the officers that Mellow lived just a block away, on Walnut Street, and that his real name might be Jamal. And then she got out a piece of paper, wrote down a seven digit number with the name "Mellow" beside it, and gave it to Officer Butts. "That's the number for the guy that shot Bernard," Star told him. She'd called it once, as a favor for Bernard, and got a voice message. That's why she thought Mellow might be Jamal, because there had been some kind of Muslim greeting, and then the voice said, "This is Jamal, please leave a message after the beep."

The three officers at the scene also wrote down a brief description of the three men. They were youngish, 19 to 21 years of age, thin builds, bald heads. Mellow had a darker complexion, while the other two were lighter skinned.

At that time, though, still at the house that night, the only name Star tells Officers Hack, Butts, and Maddela is Mellow. According to one officer, Officer Butts, Star tells them that Mellow had a Tek 9 that he used to kill Bernard, and one of the other two males had a shotgun that he fired into the kitchen ceiling. Another officer, though, Officer Maddela, hears differently. Maddela thought that Star told them that *Mellow* had the shotgun, and a shotgun was the only kind of weapon the three young men had. It was

Mellow, Star says, that fired into the ceiling with the shotgun, and it was Mellow that shot Bernard with the shotgun. Or, at least, that's what Maddela remembers Star saying. Maybe he just misheard. Maybe Butts had it right -- maybe what Star told them was the way he remembered it, that there were two guns, a Tek 9 and a shotgun, and it was Mellow with the Tek 9 who killed Bernard.

[8:18] Susan Simpson: But although the police reports and interviews from officers Hack, Butts, and Maddela don't mention it, there's one thing I definitely wonder. Whether Star told the police it was Mellow or one of the other men that fired the shotgun, all the officers agree on one thing -- she did say that *someone* had fired a shotgun into the ceiling. And even though the police didn't do an extensive job with processing the crime scene, you don't really need forensics evidence to see the problem here with Star's story. Because, a shotgun blast into a ceiling would leave a mark, and there wasn't one. No bullet holes in the kitchen ceiling, or anywhere else in the house. No sign that the shotgun had been pointed up and fired like she says.

But if the police noticed this discrepancy at the time, their reports don't record it anywhere. And not long after that, the EMTs arrived at scene and declared Bernard dead. And at about 12:20 A.M., maybe an hour after the murder happened, another officer, Officer Taggart, will pick Star up and take her down to the police station for a longer interview.

[11:34] Susan Simpson: A couple hours later, Detective James Hughes interviewed Star down at the homicide division, but the Philadelphia police didn't record interviews then, and all we've got to go on, to know what she said in this interview, are the notes that Detective Hughes took. Seven handwritten pages of scribbled cursive, laying out questions that Detective Hughes asked her, and Star's answers to them. This time, in this interview, sitting down in the station, she gives more details than what officers Hack, Butts, and Maddela recorded. Maybe because of the calmer environment there, as opposed to the rowhouse.

She had been home all night, Star tells them. Bernard had gone out, though, and about 10:30 pm he came home and he brought two friends of his with him, Omar and Denise. Star hadn't liked that, not the part about him bringing Denise home with him, anyway. She tells Detective Hughes that she'd "gotten an attitude" because of it, feeling jealous apparently, that he'd brought a woman home, even though he'd also brought Omar with him, as well. But, for whatever reason, she calms down, and the four of them ended up hanging out together in the breakfast room. They'd been there together about 20 minutes, maybe, when the doorbell rang. It was Mellow, and two friends of his. Only,

this time, talking to Detective Hughes, she knows the names of the friends as well. The first, she says, is "J.R." and the second, is "Stink."

[13:05] Rabia Chaudry: According to Detective Hughes' notes, the arrival of the three men isn't initially cause for alarm for anybody in the rowhouse. When Omar had come over to the house, he'd asked Bernard to get some cocaine, Star says, so she seems to imply that Mellow's arrival had been expected -- he was there to deliver drugs, just like Omar had asked. So when the doorbell rings, nobody is alarmed, and Bernard goes to the front door to let them in. Star is still in the back of the house, not with Bernard, and the new arrivals in the front living room, but one of the three men -- she IDs him as Stink -- walks back to the kitchen and looks at her, Denise, and Omar, before walking back to the front living room where Bernard is. From where she is in the kitchen, she hears Bernard say, "Mellow, do you have anything?" She knows that what Bernard is really asking is about crack cocaine.

Mellow has other ideas, though. He asks Bernard where is his money, telling him he needs to pay up. Bernard owes Mellow some kind of debt. Now, according to Star, it's only fifteen bucks, but Mellow was charging him interest, and he couldn't pay. He doesn't have the money. But Bernard tries to calm Mellow down, and asks him not to be talking about that in front of his guests.

And that's when things take a dark turn. Star is kind of vague on how it happens, but at this point, the three men and Bernard must have come back to the kitchen area to join Star, Denise, and Omar, because according to Star, that's where all the action happens from this point on until it's over. It must have been a cramped encounter -- the room is only 8 feet, nine inches wide, and 11 feet long, and there's a refrigerator, a table with chairs around it, cabinets with glass shelving, and seven people crammed into it.

So, they're all standing around, and then Stink pulls out a sawed-off shotgun and fires it into the ceiling. The third man, the one she calls J.R., starts going through everyone's pockets and collecting their money. There's also some money put out on the table -- before Mellow and Stink and J.R. arrived at the house, Omar had pulled out a \$20.00 and thrown it on the kitchen table -- apparently to pay for the cocaine . But Star notices it before the three men do, or at least she thinks she does, and she grabs it and tries to hide it.

No luck. J.R. sees it, orders her to give the money back, and she does. And that's pretty much it. After turning everyone's pockets inside out, J.R. and Stink head for the door.

Not Mellow, though. Mellow asks Bernard again, "When are you going to give me that money?" Tomorrow, Bernard says. That's not good enough for Mellow. Mellow wants to know what *time* he's getting the money, and Bernard says before noon.

That seems to satisfy Mellow, and he turns to walk away. Star relaxes, thinking it's all over, that the incident has passed and everyone is going to go their separate ways. And then Mellow, who has made as if to leave and head back out the door they came in, turns around again. He pulls out a handgun, a Tek 9 Star thinks, and fires it into Bernard's stomach. Mellow and J.R. and Stink run out of the house and into a gold car, maybe a Monte Carlo, while Bernard collapses onto the floor, shaking violently.

There isn't a phone in the rowhouse, so Star thinks quick. She tells Omar to stay with Bernard, to remain there with him, while she runs to the house where someone Bernard knew once had lived. Bernard's friend passed away, but there's a new tenant now, and he lets Star use the phone to call 911.

When Star gets back to the house to meet the police and ambulance, she finds that Omar and Denise have already fled. They didn't stay with Bernard. Most likely they hadn't wanted to be around when police got there. And when the police do arrive, just a few minutes after it all happened, Bernard is already dead.

[16:51] Colin Miller: Let's say you're a detective with the Philadelphia Police Department, and you've been assigned this case. What would you do? What steps would you take?

From a police perspective, your task is pretty straightforward: locate and arrest the three men Star named. Only one of them had pulled the trigger and shot Hulon Bernard Howard, but under the law, all three were equally guilty of his murder. Case... almost... closed.

But you can't get a warrant for a "Mellow." Or a "Stink." Or a "J.R." Who are they, really? What are their legal names?

There's not much more that Star can tell you. Or at least there's not much more that Star told Detective Hughes that night down at homicide. They're just some young guys Bernard knew. They'd come to the house and wanted to sell drugs from there. She says one night, they sold cocaine from the front porch. She doesn't know where any of them live, but one time Bernard told her that Mellow lived over on Cedar Avenue, which was 12 blocks to the South. So maybe that's a place you can start your search.

But the part about Mellow living on Cedar Avenue, that she tells Detective Hughes down at Homicide, well, that's already a change in her story. A few hours before that, back on the rowhouse and Sansom, she'd told Officer Maddela, one of the first three officers at the scene, that Mellow had lived on the 6100 block of Walnut -- that's just a block away from that house.

Maybe Officer Maddela just misheard her. Or maybe Detective Hughes misheard her. Neither of them seem to realize that there is a discrepancy here, though, because they don't ever ask her to clarify what she meant, or what she said, or where Mellow really lives. So, maybe your search for Mellow has to start at both Cedar Avenue and on Walnut.

The rest of the descriptions Star gives do provide some physical details about the killers that may be helpful later, though they don't do much to narrow down your pool of suspects. All three of the men had the same outfit and the same haircut, she says. They're wearing white t-shirts and jeans, and they have closely shaved heads -- bald headed, she calls it. Mellow is about 20. He's the darkest skinned of the three, and he has a silver ring and silver necklace with matching crescent emblems. He's short, maybe 5'5" or 5'6". Stink is the tallest of the three, maybe 5'7 or 5'8", medium build, light skinned, 18 years old -- she doesn't recall any other details. And J.R., the third young man, is 19, and must be very short -- she says, about 5'3" with a thin build.

So Star is able to give some details at least about the killers, but it's not the kind of detail that will help you too much with finding them, or narrowing the pool of possibilities into any sort of manageable set.

[19:18] Colin Miller: The only other clue she can offer is Mellow's car. He drives a tannish gold car, doesn't know the make, but earlier in the evening she described it as a Monte Carlo. And she says the plates are in the car's back window.

But that's it. Not much to go on. Though, at the very end of her interview with Detective Hughes that night, Star remembers one more thing that may be important. When Mellow had come over at 11pm and shot Bernard, that wasn't the first time she'd seen Mellow that day. In fact, he'd been over to her house earlier in the day, looking for Bernard, but Bernard hadn't been home, so Mellow settled for taking their color TV. He picked it up, took it out to his car, put it in the trunk of that brownish gold, maybe Monte Carlo, and drives away.

Star told Bernard about what had happened when he came home later, and Bernard told her not to worry about it. He'd take care of it, he said. He hadn't seemed that alarmed by it, or at least Detective Hughes' notes don't suggest that Star told him it was that big a deal.

[20:20] Susan Simpson: So again, you're the officer investigating the case. Where do you go from here, since that's all you can get from Star?

Well, the crime scene is a good place to start. And the police do that here. Shortly after Star is taken down to the station, the scene is processed, and for about 2 hours, they go through it. Take pictures, make diagrams, and look for evidence.

Let's start with forensics. Maybe you'll get lucky and find the old classic here, fingerprint evidence. After all, Star does say that none of the three men had on gloves. And the police do look for fingerprints, kinda. Or at least Officer Sampson, the crime scene unit technician, who arrives on the scene, does check for fingerprints on the table in the breakfast room. There aren't any. So that's a dead end. At trial, one of the defense attorneys tries to cross him on this, to sort of press him on why he didn't check elsewhere, or check, say, the metal storm door that the defendants would have had to come through to get in, and he doesn't really explain why he didn't, though it does seem as though it would have been a waste of time to check, given all the people who had come in and out of the door since the murder happened.

[21:26] Susan Simpson: Either way, no luck there. And then there's ballistics evidence. The first officer on the scene who is assigned the duty of collecting evidence doesn't find anything. But a second officer, Officer Sampson, once he arrives on the scene, takes over, and he's able to find two items. The first is a cartridge casing and the second is a projectile, the bullet, the part that you actually shoot. And from this you get some more information, a little bit anyway -- both the casing and the projectile are later determined to have come from a 9mm, and both are consistent with a Tec-9, which is the kind of weapon Star thought that Mellow had that night. But that's as far as the ballistics alone is going to get you. Because without a weapon to try and match it to, all this really does is help you validate part of Star's story, and maybe gives you an idea of what to look for.

But there's another fact that might be useful to know, and that's where the casing and the projectile were found. Things get confusing here, because we've actually got two different accounts of where those items were collected.

[22:32] Rabia Chaudry: It could be that this information is recorded somewhere, some place we haven't gotten access to yet. There were photos taken of the crime scene, and diagrams were drawn, but we don't have copies. So everything we know about the crime scene is pieced together from officer testimony and their statements. But this makes things confusing, because none of the witnesses seem to be using the same terms to describe the same rooms. What we do know is that the lower level of the row house had four rooms, all of them laid out in a line, one opening into another. Everyone refers to the first room as the living room. Its doorway opens into the second room, which usually is referred to as the dining room, which opens into room #3. This the room Star calls the breakfast room. That's where Star, Denise, Omar, and Bernard were before the three men came through the door, and that's where everyone is gathered when the four of them are robbed and Bernard gets shot. And room #4, the last room, is the kitchen.

And the reason all this matters is because, eventually, in the course of your investigation, it will become clear to you, if it hasn't already, that there may be some problems with Star's story. Even aside from the shotgun fired into the ceiling that didn't leave a mark. So where Star claims the shooting happened, and where Bernard was when it happened, and where she was when it happened -- yeah, that all could matter.

But the confusion over what room is what doesn't help with sorting any of this out. Like take this portion of the trial transcript, from when Officer Sampson, who processed the crime scene, is cross-examined by one of the defense attorneys.

[23:57] Attorney (read by Colin Miller):

Question: so walking through the dining room and into the breakfast room, that's the doorway that you described as being two feet by something?

Officer Sampson (read by Susan Simpson):

Answer: Two feet five inches.

Attorney:

Question: Okay, and Mr. Howard's body, part of his body was in that doorway, correct?

Officer Sampson:

Answer: No, it was -- yes. It was between the breakfast room and the dining room, correct.

Attorney:

Question: Correct, it was between the breakfast room and the kitchen?

Question: So you had to walk all the way through the breakfast room?

Officer Sampson:

Answer: That's correct.

Q. SO WALKING THROUGH THE DINING ROOM INTO THE BREAKFAST ROOM, THAT'S THE DOORWAY THAT YOU DESCRIBED AS BEING TWO FEET BY SOMETHING?

A. TWO FEET FIVE INCHES.

Q. OKAY. AND MR. HOWARD'S BODY, PART OF HIS BODY WAS IN THAT DOORWAY; CORRECT?

A. NO. IT WAS -- YES. IT WAS BETWEEN THE BREAKFAST ROOM AND THE DINING ROOM. CORRECT.

Q. CORRECT. IT WAS BETWEEN THE BREAKFAST ROOM AND THE KITCHEN.

Q. SO YOU HAD TO WALK ALL THE WAY THROUGH THE BREAKFAST ROOM?

A. THAT'S CORRECT.

[24:28] Rabia Chaudry: That's the way the transcript reads. I'm not sure what happened here, so if the reporter forgot to record a line, or switched up which was a question and which was an answer, it's hard to tell. So, was Bernard's body found between rooms 2 and 3, or rooms 3 and 4? The best we can tell, at least from piecing together the statements of other officers on the scene, it's the latter -- Bernard's body was laid out, face up, between rooms 3 and 4. And according to one officer, Bernard's head was pointing into the kitchen, room #4, with his feet in room #3, the breakfast room.

[24:59] Colin Miller: So where were the cartridge casing and bullet found, in relation to Bernard? Well, that depends what you're going by. At trial, Officer Sampson, the crime scene specialist, testifies that the casing came from the floor of the breakfast room, towards the center of the room -- that would be the room where Star says everyone was when the shooting happened. But Detective Hughes' report say it came from the kitchen -- so the room in the very back of the house. And then there's the bullet itself. Officer Sampson testifies he found it on a glass shelf in the breakfast room, about two feet above the floor. The bullet must've gone through Bernard and landed on this shelf,

wherever that shelf was in the room. But then Detective Hughes' report doesn't even mention a bullet being found -- he says instead that a bullet *hole* was found in a mirror in the breakfast room, hanging on the wall between room 3 and room 2.

None of which makes it really easy to draw any conclusions about how exactly Bernard was shot, or where the shooter was when it happened. The bullet hole in the mirror suggests that the shooter had to fire *towards* the door, that Bernard was between the shooter and the front door. But Star says Mellow shot Bernard as he was leaving -- so, as he was heading out of room 3 to room 2, going out the door. But then Mellow turned around again, and shot Bernard in the stomach, the exact opposite of what the bullet hole in the mirror would suggest.

So what really happened? Maybe it doesn't matter. It was close quarters, after all, so the exact angle at the moment the gun was fired might be meaningless in the scheme of things. In this case, at any rate, no one seems to have decided it was worth spending any time trying to sort all this out.

And that's it for your forensic evidence. Which means it would be really nice to have some other witnesses you could use. People other than Star who might've seen something. And we know for sure there are at least two -- Omar and Denise. Star knows the neighborhoods where she's seen them hanging around, and she tells your cross streets of where they might hang out, but she doesn't know anything further. Not their last name, not where they currently live. But she may know houses where they have family members reside, so that's something to look into, at least. And the police do follow up on that, though neither Omar nor Denise will make an appearance at trial.

[27:02] Susan Simpson: But what about witnesses who may have been outside of the rowhouse? It was a hot and muggy night, and it's not unreasonable to think that people might've been sitting out on their porches, trying to catch a breeze, when everything went down. The rowhouses are narrow, close together, and there's easily a dozen houses around the rowhouse where Bernard and Star lived, where someone that was out on the front porch might have seen something important, might have seen someone coming or going, might have seen who the killer was. Or at least they might be able to give another physical description of the three men that were at the house that night.

Apparently though, everyone on Sansom Street was home in their beds at this time, because the police don't find anyone in the neighborhood who saw anything. They do talk to one neighbor who says she heard a loud bang -- a gunshot, presumably -- at

about 11:05pm, but the police don't find or at least don't talk to anyone else who saw or heard any of the events leading up to Bernard's death.

All right then, so you don't have any other direct witnesses to go off of, but maybe there are people who weren't there at the time of the murder, but might know something about the people involved. And the police do try that too -- they check with one of Bernard's friends, a man named John Parsons. But he doesn't seem to know that much, or at least he only gets a brief blurb in the police file. John Parsons tells them that the men who'd been selling drugs out of Bernard's house have also sold drugs before at 60th and Chestnut Street. So that's something else to maybe to go on, and there is a note that says there could be a detective from the DA's unit, and it gives a name, who might have info on the males selling drugs at 60th and Chestnut. Detective Hughes has a note saying he was going to try to follow up with him. But either Hughes never does follow up with that detective, or he does and gets nowhere with it, because it's not referenced again.

Then again, 60th and Chestnut isn't the only place these guys were supposedly selling drugs. They were apparently also involved in selling drugs from the victim's house. And, maybe there's a chance they were arrested there at some point. Worth checking out anyway. And it seems like the police did do that -- or perhaps they just searched the records for Lena Laws, that is, Star. Either way, they found one. The prior year, in 1995, Star had been arrested at the Sansom residence after she'd gotten into a fight with another woman. According to the report, Star had pulled a revolver out and pointed it at the woman, although the woman had knocked it out of her hand, at which point Star ran down the hall and grabbed a shotgun and pointed it at the woman. Again there was a struggle and the woman got the shotgun away from her, and Star ran out of the house, where she was quickly arrested.

It turned out that the revolver was actually a starter pistol, and the shotgun wasn't loaded. And that was it in the police file -- there were no records of any drug arrests, so that's a dead end too.

By this point though, you're running low on leads to follow. There are a few more possible leads, though, that you might want to check out.

[30:06] Rabia Chaudry: Actually, one of those leads seems like it should be one of the first things you follow up on. And that's the beeper number Star gave the first officers to arrive on the scene, writing down the number "319-1182" and the name "Mellow" on a

sheet of paper. You've got that number still -- there's a property receipt for it, showing it was put into evidence.

At the very least, it seems like it'd be worth giving the number a call. According to Star, there's a voicemail message that plays when you call, and the person gives their first name. It's not clear if the name is 'Jamal' or 'Jamar' -- different officers at the scene heard her say different things. But either way, maybe you should give the number a call yourself, record the voicemail on the other end, and see if it gives you at least a first name to go off of. Or, better yet, maybe subpoena the service provider, and see if someone registered the beeper number under their name.

But the police don't do that, for some reason. Or, if they ever did, they didn't include anything about it in the case file. That beeper number, and the connection it could provide to Mellow, is checked into evidence and then apparently forgotten.

Now from the leads so far, it seems like this case may be harder to solve than it initially appeared. Yes, you have a witness who saw the shooting, and who says she could ID all three of the men if she saw them again. But without a way to find those three men again, the case isn't going anywhere.

[31:22] Susan Simpson: This case didn't go cold, though. Somehow, the police will ultimately solve it. Or at least they will find three men who will be charged and convicted of the crime.

But what we still don't know is *how* they solved it. We know it wasn't from any of the leads we just talked about. Those were all dead ends.

All we know is that eight months after Bernard's murder, the Philadelphia Police Department would interview Star once again. And this time, they'll have a photo array with them. Photographs of eight young men, or, boys, really. All of them from student IDs from Overbrook High School. One of the photos is 17 year old Terrance Lewis. He's been included in this photo array on purpose -- it's his photo they're hoping that Star will pick out. And she does. "That's Stink," she says, pointing to Terrance Lewis' photo. "I am absolutely sure."

In the months after, they will bring her in for more interviews, and show her more photos, more line ups, and eventually she picks out the two other young men who will become Terrance's co-defendants. The only evidence against any of them is Star's identification of them at trial.

But in the police and prosecution files that were made available to Terrance's attorneys, there was nothing that could shed light on how Terrance, or either of his co-defendants, ever came to police attention. *Something* had to have made the police include their photos in the line-ups, but whatever it was, it was something they weren't interested in letting the defense attorneys know about.

And, from a defense perspective, that made the case a hard case to investigate. There's nothing to look into, really, nothing to push back on, except for Star and her insistence that the three defendants were the men who killed Bernard.

[33:14] Rabia Chaudry: There's one more piece of evidence that Officer Sampson collected at the scene that's relevant, though not for what it may tell you about the people who killed Bernard. And that's a 7 1/2" length of broken antenna. Officer Sampson collected it from the crime scene, and apparently determined it came from a radio, or some kind of electronic equipment. He testifies at trial that he sent it off to the lab to be tested for the presence of blood for some reason, which we found confusing at first -- why would you care if there was any blood on this broken antenna? The forensics report shows that wasn't why it was tested, though. Instead, the lab results show the antenna was tested for lead residue -- and came back negative.

But it might be that what they were really been testing for was the presence of cocaine. Because antennas can be used as sort of a DIY crack pipe, when necessary.

But why not mention this at trial? And why not reference this in any of the police reports? Well, there's at least one more fact about the State's star eyewitness that's relevant here.

At trial, though, the rest of the story did come out. According to Star, she was addicted to cocaine and smoking crack every day for the past three years. Star testified that she typically smoked at least \$25 worth of crack a day, but she claimed that she only had \$5 worth of crack to smoke on August 6th. And about 10:30pm that night, just before Bernard arrived home and brought Denise and Omar along with him, Star had smoked it. And then after Bernard had arrived back, the four of them had wanted more cocaine, and were waiting on the men to arrive.

[34:46] Colin Miller: Yeah, i mean this is really one of the more frustrating things for me in this case, and that is, we had these three defendants in the case, they each had their own attorneys,. and yet none of them really pushed Star on her crack use or called an

expert witness on the subject. And that's important because according to Star, because of her habitual drug use, namely smoking \$25 worth of crack cocaine on a daily basis for three years, her smoking of crack cocaine on the night of the murder didn't have much of an effect on her or her observations. And so as a result I would do my own research. I called a doctor, Dr. Eric Gardner, he's an expert in neurology and neuropsychopharmacology, and he had this to say about the possible effects of smoking crack soon before seeing an event like a shooting:

[35:32] Dr. Eric Gardner:

Cocaine, like most other addictive drugs, has a, rather a signature biochemical effect in the brain, which is to say that it elevates, quite dramatically elevates, levels of the neurotransmitter dopamine in the reward and pleasure circuits of the brain. The activation of those circuits is why people take addictive drugs, to get high. And so, when someone smokes crack cocaine, there, it's not a 100% probability but it's quite a high probability, that they may experience aberrant perceptions, and that could include hearing voices, although that's not terribly common with cocaine; it could include seeing things that weren't there, or not seeing things that are there, and other sensory and perceptual misperceptions.

[36:39] Colin Miller: So this is a technical explanation of what most of us might be inclined to think about effects on perception of recent crack cocaine use. But the other part might not be as easy to grasp. Here's an excerpt from the opinion of the Supreme Court of Connecticut in *State v. Barletta*, in which Dr. Gardner testified as an expert witness:

Specifically, he explained that there was a "high degree of probability that hallucinations may ... [occur]" after a person has ingested between one-quarter and one-half gram of street quality cocaine, that published studies indicate that between 40 and 50 percent of cocaine users experience hallucinations, and that those persons with a history of cocaine abuse are more likely to experience hallucinations than less frequent users.

Dr. Gardner told me something similar when I told him the witness in this case had a history of crack cocaine use on a daily basis for three years:

[37:26] Dr. Eric Gardner:

People who use cocaine for long periods of time usually have significant aberrations in brain function, significant aberrations that specifically as you phrase it, aberrations in perception, hallucinatory aberrations in perceptions. As

a matter of fact one of the definitions of psychosis is that people have hallucinations. They can be visual hallucinations; they can be auditory hallucinations; they can be some out of sensory hallucinations, they can even be olfactory hallucinations. Even short term use of cocaine can do that. There's fairly good evidence that the longer the use the more likely there is to be these aberrations in brain function.

[38:20] Colin Miller: So yeah, there's every reason to believe that Star's description of the shooting and her identification of the shooters was unreliable, based upon both persistent and recent crack cocaine use.

[38:34] Susan Simpson: In the prosecutor's opening arguments, he told the jury that this was a virtually perfect case. A witness with no reason to lie, and whose only motivation was to see justice done for a loved one.

And maybe the prosecutor was right, that Star didn't have any reason to lie. But just because she wasn't *lying* doesn't mean she was telling the truth. And in this case, we already know there was something wrong with Star's story. That some of what she said happened couldn't have actually happened. And it's hard to understand how or why she might've made the mistakes she did

Like the shotgun. The one that Stink, aka Terrance Lewis, fired into the ceiling just before Star and the others in the rowhouse were robbed. But there was no hole left in the ceiling. And there was no shotgun shell left on the floor. There's no reason at all to think a shotgun was fired that night. It just didn't happen. That whole sequence of events that Star described -- where did that come from? It doesn't seem like she's lying, exactly, because well, why would she lie about that? What reason would she have to do so? But it's also not true.

And it's not the only part of Star's story that can't be true.

On the night of Bernard's murder, Star told the cops that were at the house, and then told the detective down at the homicide unit, about watching Mellow move as if to leave, to head back towards the front door, when suddenly he stopped, turned around again and then shot Bernard in the stomach.

The police had no reason to question her at the time on this. They'd seen the gunshot wound for themselves.

Only, when the police got the autopsy report back, there was a problem. It read: Cause of death: shotgun wound *to the back*.

Yeah. Bernard was killed by a close contact shot, from a gun pressed into the small of his back and angled upwards. They found a muzzle abrasion, so they know the gun was touching his back when it was fired.

The gunshot wound that the police had seen on his stomach? That was an exit wound, not an entrance wound.

So Star was wrong about how Bernard was shot. Just like she was wrong about the shotgun being fired into the ceiling. And it was her word, and her word alone, uncorroborated by any other evidence, that made the virtually perfect case against Terrance Lewis, and sent a 17 year old to prison for life.

[41:12] Rabia Chaudry: Thank you to Mital Telhan, as our executive producer, thanks for keeping us going. Baluki, thank you so much for designing our logo, a big thanks to Patrick Cortez and Ramiro Marquez for our theme music, thank you to all of our sponsors for making it possible for us to come back week after week. Thanks so much to Rebecca LaVoie of Partners in Crime Media for our audio production, and Rebecca, by the way, is also the host of one of podcast Crime Writers On, and one of my favorites HGTV and Me. Definitely check it out. Don't forget to send any questions you have to us over Twitter and use the hashtag #UDAddendum. And don't forget to follow us online, on all our social media our handle is @UndisclosedPod. That's Instagram, Facebook, and Twitter. Thanks so much for listening.