

**UNDISCLOSED, The Case Against Adnan Syed**  
**Episode 3 - Justice is Arbitrary**  
**March 25, 2019**

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**[0:37] Rabia Chaudry:** Hi, and welcome to Undisclosed. This is Episode 3 of *The Case Against Adnan Syed: Justice is Arbitrary*. My name is Rabia Chaudry, and I'm here with my colleagues, Susan Simpson and Colin Miller. Hi guys!

**Susan Simpson:** Hey!

**Colin Miller:** Hey!

**Rabia Chaudry:** Alright, so we all watched Episode 3. I watched it three times (laughs), and yes, this is the episode where it seems like we're getting some new stuff that at least I hadn't been aware of before. The first two episodes felt a little bit more foundational. What did you guys think, in general?

**Susan Simpson:** I think we get an idea of where this documentary is heading and what its view or its narrative of the case is going to be. Obviously in 4 episodes you cannot cover the entire case. You can't cover any case in that amount of time, let alone this one. But, they have chosen to show the whole case through a lens, looking at many features, and I think that's coming into scope. It has to do with how to explain Jen and Kristi and Jay, and how to explain how the story came to be.

***The Case Against Adnan Syed - Jay Wilds Testimony:***

***Jay Wilds:***

*During the time of this digging we received a phone call, and I didn't even get a chance to talk to 'em. He told 'em that I was busy.*

**Prosecutor Kevin Urick:**

*If somebody were in Leakin Park and received two calls, those calls would indicate the cell site for Leakin Park?*

**Abe Waranowitz:** *Correct.*

**Rabia Chaudry:** Right, so they're really scrutinizing the State's narrative here, right? And also, I think kinda trying to figure out - what is the deal with Jay? Who is he and why did his stories change over time and all these things, and how he got involved in the whole thing. And so the episode opens up with his ex-girlfriend, Nikisha, who's also the mother of his son, calling Jay.

### ***The Case Against Adnan Syed - Nikisha calls Jay***

#### ***Nikisha speaking to Jay:***

*[Phone ringing] Hello? Yeah, I'm here. I'm listening.*

#### ***Nikisha Speaking to Interviewer:***

*At first he told me that he was there and that, you know, everything that he has stated was true.*

#### ***Nikisha speaking to Jay:***

*And he told you that, but you didn't think he was serious? So you didn't freak out when you actually, like seen it and like was at the place and all that stuff? What ... so what did you do? Like, how did you get off and stuff?*

#### ***Nikisha speaking to Interviewer:***

*And then he broken down to me and was like, he basically ratted out the guy to get himself out of jail with the police.*

#### ***Nikisha speaking to Jay:***

*Damn, it was a lot of crooked ass cops back then. So what, they basically tried to give you the story, or you just knew about it 'cause you was there with the guy?*

**Rabia Chaudry:** Pretty courageous of her to do that, especially given their history of domestic violence. Well, what did you guys think about the conversation, though?

**Susan Simpson:** Well, I know that they actually made some changes to that scene, trying to figure out how to tell the story, and the problem is that Jay is ... Jay. He tells so many stories, not just from time to time, but in the same conversation. So, in that one conversation Jay's telling that same story multiple different ways. And how do you convey that accurately when you only have one side to tell you what happened?

**Colin Miller:** Yeah, I mean obviously if we believe what Jay has told Nikisha as she relays it, he got busted with a bunch of pot and that's what led to him cooperating and

pointing the finger at Adnan. And of course that's something we were completely unaware of. If it's true, and that's a big if with Jay, that's a huge Brady violation - if the State didn't disclose that this pot bust is what led to him participating. But again, it's tough because Jay has so many stories, we don't know what to believe and what not to believe.

**Susan Simpson:** On the other hand, if Jay really had enough pot to make this story true, then was he and Adnan driving around looking for a corner salesman for like 2 hours on the day of the murder?

**Rabia Chaudry:** Right. I (laughs) ... I tend not to believe that story only because of what we know, what's documented in terms of how the police first got to Jay, right? They followed the cell phone evidence, the cell phone records to Jay, and then they met with him a few times and they, ya know ... If they busted him with a bunch of pot, it almost would have been like a happy, lucky coincidence for them, because it gave them some leverage over him. That just is so coincidental, it doesn't make sense. Ok, he got busted with pot, ok how can I get off? I mean, is he trying to say, "I thought well, let me offer you some information on a case you're working on." Is that what he's trying to say, to get off the pot deal? But to get out of a pot charge, he accepts an accessory for murder charge? I mean, like that doesn't make sense.

**Susan Simpson:** And you can hear, in the side of the call that you can hear, Nikisha's like trying to get details from him, which Jay never gives, basically. She's like, "How did you react when you saw the body?" Like, that's got to be an emotionally traumatic event in anyone's life.

**Rabia Chaudry:** She's trying to very casually (laughs) ....

**Susan Simpson:** And yeah, like - the total concern in her voice. She sounded genuinely concerned, as you would for anyone asking about when they saw that body. But you can tell she's confused too, 'cause Jay's not giving the kind of responses that you'd expect in this situation.

**Rabia Chaudry:** I thought it was interesting that she said that she ... to her it seemed like he was being eaten up. I don't know what that means. You know, one of the things that I was talking about with somebody earlier today, is how ... every time anybody speaks to Jay, Jay reiterates that he believes Adnan is guilty. And I realize that one of the things is it could also be a defense mechanism because if he allows himself to think

that maybe Adnan is not, that is gonna be a big wave of guilt for him. He kind of has to, just to preserve his own, I guess sanity, in a way.

**Colin Miller:** Yeah, and it's tough to say because we're getting what Jay had said to Nikisha through Nikisha. It wasn't entirely clear to me whether she's saying that Jay's story was that he completely made this up, or that he sort of bolstered the story in certain ways beyond what was true, and so for me it kind of raises more questions than answers. But, it's also Jay, so kind of like the two of you, I don't really give much credence whatsoever one way or the other.

**Susan Simpson:** Yeah, my understanding is that he told it both ways.

**Rabia Chaudry:** Yeah (laughs), he said both things.

**Susan Simpson:** So here's the problem, Nikisha lives in Maryland and Jay lives in California, and those are both 2-party consent states. No matter what Jay says, there cannot be a recording of it, unless he has agreed to it. And, he obviously is not gonna agree to that.

**Rabia Chaudry:** And again, even if it was recorded, we probably still would be just as confused (laughs).

**Susan Simpson:** That's the thing, like of course we want to talk to Jay, of course everyone wants to hear from Jay, but the whole ... like, really is that gonna help with anything? How is that gonna help with anything? I mean, there's that hope that it could help, but in reality, I don't think it ever will. I mean, I've obviously tried to talk to Jay. I'm guessing after Episode 3 he's not gonna be talking to anyone, so it's probably not gonna ruin anything, but I called him, and the first time we texted I told him who I was and why I wanted to talk to him, and the first thing he said to me was, "Nothing you can say can change my mind about Adnan or the case." I'm like, okay one - I'm not trying to change your mind about anything, and two - if you saw a body in the trunk, how am I gonna change your mind about it? Like, come on Jay.

**Rabia Chaudry:** Right. That's not what somebody says! That's not what somebody says when they have direct personal knowledge of an experience. That's when somebody has an opinion of something.

**Susan Simpson:** Yeah, and like I don't care what you think about Adnan's guilt, it doesn't matter to me, it's not why I'm trying to talk to you, Jay.

**Rabia Chaudry:** But he's never said to you, "I know he's guilty 'cause I was there! I saw it. I saw him with the body." Like, he's never said that, right?

**Susan Simpson:** Not to me, no. And not to anyone that I know that's spoken to him.

**Rabia Chaudry:** Not to Nikisha, either.

**Susan Simpson:** It all goes back to that one phrase from the "Intercept" interview: "Anything that makes Adnan innocent has nothing to do with me."

**Rabia Chaudry:** Oh my god (laughs).

**Susan Simpson:** That says it all!

**Rabia Chaudry:** He's such an enigma.

**Susan Simpson:** Like, even in that interview, when he's telling a new story of how this all happened, he is basically acknowledging that ...

**Rabia Chaudry:** There's a possibility that Adnan's innocent.

**Susan Simpson:** Yeah. If it turns out this is all bullshit, than his innocence has nothing to do with me. I'm just totally independent of that.

**Rabia Chaudry:** Yeah, but his guilt does have everything to do with you, Jay, so ...

**Susan Simpson:** Oh yeah, one time Jay told me, he was like, "I think the stories you're chasing are lies." Like, well no shit, 'cause they're your damn stories, Jay (laughs).

**Rabia Chaudry:** Oh my god, really? I think he can be inadvertently poetic sometimes without meaning to be (laughs). Unintentionally poetic ...

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**[10:07] Rabia Chaudry:** Alright, so let's move on a little bit. Now the timeline kinda goes back and forth. This is Nikisha talking to Jay, present day, but then we go back into how Asia got pulled back into the case ... almost got pulled back into the case, or how I first contacted Asia. That story's told in the episode. What's almost tragic about

that is ... god, I wish ... you know, when Adnan was first arrested, I wish, actually, I had talked to him about the substance of the case, and I just wouldn't do it because I thought, you know, I just want to be there to support him, I don't want to worry him, I don't want to visit him and be like, "Tell me what's going on," and I also didn't want him to think I had some kind of morbid fascination with everything. I just kept it light, and I wish I hadn't, because maybe if I had had those conversations back after he was arrested he could have told me about Asia then instead of after he was convicted, and things would have turned out differently. But I am glad that I had a yellow pad with me and I was like, "Write this affidavit down right now!" (Laughs) That saved us years later, in a little way.

And Asia gets into this conversation with Urick, you know, she calls Urick and she's so meticulous, and not just in her memories but just, you know ... and maybe that's why her memories are so great, because she actually documents stuff. She writes it all down.

### ***The Case Against Adnan Syed - Asia McClain Interview***

#### ***Asia McClain:***

*I figured, with him being a prosecutor, that he would be a reliable source for information and I have him a call, and I actually took notes on the conversation. I told him that I saw Syed in the library in 1999. He told me that they had cell phone records and they had a witness that confessed to helping him bury Hae. And then I wrote down something Urick said to me directly: "If I had any doubt that Adnan didn't kill Hae, it would be my moral obligation to see that he didn't serve any time."*

**Rabia Chaudry:** So for people who are new to the case, that might have come as a shock that this prosecutor first talked to her and kind of tampered with her, really, and then got on the stand and lied and said that she told him something completely different, which is that we had bullied her into writing the letters.

**Susan Simpson:** Yeah, and it was hard to watch that part because that whole issue with Urick and how he misled the court -- that's a big reason why this whole PCR hearing was reopened and even we got ... the past three years even happened, as far as Adnan's legal case is concerned. And yet now the Court of Appeals, when it reached its decision a few weeks back, it suggests that the whole issue of prosecutorial misconduct from Urick doesn't even exist.

**Rabia Chaudry:** I feel like it was kind of like forgotten once it left Welch's courtroom. Was it ever raised again in other briefings? I don't think so, Colin, was it?

**Colin Miller:** No, it was basically used to reopen the proceeding but then after that, Judge Welch at the hearing, kinda seemed disinterested in the reason why they got where they were. He was just focused upon getting that testimony and seeing how it impacted the case.

**Rabia Chaudry:** Well I will say this though, I was talking to Adnan about that one time and he goes, "You know, if Urick actually hadn't said that", 'cause he didn't have to, he could have just ... he didn't actually have to add that little part of that she said she was under duress, he's like, "... because he said that, that's how I got another shot at this." So in a way, yay for Urick being a lying weasel.

**Susan Simpson:** But, on the other hand, if he hadn't said those things to Asia in the first place, there's a good chance she would have come forward. Obviously Asia was not shy about coming forward once she understood what was happening. So if she'd gotten the full story back then, and not saying Urick had to tell her, "You should definitely go testify", but if he'd just said like, "Yeah, there's a PCR hearing, that's probably why they're trying to talk to you", and not gone beyond that, maybe we would have been ... all this resolved 4 years ago?

**Rabia Chaudry:** Well she moves from her experience from Urick to her experience with Thiru. Thiru Vignarajah, who has been prosecuting the case for the last few years. He was the former Deputy Attorney General for the State, then he moved into private practice, but he continues to represent the State. And Thiru, we saw him during the PCR hearing, he held a couple of pressers and a number of times raised Asia's, I would say credibility. Basically, he was like, "She offered to lie for Adnan." So he's outright calling her a liar.

### ***The Case Against Adnan Syed - Thiru Vignarajah Press Conference***

#### ***Thiru Vignarajah:***

*I think what's clear to the judge, based on the record, is that Asia McClain was not a weapon for the defense, she was a potential weakness. What Asia McClain presented in 1999 were two letters that looked at best confusing, and at worst doctored.*

## ***The Case Against Adnan Syed - Rabia on Asia McClain***

### ***Rabia Chaudry:***

*She has a lot of scrutiny and a lot of people saying horrible things about her. Just go on Reddit and look up Asia.*

**Rabia Chaudry:** And then that leads to Asia talking about everything she suffered online. And she did get attacked a lot. I get attacked a lot, but I was there for it. I'm like, I don't care, but she didn't ask for it and that was really ... yeah that's been really hard on her, and she had a couple of miscarriages in this whole time, and she was heavily pregnant during the PCR. It was a lot for her to ... a hell of an ordeal for somebody who's just a non-biased witness to want to come and testify to what they remember and what they continue to stand by.

**Susan Simpson:** The whole idea of this being fabricated, I keep going back to the fact that she's a high school student. I mean, what do they expect her to write, like a formal affidavit from the start? The idea that this is fabricated is just nonsensical on so many levels, the most important one being that if you're going to fabricate an alibi, why would you do it for the time that, according to the state at the time, the murder didn't happen?

**Rabia Chaudry:** And also, why would you then just drop it? Why did you fabricate an alibi, but like, why didn't you put it on the stand? I don't understand.

**Colin Miller:** Yeah and my biggest takeaway and concern for this recent opinion, as much as it hurts Adnan and is a setback for him, is just the visibility and exposure of this case, if you imagine another disinterested witness who wasn't contacted, a potential alibi witness etcetera, if they see the way that Asia was treated despite nine of the eleven justices and judges that heard this case finding her credible, my concern is that you're going to have some witnesses who are reluctant to step into the limelight in cases because they see the treatment that Asia got. And it was terrible, and completely unnecessary in the end.

**Susan Simpson:** And too, again it's the legal pretense that Asia is the only issue that matters here, but Gutierrez's ineffectiveness is so widespread that she contaminated everything. I mean there were other witnesses that could have been reached out to, there could have been other Asias out there that were just never reached out to, that were never found, or not found in time, and were therefore not part of the story. But the idea that Asia was the only alibi that Gutierrez failed to get, that's not true.



**Rabia Chaudry:** Well here, let me back up. We know that Asia's not the only one she never contacted, she never contacted the seventy people from the mosque she said she was going to contact.

**Susan Simpson:** Or the track team members.

**Rabia Chaudry:** She didn't contact track team members. She didn't contact others who at the time potentially saw Adnan just wandering around the school. Like kids who were also hanging out at school afterwards. She contacted *nobody*. So you know, and the state's argument is that she didn't need to contact a single person because she was going to establish alibi by routine, which is not a thing because alibis are established using other methods, like documentation, records of a person being elsewhere, or people. And she did none of that. No video tape she looked for, you know there's a 7-Eleven across the street that had video cameras at the time. She made no effort to establish any kind of alibi for Adnan, so Asia wasn't the only thing she failed.

**[17:28] Rabia Chaudry:** Let's move on. Now we get to Susan Simpson. Enter Susan Simpson. I love this part, by the way. It's like dun-dun. It's awesome.

### ***The Case Against Adnan Syed - Susan Simpson Interview***

#### ***Susan Simpson:***

*I got the case file from Rabia. She handed it over to me. I told her not to - "this is stupid, you don't know me." This was very early on. And she gave it to me anyway. She was like, "Ok, well, go find something there."*

**Susan Simpson:** It's always hard to hear your own voice. But after podcasting for a while, I thought I was totally over that. It turns out I'm not totally over that. [Laughs] Because seeing it on the documentary was very hard for me. I'm going to go hide in the other room, and not watch this right now. Because it's just weird to see yourself on TV like that. I'm so used to being the one doing the interviews and recording people. It's not fun always being on the other side.

**Rabia Chaudry:** I will say this, you know, when I listen to myself in the documentary, and you, I feel like we're both talking so fast. I'm like, why are we talking so fast? [laughs] and I keep wondering, I can understand you and am used to you, and you can understand me, but I'm wondering if people who are watching, do they need subtitles for us, do they understand what's happening? Colin, what did you think about how Susan

came across as the interviewee, and you had to explain a pretty complicated series of things in a very short time, it was just a few minutes.

**Colin Miller:** I mean yeah....

**Susan Simpson:** Well that was their editing, it definitely took ....

**Rabia Chaudry:** Well yeah...[laughs]

**Susan Simpson:** ...more than a few minutes on the recording part. [laughs]

**Colin Miller:** This is the Susan Simpson that I've known, that our listeners have known and loved for the past four years now, is...I mean it's her going through all the files, explaining her process, going through these maps showing where the calls would ping the cell towers, explaining the disclaimer, everything that went wrong in this case, how this whole false narrative was constructed, and so this is essentially Susan Simpson putting a face to the voice and breaking down in great detail everything that went wrong here.

### ***The Case Against Adnan Syed - Susan Simpson Interview***

#### ***Susan Simpson:***

*How to read subscriber activity reports: "All calls are recorded in Eastern Standard Time." Good to know. And it also says, "Outgoing calls only are reliable for location status. Any incoming calls will not be considered reliable information for location."*

**Susan Simpson:** But what the podcast could never do, and what the documentary does so amazingly well is the juxtaposition between what happens in terms of the evidence and what happens in terms of their interviews with the subjects. And just weaving it together directly and making it abundantly clear how the problems in the evidence reflect the problems in the testimony that happened at the trial.

### ***The Case Against Adnan Syed - Susan Simpson Interview/Jay's Interview***

#### ***Susan Simpson:***

*Whenever he forgets the script, forgets what he's supposed to be doing, they're like "No."*

**Detective William Ritz:**

*What happens now?*

**Jay Wilds:**

*I believe...can you bear with me for a minute...[tap tap] um, ok, we left there, I took him back to school, and I went back to my friend Jenn's house and waited for him to call.*

**Rabia Chaudry:** One of the things I loved about those scenes is when you, and they kept it in on purpose, when you are "Where's that map? Where's my..." [laughs] Because I'm like "There you go. That's Susan Simpson." [laughs, crosstalk]

**Susan Simpson:** That's me, every single day.

**Rabia Chaudry:** But every time I've gone, and I've gone to your place a couple of times, it's like that many documents times ten, so.

**Susan Simpson:** That's the thing, I brought this stuff with me, I had the documents I wanted carefully chosen in advance, brought with me organized, and then within seconds, sorry, disaster. [laughs]

**Rabia Chaudry:** Another thing, I was thinking about this, you know Susan, you are so good at getting people to talk, and explained how you reached out to Abe initially, and I actually had totally forgot, for some reason, I didn't remember at all that he also had contacted Urick. And what did Urick say to him when he contacted him?

**Susan Simpson:** So, what happened is that we, they made a more abbreviated version of what happened in the documentary because, you know, time constraints. But when I first reached out to Abe, it was to basically get an education on everything, because I did not know how the ATT system worked at all back then, like how their network was set up, what the quirks of it were, and he's the guy to go to for that. And we did talk for a bit, and we got along, and he was really good explaining things, and I had a million questions. You know, after talking, emailing back and forth for a bit, I get this email from him, the one I read off in the documentary, and I didn't hear from him I think for a year, maybe more, it was a long, long time. And I never really understood why, because he's not really that kind of abrupt, and, you know, that didn't seem like him. Well, eventually we started talking again, I asked him about it, and he told me it was because he'd reached out to Urick, and Urick had sent him an email that made Abe think this was

going to get him in trouble if he keeps talking to me, or there's going to be bad consequences for him if he does, and that's why he cut me off.

**Rabia Chaudry:** Like what kind of bad consequences, that's what I didn't understand. What could happen to *him*?

**Susan Simpson:** They were unspecified. I've seen the email before, it was just like saying you won't be able to handle all the attention and what happens if you keep talking. It wasn't like a 'I'm going to do anything to you', but it was like 'you're not going to like the consequences if you try and talk to people about the case.'

**Rabia Chaudry:** And this, yeah. Was Abe aware of *Serial* and all the kind of craziness around it?

**Susan Simpson:** He was, 'cause he had gotten an email from the *Serial* team. They basically just told him, 'Hey, we understand all the cell records, we know what's going on. We just wanted to touch base, and like, you know maybe run a few things by you.' And he hadn't responded because I think he was kind of put off by the way they sort of assumed they already knew everything? So he never got back to them. But he knew from that about *Serial*. I can't remember if he had listened to it or not when I first talked to him.

**Rabia Chaudry:** I remember the first time, I wasn't in the PCR, but we also weren't sure if he was actually going to come out...he gave the affidavit when he realized what happened, but I think Justin convinced him to fly out in case he wanted to put him on the stand. He never testified at the PCR, however, right?

**Susan Simpson:** Because like Day 5, like, 'let's start going through as fast as we can.' So he was very relieved not to have to go on the stand but he was there and ready to do it.

**Rabia Chaudry:** I got to meet him afterwards at the end of that day, at dinner, and I was just..I mean you could tell he's a very shy kind of a person, he doesn't want attention, but he seemed really, really shaken by all of this. He was crying, because I think he realized kind of what happened after all these years. But that's...he doesn't bear any responsibility for how the state manipulated him.

**Susan Simpson:** And for Abe it's not just about Adnan. He obviously was deeply affected by that. But it's also for him, I think the idea of his data being misused appalled him at a fundamental level, which is why he got involved.

**Rabia Chaudry:** As a matter of principle, yeah, that would piss me off too, for somebody who's that kind of person.

**[26:11] Rabia Chaudry:** The documentary moves on to talk about Jay's two interviews, and they talk about, Amy asks Detective Massey, when do they decide to turn on the tape recorder, and she's referring specifically to the second interview that we know, and Susan you say this in the documentary, that they brought him in around 3, the tape recorder comes on around 6 something, that's about 3 hours. And they refer to this as the pre-interview. So first of all, Colin, what's a pre-interview? Isn't that just another interview?

**Colin Miller:** Well let me read, this is from the opinion of the Court of Special Appeals of Maryland, in a case *Cooper v State*, the defendant was Brian Cooper. This is a technique used by Detective Ritz, he was the detective in the case, it was subsequently after Cooper's case, and Adnan's case, deemed unconstitutional. So they say:

*The interrogation began without Miranda warning and continued for ninety minutes. During this time Detective Ritz told Cooper, among other things, that witnesses saw him getting out of a vehicle, chasing after the victim that evening. The interrogation proceeded uninterrupted until Cooper gave a statement that put him at the scene arguing with the victim. Then, but only then, did the detective stop Cooper from saying more. The only break in the interrogation was to set up the audio tape recording system, give Cooper the Miranda warnings and secure a waiver from him, thereby providing even less of an interruption in the twenty minute break given in Seibert. Interrogation then resumes with the same officer in the same environment, and much as in Seibert, Detective Ritz began the second stage of the interrogation, by harkening back to Cooper's unwarned statement, as if this interrogation was merely a continuation of the first. Further, Detective Ritz candidly acknowledged he intentionally withheld the reading of the Miranda warnings during the first ninety minute stage of the Interrogation for fear that Cooper would refuse to talk, or ask for a lawyer.*

That's a pre-interview. You give the suspect what you want them to say, you get them to say it before giving *Miranda*, you then, after they've admitted to it, turn on the tape, give *Miranda*, and have them give their confession.

**Susan Simpson:** I like how Massey, how he refers, his explanation for why this is ok, is that culturally, in Baltimore...

### ***The Case Against Adnan Syed - Interview with Detective Massey***

**Interviewer:**

*So when do you decide to turn the tape recorder on? And how do you decide?*

**Detective Massey:**

*Well, the most important part of that is, is that people play with that a lot, I mean non-investigators. Culturally in Baltimore the first story anybody tells you is going to be a lie. Then when they refine that story, it's going to be less of a lie.*

**Susan Simpson:** So like it's a cultural thing, you can't record the first interview because it's not going to be true. But then you refine it, and then you get more true.

**Rabia Chaudry:** I mean the question is, you could also record the lie. I mean, if that's...there's no reason not to record all of it. Colin, you're saying that's been found to be unconstitutional...

**Susan Simpson:** Well, unconstitutional because of the *Miranda* issue. The not recording the pre-interview at all is not necessarily unconstitutional.

**Rabia Chaudry:** Right, right.

**Susan Simpson:** Although in Maryland it is now required to be recorded. But it matters too, not just because of Jay. With Jay, we still don't know what happened in the pre-interview, because there was like three hours, we have like barely three very very thin pages of notes, and his story changed so radically that you know whatever happened in those three hours, it was an intensive workshopping of whatever Jay needed to say. But it's not just Jay that this is a problem for, because even Kristi herself says, like, she's like, I wish I had been taped in the beginning because you would have gotten a different perspective on what I was telling the cops.

**[29:30] Rabia Chaudry:** So let's talk about Kristi. And I'm trying to remember, like how did Kristi get involved in this? Was it because of when the cops came to see Jen, that Kristi herself was like Oh, this must have something to do with that one night that Adnan and Jay came over. And she inserted herself? Because as far as we know, Jay doesn't

bring up Kristi until 2 days later, 'cause that's the alleged first interview, whatever, February 28th.

**Colin Miller:** Yeah, Jay does not mention going to Kristi's place in his interview.

**Rabia Chaudry:** Oh he doesn't in the first interview. He does in the second interview. So Kristi herself, I think, maybe inserted herself into this story.

**Colin Miller:** I think Jenn mentions her in her interview, which is what the police say then lead on March 9th to her being interviewed.

**Rabia Chaudry:** And it's convenient, because they've got cell towers pinging near her house.

**Colin Miller:** Right. Including the one Susan notes in the documentary that they think pinged the area by her house but in fact do not ping the area by her house.

**Rabia Chaudry:** Or somewhere else, right.

**Susan Simpson:** It's not just one trip to Kristi's that happens. It's the two trips that Jay eventually talks about in order to explain the cell phone records. Which just shows that the idea that the cell phone records can corroborate anything is nonsense, because those records and Jay's story were made to match, even when they didn't. Like the fact that Jay's story matches anything in those records is not evidence of anything, because we know the cops intentionally led him into telling the story that fit it.

**[31:00] Susan Simpson:** In this episode, one of the biggest reveals is that during the course of the past few years, the investigators for the documentary team got in touch with Kristi, and the way they got her school records is they had to get her permission to pull her school records. They couldn't just pull them without her signing off on it. But she agreed, so she signed her release, and the documentary team got the records. Now when those records came back, they showed that on Wednesdays in January, including January 13th, Kristi had class at her college, UMBC, from 6-9:15pm. Which is the exact time period that supposedly Jay and Adnan were at her house.

## ***The Case Against Adnan Syed: Interview with Kristi Vinson***

### ***Interviewer:***

*So this, basically, is the winter term for the school of social work that you received for January. And these were the classes you were taking.*

### ***Kristi Vinson:***

*Right but this wasn't the conference, right, these are just the courses I took, right?*

### ***Interviewer:***

*Yeah. It looks like you had a class from 6 to 9:10 every Wednesday in January.*

### ***Kristi Vinson:***

*I don't remember. I don't remember whether I just blew the class off... so I got a B... these were only three sessions?*

### ***Interviewer:***

*It was the winter term, so-*

### ***Kristi Vinson:***

*Oh then I wouldn't have blown it off, I couldn't have, they wouldn't, I wouldn't have passed. I wouldn't have been able to skip a winter class.*

**Rabia Chaudry:** That was, when I first saw that, I sat up. I was like, what? (laughs). I knew nothing about this. Now I mean, Susan you debunked the idea that that was the same day that she saw them using a whole nother method, because you tracked down what conferences were happening and when, and you're like, she's got her dates wrong. So this is from a couple years ago, this is something you kind of-

**Susan Simpson:** Yeah, there's no conference that Cathy could have been attending- Oh, I'm so bad at that, sorry Kristi! (laughs). There's no conference that Kristi could have been attending. Or that she says that she would have been attending that happened on the 13th.

**Rabia Chaudry:** Right.

**Susan Simpson:** And there's so many, I think we covered, I don't even remember what episode, but in Season 1 of Undisclosed we cover like all the reasons why Kristi's and



Jay's story can't be about the same day. They are clearly about different days. Everything they talk about, it doesn't match in any respect other than the basic fact of going to her house. Beyond that, every single detail is different. It's not the same day.

**Colin Miller:** And as Kristi notes, this is something where she absolutely would have had to have been in attendance, this was a winter term class, there were only a few sessions, if she missed even one she would fail. And she got a B. And so she herself acknowledges it couldn't have been January 13th. It couldn't have been this day that Hae Min Lee disappeared.

**Rabia Chaudry:** And I think, Susan, there was a time, you also looked at cell phone records and there was another day that you identified, you thought this might be the day.

**Susan Simpson:** Mmm, I mean there's possibilities. Possibilities. There's more than one. And you know, it's so hard to know because I mean, obviously the cops never try to pin down what day it was. And Kristi and Jenn are both very clear that they didn't actually know what day it is. The only reason they know what day it is is because the cops told them it was that day. And they went along with it. But they had no independent recollection of when this was. I do feel pretty confident that the day that Kristi and Jenn recall is the same day. But it's not the same day Jay's been talkin' about.

**Rabia Chaudry:** You know, I continue to be shocked by the fact that we don't have the numbers for the incoming calls. Right. As you said in this episode, like, he was basically convicted on the basis of the incoming calls. Is there any way, all these years later, that we could get the incoming call information? I know like we tried-

**Susan Simpson:** No chance. There's no chance now. And it's even, it's *possible* that they couldn't have gotten it, well, it's possible that they couldn't have easily gotten it back then but they could have gone the hard way, by pulling records of the suspected outgoing calls. So, say go to whoever's house that they think was calling, and check to see if they were. And that was never done.

**Rabia Chaudry:** You mean, it's not like automatically generated, like now I can go onto my T-mobile website and just look at everything-

**Susan Simpson:** Yeah, it was different back then. And we don't exactly know, we just don't know, no one actually looked to see what the database was... I mean honestly if they had talked to Abe he probably could have told them. If they'd asked him to explore

what data was available, he probably could have helped with that. But no one ever tried. And I think, this is one area where I think it's worth pointing out that I feel like what where Serial's storytelling sort of failed. Adnan has never said that the trip to Kristi's happened on January 13th. He has never said that. He's never had a distinct memory of that happening on the 13th. And the way they presented it in Serial was as if, oh, everyone all agrees that this all happened on the 13th. Well no, that's not really the case. Adnan didn't necessarily dispute that it happened on the 13th, but he never recalled going to Kristi's that day until trial, when she's sayin', and Jenn's saying, and Jay's saying that he did, and he's like, ok? But he never personally had the recollection. He does remember going to her house.

**Rabia Chaudry:** Yeah, the one thing he's always said is that he knew he had been there once, and he was very high when he went. He just, because everybody's telling him, kind of like with Asia, she's telling the wrong day, and he's just accepting what's being told to him. And I would understand that in that position, you've got 3 people saying it was that day, he's probably like okay, I know I went there once, I don't know what day it was.

**Susan Simpson:** Just like Kristi and Jenn, except that it was the 13th, they were told it was the 13th, Adnan, in turn, accepts their word that it was the 13th. All of them are just accepting it because they were told by someone else.

**Colin Miller:** And Adnan, in the attorney notes, says, I remember getting the Officer Adcock call when I was in my car, which of course is fundamentally different from Kristi who says he got the call at her place.

**Susan Simpson:** Yeah. Adnan does have a very distinct memory of that call. I mean, the idea that Adnan doesn't remember any of that day isn't true, because he does have some memories. It's just he's never been able, the memories he has are conflicting with the stories he's been told. So he could not be sure whether his memory was correct or if what others were telling him was correct. But his memory is that the phone rang when it was still in the glove box. And that when he fumbled into the globe box while high, he gets the phone and answers it and suddenly it's a police officer talkin' to him. And he remembers Jay being in the car with him at the time. So his memory there is pretty distinct and firm, it's just he's always had to question that now 'cause everyone's tellin' him it didn't happen that way.

**Rabia Chaudry:** Yeah but even in the face of people saying that he's always maintained that no, he was in the car when he got that call-

**Susan Simpson:** Right, but the Cathy part.

**Rabia Chaudry:** Right, the Cathy part, but like, that couldn't have been the police call. Because that's not how he would respond to a police officer. He wouldn't say to a police officer, What am I supposed to say if they call me? None of that makes sense.

**Susan Simpson:** Also there were 3 calls in that time period, not the one that Kristi remembers. There's nothing about Kristi's testimony that sounds like it's the 13th. There's nothing about it that would make you think it's the 13th. Literally except for her saying it's the 13th, there's no reason to think it isn't that day. And that's because it wasn't.

**Rabia Chaudry:** So, her face, oh wow. As it dawned on her... to me Kristi comes across as, she really kind of believed what she was being told and you could see even now, I mean Jenn is all over the place. I cannot read Jenn. I cannot tell when she's being, I still think she's mostly bullshitting. I don't know what she's making up and what she's not. But with Kristi I think she was pretty sincere the entire time, and she's just shocked.

**Susan Simpson:** I, and you know this is just reading into people's reactions, it's not reliable, but my impression just watching that is that she has carried a doubt with her, like in the back of her head, she's always been like, I don't actually know it's the 13th. So I think that's part of why she was motivated to agree to sign off on the release of the records. Like she thought it was the 13th, she's always had that story, but there was something in her that doubted. And when she saw those school records, you could just see that moment, she's like, Oh my god, I got it wrong.

**Colin Miller:** Yeah, I mean, so here's my thing, this is what I tweeted about, where I said, it's now extremely difficult for anyone still to believe that Adnan is guilty and that's because I'm in the exact same boat as Susan. We have interlocking testimony by Jenn and Kristi about a day when Jay and Adnan went to Kristi's place, there was a phone call that Jenn made and talked to Kristi, her boyfriend Jeff, and Adnan, they made arrangements for Adnan to drop off Jay and him to be picked up, and then Jay and Jenn go to Kristi's place. As this makes clear, that is not January 13th, and why is that significant? Let's go back and look at the State's case at trial. One: State says that Jay calls Jenn at 4:12pm asking if Kristi is home. Two: Jay then drops Adnan off at track practice and goes to Kristi's place. Three: He's at Kristi's place when he gets the call from Adnan to pick him up from track practice. Four: Jay then picks up Adnan, they go

directly back to Kristi's place. Five: Again, both witnesses say this, Jenn and Kristi, Jenn calls over to Kristi's place, talks to Jay, Kristi, and Kristi's boyfriend Jeff. Next, Jeff tells Jenn that she's supposed to pick up Jay at Gilston Park, Adnan is then at Kristi's place when he gets the Adcock call, that call causes him to freak out and leave with Jay to bury Hae's body in Leakin Park. Jay then sends a confusing page to Jenn about not picking him up at Gilston Park, that's what leads to Jenn calling Adnan's phone, the Leakin Park pings, someone answers the phone, tells Jenn that Jay will call her back after he's done, Jay thereafter calls Jenn, pickup at Westview Mall, Jenn picks up Jay, they dispose of the shovels in the dumpster, they later returned to Kristi's place. What this now tells us is, this entire visit is on a different day, that means a) Kristi is completely irrelevant to January 13th and we have to wonder, how was it planted in her head by the police or someone else that this took place on the 13th, Jenn again is probably remembering the same day as Kristi, which means...

**Susan Simpson:** Yeah it makes Jenn irrelevant too. It's not Kristi's irrelevant, it's also Jenn's irrelevant.

**Colin Miller:** Jenn is gone as corroboration! That day that she's claiming the shovels and Jay telling her about the murder, that's not this day. That's some other day! And so then she's just completely gone as corroboration. And then you have Jay, I mean his entire story starting at 4:12pm is clearly a construction of the police based upon the cell tower pings, and none of that stuff happened on January 13th. And that just leaves you with nothing! There's no evidence, the pings are irrelevant, Jenn is irrelevant, Kristi's irrelevant, Jay's entire story is nonsense from another day. There's just nothing left!

**Susan Simpson:** To keep Jay's story you'd have to go back to his first statement. The one that does not involve Jenn and/or Kristi.

**Rabia Chaudry:** Let me ask you this, let me ask you this. What if Jenn says, now, that you know what, maybe none of that stuff happened on the 13th. But I know when I picked him up on that day- he did see Jenn that day, that's what we know- I know when I saw him that day, he told me about the murder the same day.

**Susan Simpson:** It means Jay told her about it on a different day.

**Colin Miller:** I would also say, we are not at all certain that Jenn saw Jay on that day. There's a credible theory that he went over and hung out with Mark Pusateri and Jenn was never home that afternoon, that's kind of corroborated by the March 18th ride along notes.

**Rabia Chaudry:** I want to know why nobody has talked to Mark Pusateri. Where is the hell is Mark? Not at the trial, not now, not with Serial... like-

**Colin Miller:** Well here's another thing, we do know the police talked to someone else, so they talked to Kristi on March 9th, she gives her story. On March 11th, they talk to her boyfriend Jeff and there are notes saying after we talked to Jeff, we talked to Kristi again. There are no notes from the Jeff interview, there are no notes from the second Kristi interview. I have a strong suspicion Jeff said something that made them think possibly this was not January 13th and that's why we have no notes from those two sets of interviews.

**Susan Simpson:** Wait, you mean he didn't tell the police "Oh snap" ? (laughs).

**Colin Miller:** (laughs) Right.

**Susan Simpson:** The reason this guy Jeff matters is that Jay says that when he went over to Kristi's that night with Adnan, he tells Jeff, Kristi's boyfriend, while they're there, oh yeah, that dude killed his girlfriend. And Jeff apparently says "Really? Oh snap!" (laughs).

**Colin Miller:** And if this did happen, if they talked to Jeff and Jeff is corroborating what everyone else is saying about this visitor on the 13th and what Susan just commented on, he should absolutely be a witness for the prosecution. He'd be great. He would corroborate this whole visit and that would be huge for the prosecution. And the fact that we don't have him testifying, it's a huge question mark there.

**Rabia Chaudry:** Yeah. Alright guys, I have to pop off now, there is some other stuff I wanted to talk about including how hard it is to get a Pakistani passport, but maybe in the addendum. So I'll let you guys continue, our listeners, I'll be back in a week.

**[43:27] Susan Simpson:** This is not just about the trip to Kristi's house. It's also about the trip to Leakin Park. Because the way they try to prove at trial, the state tries to prove at trial, that you know, Adnan has his cell phone in the park, the first half of the seven o'clock hour, is that Jenn supposedly calls and is trying to get Jay. But the reason she's calling is because of their plans to go over to Kristi's that night. This is related to the Kristi trip as well. Jenn is calling to find out when she can get Jay so they can go back to Kristi's. So all of that is tied to whatever day Kristi and Jenn are thinking of. And none of it ties back to the 13th.

**Colin Miller:** Yeah, and Kristi has a clear recollection in her testimony that it was the exact same night that Jay and Adnan came over that then later Jenn and Jay came over and right, so this completely knocks out the Leakin Park pings, they don't make sense, and again, that's what's been called the crux of the State's case against Adnan, no longer holds any water.

**Susan Simpson:** In short, the whole story at Adnan's trial was never about January 13th, the day of the murder. It was all about the day, whatever day it was, that Jay first decides to tell his friend Jenn and Kristi about Jay and Hae and whatever Adnan is telling them about at that time. But it's not on the 13th. He's telling them about that on a different day. Why he's telling them about it? We don't know. When exactly it is? We're not sure. But it's very clear to me, especially from Jenn's second interview, this is going on later in time, closer to the time of the arrest than to the time of the murder. Because the way Jenn describes the intervening period, it's not like a month and a half 'til the body is found. It's a matter of weeks.

**[45:07] Colin Miller:** Yeah, and so, then the episode turns to Hae Min Lee's community and the Korean-American community there in Baltimore, and it gives some interesting contour and detail to the fact that these Korean-Americans at the time were trying to integrate into society and had jobs such as being shop owners. There had been some exonerations in the 90s in these killings of Korean Americans and that led to the community mobilizing and this interesting scene at the bail hearing, where half of the courtroom is the Pakistani American community on Adnan's side, and the other half is the Korean American community on Hae Min Lee's side. Susan, what did you think about that?

**Susan Simpson:** It was a sign of many failures in Baltimore, and how they've affected different communities in different ways. I forget who it was, but one of the members of the Korean community commented that, yes, they make arrests, and then nothing ever happens. Which kind of goes back to an issue at the time and how Baltimore Police were clearing cases to get their stats up, and clearing a case just meant making an arrest. It didn't mean making an arrest that you could actually prosecute successfully. So, yes. People would commit horrible crimes and then get arrested, but then nothing would ever happen to them because either it couldn't be prosecuted, or the prosecutors would try, and the case would fall apart, and there would be an acquittal.

**Colin Miller:** And then, in terms of the substance of the bail hearing, we have the question of, is it a mistake or not? Is it the police trying to pressure Adnan into pleading

guilty, but despite the fact that he's a minor, this is listed as a capital offense. Capital offenses are non-bailable, so he's denied bail at the first hearing. And then we can see the video and audio of the second bail hearing, where the arguments are made about Adnan having this relative in Pakistan who can make people disappear.

### ***The Case Against Adnan Syed - Adnan's 2nd Bail Hearing***

#### ***Prosecutor Vicki Wash:***

*Your honor, the fact that the defendant has strong support from the community- that is what makes him unique in this case. He has the resources of this entire community here, our investigation reveals that the defendant has an uncle in Pakistan, and he has indicated that he can make people disappear.*

**Susan Simpson:** Gahh- it made me so angry. I knew it, I knew it. I knew the whole story, I've read it all before, it wasn't new to me, and it was still just emotionally impactful. To see the lines being said that I've read before, but can't remember having watched, that there's this pattern of Pakistani males being jilted and fleeing, then being able to successfully evade prosecution. Just painting this picture of these Muslim men who get spurned by an American lover and kill her, and then skip off back home, and they can never be touched again.

**Colin Miller:** Yeah, and we don't know. Even without these arguments, Adnan certainly could have been denied bail. That said, he had a clean record, he had community support, his family was willing to put up his house, there were other members of the mosque community willing to put up their houses as collateral, and that's a huge part of this case, because, as we've discussed earlier, trial counsel was making so many errors. Even in a normal case, the statistics show if you're detained pending trial, your chances of being convicted go way up. But in this case, with trial counsel having such failures, with Adnan being in jail as opposed to being out there and maybe able to help in the investigation some more, this really put him behind the eight ball.

**Susan Simpson:** Yeah, if he was out on bail he couldn't go around talking to people about the case, that wouldn't be allowed, but he'd have more contact with his family, more contact with his attorneys, he wouldn't be at the mercy of Gutierrez. Like, hey, did you check on this? He can make sure regularly, hey, by the way, here's things I know. Also, he could have people coming to him in person. He goes back to school and maybe people come up to him and say, hey look, do you remember this day? And he can say, please call my attorney, or call my family, or call someone.

**Colin Miller:** And then we sort of flip it to the other side, and we see that there are also complications in the way that Jay was handled over the summer. The episode very much, as we discussed, focuses upon Jay's first police statement on February 28th, his then second, very different statement on the 15th. He also had that ride-along I mentioned before on March 18th where his story changes again--

**Susan Simpson:** Also very different, yeah.

**Colin Miller:** And then on April 13th when the officers are testifying before the Grand Jury we have no notes from his statement but the report says basically they were getting their story straight before they went before the Grand Jury. And as this episode notes, Jay was sort of a sitting duck during this whole time because he hadn't been charged with a crime, and therefore hadn't had triggered the right to counsel. That eventually comes in September, when eventually he is arrested. Kevin Urick procures an attorney, Anne Benaroya for him, and we see the plea hearing in the episode. What were your thoughts on the plea hearing, Susan?

**[49:41] Susan Simpson:** To back up a bit to the timeline, keep in mind here in the second interview from Jay in March... the first one in March... he confesses to murder. The facts that he tells the police, they aren't just accessory after the fact. He actually confesses to murder. He is an accessory *before* the murder which is not a thing, that's just accessory to murder. From March until September, he's walking around free in the community, no one is told that he has actually confessed to a murder. If Adnan's a risk, so was he, but Adnan is sitting in Jail, and Jay's walking around not even charged, and Jay can't really do anything about it. He just has to live his life for months on end, having secretly confessed to a murder, and then he waits until September when they decide to finally go forward with a judge that's too good to be true, as they say in the documentary.

**Colin Miller:** That was interesting. I hadn't known that before. Ivan Bates, who was formerly a prosecutor, as well as a defense attorney, and still is, but ran for State's Attorney in Baltimore last year. He was in the courtroom for the bail hearing and has the commentary that this Judge, Judge McCurdy, whom they had the plea hearing for Jay before, basically says, this was a guy who was known to be lenient in sentencing young individuals like Jay, and as you said, Susan, it's almost too good to be true. This initial hearing and then the later hearing after trial, where Urick is saying that Jay is unlike other defendants I see. He seemed truly upset and shaken and wanting to atone. And is basically greasing the wheel as far as McCurdy not giving him a prison term.



**Susan Simpson:** Not just that. We covered this in more detail in Season One of Undisclosed, but it's really important to remember. Jay is not actually sentenced in that first hearing. It's not even a sentencing hearing, it's like a... like a pre-hearing. And what Baltimore did- what Urick did was to set up a plea where Jay is locked in, he is locked in as "going to be pleading guilty," has basically almost pled guilty, he can't back out now, but he's not sentenced, and the jury can be told that he faces that 5 years in prison. But, what's known all along, is that Jay is not going spend 5 years in prison. But because that's not actually put on the record until after Adnan's trial, the jury never hears it.

**[51:50] Colin Miller:** And then, Susan, the final part of the episode is sort of bittersweet, and obviously this was filmed and put together before we had the recent ruling of the Court of Appeals, but we're introduced to Justin Brown, Adnan's PCR Attorney.

**Susan Simpson:** Yeah. I felt sick watching that.

### ***The Case Against Adnan Syed - Justin Brown Press Conference***

#### ***Justin Brown:***

*I have told my client that as long as he wants me to represent him, I will fight to the bitter end. If we lose this, I will appeal. If we lose the appeal, I will go to Federal Court. I might be 80 years old still litigating this case, but if that's what it takes, I will not give up on Adnan Syed.*

**Colin Miller:** Yeah, and it was tough to watch because he's done a terrific job in this case, got the 2 lower courts to rule in favor of Adnan, and loses this 4-3 verdict. But, the end of the episode is on the one hand, him saying I'm going to continue fighting for Adnan, and I'm not going to give this fight up. But, it's also him coming home to his family, and --

**Susan Simpson:** All of the things Adnan never got a chance to have.

**Colin Miller:** Which we juxtapose against Adnan's mother and his father and brother, and talking about they hope they get this moment where he comes home again. And, again, at the time this episode was put together, it's very much hopeful in thinking there's a good chance this is affirmed. But, as it turns out now, in between this episode and today, we do have the court overturning this verdict, and the new trial disappearing.

**Susan Simpson:** That's what kills me about the court's verdict. So much of it kills me, but, the way they latch onto everything about Adnan's story about the 13th, and use it

as proof that he's probably a murderer. Well, if he's a murderer, Kristi Vinson's a murderer, and Jenn Pusateri's a murderer, and Jay is definitely a murderer. And, basically, everyone in that freaking school's a murderer, because none of them know what they were doing on the 13th, and all of them have been falsely told to remember things that didn't happen the way they did. Adnan is so not different in any respect from anyone else's memory of that day. The only difference for him is that he's the one being charged with it. So where he stumbles and where he is confused about what people are telling him about what happened that day when it conflicts with his own memories, that's evidence that he's a liar and he's faking an alibi or faking a defense? Whereas for everyone else, it's like, oh, that's understandable and normal, but doesn't change the fact that they must definitely be talking about the 13th.

**Colin Miller:** And for me, this is the end of the "forgetful Adnan" meme, where people wonder how is he forgetful? How does he forget the events of the day and have a patchwork, spotty memory? He's doing the right thing, which is, he would have that memory which is not complete, and which is mistaken. We see that today, we see with Jenn, Kristi and Jay, their entire story of these events that they think occur on January 13th, they're wrong. And as Kristi herself says, I wish you heard me initially because I was much less certain- that's Adnan. He thinks maybe some things happened that day, he's not sure. And, as this episode reveals, you can be quite convinced that something happened on a certain day, and just be completely wrong.

**Susan Simpson:** Yeah. And that's why we have Jenn and Kristi here who, to this day maintain the story- well, Kristi maintains the story- jenn more or less does basically still tell that story, and it's because the whole time they have had a real memory they're falling back on. They've been using a real memory to tell their story, that part is true, to some extent, and that's what they always fall back on. But now, we saw how Kristi reacted, and then we saw how Jenn reacted to the news.

### ***The Case Against Adnan Syed - Interview with Jenn Pusateri***

***Jenn Pusateri:***

*For real. I'm ready to change my name to get out of this shit, you know what I'm saying? I don't want any fucking thing to do with it. Period. Flat out. I wish I never would have talked to y'all in the first place.*

**Colin Miller:** Yeah, my impression of Kristi was sort of similar to yours. She seems like a conscientious person. She seems like she wanted to do the right thing, and that's why she's, frankly, so shaken when she realizes that this couldn't have been the 13th. She

admits, 'I think that Adnan is guilty, and yet you're giving me information that means I'm thinking about a different day, and that means this entire sequence of events put together by the State, that's taking calls on a certain day, and events on a certain day and trying to juxtapose them to what they claim happened on the 13th.

**Susan Simpson:** But for Jenn though, her reaction is anger.

**Colin Miller:** Yeah. She certainly seems like she's done with Jay's bullshit.

**Susan Simpson:** Oh, really? I kind of got the impression that she was done with the documentary's bullshit. She was upset about hearing she could have- she's just was in denial.

**Colin Miller:** Both. I think she's just done with everything. If there were a third trial, she would do everything to get out of testifying. She's done with Jay, she's done with the documentarians, she's done with everything. She's just over it all.

**Susan Simpson:** Well, Jenn, I have good news for you. There's no one who wants you as a witness. So, you are probably fine.

**[56:39] Susan Simpson:** And then we go back to, again, to the last person involved in the story, which is Jay. Why did he bring Kristi and Jenn into it? Well, because the cops needed him to explain certain cell phone pings. And that's all it was.

**Colin Miller:** And now, Jay's story, which, that's part of the big basis for the Court of Appeals affirming Adnan's conviction is they mention all the points at which Jay's corroborated. They have to do that. It's a "time capsule review" based upon what happened at trial. Now, what we've found out with this episode, among other evidence, is that he's not corroborated at all, in fact, everything he says is completely dispelled, and doesn't make sense any more.

**Susan Simpson:** And it doesn't matter, because Gutierrez never tried to investigate the day this all happened on, even after she had the mistrial. Which should have given her enough time to re-evaluate the State- because let's back up a bit. A lot of the stuff that happened at trial was not disclosed to the defense in advance. The prosecution did not have to give it over, or some times did have to, and didn't. But the thing about Kristi, that was tipped off in the first trial, and Gutierrez never tried to find out what the class schedule was for her. Never tried to check her agenda, check her records to find out-

the whole trial would have been different if she'd made an effort to make sure that Kristi had the right day.

**Colin Miller:** True. And, as you note, she was forestalled in some ways by the State not disclosing certain things, like the fact that they interviewed Jeff, as well, and then re-interviewed Kristi, but even without that, she certainly should have reached out between trials and tried to figure out whether this story actually matched up with reality.

**[58:20] Rabia Chaudry:** Thanks so much for tuning in this week, guys. Don't forget to check out this week's Addendum, as well, and last week's if you didn't hear it. Jon Cryer is back with us for this season, and we'll be back in one more week.

*Transcribed by Brita Bliss, Erica Fladell, Dawn Loges, and Skylar Park*