

UNDISCLOSED, the State v. Willie Veasy**Episode 1 - Unreliable Narrator**

October 23, 2017

[0:21] Rabia Chaudry: On January 24, 1992, a man known as “the Jamaican” was fatally shot on a one-way street of rowhouses in North Philadelphia. It was just before 10:00 P.M., and one witness described the night as cold, windy, and cloudy. A group of people huddled around a can with a fire in it, trying to keep warm. On the corner, a Hispanic man slung pot with a Puerto Rican teenager. The street was known as a drug block. One police officer claimed that the block’s residents were, “prisoners in their own homes.” And this night reinforced that idea. As the ten o’clock hour approached, a handful of streetlight people found themselves dodging a flurry of bullets and later trying to reconstruct exactly what they’d seen. Of course, their accounts differed in a textbook example of the Rashomon Effect.

That left one person literally above the fray. A witness, with what the prosecutor would describe as a bird’s eye view and the ability to see what actually happened. And, according to this witness, the shooter was Willie Veasy, who went by the name of Pee Wee.

[1:27] Rabia Chaudry: Hi, and welcome to Undisclosed: The State vs. Willie Veasy. All three of us are back together for this series and I’m really excited! This is Rabia Chaudry here, and I’m here with my colleagues Susan Simpson and Collin Miller.

Susan Simpson: I’m Susan Simpson, I’m an attorney with the Volkov Law Group, and I blog at ViewFromLL2.com.

Colin Miller: I’m Colin Miller, I’m an Associate Dean and Professor at the University of South Carolina, School of Law and I blog at EvidenceProf Blog.

In 1961 Wayne C. Booth coined the phrase “unreliable narrator” in *The Rhetoric of Fiction*. Simply put, a narrator is unreliable when she can’t be trusted because she misreports and/or under-reports vital information. Unreliable narration can manifest in several different ways. In *Lolita*, Humbert tries to minimize and justify his misdeeds. *Atonement’s* Briony Tallis falsely implicates Robbie Turner in a crime, while *American Psycho’s* Patrick Bateman seemingly falsely implicates himself. And, in *The Usual Suspects*, it turns out that we can’t trust Verbal Kint about his own identity, let alone the narrative he weaves from items posted on a chalkboard.

Criminal trials often work in the same way, with jurors having to determine who is giving unreliable narration. Is the alibi proffered by the defendant and his witnesses credible or incredible? Is the defendant falsely proclaiming his innocence, or, in some cases, has he falsely confessed? Are eyewitness accurate, inaccurate, or perhaps something even nefarious? Why has the prosecutor failed to call certain people who had front row seats to the crime? And is there pertinent information on any of these fronts that won't be revealed until years or even decades later? In the case of Willie "Pee Wee" Veasy, we know that there are multiple unreliable narrators, but who are they, and where does the truth lie? These question may be the keys to setting free an innocent man who has spent his last 25 years behind bars.

[3:37] Susan Simpson: So let's start about where this case happened, what we actually know. About a half a mile east of Temple University Hospital, just north of the Amtrak tracks, there's a one block street called West Russell Street in North Philadelphia. It's narrow, a one way street, cars parked on the north side, and with just enough room remaining for one lane of traffic as cars move from west to east. There are wide sidewalks on both sides of the street, with about 20 oddly numbered rowhouses on the north side and about 16 evenly numbered rowhouses on the south. There are street lights -- three of them, all on the north side, but it's pretty sparsely lit.

Russell Street connects North 7th Street on the east and North 8th Street on the west. A man named Andrew Bagwell says that he was walking south on 7th Street that night, with his best friend John Lewis, on January 24, 1992. Bagwell was five foot six, 23 year-old, African-American, and Lewis was two years older, three inches taller, also African-American. Because of his accent, people often referred to Lewis as "Jamaica" or "The Jamaican." And Bagwell and Lewis were both friends with a third man, Lloyd Hicks, who was supposed to pick them up that night at 10:00 P.M. to go to a party.

When Lewis and Bagwell got to 7th Street, they turned right and headed east on the sidewalk to the north side of the street. They were walking shoulder-to-shoulder, with Bagwell on the left, closer to the road. There was a group of about 7 people in front of the fourth row house on the street, and Bagwell and Lewis had just turned onto Russell, and were about 1 or 2 houses down the road, when Bagwell suddenly heard gunshots coming from the middle of the block.

Bagwell looked up and he saw a man standing by himself in the middle of the street, firing a handgun at a man on the south sidewalk. The first gunshot dropped the victim. Bagwell then heard a second gunshot before the shooter turned northeast to face Lewis and Bagwell. The shooter was African-American, wore a three quarter length jacket that might

have been red with a fur collar, and he pointed the gun at Bagwell and Lewis and fired twice. The second shot sounded different from the first, probably because it was the one that struck Lewis in the head. Bagwell fell to the ground with Lewis and remained there as he heard two more gunshots echo down the street, followed by the sound of a car peeling away. Bagwell never saw the car, but others on the street told him that it was a burgundy Subaru. Other people also asked what was the matter with Lewis, which is when Bagwell realized that his best friend had been shot.

[6:04] Rabia Chaudry: Bagwell went to the hospital with Lewis, who was admitted in extremely critical condition, and later declared dead from a penetrating gunshot wound that entered his head at his right eyebrow, at a slight upward angle. The police then took Bagwell to the homicide division, where he gave a police statement shortly after 1:00 A.M. in the morning. A detective asked Bagwell questions, Bagwell gave answers, and the detective recorded both on a typewriter. About halfway through the interview, the detective left before returning to ask Bagwell about what had happened half an hour before the shooting.

And according to Bagwell, at that time, he was by himself on 7th Street, between Russell Street and Schiller Street, which was the next street to the north. A car drove up, and three men got out and approached him. One of the men walked within two feet of Bagwell and tried to sell him a gold chain. The man was in his late teens or early 20s, he was a little taller than Bagwell, who again was 5'6", and had a dark complexion and was clean shaven. He wore a fur-collared red jacket, with a 20 inch Gucci link chain dangling around his neck. Bagwell told the man he wasn't interested, and the three men walked past him and went around the corner onto Russell Street before walking past Bagwell to drive away in a car that he doesn't remember.

But Bagwell did remember the jacket. In his police interview, he described it as, "a red jacket with a fur collar on it like the male who was doing the shooting later on Russell Street." And while he didn't explicitly say so in his interview, Bagwell would later testify at trial that he thought the guy with the gun was the same guy who tried to sell him the chain.

[7:44] Colin Miller: Bagwell's accounting lines up with the police statement of 21 year-old Lloyd Hicks, the man who was supposed to take Lewis and Bagwell to the party. Earlier in the day, at about 1:00 P.M., Hicks was at the corner of 7th and Russell Streets when four men in a car came around the corner and tried to sell him jewelry and watches. Two of the men got out of the car, and Hicks remembered the same two men coming to the same corner to sell jewelry and watches the prior month.

According to Hicks, the driver was 5'9", with dark brown skin, and a had a rounded, wide face with full lips. He wore Porsche sunglasses and a hoodie that was covered by a brown leather jacket. The passenger was 5'8", about 22 years-old, and had darker brown skin and close cut hair, and a Gucci link chain dangled around his neck.

Later, shortly before 10:00 P.M., Hicks was near the corner of 7th and Russell, along with about 20 other people, including Lewis and their other friend Chuckie King. Lewis told Hicks he was going to the house they shared on 9th Street, and Hicks and King walked over to Hicks's car, which ostensibly was parked on 7th Street. After Hicks pulled the car out of its parking spot, the car from earlier in the day pulled in. It was a maroon car, likely a Subaru. The same four men were in the car, and at least three of them got out.

Hicks then drove two blocks north and turned on Tioga Street, which is where King lived. After talking with people at the corner of 7th and Tioga for about five minutes, Hicks saw a police cruiser with its lights on heading toward West Russell Street. Hicks arrived back at Russell to see his friend John Lewis with a bullet in his head, and, in his own words, he "flipped out." Hicks was taken to the homicide division and gave a statement at about 11:20 P.M. When asked whether he would recognize the men in the car if he saw them, Hicks responded, "Positively." But there's no evidence in the record that Hicks was ever asked to make an identification, and he didn't testify at trial.

[11:21] Susan Simpson: And that takes us to the third man in question: Charles King, also known as "Chuckie." As a preface, there are two things about King you should know. First, he was actually called as a defense witness at trial. And second, we don't have a copy of his police interview. More on that in a later episode. That said, at trial, the prosecutor made a few references to that police statement, and here's what we can gather from that.

According to Chuckie King, he was with Lloyd Hicks at about 4:00 P.M. when four men drove up to them in a car, with two men getting out and trying to sell them jewelry. He described the driver as 5'9", 170 [lbs], 26 years-old, with dark skin, long sideburns, and some hair on his chin. The other guy who got out of the car was trying to sell them a gold Gucci link chain necklace for \$100, and he was 5'4" or 5'5", dark complected, thin faced, 18ish, and wearing a three quarter length leather jacket. King had never seen the men before.

Now, the reason the prosecutor referenced these portions of King's police statement is because at trial, he was somewhat inconsistent. First, he testified that he had seen these men, quote, "a couple of times, I think, around the neighborhood." And this prompted the prosecutor to ask Chuckie King about saying he had never seen the men before when he

talked to the police, and then King clarified that he was now sure that he in fact had not seen the men before. Second, King testified that the man trying to sell them the Gucci chain was 5'9" or 5'11" which is substantially taller than the 5'4" or 5'5" he originally said. But the prosecutor didn't bring up anything else in King's statements at trial, so we can assume, mostly, that the rest of his testimony was consistent with it, or at least not inconsistent in a way that would bolster the defense's case.

Chuckie King told the jury about how he was with Lloyd Hicks shortly before 10 P.M. that night. They were near the corner of 7th and Russell Streets, and he saw John Lewis and Andrew Bagwell together. King then got in Hicks's car, and they drove around the corner. King says he heard the shooting, and then he and Hicks ran back to Russell Street to find their friend dead in the street. And then Bagwell then told King that he and/or other people thought that the guys who had been selling jewelry earlier were the ones involved in the shooting. This prompted the following exchange between the prosecutor and King at trial:

[14:47] Colin Miller [reading trial transcript]:

Question: Maybe they had something to do with it?

Rabia Chaudry [reading trial transcript]:

Answer: Yeah, the people that was out there had seen this guy who did it, who was shooting around this neighborhood before.

Colin Miller:

Question: Okay. Now --

Rabia Chaudry:

Answer: And he had the same name, Pee Wee.

Colin Miller:

Question: He had the same name, Pee Wee?

Rabia Chaudry:

Answer: Yes, short.

[14:09] Susan Simpson: Now, as we told you back at the start of the episode, Willie Veasy, the man who was convicted of the murder of The Jamaican, was known as Pee Wee. And, if we're going just by the narratives of Bagwell, Hicks, and King, you'd think that there could be a pretty solid case against him here. While their narratives don't completely overlap, they sort of paint the same picture, of a short-ish man, 5'7", 5'8", maybe a bit shorter, with

dark skin, a fur collared three quarter length red jacket, and a Gucci link chain, who was responsible for the crime. He had been seen on Russell Street selling jewelry earlier that day, and he had done the same about a month before, and he might be the same Pee Wee who others identified as the shooter that night and as a shooter in the past.

Colin Miller: But here's where we might be accused of being unreliable narrators because there are a few things we haven't told you. First, while Willie Veasy was known as Pee Wee, the use of the name was ironic: He's actually 6'3" and solidly built. And while Veasy is African-American, he has a medium complexion; one witness described him as "potato skinned." Here's how his stepfather Andrew Morrell describes his complexion:

[15:22] Andrew Morrell:

It was a medium complexion, know what I mean, he's light brown-skinned, not completely light, but brown-skinned. I mean, not dark or anything like that. His skin, his skin complexion was like a nice brown color shade, you know it wasn't dark, I said medium.

[15:41] Colin Miller: In fact, during cross-examination of Andrew Bagwell, the very first thing defense counsel did was to have Veasy stand and get Bagwell to acknowledge that Veasy wasn't dark complected like the man or men he saw selling jewelry and the man who he saw shot up the block. Bagwell also described the man trying to sell him a gold chain as clean-shaven while Veasy sported a mustache at the time of the murder. All three men also described the man in question as late teens to early 20s, between 18 and 22; Willie Veasy was 26. Given all of the above, it's easy to see how Chuckie King was able to state clearly at the end of his testimony that Willie Veasy was not one of the men who tried to sell him jewelry.

Now, if this all you knew about the shooting, you'd probably have a pretty easy time believing Willie Veasy to be innocent. Jim Figorski, a retired Philadelphia police officer and current attorney, worked with us on the Shaurn Thomas case and is now working with us on the Willie Veasy case. He believes that the theory that the man selling chains earlier being the actual shooter is a viable one:

[16:37] Jim Figorski:

I think that's a very viable theory, uh, all of the people who saw these men claimed that they were driving a small red car, at least one of them, and I'm not sure who it was, said that he was wearing a red coat, with a hood, which is exactly what some of the eyewitnesses claim the murderer was wearing, including Denise Mitchell. So it sounds to me like it's a very good possibility that these were the shooters, and

people on that block thought that they were the shooters, because they were all in Homicide the night of the murder, and they were actually, comparing notes about them, and saying they thought it was them.

[17:17] Rabia Chaudry: But there were other people on the street that night, and their accountings were quite different. The night before the shooting, Angel Martinez was on the corner of West Russell and 7th Street, slinging weed. A young Puerto Rican guy came up to him and said he had no money. Angel told him he was making 50 bucks a bundle selling for a guy and that they could share the profits. The next night, Martinez and the kid were near 716 or 720 Russell Street, on the south side, selling weed. And that's about 5 or 7 rowhouses in from 7th Street, and, because there are several vacant lots on the southeast side of Russell, across from the 9th to 11th rowhouses in on the north side of the street.

The two men had been drinking Southern Comfort and Sambuka to stay warm. Angel asked the Puerto Rican guy if he wanted another drink, and he said "no." So, Angel started walking to the vacant house at the north corner of West Russell and 7th Street. Angel then saw the African-American guy he called The Jamaican standing at the corner. The Jamaican yelled out that he was hungry and asked Angel if he was going to buy some Chinese food. Angel said he would if The Jamaican could get a 6 pack of Heineken. Angel met The Jamaican at an alley next to the corner house and was pulling out money when he heard 2-3 gunshots. He looked back and saw the Puerto Rican guy on the ground and another man walking back to a small two-door red car, maybe an '84 or '85 Lynx or a Nissan Pulsar, parked in the middle of the street. The man was a dark skinned African-American guy, early 20s to about 27-28 years old; about 6'1" to 6'3" and medium build, about 190 pounds.

When he arrived at the car, the man opened the right passenger door, and, while he was standing outside the car, he fired about 9 shots at random. Angel said he dove to the ground; he heard a thump and saw The Jamaican fall onto the sidewalk about a foot away. The red car then drove away west on Russell Street. Angel ran towards the car and saw it turn left onto 8th; it then went right on Ontario and disappeared under a bridge that's just past the intersection of 8th and Ontario.

When Angel ran back over to the Puerto Rican guy, he said, "He took my money. And the weed. And he shot me in the back when I tried to run." According to Angel, there were three people in the car. And, a few months before that, there was a robbery at the same corner by a guy with a mask and a shotgun. Based on the way that the two men were built, Angel thought it might have been the same guy.

[21:58] Susan Simpson: So, there are some clear differences here between the narrative of this witness and the narratives of the first three witnesses we discussed, but if we're getting into that, let's look at the police statement of Angel's wife, Geraldine Martinez. Geraldine says that, on the night of the murder, she was at her daughter's godmother's house at 717 West Russell, on the north side of the street. She walked over to Angel and told him that she was going to get his sister, and according to Geraldine, at that time, Angel was in front of 705 West Russell, which is three rowhouses in from 7th Street. Then, after walking about 4 rowhouses over on her way back to 717 West Russell, she looked back and saw a small red car in the middle of the street. Geraldine would later tell police the car was about 50 feet away and drew them a map. And while the map is missing, and we don't have that, if the estimate of 50 feet was correct, that would place the car on the street right beside 705 West Russell, where she said Angel had been standing.

According to Geraldine, the passenger side window of the car was open, and quote "There was a guy trying to get into the car and he fired a gun." The guy then said, "Get the fuck away," and started shooting all over the place. Geraldine said the shooter had a beige $\frac{3}{4}$ length jacket and was African-American with medium complexion. She hid by some steps and she heard five more gunshots before seeing the car drive away. Someone said the last three numbers of the license plate were 647 or something like that. And about 3 or 4 months prior, a similar car had come through the street, and two African-American guys with Uzis had told two cars that were blocking the street to "get the fuck out of the way." Geraldine thought the car looked just like the car with the Uzis. At the time of that incident, people had been saying that these were the stick-up boys from 10th and Indiana.

So, how do the accounts of the Martinezes stack up with the accounts from the other witnesses? Like Bagwell and King, Geraldine describes that three quarters length jacket, but, unlike Bagwell, King, and Hicks, she describes the jacket as beige instead of red. Still, like King and Hicks, she does remember a red car, and she describes the shooter as having a medium complexion, which matches Willie Veasy's complexion, and Angel says the shooter was about 6'1" to 6'3", which matches Veasy's height. But Angel, who was considerably closer to the shooter than was his wife, says the shooter had a dark complexion. Of course, this leads to the question of where Angel actually was at the time of the shooting. Geraldine describes him as being in front of 705 West Russell, but that's not the place that Angel says he was selling drugs or meeting with John Lewis. And Angel didn't mention Andrew Bagwell, who says he was right next to John Lewis at the time of the shooting. Some of these issues might have been ironed out later, but there's no indication that either Angel or Geraldine were ever asked to identify Willie Veasy as the shooter, and neither got called at trial.

[25:08] Colin Miller: But there was another purported eyewitness who did testify at trial. Henry Montero was a 20 year-old man who was visiting his friend Jose at 703 West Russell Street, the 2nd rowhouse in from 7th Street on the north side of the street. Montero says he was looking out the first door front window shortly before 10:00 P.M. when he saw a little red foreign car, possibly a Hyundai, turn off of 7th Street onto West Russell and pull up to a little Puerto Rican guy who was 16 or 17 years old and selling drugs a few houses from the corner. The Puerto Rican teenager walked over to the driver's side, and Montero heard a gunshot. The Puerto Rican guy fell to the sidewalk on the south side of the street; when he tried to get up, he was shot again by the driver of the car.

Montero then heard three more gunshots. He ran to the door and looked out. An African-American guy he knew as the Jamaican was on the south side of Russell Street, having already been shot. The Jamaican then walked across the street to the north side and east about four houses before falling down at the steps at 703 or 705 West Russell. When Montero first saw the Jamaican, he was standing by himself; he was about 4-5 feet away from the Puerto Rican guy at about 710 West Russell.

Montero thought there were 3-4 guys in the car, and all of the gunshots came from the driver's side. He saw the driver, but didn't get a great look at him. At trial, Montero would later testify that he didn't see Willie Veasy that night and had never seen him before the trial.

Now simply put, it's tough to reconcile Montero's statement with any of the prior statements. In Montero's version, the shots come from inside the car, with nobody ever getting out of the car. And John Lewis the Jamaican is by himself when he's shot, on the south side of the street, not on the north side of the street with either Bagwell or Angel Martinez. So is Montero wrong, or did his position of relative security give him the best vantage point to observe what really happened? I asked Jim Figorski about whether the discrepancies among eyewitnesses in this case were typical or atypical:

[27:07] Jim Figorski:

They're a bit different, in that there's at least one, maybe two people who said, well, it's actually two that I know of, who say the shooter never got out of the car, just as Marissa said, and that's unusual because everybody else said that at least one, possibly two people got out of the car. I mean that's pretty standard. One guy said he was looking out the window the entire time and saw the whole, whole thing! And nobody ever got out of the car. So that's a bit strange.

[27:33] Rabia Chaudry: At trial, the prosecution would claim, though, that one eyewitness had the best view of the shooting, not of the Jamaican, but of the Puerto Rican teenager. And that teenager's name was Efraim Gonzalez. He was 18, and he survived his shooting. Now from this, you *could* assume that he was the State's star witness, because that would make sense, but he didn't even testify at trial. In fact, for reasons we'll again describe later, we don't even have his police statement. Instead, as with Chuckie Hicks, we just have some references to that statement. And as far as we can tell, according to Gonzalez, when he was standing on Russell Street, a red Datsun pulled up, and the front passenger got out and approached him. The man was African-American, about 18 years-old, 6 feet tall, and wore a three quarter length *green* cotton coat. They made a deal for 7 bags of marijuana for \$65. But, before completing the deal, the man pulled out a .38 revolver and took \$15 from Gonzalez; when Gonzalez tried to run, the man shot him in the back. The shooter than ran around the car to the passenger side and shot up the block at least two times.

Now, as we noted, we don't have Gonzalez's full police statement, so we're going to reserve comment on some of the specific ways that it contradicts the accountings of other witnesses. But assuming that its broad brushstrokes are true, a very different picture of the shooting emerges, and it's one that also contradicts the narrative or narratives told by the State's actual star witness.

[28:59] Susan Simpson: That actual star witness, the one the prosecution used at trial, is Denise Mitchell. She was 26 and lived at 714 West Russell, on the south side of the street. In her police interview, she says that, after she finished watching the 76ers basketball game at her mother's house, she took a cab back to Russell Street, where Angel Martinez called out to her when she arrived. She went in, put her kids to bed, then went back out, and walked across the street from her house, to talk to Angel Martinez and John Lewis. As a point of reference, the rowhouse across the street from where Mitchell lived was 715 West Russell Street, which was 8 houses in from 7th Street.

John asked Angel for \$5 for Chinese food, and then 2 cars came down the block, one after the other; the first one red and the other one gold. Mitchell says that she knew something wasn't right, so she went back inside and headed upstairs. That's when she heard someone yelling, "Yo, Yo," so she opened the window and saw a guy getting out of the driver's side of the same red car she had seen before. The driver told a young man with a hood on, "Give me what you got," prompting the response, "I don't have nothing." And then the driver said, "You're lying," pulled out a gun from his jacket, and shot the other man. This happened in front of an adjacent rowhouse, and Mitchell called the police. She got a blanket, went downstairs, and put the blanket over the victim. Mitchell says that she thinks the driver

fired 3 shots, and she didn't even know that John Lewis had been shot until she went outside.

But Denise Mitchell claimed that she knew the shooter. Not his real name, but he went by Pee Wee and he was African-American with a mustache, medium build, medium complexion, with a stitch mark on his right eye. According to Mitchell, this Pee Wee drove the red car that she'd seen that night. She also claimed that she saw a guy she knew as "Man" with Pee Wee. "Man" was 5'3", stocky and light complected, and about 22. According to Mitchell, "Man" also had a gun, but she didn't see him shoot it. She also claims that there were two other guys in the red car but that she didn't see them, didn't know who they were.

And Mitchell claimed that Pee Wee and "Man" had been involved in at least 2 prior shootings. She said that her brother-in-law, Vardell Solomon, was also shot by them because he owed them money, and she said that a man named Derrick Barnes had been shot by them as well.

Now, before going any further, as we noted, Mitchell claimed that she called 911 *before* she went outside and *before* she even knew that John Lewis had been shot. We have the transcripts from the 911 calls that night but unfortunately not the audio. Two of those calls were made by women. One is very brief; the caller just asks for an ambulance. According to the other transcripts, the caller says the incident took place at "7 dash 4, ah, 7th and Russell." Now as noted before, Mitchell lived at 714 West Russell, so there's a solid shot that this caller was her and that she was trying to say 714 Russell.

Now if that's the case, there's something interesting things to note. First, the 911 caller says Quote "there's two people dead in the street." This contradicts Denise Mitchell's police statement that she didn't know Lewis was shot until she went outside. I asked Jim Figorski whether he considers this discrepancy important:

[32:19] Jim Figorski:

I consider it important. I consider it important also because what of she says on that 911 call, and what she says to the police. She tells the police that night that, um, I looked outside and I only saw this one guy shot. I didn't know John Lewis was even shot. And on the way outside, before I got out there, I called the police. So, by her own description at the time she called the police, she knew there was one person shot. Just one. What does she say: "there were two guys dead outside".

[32:47] Colin Miller: And then, there's another important discrepancy between the 911 call and Mitchell's testimony:

[32:50] Jim Figorski:

Look what she says, when she's asked who did the shooting: two black males dressed all in black. [Colin: Right] ..22-23 years old. That's not...I mean, that's not what she said at trial. What she said at trial was, he was wearing red, with a hood, and, if it was these two guys who she knew, why didn't she immediately say Pee Wee and Man? [Colin: Right]. I mean, two black males, dressed all in black. And here's the other point: if all she can see is that they're dressed all in black - no other witness saw that. Every other witness saw clothing. So, she couldn't even see what *those* people were seeing. And yet she identified this guy's face?

[33:31] Colin Miller: Now again, for any of this to be relevant, we have to believe that Mitchell was the one who made this 911 call, so there's some doubt there. But that said, there's no doubt about what happened several months later.

After Mitchell made her police statement, Detective Frank Jastrzembski began looking for Pee Wee, but a computer check was negative and people in the neighborhood had no information. And then, according to Detective Jastrzembski at trial, after days had passed, Quote "We spoke to an unidentified girl late at night who led us to 3536 North Marvine Street, and she said that she knew of a male in that location who went by the name of Pee Wee."

Now, to orient ourselves, 3536 North Marvine is about a half mile northwest of the site of the shooting, and Detective Jastrzembski was able to confirm that a man named Willie Veasy lived at this address and matched the physical description given by Denise Mitchell. So, Detective Jastrzembski got Veasy's photo, placed it in a photo array with photos of several other men, and went with his partner to show the photos to Denise Mitchell, about three weeks after the shooting.

The detectives caught Mitchell as she was leaving her house and got her to agree to look at the photos inside her house. Mitchell flipped through the pages of the photo array, but did not identify Veasy or any of the other men as the shooter. Now, both Mitchell and Detective Jastrzembski would later testify at trial that Mitchell also said that she didn't want to get involved, but Detective Jastrzembski had to admit that he didn't document any such statement or anything connected to Mitchell's failure to identify.

After Mitchell's failure to identify, several months passed, and Detective Jastrzembski eventually turned the case over to Detective Domenic Mangoni in the Special Investigation Unit. Finally, almost exactly four months after trial, on May 23, 1992, Detective Mangoni took a single page from the prior photo array to show to Mitchell. The array had five photos arranged like the five points on a dice: two on the top, two on the bottom, and one in the middle. And the one in the middle was Willie Veasy. This time, Mitchell identified Veasy as the shooter. When she later testified at trial, Mitchell would acknowledge that the other four men in the array had darker skin than Veasy, who, in her words, was "potato skinned."

Colin spoke to Jim Trainum, a former homicide detective and an expert in false confessions and wrongful convictions about this technique of using a portion of the same photo array for the second attempt at identification:

[35:47] Jim Trainum:

That's really a problematic way of doing identification arrays like that. Um, when you start showing the same array to the same witness more than once. That's just been deemed to be highly improper, and something that contributes to misidentification.

[37:58] Susan Simpson: At Willie Veasy's trial, Mitchell had some other interesting things to say. The first is that her testimony is quite different from what she said in her police statement. When she was talking to the police, right after the murder, she said that, after putting her kids to sleep, she went back outside, saw the red car and the gold car, went back inside, and then saw the shooting. In her trial testimony, though, she sees the shooting right after putting her kids to bed and without first going back outside. And the gold car, which nobody else mentioned seeing that night, isn't mentioned in her trial testimony. And another interesting part of Denise Mitchell's testimony, comes in relation to a phone call that she made to Willie Veasy's attorney before the trial. Here's Jules Epstein, Veasy's attorney, now an evidence professor, about that call with Nise Mitchell:

[38:45] Jules Epstein:

I spoke with her at least once, and you know, she'd vacillate, but sometimes she would seem inclined to cooperate. And she acknowledged to me that she needs glasses, um, my memory, she said, my eye doctor, or her optician, is up at, uh, Eerie Avenue, or Germantown Avenue, I forget which street she said, that she would get me the information, so that I could subpoena it and show that her vision was not 20/20, um, and then, she blew me off. And there wasn't a mechanism by which I could independently find, you know, of all the eye doctors in Philadelphia, you know- who was hers.

[39:45] Susan Simpson: But even without Mitchell's cooperation before trial, Epstein still got her to admit that she was nearsighted and wasn't wearing her glasses at the time of the shooting. Specifically, she testified that she had 40/100 vision, meaning that things that are 40 feet away look like they are 100 feet away. Put another way, things that are in reality, 20 feet away look like they are 50 feet away. And, according to Mitchell's narrative, she probably would have been about 20 feet away from the shooter.

And, even putting aside how good Mitchell's vision was, or how much light there was that night, what could she have really seen? Recently, the Pennsylvania Innocence Project did an experiment:

[40:27] Marissa Bluestine:

Just a few months ago, one of our interns, who actually is about Willy's height, and our investigator went out to go take pictures from the window; now, we actually did it during the day, we didn't do it at night, because we wanted to even see under the best of circumstances, what would have likely been seen, and so we had the intern who was as tall as Willy out on the street standing next to a car and being where, [clears throat] she says she saw him. And we took those pictures to try to be able to determine, can you really tell how tall he was, can you get a good look at the face, all those kinds of things. And we have those, we've brought those back, we've looked at those, and you know, even given that our intern was as tall as he was, it's still frankly is difficult to be able to make that assessment of just how tall he is, even when he's standing next to a car, when you can kind of make that judgement from an objective, you know, kind of standard. It's still a very difficult identification to make from that angle.

[41:27] Susan Simpson: Veasy's attorney, Jules Epstein, did a similar experiment in the courtroom to establish that Mitchell couldn't have determined the height of the shooter from the second story of her rowhouse:

[41:36] Jules Epstein:

And I walked to the back of the room, because on the wall of the back of the room, about 18 feet up, or 20 feet up, was a clock, and I said to her, so when you're looking out your window, you're like where that clock is. And you're looking down, because I was trying to establish, and nowadays, if I were trying a case like this, if I couldn't have gotten into her house, I'd have gotten into a similar house, and re-created it with a video. Um, and that was something I didn't think of doing back then. But, you

really couldn't see or estimate height. When you're looking down that way, at least that was one of the things I tried to establish.

[42:27] Colin Miller: We've posted their photos on the website, and it's my belief that there's no real way to determine the height of the intern. Maybe even more importantly, there's the question of angle. At trial, Mitchell testified that the shooter turned the Puerto Rican teenager around, pushed him against the wall of the adjacent rowhouse and shot him. Now, if you go to our website and look at the photos, Mitchell wouldn't have had an angle from inside her rowhouse to see what was going on right in front of the adjacent rowhouse. Even if she had craned her head out the window a bit, the photos seem to show that she still wouldn't have had an angle on the shooting, and, in any event, Mitchell doesn't testify that she did any of this.

But, even putting this issue aside, let's add illumination back into the question. And let's start by again orienting ourselves. Mitchell was in 714 West Russell, the fourth house in from the east side of the street after a series of vacant lots on the south side of the street. And she says the shooting occurred right in front of the rowhouse to the east: 712 West Russell. As we noted before, there were only three city vapor lights on the street, all on the north side of the street across the street from Denise Mitchell's residence.

One of these street lights was all the way down toward the west end of the street. Another was near the east edge of 721 West Russell Street. That's four lots east of 712, where Mitchell says the shooting took place. Finally, the third street light was near the west edge of 703 West Russell Street. That's four lots west of 712, which is again where Mitchell says the shooting took place. So, according to Mitchell, the shooting was about as far away as you can get from a street light on Russell Street, and the defense would introduce photos at trial to show that Mitchell couldn't have seen what she claimed to see. Defense counsel would also get Mitchell to admit that a 75 watt lightbulb was on in her room, which would have made it even harder see what was transpiring on the dark street below.

But, what did Mitchell in fact claim to have seen? You might recall that Mitchell gave a detailed description of Willie Veasy on the night of the murder, right down to the scar that Veasy does in fact have over his eye. But at trial, Mitchell would testify that she simply knew that the shooter was Veasy because she never forgets a face and that the physical description she gave to police was just based upon seeing Veasy over the years, not on the night of the shooting. So, it's not clear exactly what led Mitchell to make the identification of Willie Veasy.

That said, there are a few possibilities. First, do you remember how we said that Chuckie King had heard on the night of the murder that the shooter was a guy named Pee Wee who had been shooting around the neighborhood before and whom Chuckie knew to be short? Well King is Denise Mitchell's brother's. So, as Jim Figorski notes, maybe Mitchell heard her brother or someone else say that Pee Wee was the shooter and jumped to the wrong conclusion:

[45:10] Jim Figorski:

I'm not sure how that would have happened, unless, maybe he's saying that the word on the street is that it was Pee Wee, and his sister put 2 and 2 together and picked, and thought it was the wrong Pee Wee, I don't know. I'm not really sure what he meant there, but he's clearly not agreeing with her.

[45:24] Colin Miller: And then there's Mitchell's other brother, her brother-in-law Vardell Solomon, whom Mitchell thought had been shot by Pee Wee and his friend, Mann. That's the real reason why Jim Figorski thinks Mitchell implicated Willie Veasy in this crime:

[45:36] Jim Figorski

I tend to believe that Denise, for whatever reason, blamed Pee Wee and Mann for violence against her, her, um brother in law. I don't know why, because I've never heard anything about that, I never heard of Willie, you know, actually doing any violence other than the one he's been accused of wrongly. And, for some reason, obviously, Denise thought that he did. She never said why she thought so, or how she knew that, but um, it was interesting that she brought that up in her statement to police on the night that she blamed, you know, Willie Veasy for shooting John Lewis, and framed Gonzales. I think that was her motivation, but that's my opinion.

[46:22] Colin Miller: We definitely can't say with any certainty why Denise Mitchell would have falsely implicated Willie Veasy, assuming that she did so intentionally. What we can say is the same thing that Jim Trainum noted when reviewing all of the witness statements in the case:

[46:34] Jim Trainum:

Her statement really didn't match up to the other statements that were made by other witnesses on the scene, particularly the living victim.

[46:47] Rabia Chaudry: Whether it be the presence of a gold car, the shooter exiting from the driver's side of the car, the shooter pushing Efraim Gonzalez against the rowhouse, or

the perps wearing black clothes, Mitchell's accounting deviates from the accounting of every other eyewitness in several key places.

And, in this episode's final bit of unreliable narration, we haven't yet told you about another phone call that Denise Mitchell made to Willie Veasy's lawyer *before* trial and yet another call that she made to his lawyer *after* trial. We'll get to these in a future episode, and they will likely lead you to even further wonder whether Denise Mitchell is an unreliable narrator.

But the defense at Willie Veasy's trial faced an even tougher unreliable narrator quandary at his trial...because they had to convince the jury that there was one more unreliable narrator in his case: Willie Veasy himself. "The Confession"...next time on Undisclosed.

[47:57] Rabia Chaudry: A big, big thank you to everybody who made this very important series possible. I have to begin by thanking the folks at the Pennsylvania Innocence Project, Marissa, Riley, Jim, you guys do amazing work, your entire teams. 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. Audio production is done by Rebecca LaVoie, of Partners In Crime Media, and she is the host of one of my favorite podcasts, by the way, Crime Writers On, and a new podcast called 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.