

UNDISCLOSED, the State v. Willie Veasy**Episode 3 - The Alibi**

November 6, 2017

[0:20] Colin Miller: A famous proverb says that “time and tide wait for no man.” Today, people typically use the proverb to refer to the failure to act when opportunity knocks. But the origin of the phrase lies in the powerlessness of man. The proverb can be traced back to Geoffrey Chaucer’s Prologue to the Clerk’s Tale. Chaucer’s proverb was inspired by King Canute, whose courtiers told him he was omnipotent. To demonstrate his impotence in the face of Mother Nature, King Canute took his men to the sea and commanded the tide to stop, with predictable results.

Of course, a man can no more stop time than he can stop tide. When Willie Veasy was arrested in 1992, he was 26 years-old. When I spoke with his sister Ketra about a month ago, it was Willie’s 52nd birthday. He’s now spent half of his life in prison, and his then 12 year-old sister is now a 37 year-old mother.

[1:10] Ketra Veasy:

I just want my brother to come home cause he missed so much of not only my life, but my kids life. Ya know, and it’s hard, to accept that -- when somebody’s always been there for you, no matter what, whether it was good or bad. And as I was growing up, I used to say: No my brother’s gonna walk through the door on Christmas. He’s gonna surprise us on New Years, or surprise me on my birthday. And when I get in the mail, a card from him, I’m like, well where’s my brother?

[1:47] Colin Miller: At Willie Veasy’s trial, the strongest evidence of his innocence was not a man, not even a human being. According to the prosecutor, “You can put it on the witness stand and you can ask it questions until you’re blue in the face, it will say nothing.” This was true, but the prosecutor’s argument could be both a blessing and a curse because, unlike its human counterpart, the evidence of Willie Veasy’s innocence also couldn’t lie, couldn’t be motivated to protect him. And that left the prosecutor with one argument that amazingly worked: that Willie Veasy could turn back time, or at least cheat it.

[2:37] Rabia Chaudry: Hi, and welcome to Undisclosed: The State vs. Willie Veasy. This episode is The Alibi. My name is Rabia Chaudry, I’m an attorney and author, and I’m here with my colleagues as always, Susan Simpson and Colin Miller.

[2:48] Colin Miller: Hi, this is Colin Miller. I'm an Associate Dean and professor at The University of South Carolina School of Law, and I blog at EvidenceProf Blog.

[2:54] Susan Simpson: Hi, this is Susan Simpson, I'm an attorney in Washington, D.C., and I blog, occasionally, at the ViewFromLL2.

[3:00] Rabia Chaudry: In the last two episodes, we laid out all of the evidence the State presented against Willie Veasy at trial. First, Denise Mitchell picked him out of a photo array *months* after failing to identify him when she was first shown the same array. Second, when the Police Apprehension Team arrived at his rowhouse at about 6am in the morning, he supposedly tried to hide in a bathtub. And third, when taken to the police station, he initially agreed that he had taken part in the robbery of Efraim Gonzalez.

In response, the defense team presented two types of evidence. The first is character evidence. Now character evidence isn't admissible in civil cases, such as those involving contract disputes. The thinking is that we want jurors deciding cases based upon evidence of the dispute at hand and not based on whether they judge the parties to be good or bad people. But the law gives a special dispensation to a criminal defendant to present character evidence because his liberty, and sometimes even his life, is at stake. For Willie Veasy, it was the latter. Here's his trial attorney, Jules Epstein:

[4:01] Jules Epstein:

This was tried as a capital case, because back then, every case in Philadelphia (laughing) where it was possible to proceed capitally, proceeded capitally. Which means we had a death qualified jury. I'm not using that as an excuse, simply as a descriptor to say, needless to say, attacking police credibility is even harder with a death qualified jury, at least back then in Philadelphia.

[4:31] Rabia Chaudry: And so, Epstein set out to locate character witnesses for his client:

[4:36] Jules Epstein:

And I spent some time meeting Willie's family. I was in his home, um, nice people! And they were able to get me neighbors and acquaintances to come in.

[4:51] Susan Simpson: As any defense attorney will tell you, this was the exception rather than the rule. That's because character evidence at a criminal trial is a Pandora's Box. If the defendant keeps it closed, no character evidence will be heard by the jury.

But if he opens it to present good character evidence, the prosecution gets to respond in kind.

[5:09] Jules Epstein:

Um, lawyers only called character witnesses if their clients had no convictions.

[5:15] Susan Simpson: Quite simply, prior convictions are poison for criminal defendants and likely to kill an otherwise strong case of innocence. But Willie didn't have a criminal record.

A defendant's good character evidence can also tank his case if it's followed by the prosecutor calling witnesses who then attack the character of the defendant or the character of his witnesses. But in this case:

[5:36] Jules Epstein:

There wasn't much to impeach Willie's character witnesses with, so this was a safe bet.

[5:48] Susan Simpson: Character evidence can be compelling, which is reflected by the fact that defendants presenting good character evidence in Pennsylvania can get a pretty powerful jury instruction at the close of their cases.

[5:58] Jules Epstein:

And you actually get a jury instruction that says, uh, that's how you should weigh this. And you the jury, if you choose, may use that alone -- as a ground for saying the government has not proved its case beyond a reasonable doubt.

[6:15] Colin Miller: And so, the defense presented a parade of character witnesses at trial. Willie's mother, his stepfather, his supervisors at work. A man who owned the car repair shop down the street. The awesomely named Ella Handsome, who lived 5 doors down. Willie's 72 year-old neighbor. Another neighbor whom had known Willie for 17 years, and yet another who had known him for 20 years.

Given how long these people knew Willie Veasy, you might expect that they went into detail about what they knew about Willie and why they believed he was incapable of taking part in a robbery or especially a murder. Instead, their testimony all looked like the testimony given by Vertell Whiting, the neighbor who had known for Willie for 20 years:

Question: Ms. Whiting, do you know my client Willie Veasy?

[Answer]: Yes, I do.

Question: How long have you known him, ma'am?

[Answer]: For about 20 years.

Question: Do you know other people that also know him?

[Answer]: Yes, I do.

Question: Amongst those other people that also know Willie Veasy, what is his reputation for being a peaceful and law-abiding citizen?

[Answer]: Excellent.

This seems odd, right? Rather than being asked what *she* thinks of Willie based on knowing him for 20 years, Whiting is being asked what other people thought about him. And, as Ella Handsome noted during cross-examination. "I don't usually have conversations with people about who is law abiding and who isn't," so her testimony probably wasn't worth much.

So, what's going on here?

[9:33] Colin Miller: In 2009, the Supreme Court of Illinois decided to codify rules of evidence that had previously only existed in case law. My task was to compare each Illinois evidentiary principle with the corresponding rule of evidence in other states across the country and give a recommendation about whether to stick with the Illinois approach or change to the national approach in the case of a conflict.

One area of deviation involved character evidence. Federal Rule of Evidence 405(a) says that when character evidence is admissible, it can be proven through opinion or reputation evidence. The same held true in 48 other states. The exceptions were Illinois and Pennsylvania. The Pennsylvania rule dates back to the Supreme Court of Pennsylvania's 1817 opinion in Kimmel v. Kimmel, where the court found that a witness who had known a party for 20 years couldn't offer his opinion about his bad character. According to the court:

[10:22] Susan Simpson (reading court opinion):

“Opinions will not be evidence, for if it were, no witness would be safe from the shafts of calumny. No man is to be discredited by the mere opinion of another; few men live whom some do not think ill of. But it is said the witness must speak of his own knowledge. So he must. But what is this knowledge? Not a personal, individual knowledge of facts. He knows, by reputation, what is the character of the man.”

[10:45] Colin Miller: Yeah, so this seemed like a terrible idea to me because, essentially it allows character witnesses to testify about community gossip about people, while precluding them from testifying as to what they’ve seen with their own two eyes. So I recommended that Illinois change to the national approach, and the Supreme Court of Illinois agreed. Illinois now allows for character witnesses to give opinion evidence about good character.

So that means that Pennsylvania now stands alone in the country in precluding character witnesses from offering their own opinions. And, in most cases, that distinction probably doesn’t matter because character evidence is like all those letters of recommendation sent every day saying that a candidate is just as good and accomplished as anyone else.

This case is different though. Over the last few years, we’ve talked with a lot of attorneys about possible cases for the podcast. And they’ve all said why they think that the wrong man was convicted. But the way that Willie’s attorneys talk about him are like those rare letters of recommendation that make you do a double take. Here’s Marissa and Jim from the Pennsylvania Innocence Project:

[11:43] Marissa Bluestine:

Willie’s the kind of man who, when he walks into a room, you know it. Um, he just has a terrific presence about him, he carries himself almost regally, he has a very gentle nature about him. He is earnest and thoughtful, he’s a marvelous artist, we actually have quite a little war going on in our office over his artwork, because I refuse to bring it from home to the office, where it’s supposed to be, but I like it where it is (laughs). And so, he has just such a really gentle aura about him, he is engaging, he is intelligent, he is thoughtful, and yet there’s always something inside of him which is, you know, almost innocent, despite everything that he has been through. He still has this kind of core of just a truly, innocent, I don’t mean that in the legal sense, but of just, innocence about him, even despite everything. And it is really, you just come away from him thinking, wow. That’s somebody I

really, I'm glad I met and I'm glad I know him. He has a very different presence than many of the people that we come into contact regularly.

Jim Trainum:

He's a very nice guy. I mean, I would describe him as just a nice man. He's very charismatic, and he has no rough edges about him that you would expect to have after 25 years in prison, in a maximum security prison. The man is just, he's kindness, he's very nice, he's quiet, I actually find him a pleasure to be around.

[13:20] Colin Miller: And here's his trial attorney, Jules Epstein:

[13:22] Jules Epstein:

So I don't want to say something silly like, impossible for him to be a murderer because, uh, I'm good but I'm not that good. But he was not a hard guy. I've represented mafioso and gang members and repeat murderers and they all have some humanity also. But there's an edge to them. There was no edge to Willie Veasy. Willie was a nice guy, a soft-voiced guy, you know, the guy who worked as a dishwasher.

[13:59] Rabia Chaudry: Epstein's answer gives us the transition to the second kind of evidence presented by the defense in Willie Veasy's case: alibi evidence. As Epstein notes, Willie Veasy worked as a dishwasher at the Houlihan's Restaurant in Jenkintown, which was 7.8 miles due north of the location where the Jamaican was shot. Many of the people who worked in the kitchen, including Willie Veasy, lived in North Philadelphia and would take the 55 bus to and from work. We spoke with Mr. Seth Schram, who was the back-of-the-house manager at the Houlihan's in 1992 and is now a high school principal:

[14:32] Colin Miller:

From what you recall, what was the situation in terms of employees clocking in and clocking out back in 1992?

Seth Schram:

Well, we had a timeclock. And the employees would clock in and clock out and then um, sometimes we'd ask them to stay late, and if we did we would adjust the timecard manually. It was kind of a long time ago (laughs) different type of -- no technology was there.

[14:56] Rabia Chaudry: At trial, the front-of-the-house manager, Susan Meyers, testified that Willie Veasy didn't have a car and relied on the bus to get to and from work. One night, he worked so late that he missed the final bus, and she had to drive him home. Here's what she remembered when we spoke with her recently:

[15:10] Susan Meyers:

I also gave him a ride home one night, and not to the greatest part of Philadelphia, mind you, um, and I would never do that for anyone that I had any inkling or hesitation or, you know what I mean? To drive someone home at, you know, 1:30 in the morning, down to that neck of the woods, meant that I trusted him!

[15:32] Rabia Chaudry: Now, the fact that Willie didn't have a car is significant in and of itself, because you might recall that Denise Mitchell said that Willie shot Efraim Gonzalez after getting out of a red car that she had seen him drive before. The fact that Willie didn't own a car and relied on the bus to get to and from work stands in stark contrast to her claim. Willie's trial attorney also thinks that Willie's job narrative provided a pretty strong rebuke to the narrative presented by the prosecution at trial:

[15:56] Jules Epstein:

So here's a guy who lives in North Philadelphia, for people that don't know Philadelphia, that's the inner city, uh, then and probably now a primarily low to modest income and significantly, if not entirely, African American area. And this is a guy who had to travel about 8 miles. There's a bus, I assume that's how he went, I never asked. To go out to this job of washing dishes. And the guy was workin' regularly. This was not the paradigm of somebody out on the streets and hustling and, you know, trying to be the bad guy. This is the guy who washes the dishes.

[16:49] Rabia Chaudry: Of course, all of this is important, but it's also just prologue to one of the strongest alibis you're ever likely to see in the case of a man who was convicted. Let's start by re-orienting ourselves with the timeline. The Jamaican and Efraim Gonzalez were shot on Friday, January 24, 1992, shortly before 10:00 P.M. Specifically, a series of 911 calls regarding the shootings started at 9:51:53 (nine fifty-one and fifty-three seconds).

Now this takes us to the piece of evidence that the prosecutor said you could put on the witness stand and ask questions until you were blue in the face, but you wouldn't get a response: a timecard. Specifically, Willie Veasy's timecard for the Houlihan's. That

timecard showed that he had punched in at 5:59 P.M. on January 24, 1992 and punched out at either 1:52 or 1:54 A.M. on January 25th, the next day, about 4 hours after the Jamaican was murdered.

These times were punched on the timecard by the time clock. The 5:59 check-in time was crossed out and replaced by a handwritten 6:00 PM, and the 1:52 or 1:54 time was also crossed out and replaced by a handwritten 1:50 AM. Next to these changes were the initials "SM" for Susan Meyers. Colin asked Meyers about these changes:

[18:10] Colin Miller:

So the timecard shows on the front end he checked in at 5:59pm and you had crossed that out and replaced it with 6:00 PM, and you remember why you would have done that?

Susan Meyers:

Well you weren't supposed to punch in early, so that would be, that would have been why. He would have been due in at 6, and he punched in a minute early and this is why they called me Sergeant Susan (laughs). Um, and the end of the night, the only reason I would change his punch out time is if he punched out after he changed his clothes. So you know, I would not have changed it unless there was something visibly that I saw that he did that made him punch out late, you know what I mean?

Colin Miller:

Yeah. The timecards show he punched out at, it was either 1:52 or 1:54 AM, and you corrected that to 1:50, and from what you're saying here and during trial, right, that would be something where you actually saw him change his clothes or use the bathroom, and that's why that night you would have made that correction.

Susan Meyers:

Exactly, yes. We made our corrections that night, we'd go through the timecards and I would only have made it if I had personally seen him do something that would cause me to change it. The punch in one would just be because he was due in at 6 and he didn't punch in at 6, or whatever (laughs). But uh, the one leaving, definitely he was there. I know he was there.

[19:38] Colin Miller: Quite simply, this is tremendously important. One of the key narratives that the prosecution wanted to present at trial was that Willie never went to

work on January 24th and instead had someone punch in and out for him. Now this would seemingly be the only narrative that could cohere with the version of events given by Willie in his confession, which, if you recall, is that he was playing basketball by his house when Lyndel picked him up for the robbery.

But what Meyers is saying is that her change to Willie's punch out time means that she must have seen him clocking out after he changed and/or used the bathroom, which is why she docked 2 or 4 minutes from his punch out time. So the narrative that Willie never went to work that night doesn't hold any water.

This is important because Willie wasn't arrested until four and a half months after the Jamaican was murdered, so no one from the Houlihan's could specifically remember whether Willie was there on the night of January 24th. But Susan Meyers' correction means that she did in fact see him that night, at least at punch out time.

So, on the other hand, is it possible that Willie had someone else punch in for him and was able to slip into work after the murder, undetected? Both Susan Meyers and Seth Schram find this highly unlikely. Here's Susan Meyers:

[20:47] Susan Meyers:

You know, when people are coming in, you are seeing who is going to be on your shift, You're like, it's a Friday night or whatever, and you want to know, do you have good people so it's gonna go smoothly, and you go around and say hello to everybody, you're giving directions, you're getting 'em started, you know, um, I don't specifically know who is going to come in unless they don't show up, then I'm like, why are we short, and then I find out, you know, I look at the schedule.

Colin Miller: And here's Seth Schram:

[21:16] Seth Schram:

First of all, um, the front of the house was being taken care of by the front of the house manager, and/or a general manager. Back of the house was being taken care of by me and maybe an assistant chef. If you have somebody missing on a Friday night, you get them replaced, or you have somebody else cover their duties because, you're doing anywhere between 600 and 1200 covers, which was, the busiest night of the week often. That or Saturday. And uh, you could not go with a hole in it. If you did have a hole in it, you had to make sure you did some shifting around to make a change.

[21:49] Colin Miller: Now in this case, there's no need to guess how many customers were served at the Jenkintown Houlihan's on Friday, January 24th. The defense had Susan Meyers bring in the restaurant's cost book, and it showed that 848 customers were served during the dinner shift that night, not including people who were seated at the bar. And both Susan Meyers and Seth Schram testified that there would have been 4 dishwashers scheduled to work that night, the minimum number needed based upon that volume of customers, which was typical for a Friday night. In other words, there's no way that the dinner shift would have started without Willie being there. If they were a man down, they would have called someone else in.

So, is a third possibility possible? Is it possible that Willie punched in and was able to slip out in the middle of his shift to commit the murder before returning undetected? Well, first, there's the question of timing. Here's Susan Meyers:

[22:36] Colin Miller:

What are the reasons specifically that you would say that there's no way he could have slipped out on this Friday night without being noticed for say, an hour, an hour and a half?

Susan Meyers:

Well it would have taken him more than an hour, hour and a half anyway to go down to Center City and do whatever he's accused of doing and then come back. Um, but uh, just with traffic and going from our Jenkinstown location to where I guess it supposedly happened.

[23:03] Colin Miller: And then there's the matter of location. At trial, Susan Meyers testified that she had an office that she would periodically enter and exit throughout the night. According to Meyers, that office was only six feet away from the dishwashing station. She would have known if they were a man down for any significant period of time:

[23:17] Susan Meyers:

Um yeah, as the manager, I'm walking all over the place, I'm in the front of the restaurant, I'm in the back of the restaurant, I'm going back to the dish room, um, you know, I'm seeing who is there, I know who is on shift, and I'm asking for help from certain people, and uh, I just, I just honestly, with all of my heart, and just as a manager, I can't imagine that he wasn't there.

[23:41] Colin Miller: Meanwhile, here's Seth Schram on the subject:

[23:45] Colin Miller:

But as you said, especially on a busy Friday night, where, from your testimony, there were four dishwashers were scheduled, there's no way that one of those could have gone missing for any period of time.

Seth Schram:

No. Flippin'. Way.

Colin Miller:

Right. And I think from your testimony as well, it might have been Susan Meyers's testimony, when we say that someone was a dishwasher, it doesn't mean that they were *just* washing dishes, they also had other responsibilities around the restaurant, right?

Seth Schram:

Oh yes, well yeah. First of all they were stacking dishes on the food line, where I was, for a lot of the night. They were out in the waitress area, they were in the front kitchen, putting the pots back there. They're all over the place. It's not like they're just back there and you don't see them.

Colin Miller:

Right.

[26:07] Susan Simpson: So, given all this, how was the jury able to find that this alibi defense didn't even raise reasonable doubt as to Willie Veasy's guilt? Let's break down the prosecutor's arguments point by point:

First: No one, including Schram and Meyers, was able to testify that they specifically remembered *seeing* Willie Veasy at work on January 24th.

That's true as far as it goes, but it doesn't go very far. Because who would remember whether a specific employee was present on an average Friday night when they weren't asked until several months later? And Meyers's testimony makes clear that she must have seen him at the end of his shift at about 1:50 A.M. on January 25th.

And then there's point number two: The timecards used to be kept in a box underneath the time clock, but they had since been moved to an office. The prosecutor wanted to know about this switch.

But, according to Meyers, this move happened only because the box had become unattached from the wall and not because employees were abusing time procedures. She also testified that she was unaware of any time procedure abuse by employees.

And that leads to point three: Willie could have tampered with the clock to create a fake alibi.

This was a non-starter for Susan Meyers. She testified that they calculated hours at the end of each shift by looking at the time cards and put them into the cost book, so there's no way that Willie could have created a false entry before or after the fact. Seth Schram recalled something similar:

[27:26] Colin Miller:

Yeah, that was, in reviewing the testimony, Susan Meyers was, I guess, the front of the house manager, and your testimony is that: at the end of the night I reviewed the time cards with Meyers, that's your recollection?

Seth Schram:

Yup...[Colin: ok] yup. So we would do a daily report on sales and all that other stuff, and we would do labor costs and all that too, and then we would do weekly. So yeah, we did check them every night.

Second, Meyers noted that the time clock was very difficult to adjust and that adjustments could only be done by managers, who had a key to the clock. In other words, Willie couldn't turn back time.

[28:09] Rabia Chaudry: Point four: Double punching. At trial, Susan Meyers produced a bunch of time cards for various employees from Houlihan's, and some had what we will call double punching. For instance, on one time card, the employee's punch in and punch out time were 10:08 P.M., but the first 10:08 P.M. was crossed out and replaced with a handwritten 5:30 P.M. Now the prosecutor wanted to know what happened there - how could she explain that?

According to Meyers what was happening was the employee forgot to punch in and so punched the card twice while checking out, and then the manager would go correct the start time at the end of the shift. Anyone who has worked a job with a time clock has probably experienced something similar. Also, this is consistent with other testimony by Meyers and Schram at trial. They would use the schedule to determine who was

supposed to be working at the start of the shift and then would consult the timecard at the end of the shift.

Point five: The Houlihan's time card covered two week periods. So, one side might cover the first week in February and the other side might cover the second week in February. On some time cards, including some of Willie's cards, there would be a punch in time that was crossed out, with the words "wrong side" written next to it. Susan Meyers testified that sometimes employees would just put the wrong side of the time card into the machine, and the card would need to be corrected.

This again seems like no big deal. It was just human error and, according to Meyers and Schram, human error that they would have corrected on the very same night of that shift.

Next we have point six: There was a time card for Willie that was undated. It did not have a date at the top of the time card. The prosecutor showed this time card to Susan Meyers, and she testified that there was a notation on the card indicating this was the time card for when Willie was a new hire. Therefore, the time card wouldn't have been made ahead of time, which explains the lack of a date on top.

After this we have point seven: There were some time cards where the date or name at the top of the time card was crossed out and replaced with a different date or a different name. As Susan Meyers explained at trial, the restaurant host made the time cards and sometimes made mistakes on the date. And sometimes one employee would accidentally grab someone else's time card at the start of the two week period and punch in. But Meyers noted that both of these errors would have been noted on the first night of the new pay period and would have been corrected that night.

So, let's pause now at this moment. Points one through seven were all attempts by the prosecution to claim that the jury couldn't trust the time card system at Houlihan's and that Willie's time card could have been a mistake or maybe even a manipulation. But here's the thing: All the prosecution showed were human errors in the time card system that, if we believe Meyers and Schram, were corrected the very same night they were created. Furthermore, the defense had Susan Meyers bring in the Houlihan's pay book from the period that included January 24, 1992. That pay book showed that Willie Veasy was paid for working 56.75 hours. The number of hours on Willie Veasy's time card: 56.75 hours. For Seth Schram, it's all pretty simple:

[31:13] Seth Schram:

And the bottom line is this Colin: I know Willie was there.

[31:22] Susan Simpson: Moving back to the prosecutor's arguments, we have point eight: Maybe Willie was able to kill the Jamaican while taking a break. Susan Meyers shuts this whole argument down. There was no "b" on Willie Veasy's time card on January 24, meaning that he took no break. The prosecutor responded to this by noting that there were no "b"s on any of Willie's time cards for any of the dinner shifts. And Meyers responded that this made sense because the dishwashers rarely had time to take a break during dinner shifts. The prosecutor asked about state labor laws authorizing breaks, and Meyers responded that dishwashers typically took quote-unquote breaks at the start or end of their shifts. Which is not legal under labor laws, but unfortunately not an uncommon occurrence.

[32:01] Colin Miller: Yeah, this is a kind of crappy thing to do, but I was once the cashier at a very busy Wendy's during a busy lunch shift, and they did the same thing: I couldn't take a break during my actual shift, and so my break I got under the labor was either at the start or the end of my shift, so this is certainly not something that was uncommon.

[32:20] Susan Simpson And then there's point nine: Maybe Willie slipped out the back door in the middle of the shift and later slipped back in, totally undetected. Susan Meyers accurately remembers this was a point of contention at trial:

[32:29] Susan Meyers:

I remember vaguely, and I could be wrong, that it was several weeks I think after the crime took place that he was arrested, and I, it just made no sense because the prosecution was saying that he had done this whole time card thing, you know, so he could have an alibi, and yet he never mentioned that he was working. You know, he never used it as an alibi. Like it was a surprise to him to find out that he was actually punched in and punched out that night, because he didn't, you know... the whole thing was just crazy.

[33:09] Susan Simpson: And, next, we have point ten, which might be the most interesting. According to the record of Willie Veasy's confession and the testimony of the detectives at trial, Willie didn't mention the Houlihan's alibi during his police interrogation. At trial, the prosecution would claim that this was evidence that the alibi was fabricated. But this seems nonsensical. If Willie went to great lengths to create a fake alibi, why wouldn't he use that alibi when questioned about the murder as opposed

to confessing about the crime? Isn't it likelier that Willie was innocent and had no idea about whether he was working on January 24th when he was interrogated on June 9th, four and a half months later?

Marissa Bluestine, the Director of the Pennsylvania Innocence Project had this take on the State's argument:

[33:54] Marissa Bluestine:

Remember, they didn't, according to Willie at least, in the statements, they didn't tell him what night they were talking about, and so he didn't know. And like his sister said, and I think again this is consistent with what's in the trial testimony, he had been drinking that night, he was out, and so he was very groggy, to say the least, when he gets taken in. And so that he didn't remember that he was working *that night* is not a surprise to me. He isn't arrested the next day, this is several months later, and so all that makes sense to me. But an innocent person is not going to say, 'Oh, I was at work that night', thinking 'well maybe everybody that I work with, whether I know them well or not, will cover for me, and doctor evidence, and doctor corporate records, to be able to prove the fact that I was there even though I really wasn't'. So that makes absolutely no sense at all.

[36:49] Rabia Chaudry: And then there's Jim Trainum. As he'll tell you, he's most famous for a case in which he was the detective who secured a woman's confession to killing a man whose body was found near the Anacostia River. But, that confession turned out to be a false confession, and he sees parallels between Willie's case and that case:

[37:06] Jim Trainum:

In my case, um, our person had a very valid alibi, um, in reference to some sign-in, sign-out sheets at a homeless shelter. She did not bring those up, she didn't think to bring those up, uh, we stumbled across them ourselves, um, and I think that's probably what happened here. He was confronted- "You're the one who did this, we know that you did it," which is a typical interrogation tactic that's taught. There's nothing that you can say that will convince us otherwise, and he has to think, that well, I was at work that night. Especially if they didn't tell him, that he was at work that night, but according to them, and according to his confession, he had to have snuck out of work, go play basketball somewhere, and then get picked up, and do all these things, and then get back to work, with nobody seeing him during this time period. Which, uhhhh, I think that would be

something that would concern me if I was trying to put this out there as reliable evidence.

[38:13] Rabia Chaudry: And then there's Houlihan's Manager, Susan Meyers:

[38:16] Susan Meyers:

It was several weeks, I think, after the time took place, that he was arrested. It just made no sense, because the prosecution was saying that he had done this whole time card thing, you know, so he would have an alibi, yet he never mentioned that he was working, you know, he never used it as an alibi.

[38:37] Rabia Chaudry: And finally, here's the other Houlihan's Manager, Seth Schram:

[38:41] Seth Schram:

You know, it would take somewhat of a mastermind to manipulate leaving and coming back. Killing somebody and coming back.

Colin Miller:

Well, right, and then, the detectives say he didn't even bring up Houlihan's when he confessed, which, if you've gone to all the trouble to create this fake alibi, why are you confessing, and not bringing this nastily crafted alibi into the discussion, so, it's very strange and his confession doesn't really match up to what any of the witnesses saw.

Seth Schram:

Yeah, it is. And I could see him being forced into something like that.

Colin Miller:

Mmhmm.

[39:43] Colin Miller: There were a few final points by the State at trial. First, we have point eleven: The termination notice. At trial, the prosecutor produced a termination notice dated May 5, 1992 for Willie Veasy. The reason stated was "job abandonment." At first, it seemed like the prosecutor was trying to use this to rebut the evidence of Willie's good character. But it turns out that nothing could be further from the truth.

We finally got the chance to talk to Willie, and here's how he described his hiring at Houlihan's:

[40:11] Willie Veasy:

I got a friend. A friend that I knew that lived around the corner from me, got me the job. He told me they was lookin' for a dishwasher, but I sort of wanted to go in for a short-order cook. So I went up there, and uh, filled out the paperwork, they hired me, they said they didn't have a position open yet for short-order cook, but, when something opened they would let me know, but would I be willing to do the dishwashing, So, I said, yeah. I'll take that.

[40:39] Colin Miller: So Willie took the dishwashing job, worked hard, paid his dues. And, eventually, he was rewarded with a promotion. At trial, Seth Schram would say that people referred to working in the dish room as working in the ghetto and working on the line as working in the suburbs. Therefore, Willie's case was a case of moving on up:

[40:56] Seth Schram:

Willie uh, started out as a dishwasher, and he was someone that I took interest in, I... supervised all the staff that was in the back of the house, so, dishwashers, cooks, assistant chefs, and all that stuff. Um, so, I worked with him, working on some food product. Doing some prep. And then we gave him the position called "Expeditor," and that job was a position that was, uh, basically working next to me. Especially on busy nights, helping me make sure that every plate that was set up was set up was set up right, and went out right.

[41:31] Colin Miller: And, at trial, that seemed to be the explanation for the termination notice: not the Willie was being fired from the Houlihan's altogether, but that he was being "terminated" from his job as a dishwasher to be promoted to his job as an expeditor. Either that or the termination notice, which was dated early May, was related to Willie losing his job after being arrested and incarcerated, with the the date of the notice being a month off.

This then leads to the way that the prosecutor really used the termination notice: to try to establish that Houlihan's corporate records were unreliable, meaning that Willie's time card couldn't be trusted. But it seems like a leap to say that a human generated termination notice is at at similar to a machine stamped time card.

And then, finally, we have point twelve: The prosecutor tried to claim that the Houlihan's employees acted sketchy when he tried to get their corporate records and that they

were, in effect, covering for Willie because they were afraid that Houlihan's could be sued if it turned out their time cards were fake or even forged.

As for what happened when the prosecutor tried to get the records, here's how Seth Schram describes what went down:

[42:32] Seth Schram:

And, when they came in, they didn't even identify themselves to me as prosecutors. They identified themselves as being lawyers. I vaguely remember, that's what I remember, and then when they started asking questions, they were.... Rude. I didn't really know why they were there at the time, until, you know, I kind of figured it out on my own. Um, and then, and then, they started kind of questioning our process. And asked where we stored the time cards, etc. etc., and then when you're in a restaurant like that, you don't have a whole lot of time [laughs] to talk to people.

Colin Miller:

Right.

[43:07] Colin Miller: I'm sure there are two sides to this story, and I think both might have some degree of truth. The prosecutor wanted the restaurant's records, the employees were busy and felt like their system was being challenged, and, as a result, there was some awkwardness between the two. It happens. But does that justify this argument made by the prosecutor during closing arguments?:

Susan Simpson (reading the prosecutor's closing argument):

"Defense counsel posed a question: what possible motivation -- or what interest could Houlihan's have in the outcome of this case? Think about it. Can Houlihan's management get up there and admit that one of their employees was not where they said he was supposed to be but instead was somewhere else, even if it was to do something as innocent as drive a car? I am not saying a murder, of course they can't admit to that, because that opens up the door to all kinds of liability for the corporation.

If you were supposed to be working in a Houlihan's Restaurant and you left and you went and did something and somebody got hurt, you better believe Houlihan's is going to get sued, and what interest did Susan Meyers and Seth Schram have in this case? They are the managers who were on duty that night. Do you really expect them to get up there and admit that they weren't watching

people and watching things as closely as they say they were? They can't admit that, they would get fired. They can't admit that. They got to come in here and they have to toe the company line. We have procedures."

[44:20] Colin Miller:

Yeah, I mean, so, Susan, what are your thoughts on this argument?

Susan Simpson:

That it's not an argument for civil liability.

Colin Miller:

That is not at all what would happen. There's no way that Houlihan's would be found liable civilly for a murder, based upon, theoretically, an employee gaming the system and slipping out of work, or having someone else clock in and clock out, it's just...it doesn't make any sense.

Susan Simpson:

Taking an unauthorized break, leaving your workplace, and abandoning it to go murder someone is definitely a "frolic and detour."

Colin Miller: Right. So, at that point, if we're talking about civil liability, a "frolic and detour" from work is something that cannot be attributed back to the employer, in this case: Houlihan's. And, Jim Figorski of the Pennsylvania Innocence Project had similar thoughts:

[45:04] Jim Figorski:

Jules objected to that, too.

Colin Miller:

He did.

Jim Figorski:

I think he got a positive ruling from the Judge, and they changed it and said there wouldn't really be liability there. And I think Gilson said something about, uh, "Well, just theoretically. I'm just speaking theoretically." Something to that effect. But, he seemed to be CLEARLY trying to pull out all the stops to show that the, he seemed to take it personally that these people were testifying that Willie couldn't have done it, and that's why he was raking them over the coals so much. That's just my impression, anyway.

Marissa Bluestine:

They just kind of like, side step it. They don't put a lot of emphasis on an alibi, you know, they just kind of like, well, of course they would like, they love this person, and they just, it's such a non-issue, usually in a closing. The fact that he took it on so dramatically- that's kind of telling.

[45:56] Rabia Chaudry: But here's the thing: It worked. Maybe the jurors thought that the Houlihan's managers were lying. Maybe they thought that the time card was unreliable. Maybe they thought that Willie had devised a master scheme to create the perfect alibi. Or, maybe the prosecution's attempts at confusing them were successful. I mean, maybe, it's all of the above.

But, let's get back to the core of the issue: The murder of the Jamaican was just before 10:00 P.M. on January 24, 1992. Willie Veasy, who didn't have a car and took a bus to and from work, had a time card that showed him punching into work at 5:59 P.M. that same day and not punching out until 1:52 or 1:54 A.M. the following morning. And, for Seth Schram, this leaves no doubt about his innocence:

[46:39] Seth Schram:

I'm going to tell you right now: I've been a high school principal for 15 years. And I have measures of accountability still in place, that are very detail oriented and important. And, um, I reflect back to this often, because I believe that Willie is doing life unjustly. He was wrongfully convicted.

[47:03] Rabia Chaudry: But despite his beliefs, Willie Veasy was convicted. It took several days of deliberations, and the jury eventually returned a second-degree murder conviction, not a first-degree murder conviction, meaning that they found this was a murder committed without premeditation. And while that verdict has been challenged a few times over the last 25 years, none of those challenges have been successful. But now there's new evidence, a new appeal, and, possibly tomorrow, November 7, 2017, a new district attorney who has promised to look into cases of possible wrongful convictions in Philadelphia. So, what is this new evidence, and why is there reason to believe that Willie Veasy might soon be a free man? Next time...on Undisclosed.

[47:58] 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

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