

UNDISCLOSED: The State v. Adnan Syed
Episode 1 Relaunch: Adnan's Day
May 11, 2020

Rabia Chaudry: A big thanks to all of our Undisclosed listeners for being with us for the past five years and supporting us by supporting our sponsor. Please continue to do so!

Undisclosed started off with the Adnan Syed case more than 5 years ago and we still aren't done with it. Adnan has been in prison now for 21 years and after losing his appeals last year, is having to start over again with a new appeal process. That's right, we'll be back in court this fall, we aren't giving up on this fight.

But to help pay for this new appeal and for all the new investigation that's being done on the case, we have to relaunch his fundraising campaign.

There are three ways to support Adnan: You can contribute any amount, once or as often as you'd like at Launchgood.com/FreeAdnan. You can become a monthly supporter for as little a dollar a month at patreon.com/freeadnan, where you'll find bonus content related to the case. And you can purchase newly designed, and beautifully made Free Adnan merchandise at onemission.fund/support/freeadnan. If you didn't catch those, don't worry, we'll put them in the show notes and post them on our social media as well.

We need your support now more than ever, thank you for it.

[1:31] Rabia Chaudry: Hi, welcome and thanks for joining us as we revisit our very first season of Undisclosed, The State vs. Adnan Syed. I'm Rabia Chaudry, I'm an attorney and author of the New York Times Bestseller *Adnan's Story*, and I'm here with my colleagues Susan Simpson and Colin Miller.

Susan Simpson: Hi, I'm Susan Simpson, I'm an attorney in Washington D.C., and I blog at The View From LL2.

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 Evidence Prof Blog.

Rabia Chaudry: Back then, we were hot on the heels of the global hit podcast *Serial*, which the three of us all listened to. To be clear, we didn't know each other then, but we connected online as we started reading each other's blogs about the case. That led to us realizing that we really needed to turn all we had written and discovered into our own podcast, and hence, *Undisclosed* was born.

We didn't exactly have the kinds of skills necessary then to produce a well crafted show...but...we tried. It didn't always sound great though, especially at the beginning. So after five years and many other cases, we decided to go back and re-do our first three episodes. Because now we've got some practice! And we've got the incredible Rebecca Lavoie to help make us sound great. But, as we said the first time around, if you haven't listened to *Serial* yet, do that first, and then come right back here. That way you'll have a good grasp of the story and the people involved.

Enjoy our five year anniversary gift to you, the listeners, and thanks again for all your support.

[3:15] Colin Miller: We are going to begin our investigation of what actually happened on January 13th, 1999, by starting with Adnan's day. What did he do on the very day that Hae Min Lee disappeared. You may recall the very premise of the first episode of the *Serial* podcast was that it's not easy to remember what you did 6 weeks ago - and so maybe that's why Adnan had trouble recalling what he did on that very important day.

Sarah Koenig, *Serial* podcast: It's really hard to account for your time. In a detailed way, I mean. How'd you get to work last Wednesday, for instance? Drive, walk, bike? Was it raining? Are you sure? Did you go to any stores that day, if so what did you buy? Who did you talk to? The entire day, name every person you talked to. It's hard! Now imagine you have to account for a day that happened six weeks back, because that's the situation in the story I'm working on, in which a bunch of teenagers had to recall a day six weeks earlier. And, it was 1999, so they had to do it without the benefit of texts or Facebook or Instagram. Just for a lark, I asked some teenagers to try it.

Sarah Koenig, to someone: Do you remember what you did that Friday?

Boy, laughing: Not at all, I can't remember anything (other teenagers laugh in background).

Sarah Koenig: Wait, nothing?

Boy: No, I can't remember anything that far back. I'm pretty sure I was in school. I think. No?

So that's how Serial set up the story - that Adnan couldn't remember what he did on the day his ex-girlfriend went missing. That of course launched a million questions about his whereabouts, and created a lot of suspicion around him.

Putting aside that fact that Serial didn't attempt to answer the question they raised about what Adnan was doing, the real problem with the premise was this: Adnan did in fact remember much, if not most, of his day. So we are going to answer the question that Serial left unanswered: What was Adnan Syed doing on January 13, 1999?

[5:08] Susan Simpson: We know that Hae Min Lee was in school at Woodlawn High School that day, and we believe she left school shortly after the last bell at 2:15pm, but she never made it to pick up her young cousin from another school.

That's also the State's theory, remember, they believed that Hae was intercepted by Adnan and killed by 2:36pm, which is when they allege that Adnan made a call to Jay from Bestbuy, the "come and get me call". Later, they say, Jay dropped Adnan back off at the school to go to track practice, and then picked him up later in the evening. Together Adnan and Jay buried Hae together shortly after 7pm. That, according to the State, is when Adnan's cell phone pinged towers in Linkin Park.

To figure out what really happened in this case, it's vital to determine where Adnan was on January 13th, and believe it or not, there is plenty of evidence to show where he was most of the day. We've picked four time periods from that day to look at: the actual school day, that afternoon after school was let out, later on that afternoon during track practice, and that evening after Jay picked Adnan up after track practice.

So let's start by looking at the very first time period: the school day.

[6:26] Rabia Chaudry: Just to lay out the timeline again, Hae Min Lee disappeared on January 13th, 1999. Her body was found on February 9th, 1999. Adnan was arrested on February 28th, 1999.

Adnan was originally represented by attorneys Chris Flohr and Doug Colbert for his bail hearings. They quickly realized they needed to hand over the case to someone with this

level of trial experience and so attorney Christina Gutierrez was hired within a matter of months. The earliest document we have that reflects Adnan's recollection of January 13, 1999 comes from July 13th attorney notes, which are handwritten, and you can find the document on our website under episode documents. Those notes were taken by Gutierrez's law clerk. Here are what the notes say:

*School start/bell rang @7:50am.
1st period photography 7:50-9:15am.
AP English or Social Studies from 9:20-10:45.*

Now, just so you know, Woodlawn High School operated on A or B day schedules so the days alternated. According to these notes, January 13th was an A day, so Adnan would have had AP English. The notes go on to read:

*Lunch 10:50-11:15am, went to Jay's house.
Free period 11:20-12:45 - stayed at Jay's house.
AP psychology 12:50-2:15.
2:15 school ends.*

There are also typewritten detective notes taken sometime soon after Adnan was arrested, presumably, that chronicle Adnan's day at school, and they pretty much corroborate these attorney notes. The notes say that Adnan was present for first period photography, from 7:15am to 9:45am, and for second period English from 9:15 to 10:40, and then there was lunch and free period until the last class, psychology, from 12:50-2:15. About that last class, though, the detective notes indicate the teacher saying "pretty sure he was there, he was there most days."

Then, on the very bottom of the page, it says, posed as a question: "2:36 Call to Jay on cell phone?"

[8:44] Colin Miller: Finally, there's one more document from August 25th, 1999 in which Adnan handwrites, apparently for his attorney, what he was doing on January 13th. In this document, Adnan says he arrived at school at 7:45am, attended first period photography from 7:50 to 9:15am, went to second period AP English from 9:20 to 10:45am, where he gave Stephanie McPherson, Jay Wilds' girlfriend, a stuffed teddy bear for her birthday.

At 10:50, the lunch period begins and Adnan writes, "left school, went to Jay's house, don't know what we did, came back to school at 12:40, let Jay borrow my car (cell phone in glove department)." At 12:40 Adnan notes that he went to the guidance office

to get a college recommendation letter and then he arrived to his last class, psychology, a few minutes after it started at 12:50pm and that he was there until it ended at 2:15 pm.

So we have three different documents now that seem to all line up with each other, though two of them come from Adnan himself, which means we need to see if there are any other witness statements that corroborate this schedule. Before we start looking at witness statements, though, it's worth noting that we've got about as many stories about what happened January 13th as we've got witnesses. Luckily we've only really got two witnesses that gave statements about the school day.

[10:20] Colin Miller: But it isn't surprising to get conflicting witness statements because there's a memory deficit known as "confabulation." This is taking events that occurred across multiple days and believing they occurred all in one single day. Happens in courtrooms across the country every single day, and it's something to keep in mind as we look into the witness statements at Adnan's trial.

The fact that a witness remembers an event occurring on a certain date isn't great proof that it actually did occur then - particularly when the witness wasn't asked about it until months later, which is what happened here.

So for any given statement in this case, it shouldn't be accepted that the witness is actually remembering events that occurred January 13th without some sort of independent corroboration beyond that witness's own statements. That, by the way, is good practice for all witness statements, in all cases.

[11:08] Susan Simpson: The two witnesses who gave statements about Adnan's whereabouts during the school day were Debbie Warren and Krista Remmers, classmates of Hae and Adnan.

Debbie recalled seeing Adnan twice that day, once in the morning, and then after school. According to her, Adnan arrived a bit late to first period that morning, and she says that they had Social Science for second period together. Except, as we noted earlier, that day was an "B" day on the school schedule, and on B days, they didn't have social science. They had English, and that's when Adnan gave Stephanie a birthday present.

So Debbie is definitely wrong about at least that one detail. Then there's Krista, who says she recalls walking into school with Adnan that morning, and they were both on time, not late. That, she says, is when she heard Adnan ask Hae for a ride after school.

Krista Remmers:

Adnan was on time for school that day, and I feel like we may have even walked in school together, and I remember that Hae was- because photography class was right across the hall from the steps to go down to the next floor- and Hae was there and that's when they had the conversation, about the ride.

Susan Simpson:

And I'm creepy enough where I've checked where locations were in the school, in her school records and yeah, she was right down the hallway for her first period.

Krista Remmers:

Right. They had a really quick conversation, it was kinda like, Adnan said to her, 'Hey, do you think you can give me a ride after school?' and she said, 'Yeah, no problem. I'll talk to you later.' And that was pretty much it.

[12:36] Susan Simpson: Krista correctly recalled that January 13th was a "B" day. It's still possible that Krista is remembering some day other than the 13th, but based on events that occurred later that day and in the weeks following, her memory is on more solid footing than that of many of her classmates.

And- side note- as anyone who may have seen the HBO documentary "The Case Against Adnan Syed" may have seen, Krista is a methodical record keeper.

It seems pretty solid to conclude that Adnan was in school that day, all day, and that he left during lunch and free period to see Jay Wilds, but then returned for his final class. None of this, by the way, is contested by the State in any way, so at least between the hours of 7:50am and 2:15pm, everyone is on the same page. But, that doesn't last for long.

[17:33] Rabia Chaudry: Next, let's examine the period of time immediately after school, right after dismissal at 2:15 pm. This, of course, is a vital period because it's during this period that Hae Min Lee disappears.

We have two witnesses who recall seeing Adnan either at, or immediately after, the end of school at 2:15 pm. The first of those is classmate Becky. She recalls walking to the guidance counselor's office at about 2:20 pm. She was accompanied by Aisha, her friends, and possibly Krista. While walking down the hallway, Becky recalls seeing Adnan and Hae walking in opposite directions and briefly making contact. In reference to the ride request mentioned by Krista before, Becky recalls Hae saying to Adnan, "Oh no, I can't take you. I have something else to do." She didn't say what else. In response, Becky recalls Adnan saying, "Okay, I'll just ask someone else."

When she testified at trial, however, an important part of this story was missing. She was asked by defense counsel what she recalls Hae saying to her immediately after the end of school. According to Becky, "She just said that she had to be somewhere after school. She didn't tell me where she was going, but she said she had to leave." Becky then recalled Hae heading to the door that led to her car.

Unfortunately, at trial Gutierrez fails to get Becky to testify to what she had said in her statement earlier - *that Hae had told Adnan that she had somewhere to go, and Adnan had responded that he would look elsewhere for a ride.*

Now when Becky was interviewed by Sarah Koenig for Serial in 2014, she was read her statement about Hae saying to Adnan she couldn't give him a ride because she had something else to do. In response, Becky said, "Okay, yeah. That sounds right. It kind of all comes back a little bit."

[19:21] Colin Miller: This takes us to Aisha and Krista, the other two people mentioned in Becky's police statement. Aisha was called as a witness for the prosecution at trial. When asked about seeing Hae at the end of school, she responded, "Yes, I remember seeing her." When asked what she was doing, her response is, "I saw her talking to Adnan."

Now, the prosecution uses this evidence as part of its closing argument to prove Adnan had to kill Hae. After all, he had asked for a ride earlier in the day... Aisha saw the two talking at the end of class... Unless something strange happened in those next few minutes, it's reasonable to believe Adnan got that ride and at the end of the ride killed Hae.

There's only one problem, and that problem comes in the form of: Krista. Here's why: we don't know what Aisha told the police. The report of her interview was very brief and wasn't even written until two and a half weeks later. All it says is that Aisha saw Hae

that afternoon at 2:15 pm, and that Hae was in good spirits, and she did not mention any problems.

Based on the report, you'd think that Aisha hadn't really seen anything relevant to the case. But Krista talked to Aisha early in the evening on January 13th, and she says Aisha did see something important:

Krista Remmers:

When I- when we were talking- she said that she had heard from Hae's brother and that they couldn't find Hae. So when I explained to her in first period class I heard Adnan ask Hae for a ride, has anybody talked to him? And she's like no, but in psychology she said that something came up and she wasn't able to give him a ride anymore so she didn't take him anywhere after school.

[20:51] Colin Miller: Krista's statement is pretty shocking. The jurors at Adnan's trial were given every reason to believe he requested a ride from Hae, that Hae agreed to give him that ride, and unless something strange happened, he received that ride. As it turns out, if we believe some combination of the statements by Krista, Aisha, and Becky, something came up for Hae toward the end of the day. She had somewhere else to be and something else to do. And unless Adnan was able to get into her car by hook or by crook, that ride didn't take place.

Now the question is, if defense counsel asked any of these witnesses about something coming up for Hae, would they have provided testimony that helped Adnan? Certainly seems to be the case, but... with witnesses you never know, and never is that more clear than with the two witnesses who apparently saw Adnan after the immediate aftermath of school, Debbie and of course, Asia McClain.

[21:45] Susan Simpson: In the chronology of events, if we are to believe both Asia and Debbie, Asia saw Adnan before Debbie did.

Now, most of you are likely familiar with Asia and her statements regarding that afternoon, but let's quickly review.

Asia, you might recall, is the alibi witness who says she saw Adnan at the library that afternoon, and that she sent letters to Adnan to that effect on March 1st and March 2nd, right after his arrest. Her alibi was one of two of Adnan's claims of ineffective assistance of counsel, based on his Gutierrez's failure to contact her, which he lost last year after the highest court in Maryland ruled against the claim.

Asia's story has been consistent throughout the years, though. In her letters, in the affidavit she wrote to Rabia in 2000, in her book, and when she testified at Adnan's post conviction hearing in 2016. She recalled entering the Woodlawn public library after school and seeing Adnan sitting at a computer. They chatted for a bit, then her boyfriend and his friend came to pick her up. There was a snowstorm that night and school was closed for the next two days. Asia believes she saw Adnan at the library between 2:20 and 2:40 pm.

This lines up with Adnan's recollection as well.

In his postconviction review proceeding in 2010, Adnan testified to the following: he remembers going to the library on January 13th; he was there to check his email; he remembers this being January 13th because the next two days, January 14th and January 15th, were snow dates; while there, he recalls seeing Asia McClain and her then boyfriend. According to Adnan, he was at the library until about 3:00 when he left to start getting ready for track practice, and track practice started at 3:30.

And that testimony from Adnan is consistent with the story he told in 1999, from the notes we mentioned earlier, that were taken when he was visited by Guitierrez's law clerk.

There was more information in those notes too - at the top of the document, we have a note about Adnan working together with Debbie to put together a school assembly memorial for Hae. At the bottom, we have Adnan's school schedule from January 13th, which we already went over.

And perhaps most importantly, in the middle of this document, we have a series of four notations.

[24:23] Rabia Chaudry: The first notation has Adnan's email address, as well as the password "poppy." This password was created by Hae, because it was the pet name that she used for him.

The second notation says, *January 14th to January 15th snow days.*

The third notation says, *Asia McClain saw him in the library at 3 o'clock. Asia's boyfriend saw him, too.*

And the fourth notation says, *track starts at 3:30.*

So now we have corroboration between Adnan and Asia's recollections, at least to the extent that they saw each other after school in the library, which takes us to Adnan's movements after leaving the library.

In Debbie's statement to detectives on March 26th of that year, she recalled seeing Adnan after school on January 13th, 1999 at about 2:45 pm at the guidance counselor's office, along with some other students.

She recalled Adnan having his gym bag and talking about him going to track practice.

In that same interview, Debbie recalled seeing Hae between 2:45 p.m. and 3:15 p.m. on the afternoon of the 13th. But we will take a closer look at whether Debbie's memory was right or wrong about seeing Hae after school in next week's episode, when we cover Hae's day.

That said, by the time trial rolled around, the prosecution has altogether written Debbie out of establishing the timeline, she doesn't testify to any of these claims about seeing Adnan or Hae after school.

Because that would ruin the State's case. Remember, the state claims that Adnan strangled Hae in the Best Buy parking lot by 2:36 pm and then he called Jay to pick him up. So putting both Adnan and Hae at school after the State says she's already been killed...well obviously that couldn't work.

At the first trial, the prosecution does put Debbie on the stand, but primarily to testify about Adnan and Hae's relationship, and to read from Hae's diary. During cross examination, Gutierrez covers largely the same grounds.

She says she has no further questions, but suddenly, at that point, Gutierrez has a bit of a Columbo moment.

She pulls out the March 26th statement, saying she has just one more question, and she asks Debbie, "Do you recall telling detectives that you saw Adnan at the guidance counselor's office at 2:45 pm on January 13th?"

Debbie's response? "Yes."

[26:42] Colin Miller: It's hard to underscore how important this testimony would've been, had Adnan's first trial ended in a jury verdict. Here we have a prosecution witness becoming an alibi witness. You may recall though, the first trial didn't end in a jury verdict. It ended in a mistrial after the judge referred to Gutierrez as a liar.

So what happened at the second trial?

About two months later, Debbie is again called as a witness for the prosecution. Again the prosecution's claim is that Hae has been killed by 2:36 pm, and again the prosecution writes Debbie out of the timeline.

Well, on cross examination, Gutierrez again pulls out the statement from March 26th to cross examine Debbie about it.

Here are the two most important Q&A's from that cross examination:

Question: *"And you told them you saw Adnan on that day" referring to the 13th "before he went to practice?"*

Answer: *"I don't remember."*

Question: *"And you recall that you also told them that you spoke to him and some other kids?"*

Answer: *"No."*

That's the difference between guilt and innocence. So why did Debbie change her testimony? Was it because she was wrong at the first trial? Well, there's more to Debbie's March 26th police statement.

At first, Debbie is quite certain that she saw Adnan on January 13th. Later in her statement to detectives, however, she says, "Could've been the day before, could've been the day after."

Again, there's a problem, though. The day before, on January 12th, Woodlawn didn't have practice. They had a track meet, and Debbie specifically remembered Adnan being on his way to practice. The day after January 13th, January 14th was a snow day. There was no school, and therefore no track practice.

So the question becomes, did Debbie have the right day? Did she see Adnan? Did she see him around 2:45 pm? And would that have exonerated Adnan had she given this testimony at the second trial?

It's very possible. If Debbie simply repeated her testimony from the first trial at the second trial, we would've had a not guilty verdict, Adnan might very well have been an innocent man.

[28:48] Susan Simpson: This takes us to the third period we want to examine, the late afternoon when Adnan says he was at track practice.

For the record, no one ever alleges that Adnan did not go to track practice that day. Jay says he dropped him off at practice, and it's part of the State's timeline, and of course Adnan himself says he did go to track that day.

The real question here is when did practice begin, when did it end, and when did Adnan get there? These aren't small details, they're actually really important.

According to Adnan, he went to track practice when it started, and then when it was over, Jay picked him up from school - Adnan says that he never saw Jay between the time that he gave Jay his car during the lunch break, until after track practice when Jay came back to campus to get him.

[29:40] Susan Simpson: But if we are to believe Jay, or at least some versions of Jay's story, after he picked up Adnan from Best Buy after the 2:36pm call, they ditched Hae's car and then drove around, went to Patapsco Park, smoked weed, and then eventually Jay dropped Adnan off at track practice, and picked him up after.

In every version of Jay's stories though, he says that he dropped Adnan off at track practice late that day. In fact, he says he dropped Adnan off there as much as an hour, if not longer, after it started.

Detective:

What time did you take him back to school?

Jay Wilds:

Uh, I don't recall. The sun was going down. Ah, I don't [inaudible] track practice.

On January 13, 1999, sunset was at 5:04 p.m., so according to Jay's story, Adnan left Patapsco State Park for practice at about 4:30 to 5 p.m. Of course, Jay also seems to think that practice ended at 6:45 p.m. when the coach said it ended at 5:30.

Detective:

How do you know what time to get back to school?

Jay Wilds:

He called me on the cell phone again.

Detective:

Do you recall what time he called you?

Jay Wilds:

Um, maybe like... 6:45, something like that.

In his second interview with the cops, Jay doesn't say what time Adnan went to practice, but based on the phone calls he says Adnan received as they were driving to Woodlawn High School, Adnan didn't show up until after 5 p.m.

Here's how Jay describes or, at least, tries to describe, the trip back from Patapsco State Park to Woodlawn High School.

Jay Wilds:

We leave there... um, I believe... Can you bear with me for a minute? Ah... [knocks] um, okay, we left there... I... take him... I took him back to school, and, and I dropped him off.

Jay does that a lot, by the way, that thing where he sounds like an actor who's forgotten the next line. Luckily, the detectives were always willing to help him out. They give him time to think about it. They give him hints, suggestions, reminders... Their influence can likely be seen in the fact that, by the time of the second interview, Jay's story about when track ended moves closer to the truth.

Jay Wilds:

Ah... I remember that track practice got out at about quarter to six, so that's, that's when I left.

Detective:

And how did you know that, uh?

Jay Wilds:

Yeah, I still had his cell phone. He called me.

Detective:

He called you?

Jay:

Yes.

We can count on one hand the number of things that Jay has been consistent about in every story he's ever told. But here's one of those things: Jay has maintained from the start that Adnan was late to practice that day.

Detective:

Did he talk about any, anything that he had to do at practice?

Jay Wilds:

He just said he had to run a lot, that he was late.

Detective:

He had to run?

Jay:

Yeah. And that he was late.

Detective:

That he was late?

Jay:

Mhm.

Detective:

Getting there?

Jay:

Yeah.

But even though Jay's story is consistent here, it's still wrong. Jay wasn't just wrong about Adnan being late or what time practice ended, which we'll get into in a minute, he's also wrong about Adnan having to run quote unquote "a lot"... because Adnan definitely wasn't running a lot that day.

It was Ramadan, and he was fasting.

[32:56] Rabia Chaudry: Which is just one of the different details his coach, Michael Sye, remembered about practice that day.

Coach Sye gave a statement to police on March 23, 1999. We don't have a recording or transcript, but what we have are typed police notes from that meeting.

According to Sye, the runners met on the track and he usually arrived around 3:30pm, which is what Adnan's attorney notes also say: track @3:30pm.

Sye told the detective that practice usually ran until 5:30 but sometimes went as long as 6 or 6:30.

The notes say that while Sye couldn't remember exactly what happened on January 13th and he didn't take written attendance, Adnan usually came to practice every day. During Ramadan, though, Sye wouldn't let Adnan actually practice, he would just send him on a jog instead. And the last time he remembered talking to Adnan about anything specific was a conversation they had about Ramadan.

Sye tells the police in his March 23rd interview that another investigator, a white male, had come to him earlier and told him that Adnan said he had had this conversation with Sye on Wednesday, January 13th. Sye had apparently asked Adnan a general question, but he had gotten a fairly detailed response from Adnan, who told him about the purpose of fasting, how families broke their fast together, and that Adnan would be leading prayers at the mosque the following day.

And there is both a mosque schedule and testimony from mosque officials confirming that Adnan did lead prayers the following day for a youth group.

Sye remembered a few specific things about that day: first, that this conversation happened towards the end of Ramadan, and second, that it was a warm day, in the 50s, which is why they had outdoor track.

That year, the month of Ramadan began on December 16, 1998 and ended on January 19th, 1999, so we can assume this conversation took place in the second half of Ramadan, between January 4th and the 19th.

During the last two weeks of Ramadan, there were only four days on which the temperatures went above 40 degrees: January 12th, January 13th, January 18th, and the 19th.

On those four days, the weather reached the 50s.

Now, again, just so we can be clear on the timeline, and according to the track schedule for that season, on Tuesday Jan 12th there was a track meet, a meet that they won and that coach Sye was present at. So this conversation between him and Adnan could not have taken place on the 12th.

On the 13th, they had practice.

School was closed that Thursday and Friday, the 14th and 15th, because of the ice storm. And then there's the weekend, the 16th and 17th.

That Monday, January 18th, was Martin Luther King day, and again, school was closed.

Which leaves Tuesday, January 19th, as not only the last warm day in Ramadan, but the very final day of Ramadan itself, and it was a practice day.

So either Adnan had this conversation with Coach Sye on Wednesday, January 13th, or Tuesday, January 19th.

[36:06] Colin Miller: But if Adnan told the coach that he would be leading prayers the next day, then it could not have been on January 19th, because Ramadan ended that very day: there were no more Ramadan prayers. And Adnan probably would have told him that it was the final day of Ramadan, not that they were near the end of the month.

By process of elimination, if what Coach Sye remembers is true, then the only day that conversation could have taken place was the day Hae disappeared, January 13th.

One last thing Coach Sye remembered about the day they had that conversation with Adnan - Adnan had arrived on time, and left on time.

Which means that one consistent detail that Jay stuck to, that Adnan was late to practice, wasn't true. After all, if anyone knew when track practice began and ended, it would be the coach. And according to Sye, track began at 3:30 and usually ended at 5:30pm.

All of which means if we are to believe Jay, that he dropped Adnan off at track around 5pm, which would have been only about a half hour before practice ended. It's unlikely the coach would've recalled Adnan being there on time if he showed up that late.

Unfortunately, this didn't help Adnan much at trial.

While Sye did testify that Adnan was expected to be at track practice every day, and he was, even during Ramadan, Gutierrez didn't at any point try to pinpoint Sye seeing Adnan on the 13th.

We're not sure if Gutierrez didn't realize that Coach Sye had seen him at track that day. It could be she never received copies of the police note that show January 13th was the only day he could have been talking about, or maybe she did get them and didn't understand their importance.

One thing we do know is that her investigators never spoke to Sye. So just like Asia, Gutierrez missed a massive opportunity to present another strong, credible alibi for Adnan that afternoon. Coach Sye had a very specific and credible memory of Adnan not being late for practice that day. Although Jay's stories make up for in variety what they lack in credibility, there is no reason to credit any of his versions of events over the singular statement given by Coach Sye. Adnan was almost certainly at practice that day and on time, and by his coach's judgment, acting totally normal.

[38:27] Susan Simpson: Now This takes us to the final time period that we are examining: Adnan's movements after track practice and for the rest of the evening.

Just to quickly recap though, the State, based on Jay's statements, alleged at trial that after track practice Adnan and Jay went to the apartment of a young woman named Kristi Vinson, aka, 'Not Her Real Name Kathy', and while they were there, Adnan got a call from the police alerting him to the fact that that they were now looking for Hae.

So Adnan and Jay left Kristi Vinson's house, and went to pick up Hae's abandoned car. They then drove to Linkin Park to bury her. After burying her, they met Jen at the mall

parking lot, where Adnan dropped Jay off. Or at least, that's how things go according to Jay's many versions of events, as well as Jen's own versions of events, if you were to condense them all into a sort of "common denominator" version of the story.

As for Adnan though? His memories of what happened that day are less clear following track practice. Why? Because it wasn't until nine months later that Adnan and his attorneys even found out that anything that took place after 4 or 5 p.m. was even relevant to the State's case. Up until the trial they knew nothing about Jay's narrative, about the Linkin Park pings and a burial timeline, or about the visit Jay said they made to Kristi's apartment after track.

At trial, the State claimed Adnan and Jay had gone to Kristi Vinson's house together at about 6 p.m., but Kristi wasn't even disclosed as a witness until September, one month before the scheduled trial date. It wasn't until the actual trial itself that Adnan and his defense team learned how Kristi fit into their narrative and what she had to say.

The plot twist here is this - it's not that Adnan never went to Kristi's apartment. On the contrary, he does remember going to her place with Jay, just once. Which is also what Kristi remembers, that Adnan came over to her place with Jay, once. After all, Adnan didn't know Kristi. He also didn't really know Jen either, but Kristi and Jen were friends, and that's how Jay knew Kristi.

But, according to Adnan, while he does remember going to Kristi's one time with Jay, he doesn't remember what date it took place on.

What he does remember is that when he got the call on the evening of January 13th from the police asking if he knew where Hae Min Lee was, he was in his car and he was not at Kristi's apartment. What Adnan does remember is that when he got that call from the police on the evening of January 13th, when they were asking him if he knew where Hae Min Lee was, he was in his car and he was not in Kristi's apartment. What Adnan remembers is reaching past Jay to get the phone from the glove compartment where it had been kept.

By contrast, here's what Jay says during a police interview about where Adnan was when the cops called him:

Detective:

When he gets a call from the officer...

Jay Wilds:

Mmhm...

Detective:

...where are you guys? Are you up at the Park and Ride?

Jay Wilds:

No, we're at a restaurant. We were sitting down to eat.

Detective:

Where exactly? What, what's the name of the restaurant?

Jay Wilds:

Um, I think McDonald's on Rolling Road.

But then, Jay also says this:

Jay Wilds:

Then a few minutes later, he got a call from the police department, and uh... that, that's...

Detective:

How, how do you know Adnan got a call from the police department?

Jay Wilds:

Um, because that's what he does he holds the phone away and says, "Police."
And at that time I started to panic.

Detective:

Were you inside the apartment or outside the apartment?

Jay Wilds:

We're ins...we were... just leaving. We were stepping from the foyer and into the hallway.

The most significant point, when it comes to the question of whether Jay and Adnan went to Kristi's on January 13th is this: neither Jay nor Jen said that Adnan went to Kristi's in their first statements to the police. In fact, in Jay's first story, he never mentioned visiting Kristi or her boyfriend Jeff at all.

By trial, though, Jay has gone from saying that he made zero trips to Kristi's to saying that he made three trips that day: once at about 4:30 p.m., once at about 6 p.m., and once at about 10 p.m. And, Jay says, that it was during the second trip that the call from the police came to Adnan, while they were over at her house.

[42:40] Rabia Chaudry: So, where did these three new trips appear from? Well, it turns out the cops initially made some mistakes interpreting the cell data, which led them to conclude that Jay had been at Kristi's from 4:30 p.m. to 5 p.m.

We won't go into technical details here, but you can find them on Susan's blog, and also Susan laid it out in the HBO documentary with maps and all, so definitely check that out.

Long story short, the cops... screwed up. The first time they interviewed Jay, they had misread the cell data, and they thought it was saying that Jay was at Kristi's from 4:30 to 5, even though he wasn't.

But by Jay's second interview, they realized they had screwed up, so then Jay's story changed to match the cops' misconceptions.

He told the cops he'd been at Kristi's three times that day, matching up with the cops new theory, even though it's completely impossible for the first trip to even have occurred.

For one, Kristi wasn't even home then, which means Jay couldn't have been hanging out with her and smoking a blunt like he says he was. Which means we know that Jay is willing to lie about going to Kristi's even when that lie is easily disproven.

And that takes us back to the original question, did Adnan and Jay actually go to Kristi's apartment that night? It's unlikely, for a number of reasons.

First, there's this. It seems the reason Kristi ever thought Adnan's trip happened on January 13th was because the cops told *her* it had happened on the 13th.

Kristi was interviewed by detectives on March 9, 1999. A year later, at the second trial, here's what Kristi testified to:

Rabia Chaudry and Colin Miller read:

Question: *“And on the day, a month later when that day came up in conversation, did you remember that it was on the 13th of January?”*

Answer: *“I don’t think I remembered the specific date, no.”*

Question: *“Somebody told you that date, did they not?”*

Answer: *“I think it was Detective MacGillivray.”*

Question: *“Detective MacGillivray. You did not have any independent recollection of your own the day this person came with Jay occurred actually on the 13th?”*

Answer: *“No, I don’t think so.”*

So Kristi’s memory of Adnan’s trip to her house isn’t entirely organic. It’s been influenced by the cops. And... based on the details she does remember, what she’s describing doesn’t sound like January 13th, for example, what Jay was wearing that day.

[44:46] Colin Miller: Here’s what Jay said he had on:

Jay Wilds:

Um... I think I had on a pair of tan jeans, some work boots, and a plaid coat, like a wool plaid coat.

Kristi’s memory though, is different:

Kristi Vinson:

Uh... maybe a black coat. I can’t really remember. A black hat... or like a fisherman’s hat with a string.

Detective:

Okay, and it’s...?

Kristi Vinson:

And it’s black.

Detective:

Black.

And Jay says that between his second trip to Kristi's and his third trip, he changed his clothes:

Detective:

When you went back to your house after Adnan dropped you off, did you change your clothes?

Jay Wilds:

Yes.

Detective:

And what did you do with the clothes?

Jay Wilds:

I put them in a plastic bag...

Kristi however doesn't remember that:

Kristi Vinson:

I think I would have noticed if he had changed clothes, so I'm thinking that, no, it was the same outfit.

And here's what Kristi says Jay was talking about when he and Adnan came to her apartment:

Kristi Vinson:

When Jay came in, he was telling me that they were going to go to the movie store and then they were going to meet up with Stephanie...

Basically, everything that Kristi remembers Jay saying that night involves references to events that would not have been happening on January 13th. She says Jay and Adnan were either coming from or going to a video store, which definitely didn't happen according to every other story Jay's given. Jay did work at an adult video store that was not far from Kristi's apartment, and he often had Adnan drop him off at work, but if that's what Jay was talking about, the Kristi trip wasn't on January 13th because Jay didn't begin working at the adult video store until January 31st.

Also, Stephanie had an away basketball game on the night of January 13th. She didn't get home until 10 p.m.

Adnan and Jay couldn't have had plans to go see her because Adnan was at the mosque by then.

Then there's the biggest problem of all: the phone call Adnan got while at Kristi's place, the one she overhears and thinks is so incriminating because Adnan is asking the caller "What do I do, what do I say?"

Kristi believed that Adnan was talking to a friend, and in *Serial*, she said it sounded like a "best friend" even.

Now, compare Kristi's description of that phone call with the phone call that Jay says happened:

Jay Wilds:

We stay there for a while until, uh... we're interrupted by a phone call. He wakes up, and he answers his phone. He, uh... it's, uh, Hae, Hae's family. They're looking for Hae... He tells them he has no knowledge where she is.

[47:06] Susan Simpson: Jay says the only person who called while they were at Kristi's house was Hae's brother, and Kristi says that Adnan only received one phone call while they were at her place. But there's no way the call Kristi overheard was the call from Hae's brother. Adnan would not have been saying to him, "What do I do? What do I say?" That doesn't make any sense.

And, according to Jay, shortly after this call, another call came in, this time from the police. That's the clip we played earlier from Jay, where he describes Adnan getting the call as they're leaving the apartment. But here is what Kristi remembers about what happened when Adnan left:

Detective:

So he leaves?

Kristi Vinson:

He...yeah, Adnan leaves.

Detective:

He opens your apartment door...?

Kristi Vinson:

The door was locked, and there's a chain on that door. Adnan unlocks it...

Detective:

And he goes through the whole nine yards?

Kristi Vinson:

He goes through the whole ni..I mean, maybe the chain wasn't locked, but he undoes the deadbolt of the lock and walks out and closes the door behind him, and then...

Detective:

Did...

Kristi Vinson:

I looked at Jay. Jay was smoking a cigarette at the time, and then he waits like one or two seconds and then he gets up. He's like, "Hold on," and he like gets up and leaves, and he closes the door behind him.

It doesn't seem like Jay and Kristi are describing the same event at all.

In fact, there's only one point of similarity between Jay's story about Adnan's trip to Kristi's and Kristi's story about Adnan's trip to her place: both Jay and Kristi recall that Adnan was acting weird, kind of slumped over, maybe even asleep. But here's the thing, Jay does not attribute this weirdness to... you know, the whole "being a murderer" thing. Instead Jay thinks the reason Adnan's acting weird is because Jay had given Adnan something to smoke:

Jay Wilds:

He's feeling a little nauseous from a... cigarette that I'd given him prior to going in the house. So he sits away from the group.

In 2014, Jay told a similar story when he was interviewed by *The Intercept*. He said then: "I made him smoke one time, he got a little high, got a little weird. Didn't say that much." Which sounds an awful lot like what Kristi said about what Adnan was like when he came over to her place. How he was being weird and quiet.

But again, Jay doesn't seem to associate this event with the night of the murder at all. So if Jay thinks that the reason Adnan was being weird at Kristi's house had nothing to do with the events of January 13th, maybe that's because the events that Kristi and Jay are talking about happened on a different day entirely.

And we are pretty sure it was on a different day, for a few reasons.

[49:34] Rabia Chaudry: Kristi remembers that, on the night that Jay and Adnan came over to her apartment, she had been at a conference at the University of Maryland at Baltimore from around 9:00 A.M. to 4:30 P.M. Kristi remembers this conference being a mandatory part of her internship, and she recalls it taking place at the School of Social Work.

Well, it turns out, according to the School of Social Work calendar for that time, there was indeed a conference. But it wasn't on January 13th, it was on the 22nd. The conference session was titled "Clinical Interventions with Traumatized Children" and it ran from 8:30am to 4:30pm.

Now at the time, Kristi had an internship at a group home for adolescent boys, and according to her, this conference was mandatory. Kristi remembered coming home after the conference and settling in to watch Judge Judy when Adnan and Jay came by.

If her memory is correct then, it's a strong possibility that everything she was remembering happened on January 22nd. And... there is an incoming phone call at 7:12pm, but the problem is, the phone call only lasts 2 seconds, hardly enough for the conversation Kristi thinks she heard.

Perhaps it was a conference on another day? Or maybe she's misremembering and they didn't come over on the day of a conference?

Either is possible, but what we do know is that there was no conference scheduled for January 13th.

Another reason we can be almost sure Jay and Adnan didn't come over to Kristi's apartment on the evening of January 13th is this - the documentary team that made "*The Case Against Adnan Syed*" for HBO did some digging and they found Kristi's class schedule for that period.

It was a winter semester, and if any of you recall taking winter semesters in college, they're typically only a few weeks long, and every class is super concentrated to get through all the curriculum you would in a regular semester.

Well, that winter, Kristi was enrolled in a social work class from 6pm to 9:10pm every Wednesday night for three weeks - just three classes in total. January 13, 1999, was one of those three Wednesday nights that the class was scheduled.

[51:54] Colin Miller: In other words, if Kristi had skipped the class, she would have missed one third of the course. But she received a B in the class, and in the documentary she admitted that not only would she have not gotten a B if she skipped any of the three class sessions, she would have failed.

Given this new information, it seems fairly certain that on the evening of January 13th Kristi was in class, and not at her apartment.

Which takes us back to trying to figure out when this visit actually took place.

There's a possibility, based on the cell site records, that the visit took place in fact on February 15th. The pattern of calls made from and to Adnan's cell phone on February 15th may line up with the call Kristi overheard.

There was a 6:28pm call to Adnan from his friend Yaser which pinged cell tower L655B, which is consistent with a call at Kristi's apartment, but of course also isn't a way to pinpoint where the phone was.

And before the Yaser call, several calls were made from Adnan's phone to Stephanie, which could explain why Jay was talking about their plans to go see her later. We can't be sure that was the day he was there, but it's a theory.

So, going back to January 13th, and ignoring where the phone was for the moment, who was it that was making all these calls to Adnan during the time period that he was supposedly at Kristi's?

[53:00] Susan Simpson: The phone records show that from 6 p.m. to 6:30 p.m. that night, there were three incoming calls: one at 6:07 p.m., one at 6:09 p.m., and one at 6:24 p.m. The general assumption is that the last call at 6:24 was the one from Officer Adcock and, at least in this case, the general assumption seems to be right.

But what about the other two calls, then?

In his first interview, Jay only remembers one call coming in in this entire time period, and that was the one from the cops. By the time of Jay's second interview, he now remembers two calls, one from Hae's family, and one from the cops. And by the time of trial, Jay remembers three calls: two from Hae's family and one from the police, which accounts for all three calls during that time period.

Adnan only recalls one call, and that was from Hae's brother, who then passed the phone to Officer Adcock. It's possible Jay is right, though, and that Hae's brother and Officer Adcock called separately.

So that would explain two of the calls, but that would still leave us with one come incoming call unaccounted for. Back at the time of the trial, it was assumed that the cell phone records only showed calls that had actually been answered, and incoming calls where no one picked the phone up wouldn't show up.

Turns out though, this was not a safe assumption to make because the phone company's definition of "answered" and the human definition of "answered" aren't always the same. We don't have Adnan's service agreement, so I don't know the terms he used, but in 1999 there were plenty of phone companies that would have charged for an incoming call, even if it wasn't answered and went to voicemail, and even if the caller hung up before the beep.

Here's language used by other AT&T agreements from the 2000s:

"You may be charged for both an incoming and an outgoing call when incoming calls are routed to voicemail, even if no message is left" and... "Chargeable Time may also occur for other uses of our facilities, including by way of example, voicemail deposits and retrievals, and call transfers."

It's worth noting that, due to AT&T's first minute free policy for incoming calls, users weren't actually charged for these incoming calls to voicemail, the ones that went unanswered. The calls did, however, show up on the phone records. So it could be that all those incoming calls on the cell records in this case don't actually represent times when someone picked up Adnan's phone and answered it.

It's likely that all of Jay's constantly evolving stories about who was making these calls just reflects his attempts to appease the detectives and the prosecution who wanted

explanations for each and every call on the log, even though some of them were presumably not real calls at all.

And we do know one person who called and left a voicemail for Adnan that day: it was Krista.

That means one of the incoming calls could have been from her. And it turns out we have a good idea of when she might've called, too, because Krista, it turns out, saved her phone records from that day. She was calling from a landline, so they don't show all the calls that were made like a cell phone bill would, but those records do show that she made two calls using *69, and based on that, her voicemail to Adnan was at sometime around 6 p.m.

Susan Simpson:

How many times that night did you call Adnan?

Krista Remmers:

Um, that I can remember? Definitely, twice. Possibly three times. Um, after he left the hangup on my machine, and I...

Susan Simpson:

Which was at 5:38...

Krista Remmers:

Right, and... and it was, you know, I obviously got the call 5:51. I hit *69 and saw that I had a hangup, and that's who the number it went back to was. I remember trying to call him shortly thereafter and him not answering, which I thought was weird because, usually, if he called me, especially, he would always answer the phone if I called him right back.

Susan Simpson:

Mhm...

Krista Remmers:

Um... and then when I didn't hear from him, I know I called him at least one other time, just 'cause I thought it was a little out of sorts that, you know, he didn't return a call right away, especially when he called me to begin with.

Susan Simpson:

So how long again would you estimate was between the first call and the second call?

Krista Remmers:

I mean, I'd probably say an hour?

So if Adnan's cell records are showing incoming calls that were routed to voicemail, that means that either the 6:07 or 6:09 incoming calls were from Krista.

And if Krista is right about her second call to Adnan coming an hour later, that means she is one of the two Leakin Park phone calls, and we'll explore all of this in more detail in Episode 8 of this season, "Ping."

[57:38] Rabia Chaudry: Today we learned how the reality of Adnan's day on January 13th was quite possibly very different from the perception created by the prosecution at trial. You may be asking yourself what did Adnan say he did on the evening of January 13th? While there aren't any attorney or interview notes that specifically document his version after his arrest, and he didn't testify at trial at the advice of his attorney, Adnan has otherwise always maintained that after Jay picked him up from track practice, he drove around with Jay and they smoked pot together, then he dropped Jay off at his house a little after 8pm, and finally he went to the mosque for the rest of the evening with his father before returning home late that night.

Adnan's father, in fact, did testify that he went to the mosque that night with Adnan, as they did pretty much every night in Ramadan. And we know that Adnan provided Guterrez with a lengthy list of potential witnesses from the mosque, people he told her might be able to verify he was there that night. Unfortunately, she didn't contact any of them. Not a single one.

Now that we've gone over all the evidence and information that exists to show where Adnan Syed was on January 13th, 1999, we turn our attention to Hae Min Lee.

What if nearly nothing we've been told about her movements on the day she disappeared turned out to be true.. next time on *Undisclosed*.

We at Undisclosed don't have the words to express our thanks to all of you, our listeners, for all your support these past five years, and a special thanks from Adnan,

myself, and the rest of his loved ones for the support you continue to show him. Thank you to the always masterful Rebecca Lavoie for turning us into pros, to Mital Telhan for keeping this machine running, to Ballookey for our logo, and to Patrick Cortez for our theme music. And I want to personally thank, as we continue this fight, my incredible colleagues Susan Simpson and Colin Miller, who have put in thousands of hours of work on Adnan's case, and who we could not have ever come this far without. Also thank you to the many people who have told his story over the years, Sarah Koenig and Amy Berg and their teams, and to the lawyers who have stood by Adnan all of these years, Chris Flohr, Doug Colbert, and Justin Brown.

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