

UNDISCLOSED, The State v. Greg Lance
Episode 4 - The Murder Weapon
September 30th, 2019

Rabia Chaudry: Hi Undisclosed Listeners, Rabia here. Thank you so much for tuning into our fall season and thank you for listening to all of our series and supporting us all of these years. I want to ask that you please support our sponsors, because our sponsors support us, and a big thank you to them. Without them, we couldn't continue to do the work to help the wrongfully convicted. The second thing I want to say before we dive into today's episode is this: whether it's this case or any other case that we've worked on, we've actually got a tipline, so if anybody out there has some information they think could help us in our investigation into this case, The State vs. Greg Lance, or any of the cases we've worked on, please give us a call. The tipline is (410)-205-5563.

[1:30] Susan Simpson:

GPS says turn, we'll turn ...

Rabia Chaudry:

We're gonna die in these woods ...

GPS:

Continue for 2 miles.

Susan Simpson:

We're not, probably, gonna die in these woods.

Rabia Chaudry:

I feel like we're gonna lose signals here.

Susan Simpson:

Well if we lose signal, we might die. I would, like, throw up ...

Rabia Chaudry:

We have half a cinnamon bun ...

Susan Simpson:

[Laughs] Any almonds left?

Rabia Chaudry:

No, but I think I have those really itchy-bitsy Snicker bars, a couple of those.

Susan Simpson:

Cool. So that'll get us through, what, 24 hours?

Rabia Chaudry:

Yeah. I think you're the type of person who could, like, forage in the forest and survive at least a week. I'm just gonna lay down and die.

Susan Simpson:

[Laughs] So this is getting more ... back-woodsdy.

Rabia Chaudry:

Mm-hmm. I need the music from Deliverance to come on. No, I shouldn't say that.

Susan Simpson:

[Tune of: Dueling Banjos] Da na nur, na nur, na nur na nurr ...

Rabia Chaudry:

It's lovely back here.

Susan Simpson:

Look at that old abandoned barn.

Rabia Chaudry:

That's very atmospheric.

Susan Simpson:

It's not too run down though, actually.

Rabia Chaudry:

You know everybody here owns guns, right?

Susan Simpson:

Yeah, they'd better.

Rabia Chaudry:

Okay, there's always a church where we can seek sanctuary in if necessary.

Susan Simpson:

So ... this is ... I think despite that thing, that sign, this is Poplar Grove Road.

Rabia Chaudry:

So, okay.

Susan Simpson:

We go straight here. Yeah this is Poplar Grove.

Rabia Chaudry:

Couple of little trailers on it.

Susan Simpson:

Okay, we're getting a little bit closer. We're a minute away, it says.

Rabia Chaudry:

Bohannon's Auto Sales.

Susan Simpson:

Yeah.

Rabia Chaudry:

This is ... this is where the whats-it-called ... the gun had to be here. Oh my god, look at the cattle skulls ... are hanging ... it says: No ... there's a gun! They're gonna shoot our ass out here, Susan.

Susan Simpson:

Just keep driving.

Rabia Chaudry:

There are actual skulls hanging on a fence.

Susan Simpson:

Yeah, that's just redneck decorations.

Rabia Chaudry:

[Laughing] Redneck decorations!

Susan Simpson:

It's decor ...

Rabia Chaudry:

Maybe we'll come across another nice little ...

Susan Simpson:

Hey, we had a cow skull on our roof when I was growing up.

Rabia Chaudry:

On your roof?

Susan Simpson:

Yeah, my dad put it there. My mom couldn't get him to take it down.

Rabia Chaudry:

Well it might not be so ... it wouldn't bother me as much if there wasn't a picture of a gun next to it.

Susan Simpson:

Yeah, the gun sign makes it a little more intimidating.

Rabia Chaudry:

Yeah.

Susan Simpson:

So that's where the ...where they ... this is where ...

Rabia Chaudry:

I think that's where they found the gun.

Susan Simpson:

It kinda looks like it, but like let's ... on the way back we'll go slower.

Rabia Chaudry:

I'm just kinda curious ... what is this?

Susan Simpson:

Okay, it's right ... we're there?

GPS:

Your destination is on the left.

[3:56] Rabia Chaudry: That was Susan and I earlier this year as we drove through some of the most beautiful parts of the country that I've ever seen, looking for all the darkest parts of this terrible double murder. We spent that day up and down Poplar Grove Road in Cookeville, still a two-lane road like it was back in 1998, looking for the places and people connected to this crime.

But where Victor and Alla's house once stood was now a massive beautiful villa-like home, fairly new construction, but still at the end of the long driveway that once led to the single story rancher that burned to ashes on August 5, 1998. The old driveway was gravel, but this one gleamed shiny new black asphalt in the sun. The new place is still surrounded by acres of fields, and the hills in the background slope and climb in the same rolling formations as they did behind the Kolesnikows house. That was one way we identified the place, by holding up an old picture and lining up the ridge lines of the hills to make sure this was, indeed, the former crime scene.

Across the road, where the Redmon trailers and the small house that their sister Peggy lived in with her family, stands another gorgeous, Pinterest-worthy house rising up three stories into the woods.

A far cry from the beaten down, humble homes that once occupied this land. New homeowners and new houses. But on either side of these homes, both east and west of them on Poplar Grove road, the same homeowners that lived there in 1998 live there today. And their properties stand unchanged as well.

That's why we were able to locate both the Bohannon property where the rusty gun attached to a green cord and black flashlight were found on September 17, 1998, and Mr. James Bohannon himself, who found that gun 21 years ago.

Rabia Chaudry: Hi and welcome to Undisclosed. This is Episode 4 of The State v. Greg Lance: The Murder Weapon. My name is Rabia Chaudry. I'm an attorney and author of The New York Times best seller: *Adnan's Story*. 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 TheViewFromLL2.

Colin Miller: Hi, this is Colin Miller. I'm the Associate Dean for Faculty Development at the University of South Carolina School of Law, and I blog at EvidenceProf Blog.

[6:44] Rabia Chaudry: We were lucky to have located Mr. Bohannon himself, who still had a pretty clear memory of the evening he found the gun. Bohannon walked us towards the fence that ran along the road and showed us where it was. Suffice it to say, Susan and I were pretty puzzled about why and how someone would chuck the gun up there.

Susan Simpson:

So no one's climbing over there. It's someone throwing, I think.

Rabia Chaudry:

Yeah. There's a lot of brush there, right? Like, the gun could have been there ...

Susan Simpson:

Yeah, just pull over for a bit. He says the 3rd one ... I'm pretty sure it's the 3rd one.

Rabia Chaudry:

The 3rd one from his house?!

Susan Simpson:

From his house. So that's that one right there. And he said ... there's a trail back there towards his horses. But he walked there every day.

Rabia Chaudry:

It's not hard ... I could chuck something that far. I don't know why they were trying to make it sound like it couldn't be ...

Susan Simpson:

Yeah, I could chuck it.

Rabia Chaudry:

Like, maybe it may be hard if you're sitting in a ... but you don't have to, just get out of the car and it's not hard.

Susan Simpson:

It would be a little bit ...

Rabia Chaudry:

Susan, I'm gonna chuck your recorder over there and we're gonna try this right now [laughs].

Susan Simpson:

I could see how it'd be a little bit tricky for the driver to toss it out there, but ...

Rabia Chaudry:

I think just step out of the car and stand and throw it over the roof of the car and that's it. I mean, this is not hard.

Susan Simpson:

Yeah. I mean, I think you possibly could do it from the driver's side if you were really intent on doing it that way.

Rabia Chaudry:

First of all ... like this? I mean, like ...

Susan Simpson:

Alright, gimme your phone, we'll throw it out [laughs].

Rabia Chaudry:

I mean, like literally, it's just a matter of going like this and chucking it. That's it, right? Like, that's all it is. Or somebody's in the passenger side and chucks it. But, the weird thing is why here?

Susan Simpson:

I think, honestly, passenger ... that makes more sense. Definitely not the driver's side. Throwing it through this window ...

Rabia Chaudry:

It's a little more awkward, yeah.

Susan Simpson:

If you're a lefty, maybe.

Rabia Chaudry:

Or if you stepped out again. I mean, I would step out if I'm trying to get rid of a weapon.

Susan Simpson:

I also would not throw it here, where clearly people sometimes go.

Rabia Chaudry:

But if it was this overgrown ...

Susan Simpson:

He said it was past the brush. It was over where you might actually never find it. But it's also not that hidden.

Rabia Chaudry:

It would be hard to find. I could imagine it being ...

Susan Simpson:

But people come here a lot, clearly. There's definitely parts near here where no one's ever gonna find ...

Rabia Chaudry:

Well, here's the thing -- if someone's gonna change that sign, they'll see it.

Susan Simpson:

Yeah. Okay, yeah, anyone walking to that sign to change it is gonna find it. People obviously have come here to change the sign many times over the years.

Rabia Chaudry:

Why would somebody do that?

Susan Simpson:

He was there every single day.

Rabia Chaudry:

So maybe they just, they had just thrown it recently?

Susan Simpson:

That doesn't make any sense either.

Rabia Chaudry:

Why? Why they'd try to get rid of it now?

Susan Simpson:

At that same spot, close by to where the murder happened.

Rabia Chaudry:

'Cause they're stupid criminals, Susan!

Susan Simpson:

Okay, that answers a lot of questions.

Rabia Chaudry:

The thing is, it doesn't matter who got rid of it, this is a dumb place to get rid of it. So we are dealing with stupid people. I think that's fair.

[9:15] Rabia Chaudry: Ok maybe that wasn't exactly an expert analysis on why the killer or killers left the murder weapon there, but notwithstanding genuine stupidity, the other viable option is that the gun was disposed of in a real hurry - whoever had it wanted to get it out of their possession as soon as possible, and threw it out of the car as they left the crime scene the same night.

Susan Simpson: Which would seem to match with the description of what we think we know happened the night the Kolesnikows were murdered - a car was heard leaving fast and loud, speeding away on the two lane road, as the flames began to spread in the victims house.

It could be that the killer was afraid that they'd be stopped as they drove away on that two-lane road, as the authorities came from the opposite direction to respond to the fire. So maybe he pulled over as quickly as possible, just a mile down the road from the crime scene, and chucked the gun away in a panic.

While Bohannon told us that the gun was just kind of lying there out in the open, back when he found it, he actually said the path that it was found on was overgrown with weeds. So maybe whoever threw it up there figured it wouldn't be easy to spot, or that no one would be walking there, and if the gun had been there since the night of the murders over a month earlier, well, they would've been right.

Now, this is all just conjecture at this point in the story because on September 17, 1998, when the gun was found, it wasn't even determined yet that it was the murder weapon. TBI Agent Kroffisik submitted the gun the same evening to the TBI lab and compared it to the bullets and casings that were found at the murder scene and also the ones found at the Heron Farm, and in the meantime, they began trying to trace the weapon to it's owner.

The day after the gun was found, investigator Phillip Gentry gave the ATF a call and gave them the gun's serial number. The ATF was able to track it down to a sale made at a store called the Bend of the River Gun Shop. The gun had been bought by a Mr. Darrel Smith on April 6, 1991.

Two days later when investigators went to meet Darrel Smith, they were told he hadn't had that gun in years. Here's what he said on September 21st, 1998:

3 years ago I gave Bob Sheppard the gun in payment for a debt I owed him on a vehicle. Sometime after I gave the gun to Bob Sheppard he told me that someone had stolen a bunch of his guns. He told me he thought that one of his employees had stolen the guns. I don't know if the Tec-9 I sold him was one of the guns stolen.

Of course the very next stop the police made was to see Mr. Robert Sheppard and to find out what happened to that weapon next.

[13:30] Colin Miller: Robert Sheppard wasn't officially a gun dealer. He was, in fact, a used car salesman, and the proprietor of Sheppard's Auto Sales in Cookeville, Tennessee. However, much of his business was done through trade - trading cars for boats, motorcycles, jewelry, and yes, even guns.

After speaking to Smith, TBI Agent Kroffsik went to talk to Robert Sheppard, who confirmed what Smith had said - Smith had bought a car from Sheppard, though he said it was two and not three years prior, and had gotten behind on his payments. To make up for the payments Smith had offered Sheppard several guns to cover what he owed, and one of them was the Tec-9. Over a 3 month period, he apparently received a total of 12 guns from Smith.

Some of the guns he received were stolen in a robbery at his shop that took place on January 20, 1997, a year and a half earlier. But the Tec-9, he thought, he had sold to a man named Tommy Jones about a month after the gun was traded to him, which would have been sometime in 1995 or 1996, depending on whether Smith or Sheppard was right about the timeline.

At the time he sold the gun, he said, it was in a plastic case and had two clips in it, holding about 30 rounds, and both clips were full. Did he have a record of selling it? Nope.

Agent Kroffsik then went off to find Tommy Jones, all of these interviews taking place in the same day by the way. According to Jones, he had known Sheppard most of his life and had traded guns back and forth for years. But a Tec 9? Never. He was positive he had never gotten a Tec 9 from Sheppard, but he named a few people that he knew at some point or another that had a Tec 9 in their possession.

Agent Kroffsik then doubled back to Sheppard and asked him to call Tommy Jones and record the conversation that same night.

It was, in no uncertain terms, a very awkward exchange.

[15:11] Rabia Chaudry: Sheppard tried to fake out Jones by telling him “I’ve got a folder that shows that I sold you that Tech 9”, when in fact he had no such folder.

“Bull fuckin shit, blow me.” responded Jones.

“Serious, it does.” Sheppard pressed on.

“No it don’t.” said Jones.

“A 9mm. What...have I sold you another 9mm?” asked Sheppard.

“Nope” said Jones.

After a few more similar exchanges, and Jones saying “nope nope nope” with finality, Sheppard finally gave up and said, “All right. See you tomorrow.”

Then he got off the phone and told Kroffsik “He still says no.”

Now on that same day, right after talking to Tommy Jones, investigators also spoke to a man by the name of Walter Anderson, who had also known Sheppard for many years and had traded a lot of guns with him. According to Anderson, he had never gotten a Tec 9 from Sheppard but he did recall seeing a Tec 9 at Sheppard’s place about a year earlier. It was, he said, the only time he had ever seen such a weapon.

A year earlier would have been in the latter part of 1997, but remember Sheppard said that he thought he sold the gun to Tommy Jones about a month after he had gotten it, which would have been in 1995 or 1996 sometime?

Not having any records at all about what he did with the gun, and hitting a dead end with Jones, he told the police well maybe then the gun was one of the ones that had been stolen in the robbery at his store in January 1997.

Now, a man by the name of Vernon Thomas had, in fact, been arrested, charged and convicted of that robbery and served 15 months in prison for it. But when Kroffsik went to speak to him on September 29th, 1998 as they continued to try to trace the Tec 9, he told them that while he had been convicted of the robbery - and yes, in general, he had a bit of a rap sheet including other gun thefts - he'd never had anything to do with the break in and robbery at Sheppard's Auto Sales.

The only time he had ever seen a Tec 9, he told investigators, was when he had robbed a trailer with two other men. Unfortunately the handwritten notes from this interview have no other details. Not when that particular Tec 9 was stolen, or where it was stolen from, or what ended up happening to it.

[17:16] Susan Simpson: Now, whether or not Vernon Thomas committed the robbery at Sheppard's Auto Sales, it actually seems pretty unlikely that the Tec 9 found at Bohannon's farm was even stolen from the shop in that incident.

The police report of the robbery showed that someone had broken the glass on the front door of Sheppard's Auto Sales, reached in, unlocked the door, and stolen a long black plastic gun case with 8 weapons inside. None of the eight listed weapons, which Sheppard had diligently recorded, were a Tec 9.

Does that mean the Tec 9 was definitely not stolen in this incident? Well, not definitely, but Sheppard did say that while the 8 guns that were stolen were all kept together in that black gun case, the Tec 9 had never been kept with them. It had its own case and he kept it separate, in a filing cabinet.

It wasn't as if the entire shop had been turned upside down with guns strewn all over the place, or anything like that. So, it wasn't hard to keep track of what had been stolen. The thieves only grabbed that one black gun case. If the Tec 9 had also been taken from the filing cabinet during the robbery, it should have been pretty obvious and likely would have been included in the report.

A couple of weeks after being initially interviewed, Sheppard was again visited by authorities on October 6, this time, though, by Phillip Gentry of the Fire Marshal's office. The sparse handwritten notes show that he again said he sold the gun to Tommy Jones.

But a third interview taken on October 26th, reflects a suddenly different story. It reads:

Sheppard also advised that Tommy Jones did not even see the Tec 9 and he did not trade it to Tommy Jones. The gun he traded was an old 9mm pistol.

Sheppard had nothing more to offer, so investigators followed up on some of the names that Tommy Jones had given them. But they hit dead ends each time, with no one admitting they had ever traded Sheppard anything for a Tec 9.

[19:10] Colin Miller: They were hoping, of course, to connect the gun to Greg, to find some link that got the gun from Sheppard's store to Greg Lance's hands, but no luck so far. And because it didn't seem like the gun was stolen in the 1997 robbery, and there were no records that it was traded to anyone that Sheppard regularly did business with, they started getting suspicious of his story.

They eventually administered him a polygraph test, with questions focusing on his knowledge of what happened to the gun. But Sheppard stuck to his story of not remembering what he did with the gun, and passed the polygraph just fine. In an undated report written by Arson Investigator Phillip Gentry he states that the polygraph examiner thought Sheppard was telling the truth, and that when he himself interviewed him with other agents, he found him "very convincing."

But something was still sticking in Gentry's craw. In the next line he wrote, "The only problem I have with Mr. Sheppard is that he had kept good records for his business and other transactions *but for this weapon.*"

While investigators were trying to track the movement of the Tec 9, still unsure if it was even the murder weapon, the TBI lab in the meantime was busy matching the bullets and casings found at the Kolesnikow home to the ones found at the Heron farm.

Now, before we get any further, just for the sake of clarity for those of our listeners not familiar with gun terminology, bullets and projectiles are the same thing, and we'll be using those terms interchangeably. And casings and shells are also the same thing. When a bullet is fired, it leaves its casing, the shell, and projects out of the firearm through the muzzle.

[21:23] Rabia Chaudry: Now remember we talked last week about how investigators had done an initial sweep of the Heron farm and found nothing, not bullets or casings. Then, within a matter of a couple of days, and after the Powells saw smoke coming from the farm, they did a second, more thorough two-day search, and they hit the jackpot in bullets and casings.

Now, at first glance it may seem a little suspicious, but if we can trust the reports we have, it could be that the first sweep happened where Joe said he heard the gunshots coming from, which was just the barn. They found nothing there, just like Joe had found nothing there. And that second search skipped the barn altogether and focused on the small tool shed to the side of the barn and a pile of ashes which was, presumably, where the smoke the Powells saw originated the day before. Basically, maybe they searched different areas, and also, the pile of ashes wouldn't have been present during the first sweep, and that explains why they found nothing the first time.

According to a report written by arson investigator Johnny Hayes, the second search began with an ATF agent and his k9 unit doing a walk of the property, after which the search team went in. Hayes report states,

"In an area approximately in front of the shed was the ashes where someone had built a fire. While investigators were looking in that area a projectile was found in the ashes. At that time investigators began to sift the burn area for evidence. Several projectiles were found at this location and tagged."

The area, he later testified, looked like a campfire.

The report goes on to note that because it got dark, they wrapped up the search but returned the next day, when they focused on the shed. And there they noticed a pile of firewood against one wall, and when they moved it they saw that a 2X2 piece of the wall of the shed behind the firewood had been cut out. According to Hayes testimony, it looked like that the wall had been freshly cut, because the sawdust was so fresh it hadn't yet changed colors. They even cut out a small piece themselves, to test against the cut wall, and their colors matched, so again to him it seemed the wall had very recently been cut.

Investigators sifted the area both inside and outside that cut out part of the wall and found projectiles, or bullets, there as well. The pictures from that day show projectiles found in a sifter, and they also show some bullets found just kind of laying on the ground, which seems unusual unless they were dropped there. Otherwise, bullets that are actually fired through a gun tend to be found in whatever object they were fired at, like a wall, or the ground, or a body.

In total, after their two day search, investigators sent 2 casings, 15 bullets, a paper towel, and a beer can to be tested to the TBI lab from the Heron farm. The TBI lab request noted that 2 casings and 2 bullets came from inside the shed, but the remaining 13 bullets they were sending for testing all came from fire debris - presumably from that pile of ashes, which is odd since Hayes' report says that they found "several" bullets in the ashes, and 13 is much more than "several".

[24:18] Susan Simpson: Something else to note is this - when Agent Winkler called Mike Heron after searching the property, he told him that a piece of a tree in his yard had been cut out to check bullets embedded in it. But no such exhibit exists in any of the reports. And at trial, Hayes, when asked about the tree, responds, "there was a tree that appeared to have some shots in it, but it wasn't cut out."

So, either the tree was never cut out at all and it was a misunderstanding on Winkler's part, or it had been cut out, and that evidence just disappeared.

But there's still a mystery of the how and when all those bullets appeared at the Heron farm, because remember investigators found nothing during their first sweep. We thought this could be explained because maybe that first search was only conducted in the barn and nowhere else. After all, none of the reports that documented the first search specify what part of the farm they were actually searching. In every report it just says "the farm".

Here's the problem though - at trial, two years later, TBI agent Kroffsik testified to the following when he was asked about that first search:

A. We went through the barn. Went through the area behind the barn which included the shed and also the little house that is in the far end of the farm. Walked around the front building also, the house that is out in the front. The little garage that is close to the house.

Q. So you went to the barn and the area behind the barn and the shed?

A. Yes, sir.

He further stated that that the initial sweep lasted several hours and involved five or six officers. At the time, he testified, the shed was intact and no part of any wall had been cut out. Tragically, he is never asked whether that intact portion of the wall, which was allegedly later cut out and burned, had any bullets in it during the first search.

Regardless, if the wall of the shed was indeed intact during the first search, here is what it means: that the day after that search, someone returned to the farm in order to destroy evidence, and then cut out a piece of the shed wall out, burned it, and created the smoke that the Powells saw,

And to investigators, that someone, of course, would be Greg Lance.

In his closing argument at Greg's trial, this is how prosecutors framed the cut out shed wall:

1 He has been
2 shooting in the shed. He has had to cut out that part of
3 the shed which he has been secretly shooting in. Not so
4 secretly because it is very loud of course. He has had to
5 burn the fire wood, the logs that were there the day the
6 fire marshals were there and the day that he was there.

[26:42] Colin Miller: Now, a couple of things should immediately jump out: first, if someone was attempting to destroy evidence, burning a piece of wall but leaving behind incriminating bullets connected to the murder weapon was not exactly a rock solid plan.

Second, if Kroffsik is saying the wall was not cut out when they did the first search, that means during the initial sweep the investigators must have moved the pile of firewood that was hiding the cut out wall, and yet they found nothing - no bullets, no casings - in the same part of the wall they simultaneously allege was cut out and burned a couple of days later because it had bullets in it. Five or six officers searching for several hours all missed that piece of bullet-riddled wall.

Now, if we are to believe Kroffsik, there are two possibilities. Either Greg Lance went target practicing on August 2nd, when Judy and Joe allegedly heard hours of gunfire, but an entire team of investigators didn't find a single bullet or casing during an initial search, even though they saw the exact part of the wall they allege he had been shooting at and later cut out and burned.

Or, alternatively, someone went out to the Heron farm on the 25th, after investigators did their initial search, shot up the shed nearly two dozen times, then cut out the wood and burned it to destroy the evidence. Which makes no sense because first, the neighbors wouldn't have missed all that gunfire. And second, that would be contrary to the State's theory of Greg doing the target practice on August 2nd, before he killed the victims, and instead would suggest it was someone random up there burning stuff.

Now there is one more possibility, one that seems the most likely. And that is that Kroffsik never saw that part of the shed wall during the first search and they really only checked the barn the first time around.

When Investigator Johnny Hayes describes the second search in his report, he specifically says there was firewood stacked against the cut out part of the wall when they arrived. So did Kroffsik and his team remove all the firewood and then neatly restack it during their first search? That seems like kind of a stretch. But then why would Kroffsik testify that the shed wall was deliberately cut between the first and second searches? What does he gain from this allegation?

Well he may have testified that way for the same reason that Hayes testified that the shed was freshly cut.

[28:49] Rabia Chaudry: And that was in order to bolster the story that when Mike Heron called Greg to tell him that the police were searching the farm, Greg went out there, cut out that incriminating wall, and burned it before the second search.

Here's the thing though - regardless of when the shed was cut out, it likely had nothing to do with any bullets being in it. And that's because the shed walls were so thin, according to the owner of the shed Mike Heron, that they weren't capable of stopping a 9mm bullet. Heron said to me, and I quote "the planks on those weren't capable of stopping a bullet by any means. Anybody with the knowledge would know that, especially somebody with a ballistics background."

In our conversation Heron then pointed something else out, something that I'm not sure anyone has thought of until now - that these kind of bullets, burned in a heap of wood, would have melted and deformed. According to Heron, "That lead would've been globs not whole bullets."

Now, I'm no expert on this but a quick search online seems to confirm it - lead bullets melt rather quickly and easily. In fact, it's not uncommon for people to melt down lead projectiles

and recast them into bullets again. There are even all kinds of tutorials on YouTube showing folks melting the lead on a campfire, or even on a kitchen stove.

The ash pile, where many of the projectiles was found, was a real ash pile, burned completely down into a pile of white and gray fluff. But, from what we can make out of the terribly focused pictures that were taken at the scene, the projectiles recovered from the burn pile seem to have retained their shape just fine. And none of the reports connected to the bullets recovered from the ashes mention any melting or deformity, and no one testifies to it either.

This could mean nothing, or it could mean something. And that something is the possibility that the bullets found in the two-day search were deposited there, and not the result of someone firing them there. It's notable that there isn't a single picture or record of a bullet actually being found in anything. Not in any wood, or in any walls, or any trees, or even embedded into the ground. All of the bullets in the pictures kind of seem to just be laying around on the ground or in that pile of ashes.

Now, while it's not clear how or when all those bullets got there, what is clear is that the State's theory can't explain them. But they don't really need to, they just need it all to line up in court. And it does, because a few weeks after the second search the TBI lab reported back their findings - the bullets and casings at the Kolesnikow house ended up matching 4 bullets and 1 casing found at the Heron farm.

Not long after that, on October 14, the TBI lab returned another report. The bullets and casings found at the two different scenes, the Kolesnikow house and Heron farm, had been fired through the Tec 9 found at the Bohannon farm.

Investigators now knew for sure that the gun Bohannon found was the murder weapon.

According to the lab report the Tec 9 had 20 complete rounds in it when the gun was sent to them. To refresh your memory, 7 casings had been found at the Kolesnikow property, indicating the gun was fired at least 7 times there, and 4 matching bullets were found at the Heron farm.

If we are to believe the gun was fired 11 times before the lab even got it, well those 11 plus the 20 in the gun don't quite make sense. Remember, Sheppard said when he had the gun, it was full, with two clips of 15 rounds each, totalling 30 rounds of ammunition. But if all those bullets at the Kolensnikow property and Heron farm really did match the gun, that actually adds up to 31 bullets.

There are a few possibilities that explain this though. First, maybe the gun had been reloaded at some point with a fresh clip before it was used to kill the Kolesnikows.

Or, maybe it had one bullet already chambered and the other 30 rounds in the clips.

Or, it could just be that the TBI lab got it wrong.

[33:30] Susan Simpson: The science of matching firearms to projectiles and casings has an actual name - firearm toolmark analysis. It's a widely used forensic tool by law enforcement and prosecutors to solve crimes and convict suspects. Take a listen to this short clip by the National Clearinghouse for Science, Technology and the Law at Stetson University College of Law, Florida's first law school, explaining how this works:

When a shooting occurs, firearm examiners can gather evidence to assist with solving the crime. Examiners can compare and match bullets. Firearm barrels are manufactured with grooves in the barrel, which form lands, or metal ridges, between the grooves. Each barrel has unique marks called striations, or striae, which are caused by the manufacturing process, or through use and corrosion of the barrel. These striations are transmitted to the bullet as it passes through the barrel. Each rifle barrel is unique, even if made by the same manufacturer in the same product run. A firearms examiner can compare the unique characteristics of a rifle barrel to a bullet by firing test bullets from the suspected weapon and then comparing the evidence bullet to the test bullet. A comparison microscope is then used to more closely examine the striations on each bullet to see if there is a match.

In 2000, at Greg's trial, forensic scientist Terry Arney testified similarly when explaining how a firearms examiner matches bullets to weapons:

14	These markings originate from all of the machining
15	processes that are used to manufacture a particular firearm.
16	The grinding, polishing, cutting operations will all leave
17	characteristic markings that are microscopic in nature that
18	are then transferred to a bullet or cartridge case in a
19	reproducible manner much like a mechanical fingerprint. By
20	looking at these microscopic markings in comparison with one
21	another, you can make an identification.

3 Q. So you are telling us that when a bullet is fired
4 through the barrel of a firearm that that barrel will leave
5 certain markings on that bullet that can conclusively
6 identify the bullet to the gun?

7 A. That's correct.

Arney also testified that casings and entire cartridges could be linked to a specific weapon because, he stated, "these markings are again unique to each weapon used."

The basic premise behind this science is this - every gun leaves its own fingerprint, a unique marking on every bullet and casing that it fires, a marking that is repeated exactly the same time each time the gun is fired. And in case you missed it, the science behind matching these ballistic fingerprints isn't exactly high tech. It's a simple visual comparison by a human examiner. While it sounds like this should be as neat and tidy as no two human fingerprints being the same, in more recent years this forensic method is being increasingly challenged in the courts.

In 2016, such a challenge resulted in a D.C. Court of Appeals finding that, "Claims that forensic experts can match a bullet or shell casing found at a crime scene to a specific weapon lack a scientific basis and should be barred from criminal trials as misleading."

As reported by the Washington Post, Judge Catharine Easterly's opinion came, "In response to an appeal brought by Marlon Williams, 36, of Southeast Washington. He argued that his murder conviction in the 2010 fatal shooting of Min Soo Kang, 37, of Fairfax County should be overturned because, among other things, a D.C. police forensics expert improperly declared a "unique" match between bullet slugs recovered from the victim's car and a handgun found in Williams's bedroom."

In the Williams case, the ballistics examiner testified that, "Those markings are unique to that gun and that gun only...item Number 58 fired these three bullets," referring to the handgun by its trial exhibit number. Prosecutors, in an appellate filing, called this testimony regrettable because forensic practitioners shouldn't be stating things with 100% certainty - this was a policy that they had put into place since 2009.

And that's because, the Post articles notes, "two National Research Council panels reported in 2008 and 2009 that there is no statistical basis to determine how often bullets fired by

different weapons might look alike, or even whether a firearm makes a unique, reproducible mark.”

[37:31] Colin Miller: Specifically, and alarmingly, the 2009 report stated, “sufficient studies have not been done to understand the reliability and reproducibility of the methods —that is, that the foundational validity of the field had not been established.”

That’s right. There is no foundation to the validity of this forensic field because there is no sound, statistical evidence that firearms leave their own unique and reproducible fingerprints.

And even if there was evidence that guns do indeed leave unique fingerprints, there is the glaring issue of how examinations are actually done - by human eye.

A 2004 appellate amicus brief, filed on behalf of a defendant, in UNITED STATES V. KAIN, a case challenging firearms toolmark identification, noted that, “toolmark examiners do not rely on any objective criteria as to how many and what kinds of matches between striae are necessary to justify identity conclusions. Instead, they make purely subjective identity determinations, and claim that their identifications are correct because of their experience and training.”

Now, The National Association of Firearm and Tool Mark Examiners itself doesn’t challenge the weakness of the methodology behind such identifications. In their response to the 2009 National Research Council report, they wrote that their definition of “practical certainty” for “a scientific conclusion” means only that, “an examiner . . . believes the conclusion to be true and accurate; . . . has rational grounds for [the belief]; and “acknowledges that, in the abstract, it is not possible to achieve absolute certainty for results flowing from a scientific theory or technique.”

If anything, their response adds another layer of weakness to this technique - the weakness of an examiner’s belief, in other words, cognitive bias, which has been proven to skew the results of forensic testing, even DNA testing.

[39:16] Rabia Chaudry: Now, under the Obama administration, the formation of a new council confirmed the inherent flaws in numerous forensic techniques. The President’s Council of Advisors on Science and Technology, which has since been disbanded under President Trump, issued a nearly 200 page report in September 2016 on how forensic science is used in criminal courts.

The report examined the role of cognitive bias in forensic testing, and then separately reviewed seven different kinds of forensic evidence commonly admitted in courts, like bite

mark and hair analysis, DNA analysis, and yes firearms identification evidence. In that section it noted,

“We observed that the Association of Firearm and Tool Mark Examiners “Theory of Identification as it Relates to Toolmarks”—which defines the criteria for making an identification—is circular. The “theory” states that an examiner may conclude that two items have a common origin if their marks are in “sufficient agreement,” where “sufficient agreement” is defined as the examiner being convinced that the items are extremely unlikely to have a different origin. In addition, the “theory” explicitly states that conclusions are subjective.

In light of the 2016 Council's report, Alex Kozinski, a conservative judge on the U.S. Court of Appeals for the Ninth Circuit wrote an op-ed for The Wall Street Journal titled “Rejecting Voodoo Science in the Courtroom”. In it, he referred to the council's report, stating that it “examines the scientific validity of forensic-evidence techniques – DNA, fingerprint, bitemark, firearm, footwear and hair analysis. It concludes that virtually all of these methods are flawed, some irredeemably so.”

Now, according to a 2018 law review article by Distinguished Professor of Law David Kaye entitled “Firearm-mark Evidence: Looking Back and Looking Ahead”, early courts- like really early, in the first half of the 20th century early - actually didn't allow conclusive firearm identification testimony. Courts allowed evidence comparing bullets to a weapon to be presented to a jury, so they could decide, but they wouldn't allow expert opinions on the subject to be entered into evidence.

[41:25] Susan Simpson: But by the 1950's, courts were allowing expert testimony on firearm toolmark identification, which then wasn't really challenged until the 1990s.

It would take another decade or so before courts began limiting the expert testimony relating to this identification technique. Some courts allowed examiners to only testify to how many features matched and didn't match in their comparisons. Other courts allowed testimony that projectiles had been fired from a particular weapon to a reasonable degree of certainty, but did not allow testimony that there was an exact match.

Professor Kaye notes in his article that the courts that put limits on such testimony are unfortunately “exceptions to the normal, uncritical acceptance of firearm-mark testimony.”

So yeah, in most courts across the country, firearms toolmark identification evidence is readily admitted, and juries eat it up, thanks to the CSI effect.

In Tennessee, this evidence is also still admissible.

[42:21] Colin Miller: In the case, Tennessee vs. Gerald Davis Thomas, a 2016 appellate case, the defendant challenged the State ballistic examiner's assertion that he could determine to a reasonable degree of scientific certainty that casings collected in evidence had been fired in from a specific weapon. The defendant relied heavily on the 2008 and 2009 National Research Council reports that we mentioned earlier, arguing the trial court should have limited the expert's testimony. But the Court of Criminal Appeals dismissed the claim, holding, "that expert testimony regarding ballistics matches is permissible".

In another case that same year, the Supreme Court of Tennessee also found that another defendant relying on the same National Research Council reports had "not demonstrated that the methodology or science underlying ballistics evidence is unreliable."

So yeah, Tennessee is pretty broadly pro-admission of firearm toolmark identification evidence. Which is too bad, but also leaves open the possibility of future legal challenges, because at Greg's trial this was the exchange between the prosecutor and forensic scientist Terry Arney regarding the bullets found at the Kolesnikow property:

15 Q. Were you able to identify those to the 9 millimeter
16 weapon?

17 A. Yes. They had all been fired through this 9
18 millimeter fire arm.

19 Q. Those exhibits, the bullets and the cartridges were
20 all fired by that gun?

21 A. That's correct.

12 Q. One of the bullets from the body of the victim was
13 conclusively fired through the weapon which is Exhibit 70?

14 A. That's correct.

And this was the exchange with regard to the bullets found at the Heron Farm:

11 Q. Did you perform an examination on those bullets and
12 on that shell casing to determine if they were fired from
13 this same weapon?

14 A. Yes, I did.

15 Q. The murder weapon?

16 A. Yes. The bullets had all been fired through the
17 barrel of this pistol. The fired cartridge case had been
18 fired by this pistol.

While the investigators were ultimately successful in matching the bullets and casings found both at the Kolesnikow property and the Heron farm to the Tec 9, they were still struggling with something kind of major.

They had been trying to figure out if Greg Lance could have accessed a Tec 9 from the National Guard Armory long before any weapon was found on Bohannon's farm. But when they checked a week after the murders with the National Guard where Greg was assigned, they were told that a thorough inventory of guns had been done and that nothing was missing. Furthermore, Greg's officer in charge, Jacky King, stated that Greg Lance had never been seen with a weapon at the armory or asked to be leant one. July of that year was the last time they had drilled on a gun range and it just so happened that Greg had missed duty that day.

And as for the Tec 9, they couldn't connect the gun to Greg. They followed every lead possible to track where the gun could've ended up after being at Sheppard's Auto Sales, but try as they might, they came up empty, as was duly noted in one of arson investigator Phillip Gentry's reports, which read:

We used ATF's K-9 in locating bullets on a rural farm in an adjoining county. These bullets matched ones from the murder weapon. We feel we have exhausted all leads on this case to match the murders weapon to the suspects.

[45:15] Rabia Chaudry: But you may recall, the gun didn't stand alone. The murder weapon itself was rigged in, well, a pretty unique way. About a 2 foot length of green nylon

rope, the kind you can easily find at Walmart or Home Depot or maybe even a dollar store, was tied neatly onto the rusty heat shield that wrapped the barrel of the gun, up towards the front of the gun, by the muzzle.

The other end of the rope was loose and frayed, and that was the end that Bohannon tied the gun to his fence with.

Strapped to the top of the gun was an ordinary small black flashlight, with black duct tape wrapped around it in two places, holding it secure to the barrel of the weapon.

It was not, in any way, shape or form, a fancy set up. It was a cheap, homemade modification to turn the gun into a weapon that could be used in the dark. And it explained how the killer could have crept in on Victor and Alla without turning on any lights, yet shot them with some precision. And the rope, well maybe that made it easier for the killer to carry the heavy, bulky weapon into the victims home.

Whatever the utility these low brow additions may have had in the Kolesnikow murders, they certainly came in handy for the investigators. That's because they realized tracing the murder weapon back to Greg was an impossible task, but tracing the rope and the flashlight back to him proved to be much easier.

Next time, on Undisclosed.

Greg Lance has been in prison since 1999. If you'd like to drop him a note of support, or a card, or anything to let him know you are following his story and thinking about him, address your letters to:

Gregory Paul Lance
ID# 00325463
Bledsoe County Correctional Complex
1045 Horsehead Rd
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