

UNDISCLOSED, The State v. Greg Lance
Episode 7 - Hurry Up and Wait
October 21st, 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.

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A quick note before we begin today's episode. Now, originally, we had planned for the Greg Lance series to be ten episodes. A couple of weeks ago we realized we might have to add one more, making it 11. Well in this past week, I realized we're gonna have to add one more. This series is going to end up being 12 episodes and 12 Addenda, which is great for our listeners and great for the case because there's a lot of stuff in this case that I don't want you guys to miss.

Having said that, we had said last week that we would be talking about the trial this week, but we're going to get to the trial next week. In today's episode, we're going to talk about the period of time between Greg's arrest and the very long 18 months he had to wait before he got his 'speedy' trial.

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[02:10] Greg Lance:

I didn't know anything was wrong until I got to prison and they gave me a job and I was having trouble showing up for work because I just couldn't get up. I went and seen the doctor and described my symptoms and they sent me to the

psychiatric thing and they diagnosed me with depression.

They put me on Trazodone- I don't understand this, every medicine they've given me but one has made it worse. They gave me all these drugs with horrible side effects that just make me even more tired and more depressed.

Rabia Chaudry: When Greg first told me about his depression, I was, frankly, pretty surprised. Because I hadn't ever sensed any depression or sadness from him during our conversations before, but it might be that anyone in his situation, who has been incarcerated for more than 20 years and is potentially facing the rest of their lives behind bars, would naturally suffer some level of depression.

But I have to say that Greg is one of the brightest people I've ever met, and I know a lot of very smart people -- after all, you all know how brainy my co hosts are. But Greg is intelligent in a way that I've rarely encountered. He has a memory like a steel trap, he remembers dates and times and names from decades ago, every filing he's ever done, and there are dozens and dozens of them, and every detail about his case as if it's tattooed on his brain. He's book smart too, well read, articulate, and cultured.

And he's diligent. God, is he diligent. I heard about his diligence from some of the people he managed construction projects for when he was a free man, how he was always on time, always reliable, always hard working. But I've seen it myself too, as I've combed through thousands of pages of his records. I've seen it in the hundreds and hundreds and hundreds of pages of handwritten notes he's taken over the years, in the legal petitions, many of which he's also written by hand, citations and all, referenced and cross referenced, and also in the hundreds of letters he's written to family and lawyers and judges and innocence organizations, with a level of self-advocacy I've never really seen until now from an incarcerated person.

Which is another reason I was surprised to learn of his depression, because I couldn't imagine anyone having his kind of persistence and stamina to keep fighting for a fair shake for 20 years, while also battling depression all that time. Because it has been all that time. He's been on depression medication ever since he was incarcerated.

And that fight for justice that he wouldn't give up, it began immediately, as soon as he was arrested- he didn't wait until after the conviction. Between the time of the arrest to the time of his trial, he didn't back down once.

Sometimes, though, that backfired.

[05:30] Rabia Chaudry: [Hi and welcome to Undisclosed; The State v. Gregory Lance. This is Episode seven. My name is 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 @TheViewFromLL2.

Colin Miller: Hi, this is Colin Miller, I'm Associate Dean and Professor at the University of South Carolina School of Law, and I blog @EvidenceProfBlog.

[06:12] Rabia Chaudry: As we mentioned in last week's episode, a grand jury returned an indictment against Greg on February 22nd, 1999, about six weeks before he was actually arrested. Now, we all know the old maxim on indictments - that a skilled prosecutor could get a ham sandwich indicted. In other words, the bar to landing an indictment is pretty low, mostly because the power in grand jury proceedings is completely in the hands of the prosecutor.

There's no judge, the prosecutor hand selects the jury, the defendant has no right to be present, much less to offer a defense, and all that needs to be done is to show probable cause. It's not an adversarial proceeding - there is no countering anything the prosecutor has to offer, which is why grand juries nearly always return indictments. In fact, a DOJ study found that "grand juries are notorious for being 'rubber stamps' for the prosecutor for virtually all routine criminal matters."

So, the prosecutors in this case got their rubber stamp, but it didn't mean they were done gathering evidence, because convincing a trial jury is an entirely other matter than convincing a grand jury. And of course, the most important evidence in a murder case is usually the murder weapon, which they had still failed to connect to Greg directly, green rope notwithstanding.

[07:30] Colin Miller: They had already polygraphed Robert Sheppard, the last known person to have the gun in his possession, to see if was lying about not knowing where it

went. He thought he sold it to Tommy Jones but that didn't pan out. He thought maybe it was stolen in a robbery from his store a year and a half earlier than the Kolesnikow murders, but that also didn't seem likely.

Investigators seemed to believe him, especially after he passed the polygraph, but also because they found him likeable and credible through conversation, and apparently trusted their own keen instincts.

If he wasn't lying then maybe, just maybe, Sheppard had truly forgotten what he'd done with the gun. So they came up with a plan. Or at least it seems Fire Marshall Phillip Gentry, whose name appears on all the notes related to this, came up with a plan. They would hypnotize him.

[08:21] A handwritten note dated February 5th, 1999 reads, "Sheppard is still good with hypnosis," and a February 14th date had been set up for the session. That would have been about a week before the Grand Jury was convened but something must have pushed it off, because Sheppard actually ended up being hypnotized on March 24th.

Gentry prepared a list of over 40 questions in preparation for the session, all relating to the TEC-9.

Do you know what a TEC-9 looks like?

Did you trade something for the TEC-9?

Where did you keep the TEC-9?

Did you give the TEC-9 to someone?

Did you trade or sell the TEC-9?

"Who???"

...is the next question, followed by three question marks.

And on and on, the questions revolve around any kind of information he could have possibly had about the TEC-9.

The list finishes with three final questions: First: "Do you know Greg Lance?" Second, "Do you know Keith Herbstreith?" Third, "Do you know David Anderson?"

[09:18] Susan Simpson: Unfortunately, despite this creative effort, Sheppard wasn't able to recall a thing about who he sold or traded or gave the gun to, or whether he'd even passed it on to anyone else. Gentry got no new information from Sheppard at all.

The next day, Greg was added to the TBI's most wanted list and the hunt for him was on. They were hunting for him because, apparently, they had no idea where he was at the time.

On March 10th, 1999, Officer Russ Winkler had visited Judy Pollard, Becky's mother and Greg's mother in law, at her place of employment to try and locate the couple.

Mrs. Pollard told Winkler that Becky had last called her the day before. She'd called collect, but hadn't told her mother where she was at the time. She did tell her, however, that she would be visiting her in a few days, on March 13th, and that she'd be returning to Tennessee for a doctor's appointment on the 16th for her pregnancy.

Winkler was able to determine the appointment was at 1:45pm on the 16th and so at 1pm that day, he set up surveillance at Becky's doctor's office, and waited. He finally gave up at around 2:30, though when she failed to show, and then he made another visit to her mother.

Mrs. Pollard told him that she hadn't heard from Becky since that last collect call, and she hadn't shown up at her house on the 13th like she said she would.

The next day, March 17th, Winkler called Mrs. Pollard again, to see if she had heard from Becky.

Here is what the report of that call says:

Rabia Narrating:

According to JUDY POLLARD, Becky called her collect on the night of 03/16/99. When asked, Becky did not tell her where she was at.

According to JUDY POLLARD, she told Becky that she and Greg needed to return to Tennessee so she could go to the doctor, and Greg could resolve his problems in Cookeville.

According to JUDY POLLARD, Becky told her that they were going to call and see if there were any warrants on Greg and if there weren't they were going to come back to Tennessee.

Well, there clearly was a warrant out on Greg, which could explain why they didn't return for the doctor's appointment. Or, it could be that Becky's mother told her that the police were looking for them so they stayed put in Florida.

[14:11] Rabia Chaudry: Among the reams and reams of documents we hauled from Greg's mother's house earlier this year, there is a typed single-spaced document around 50 pages long that chronicles the period between April 5, 1999 and November 6, 2000.

The document was created from handwritten journals that Greg kept on yellow legal pads after he was arrested.

The very first line reads: *5 Apr 99 Monday after Easter. Arrested 9am.*

Two days later, Greg was appointed a public defender in Florida, but there was an extradition warrant out for him, which he didn't fight. On April 8th, Greg signed a waiver to his hearing on the extradition and five days later he was transported to Tennessee by Agent Bob Kroffsik.

The very next day Greg met with attorney John Nisbet, who would go on to represent Greg up through his trial and conviction, even though, fairly early on, he tried to withdraw from the case. Nisbet immediately filed a bond motion, but the final hearing wouldn't take place until months later, in August of 1999.

In the meantime, Greg appeared in court on June 1st and pleaded not guilty to two counts of first degree murder, aggravated arson, and aggravated burglary.

His journal entries from that time note that he had been working on his personal and work history to give to his lawyer, but couldn't get far because he wasn't able to concentrate. He had a painful tooth, and despite repeatedly putting in requests to see a dentist to get it pulled, wasn't able to get it looked at. His bond hearing still hadn't been scheduled, and after reviewing the first discovery documents given to his lawyer on June 24th, he wrote "I wish they would make up their mind as to what I was supposed to have done".

[15:54] Colin Miller: The discovery documents may not have revealed the State's theory of how he committed the crime, but it didn't stop the media from running stories about what Greg purportedly did. In a June 29th entry Greg wrote, "There have been articles in the newspapers and radio about me. It has got me upset. They have told enough lies."

This was the biggest case that Putnam County had seen in a long time and the media was definitely all over it, reporting on every development from the day of the Kolesnikow murders and through to Greg's arrest, his trial, and ultimate conviction.

Greg's journal entry about being upset about the media was likely in response to an article that had run a few days earlier in the Cookeville Herald Citizen titled "Lance Tried to Hire Killer: TBI". This was information, the article noted, found directly in discovery documents given to the defense the day prior, documents that contained, from the details that were published in the paper, the statement of Mike Snow.

Greg had every reason to be upset at this kind of reporting - in any such case, it hurts the defendant's chances of a fair trial when the public, the potential jury pool, is already being fed information that undermines the presumption of innocence. And it's the way it's pretty much always been, with DA's and law enforcement willing to give the media official statements, and bits and pieces of information that supports their case, while the defense pretty much stays mum. And this filing was most certainly provided by the State to the media, because generally speaking, discovery filings are not publicly available.

A month after the article was published, Greg had his first bond hearing, in which the State first asserted they might seek the death penalty and would present three enhancement factors to the charges:

- 1) That the murder was especially heinous, atrocious, or cruel and involved torture or serious physical abuse beyond that necessary to produce death

- 2) That the murders were committed for the purpose of avoiding, interfering with, or preventing a lawful arrest or prosecution of the defendant and
- 3) The defendant knowingly mutilated the bodies of the victims after death

These “enhancements” are three of a much longer list of statutory aggravating factors that prosecutors in Tennessee can include in murder charges when they are seeking the death penalty, which existed when the Kolesnikows were murdered and still exist in the state today.

[18:11] Susan Simpson: A number of witnesses were presented at the hearing, including Joyce, Greg’s mother, who testified to the fact that Greg had been living with her in Florida since the previous December, at her insistence, because she felt he was no longer safe in Cookeville.

“The city police, the county police, whatever, were driving through his trailer park all hours of the day and night. And I felt like they were trying to intimidate him. And I was worried about him,” Joyce told the court.

Since moving to Florida, Greg was working at her business in a junkyard, repairing tractors and other mechanical work.

Joyce testified to some of the factors considered when setting bail: the defendant’s ties in the community, his previous criminal record, his employment record, where he would live if released on bond, his character, and his family ties and relationships.

Greg was married and going to have a baby, Joyce testified. Becky was there at the bond hearing, and stood up as Nisbet pointed out her due date was August 22nd, about a month away.

“One of the reasons,” Joyce said through tears at the hearing, “that we were really asking that Greg be released is so that he could attend, be in attendance, when his baby was born. Because Greg lost another baby. A little boy.”

Greg’s attorney then presented a number of witnesses who he had done construction jobs for, as well as a former high school teacher, who had nothing but praise for him.

[19:39] Rabia Chaudry: TBI Agent Kroffsik was first to testify for the State, and when cross examined by Nisbet cleared up one thing - that only he and Fire Marshall investigator Phillip Gentry had testified at the grand jury. Keith Herbstreith had not, and

neither had any other witnesses. Kroffsik went over the State's witnesses: Eric Tanner, Mike Snow, Keith Herbstreith, and the evidence like the green cord, the bullets found on the Heron farm, and the gun. But because he was unable to answer a lot of Nisbet's questions, the rest of the bond hearing was continued until August 13th at the request of the defense.

By the time of that hearing, the State had changed their mind. They were no longer considering the death penalty, they would instead be seeking life without parole. After conferring with Greg, Nisbet asked the court to proceed with the bond issue without calling any further witnesses.

Nisbet and the prosecutor then made their arguments, during which, not for the first time, the name Byron Looper was invoked.

Now, it's worth pausing here for a second to note that during the course of our investigation, Looper's name has come up repeatedly. At least half a dozen people have told me, "if you want to understand what happened to Greg Lance, look at Byron Looper's case."

If there was any higher profile criminal case in Putnam County at this time, it was the arrest and charge of Byron Looper for the murder of Tommy Burks on October 19, 1998, not long after the Kolesnikows were murdered. Burks was a farmer by trade, but also a politician from 1970 to the time of his murder in 1998, having served in the Tennessee House of Representatives for 8 years, and 20 years in the Tennessee State Senate.

He was assassinated one morning, shot and killed on his farm, about a month before he was likely going to be re-elected yet again. His Republican opponent was Byron Looper, the Putnam County Tax Assessor, who had his middle name legally changed in 1996 to "Low Tax". Low Tax Looper was arrested and charged with murdering his political rival, and Greg and Looper's cases ran along a similar timeline.

[21:47] Colin Miller: Looper had recently been granted bond in the amount of \$1.5 million dollars, and Greg's attorney Nisbet argued that while the State hadn't proven any of their enhancement factors against Greg, enhancement had been proven against Looper, justifying the high bond set for him. Nisbet asked the court to set Greg's bond at \$100,000. The DA, on the other hand, argued that Greg's bond shouldn't be set less than \$2 million, at least double Loopers, since there were two victims in the case.

Looper, like Greg, maintained his innocence throughout, and like Greg, his case involved TBI Agent Kroffsik and the same prosecutor, District Attorney General William Gibson.

Beyond these similarities, we haven't dug too much further into the Looper case. That would likely take an entirely new season of Undisclosed.

Getting back to Greg's bond though, the Judge settled on a \$1 million dollars which, of course, Greg was never going to be able to make, and no bondsman would take on.

He would stay in prison until trial.

[23:00] Susan Simpson: An article in the Herald Citizen from September, 24, 1999 declared "Lance's lawyer wants off case; Judge says no."

Attorney John Nisbet, along with filing a slew of other motions, had filed a motion a few days earlier to withdraw from the case, telling the court that he hadn't been paid. Lance, he argued, was indigent and he requested the court to find him indigent so that he could get a court appointed lawyer and get a bond reduction.

Unfortunately, the Judge was having none of it, at least not right then. The newspaper article reported:

Judge Burns denied all of the motions and told attorney Nisbet that he will remain Lance's attorney, even though his fee has not been paid.

The judge told Nisbet that among cases in years past here was one in which two Cookeville lawyers took a death penalty case with only a promissory note as a retainer fee.

And when that note turned out no good, the lawyers had to keep the case anyway, the judge said.

Seeing that the judge wouldn't let Nisbett withdraw, Greg went did the next best thing. He fired Nisbet right in front of the court.

The next day Greg noted in his journal that he had filed a request with the jail for a copy of the Tennessee Constitution and the Tennessee Annotated Code on bond reductions, indigency, appointed counsel, the 1996 Bail Reform Act, and the rules and guidelines for running a jail. His journal entry goes on to say, "I just want to cry. I am totally confused. I don't know what to do. John (Nisbet) didn't come to see me today. Mom and Jim didn't leave the paperwork with Becky. It all seems like a hopeless cluster to me."

Greg began spending his days reading the law and combing through discovery materials, cross referencing statements, highlighting inconsistencies, taking notes, and developing questions. He was doing all he could to arm himself for his defense, which is never easy from behind bars, but it at least made him feel a bit more in control.

In October, Greg had another indigency hearing, and this time he won. The Court declared him indigent, and appointed the same attorney, John Nisbet, as his counsel.

[25:05] Rabia Chaudry: That was a relief but Greg wasn't quite satisfied. His mother Joyce and her husband, Jim Tucker, were still looking for a private attorney they could afford, but with retainers of tens of thousands of dollars, weren't able to hire anybody. Nisbet often missed meetings with Greg and didn't follow through with the many, many requests and demands Greg was making, which frustrated him. He seemed more prepared for this case than his lawyer, and that wasn't good.

And then there was this - as he counted his days in prison, his baby girl had been born on August 17, 1999.

In a December 1st, 1999 journal entry Greg wrote,

"The Bible says to forgive 70x7. I'm past that point. When my little girl doesn't even know me, when I can't hold her, when I am forced to look at her and my wife through dirty bullet proof glass while burglars, car thieves, murderers, police and other infamous individuals are free to invade my most tender moments. My rights and the laws of the state and federal government are violated daily."

This is not the only time Greg expressed disbelief and consternation at his Constitutional rights being violated in his journal, it was his first real encounter with the legal system, and until that then he really thought the rights of defendants was treated as sacrosanct by authorities.

[26:08] Greg Lance:

I went to school, and even in college I believed in the system that it worked. I just didn't know.

Greg was no wallflower to his defense or the conditions of the prison. He filed repeated grievances and requests, quoted the law to his attorney, sent letters to the Court itself, wrote again and again to the ACLU, filed civil rights complaints, tried to contact Barry

Sheck, and did everything he could to be a thorn in the side of the system. Over the following few months Greg repeatedly filed speedy trial motions, determined to get to trial as soon as possible, convinced he would be acquitted. All the motions were denied.

[27:00] Colin Miller: Simply put, Greg wasn't happy with anyone, not his lawyer, and not even his defense investigator, Ronald Lax, who he found woefully unfamiliar with the case. But he did score a win when the judge responded to one of his requests and approved the appointment of a Public Defender to assist his existing attorney.

That Public Defender would be attorney Marshall Judd, who met with Greg for the first time in March 2000. Over time, Greg would come to be disappointed in him too, for missing meetings, for not knowing the case well, for not listening to his insistence that it wouldn't be enough to poke holes in the State's case - they had to mount a strong offense.

On May 11, 2000, Greg went to court with his attorneys, who entered a motion to have his case continued which infuriated Greg, who wanted to go to trial as soon as possible. So he entered his own motion before the judge, that the case either be tried or dismissed by May 22nd, which of course didn't fly, motion denied.

Greg wrote in his journal that day that one of Nisbet's clients was in a holding cell with him and told him that Nisbet hadn't won a trial yet, and Joyce advised him to get rid of him. He didn't, but he kept pressing on himself, filing ethics complaints and more half a dozen more letters to the ACLU.

In July, Greg went in for a competency evaluation to see if he was fit to stand trial. Greg wrote that he could've stood on his head and crowed like a rooster and passed, that's how low he knew the competency bar was.

This would be different than the psychological evaluation his attorneys arranged for him in September of 2000, again to see if he was fit to stand trial. The report of the evaluation reads,

"In the course of his legal representation by Mr. Marshall Judd...and Mr. John Nisbet...there has been increasing concern regarding evidence of Mr. Lance's deterioration in mental status which could potentially impair his competency to stand trial."

Greg's attorneys had in fact requested the Court to order the evaluation based on an affidavit by Nisbet in May of that year indicating, "increasing paranoia" that was hampering his ability to work with his attorneys cooperatively. The Judge granted the order.

[29:08] Susan Simpson: Now, this all seems rather alarming, but the truth is that the evaluation could have been in response to the persistent stream of requests, demands, letters, and filings that Greg was heaping on his lawyers, or it could just have been a routine defense tactic.

Nonetheless, Greg was put through an eight and a half hour evaluation with a battery of tests. At the end of the day, the doctors found him not only competent, but having a normal level of paranoia. Greg was, they found intellectually intact, receptive, clear, with above average logical skills, and above average to superior cognition, abstract reasoning, learning and higher level problem solving, with an IQ of 123. Basically, Greg was more than intellectually fine.

But when the evaluators told his attorney Marshall Judd, of the results, he raised a different concern - whether or not Greg appreciated the seriousness of the charges against him, whether he had the ability to appraise the likely outcome of his trial, and whether he could rationally and appropriately plan a legal strategy with his attorney.

[30:28] Rabia Chaudry: There were definitely lots of times Greg and his lawyers didn't see eye to eye on legal strategy. It's clear from the many letters that he wrote them, the motions he wanted them to file, and the evidence he wanted them to pursue as the trial grew closer, but it seems there were two major points of diversion that caused the most tension between them.

First, what story to tell the jury of where he really was the night of the murders, and second, whether to go to trial at all.

[31:00] Colin Miller: On August 4, 1998, the night the Kolesnikows were murdered, Greg got home after work, cleaned up, and then went to meet a woman at a local bar around 8 pm. From there, they went to a motel and spent a few hours together. Greg left the motel room after midnight, stopped by the Minute Mart convenience store to buy beer, and got home around 1 am.

That's the story Greg told his attorneys and defense investigator Ron Lax. But he hadn't told any of this to the police when they questioned him. He told *them* he had been at the

Happy Days bar from a little after 8 pm until midnight, and then come home around 1 am after stopping to pick up beer at the Minute Mart.

The investigators tried to check his story out but neither the bartender at Happy Days remembered seeing him and the Minute Mart store clerk didn't see him either. As far as the State was concerned, and as far as they knew, Greg couldn't account for his time that night at all, which was to their advantage.

But Greg's defense team knew that he could account for his time, and their most important work would be putting on airtight alibis for Greg during the trial. Part of the problem initially was that they weren't sure what part of the night he needed the alibis for.

Throughout the eighteen months the defense prepared for the trial, they repeatedly filed bills of particulars, a pleading that demands a more detailed statement of charges from prosecutors about the crime. Specifically, the defense wanted to try and prepare an alibi defense for the specific window in which the State alleged the crime had occurred.

The State's response was always 10 pm on August 4th, 1998 to 3 am on August 5th, 1998.

The defense knew through both the news and discovery documents that the first responders had been called to the Kolesnikow home around 3 am, but didn't exactly know what the State was alleging had been going on in the five hours before that, 10 pm and onwards.

Regardless, they knew if Greg was telling the truth about where he was, it could easily be verified, and alibis could be presented for that entire window of time.

So Ronald Lax, defense investigator, had set out to verify Greg's story not long after he was arrested.

[33:04] Rabia Chaudry: On May 20, 1999 Lax visited the Knight's Inn, the motel that Greg said him and his lady friend had checked into the night of the murders. Going forward we'll refer to that lady friend as Debbie, which is not her real name, but frankly there's no reason for anyone to know her real name, so Debbie it is.

The Inn manager found a guest registration card for a Mr. Greg Lance from August 4, 1998. Lax's report of that visit reads as follows:

*“(The) guest registration indicates there were two (2) in the party. **Greg Lance** signed his actual name and provided an address. He provided his driver’s license number. It was also indicated that he was driving a Ford with Tennessee License. If **Greg** was actually with a woman at this motel that evening, we definitely need to find this individual and question her. The time she last saw **Greg** will be crucial.”*

Lax may have thought finding Debbie and finding out the last time she had seen Greg that night was crucial, but for some reason the records show he doesn’t try to search for her for almost another year, on May 4, 2000. And by the time he found her and spoke to her over the phone, it was August 14th, 2000. And when he did, well he may have wished that he didn’t.

According to Lax, Debbie was friendly and cooperative and not only acknowledged knowing Greg but also spoke very highly of him.

She told Lax she had last seen Greg about a year and a half earlier when she was driving through his town and had his business card in her wallet. She remembered calling him on his cell phone and telling him she was in town and would love to see him, so they met up at a truck stop around 3 or 4 pm.

She said they parked one car and drove around together for a bit, with Greg showing her around Cookeville and even driving her through his trailer park, and when Lax asked her about the motel, she openly admitted that they did stay at a motel together. It was her recollection that Greg had paid for the room with a credit card.

Then she told Lax something that threw everything off. She said that Greg had stayed with her until 4 am, which was when she got up, dressed, and left for work.

Lax asked her again, was she sure that Greg was with her all night, up until 4 am, and she said he was.

The dilemma was immediately apparent to Lax, who wrote “Although this provides Greg a solid alibi, it is inconsistent with other facts...”

According to Debbie, she had been with Greg nearly 12 hours, from 4 pm on August 4th to 4 am on the morning of August 5th. Given that the murders occurred sometime

before 3 am, sure she could provide Greg a solid alibi, but that alibi would refute nearly everything Greg, Becky, Keith and Eric had told the police.

Keith and Greg both told the police Greg was at the mobile home park until around 8 pm. He had come home from work, taken a shower, and then went out to the bar. And Greg, Eric, and Becky had told the police that he was back home around 1 am.

And then there was this: the computer printout for the storage unit records showed that Greg had accessed his unit that evening at 8:13 pm and left at 8:20 pm. If Debbie was right, did that mean she went to the storage unit with Greg?

Lax was confused and decided he had to meet Debbie in person to ask more questions. A month later, on September 13th, 2000, a month before Greg's trial was scheduled in fact, Lax met her at a Houlahan restaurant in Fayetteville, North Carolina.

He described her as "female white, long brown hair, approximately 5 foot 10 inches and weighs 180 pounds". During their conversation, he wrote, he learned she was three months pregnant.

During their meeting, Debbie told Lax she first met Greg at National Guard in 1994. Currently, in the year 2000, she was a Specialist E-4 in the US Army and she planned on staying in the army until she retired.

She told Lax that she may have been wrong about when she saw Greg on August 4th, it could have been later in the evening when they got together. She also told Lax that while she didn't remember if she went to a storage unit with Greg that night, she might have, they had been driving around town together in Greg's green truck, and had driven through the trailer park he had recently purchased before they went to a bar to get drinks.

She had mentioned to Greg that she would be staying with a friend that night in another town but she was tired, so he offered to get her a motel room locally, which she thought was sweet. They went to the motel and ended up sleeping together, and again she told Lax that she was positive when she got up the next morning to get ready for work around 4 or 5 am, that Greg was still in the room.

Lax asked her if it was possible that Greg left sometime in the night when she was sleeping and she said it was possible but didn't think it happened. She remembered Greg kissing and hugging her goodbye before she left.

In his report of that meeting with Debbie, Lax wrote, "Of particular interest was Debbie's comment that Greg told her, during this encounter, he was getting married in the very near future to a girl he had met, although Debbie could not recall the girl's name. Her relationship with Greg Lance was purely physical and she thought he was a great guy and very attractive, but they were not romantically involved."

[38:36] Colin Miller: Debbie told Lax she hadn't seen or spoken to Greg since that night, but a mutual friend had told her he had been arrested for murder. She found it "extremely difficult to believe Greg would be responsible for these types of murders. According to Debbie, Greg was the type of person who never raised his voice, never got angry, and was extremely laid back."

Debbie was eager to help Greg with his defense and told Lax she would welcome arguing with the prosecutor if she was put on the stand.

Lax's report then lays out the difficulties posed by presenting Debbie at trial as an alibi witness saying Greg was with her until 4 am:

"I do see a definite advantage in being able to place Greg with Debbie throughout the evening of Tuesday, August 4 , 1998. Most people, I feel, would agree that it does not seem consistent that an individual would be involved in a sexual tryst with this woman, leave and go buy a 12 pack of beer, go home to his fiance, and then get up in the middle of the night and go commit arson and double murder. Having stated that, I also see a very real danger in our proving Greg could have left his house undetected by Becky and returned to the motel room where he spent the remainder of the night with Debbie. I am afraid the argument could easily be made if he could slip out of the motel room without Debbie knowing and then slip back in without her knowing, he would have ample opportunity to commit the murders and still be back at the motel room at 4:30 when Debbie awoke. I also have some concern Debbie would not handle cross examination well. Although her background, as far as the military, is good, I see how she might be disliked by female jurors. The fact she is currently pregnant and unmarried might also have some impact.

Personally, I am still having difficulties making sense of Debbie's statement. She seemed to truly believe Greg spent the entire night with her, however Greg himself admitted he left at 12:30 am and did not go back. We know at 12:40 he was at the Minute Mart and the only answer would be if he did go to bed with

Becky, allow her to either pass out or fall asleep, and then get up and return to the motel room. However there may be some advantage to him wake up with Debbie and her statement that he did not smell of gasoline, seem nervous, or different in anyway.

I still feel the fact that he is able to enter and leave, both the motel and Becky's bedroom, without detection somewhat disconcerting."

[40:50] Rabia Chaudry: Debbie being in the picture presented no good choices, as far as Lax was concerned. If Greg and Eric and Becky were right, that meant Greg left the motel room without Debbie ever realizing it. And if Debbie was right, that meant Greg was sneaking around all night, in and out of bedrooms and motel rooms, and making a pit stop to kill the Kolesnikows.

None of it made sense to him. But it did make sense to Greg.

Debbie, he figured, was simply forgetting. No one had even spoken to her about the events of that night until nearly two years after the fact, whereas he, Becky and Eric had given their statements about him being back home around 1 am the very day of the murders.

He had hugged and kissed Debbie goodnight before he left, but that was a bit after midnight, not 4:30 am. He knew it for a fact, but it seemed his defense team thought it was a better strategy that Debbie be presented as his alibi for the entire night.

Here's what Greg had to say about it in his journal:

"Ron Lax and Marshall came in to see me at 4:30, they talked to the woman. They want to use her even though she contradicts the testimony of all other witnesses. I told Marshall and Ron they were not to use her as a witness and they were not to give her name, address, or any other information to the state. They argued with me over and over until they left at 6:20. I was still 100% against using her. I told them that we have been telling them the exact same circumstances since the beginning and that she is mistaken on a lot of what she is saying. They want me to allow them to present a lie in court because they think it is more believable than the truth."

Now Greg ultimately won on this issue - Debbie was never presented as an alibi, she never testified at his trial.

The second big point of contention between Greg and his lawyers that likely drove them to get that psych evaluation for him wasn't just about trial strategy, it was about whether they should go to trial at all.

The DA had made a written plea offer of second degree murder, but Greg wouldn't consider a plea deal at all - under no circumstances was he prepared to accept responsibility for a crime he didn't commit.

His lawyers tried everything, telling him they would get him an 8-12 year sentence, and he would only serve 30% of the time, and they begged his mother to pressure Greg into saying yes.

[43:33] Joyce Tucker:

Greg called me, I was in Florida. I don't think I understood what they were saying, you know hindsight's 20-20. Greg didn't do this, but they were asking him to take a plea. In my mind I remember it being like time served, and a small amount of time just to keep everybody settled down, if he would plead to manslaughter. They had been talking to Greg, and Greg just said "No, I am not going to plead guilty for something I did not do." And I agreed with him, you know, I'm standing there telling them too, "No, why would he plead guilty to something he didn't do?" I believe in the justice system. Everybody knows Greg did not do this. Little did I know that 12 jurors would believe it because cops and crooks said that he did. You know, I had no idea.

[44:59] Greg Lance:

Well, John Nisbet actually did put a lot of pressure on Mama, and Becky, to get them to pressure me to take the plea, and Mom's like, "I ain't doin' it." You know, Becky's the same way. She's like I'm with you forever no matter what, I'll stick with you.

Not long after his psych evaluation, Greg wrote in his journal that his lawyers spent hours at the prison trying to convince him to take the plea, and tried to make his case sound as bad as possible. But he thought, with the right preparation, they could win at trial, but he wrote, "they blew me off on the expert witnesses". The expert witnesses that he wanted to retain.

Marshall Judd and John Nisbet did what most defense attorneys would do, they tried to convince him to take the plea until the bitter end, the night before the trial.

[45:45] Joyce Tucker:

I do know that they called me late at night and they said "it's got to be done today. We need you to go ahead and tell us that you will accept it, and that you tell Greg that you had accepted it", or something, to go ahead and accept it. I wouldn't do it. You know we just...he didn't do this.

Greg refused the plea deal one last and final time, and on this issue, like the Debbie issue, he won against his lawyers.

But for the past 20 years, he wishes he hadn't.

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
Pikeville, TN 37367

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finally, thank you to all of our listeners for staying with us case after case, year after year, Follow us on social media. We're on Twitter at the handle @UndisclosedPod, and remember to tweet us your questions for the Undisclosed Addendum using the hashtag #UDAddendum. We're also on Facebook and Instagram and our website is www.undisclosed-podcast.com.

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