

Episode 2



Season 1 : E2 - The 11th Hour Witness: A Star Witness is Born

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Episode Description: Hours after the crime, police began interviewing potential witnesses in an effort to find out who killed Bill Little. The detectives engaged in a desperate hunt for 9 years. As time went on, stories changed several times and a star witness was born at the 11th hour. Five months before Jamie's trial, the man living next door to the gas station suddenly recalled seeing Jamie flee the scene of the crime, even though he previously chose other suspects from the line up, and even confided in a friend that it definitely wasn't him. After a private meeting with the State's Attorney, Danny Martinez pointed the finger directly at Jamie Snow. This second episode of Snow Files compares all five versions of his story against investigator and police testimony, and explains just how faulty eyewitness testimony can lead to a wrongful conviction.

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Music Intro: Injustice Anywhere presents Snow Files: The wrongful conviction of Jamie Snow and how they got away with it.

Jamie Snow: I wanted to talk a little bit today about the testimonial of Martinez. I hope by the end of the crime scene, the night of the crime, witnesses Martinez, Paul Williams and Jeff Pelo that I've been able to paint the picture that I'm hoping that everyone should see. And that is no, this isn't a case of mistaken identity on the part

of Danny Martinez. This is a case of a witness absolutely lying about seeing something. And the state knew it, and they used him anyway.

So a couple of the things that really stood out to me when he testified was... You know, and there was a lot of things. A bad thing about the Illinois legal statutes is that a lawyer is only required to turn over to you the materials that he deems is necessary for you to assist in your defense. And there's a terrible breakdown in that when you're being represented by attorneys who have no clue what they even have in the first place. So the defense will probably go through the materials with a fine tooth comb, a lot like I have when I got it.

But one of the hardest things that ever happened to me was when Danny Martinez pointed the finger at me in the courtroom. And I knew that he had said in my co-defendant's trial that he was about 85% sure I was the guy that he saw. And then he pointed the finger at me and was like, I'm 100% sure that's the guy I saw coming out of the gas station. I mean, that was a terrible moment for me. One of the things that really stood out to me was when he was testifying, that he came face to face with this guy, and that they were 1 to 3 feet away from each other. And that the guy was the same height as him, 5'7". I'm 6'1".

His whole story about he saw the guy coming out of the gas station while he was crouched down by his tire. And that he had gotten up and was walking towards the guy, and stopping and turning and looking at the car and stuff. You know, all that was being observed by a couple of police officers. But I mean, the person that had come out of the gas station if that would have been true... I mean, he must have been moving in slow motion. Because for the guy to have come face to face with him after just shooting someone, coming out of the gas station. You know, and he was still crouched down by his tires. It's just not plausible.

One of the other things that surprised me... Well it didn't really surprise me, but kind of stuck out to me, was the fact that, you know... All of his police reports, all of his contacts with the police, he never said anything about, the guy looked like he'd been up all night. Like he'd been up drinking and doing drugs. When you look at the police reports and you see that he'd never said that before, and then you'd see that okay now he's testifying to that. And oh my goodness, wouldn't it just fit in perfectly with the state's case? Because now they've got these jailhouse snitches saying, oh well he told me they were out drinking and doing drugs. It just fit perfectly. And when you look at it like that, it's clear that they were feeding him information. And I didn't know

that at the time of trial. Some of that stuff I didn't even know because I hadn't gotten all the police reports. I didn't know that... I think I did know that he picked out a couple pictures on the night of the crime, and said it's between these two. Neither of which was me. But I didn't know what they looked like. My co-defendant's lawyer got those photos and used them at trial, but mine didn't.

I didn't know that when we were doing the live line up, he picked out a guy named Steve VanNote, who incidentally I do remember when they were going around the jail trying to get guys to stand in the lineup. Steve VanNote was like, I don't know, I think I was in jail that night. Check and make sure that I was in jail. If I was in jail, I'll stand in the lineup, but if I wasn't I'm not doing it.

I didn't know he picked out Steve VanNote. I didn't know that when they were showing him the multiple photo lineups later in 1991 and then again in 1993 that they had multiple pictures of me in the lineup -- but that he'd also picked out a guy named Charles Renfro. I didn't know that. That's stuff that never came out. I was a little surprised when my attorney did try to impeach him for asking some questions about the fact that Bill Little's mom was calling Danny Martinez on the phone. That his number had been provided to Bill Little's mom by the detectives. They gave her the number, and she was calling him on the phone before he ever identified me. My attorney did try to ask about that, and the judge shut him down. I think we should all know what they were talking about.

So you know, those are some really important observations by me. A lot of it I didn't know at the time. The state argued that jailhouse informants corroborated Danny Martinez. And Tina Griffin argued that I didn't want to stand in the lineup, which I didn't want to stand in the lineup. And my not wanting to stand in the lineup was corroboration for Danny Martinez. Well, if Danny Martinez is lying, if he didn't come face to face with anybody in that parking lot that night, no one can corroborate what he said. It's just a flat out lie. And that's my position.

I don't think that Jeff Pelo missed the suspect. I'm absolutely positive that Paul Williams didn't miss the suspect. They were called to respond to an armed robbery/silent alarm. They were trained observers. They were focused in on the gas station. They were focused in on Danny Martinez. And I don't believe that suspect was able to sneak out and get around the corner with all these people watching the gas station the whole time. And I'm really hoping that when you guys review all this stuff... And that's what I really want you to do, I want you to review everything so that

you can really make an honest and educated, fully informed decision and have an opinion about this, that you'll come to the same conclusion. And if you do, I hope that you are as disgusted and outraged by it as I am.

There's a legal standard in Illinois, as you know, that the state is allowed to strike hard blows but they're not allowed to strike foul blows. And they're not only in charge of ensuring that justice is served for the community, but it's their job--the prosecutors--to ensure that someone gets a fair trial. The defendant. And you know, putting people on the stand to lie about things, and it's a terrible thing. I mean, if you look at the causes of wrongful convictions, the number one cause of wrongful convictions in this country is faulty eyewitness identification. I mean, it's even worse when you're putting an eyewitness on the stand to testify to something that you know isn't true.

I kind of get why the courts and the judges and the appellate courts and the federal courts and the circuit courts, they just don't want to admit that something so terrible and offensive to the system itself actually took place. They don't want to admit it. So my hope is that everybody will see it, and that you will help us force them to admit it. And I don't care what people think of me personally. I know there's probably a lot of people in the Bloomington Normal area that don't really care for me, and I understand that and I accept it. But you have to think about it in the terms of you know... if they'll do this to me, if they'll put that kind of evidence on the stand and use it against me, they'll do it against someone you love or care about as well. Don't ever think that they won't. Because you know, you guys set the standard.

We believe... You know, there was almost \$10,000 worth of reward money out there that has completely vanished. And this is something that maybe you guys listening can help us with. We want to find out who got that reward money. Mitsubishi Motors put up \$5,000. Crimestoppers put up \$2,500. That we know of. If anybody can help us figure out how, or maybe what we can do to try to get the reward money, man that's something that you guys can help us do. We believe--I do--that Danny Martinez received a portion of that. I mean, he was 85% sure at my codefendant's trial and he was 100% sure at mine. So I think maybe, that may have played a role in it. And coming up soon, we're going to talk about Carlos Luna and Gerardo Gutierrez and how all of that played out.

One of the things that also stood out for me later on after we started filing FOIA requests and stuff, the state came up with this whole story about how they called

Danny Martinez down to their office. I mean, this was their scenario. We called him down to our office in July of 2000 for trial prep. You know, they were going to prep him for trial. Now this is a guy who didn't testify to the grand jury. This is the guy that in July of 2000 had never identified me. In fact, he had failed to identify me. Every single time they tried to get him to identify me, he failed to identify me. His description of the guy was somebody that was 5'7". And they would have us believe that they were calling him down to their office to give him some trial prep because they were actually going to call him as a witness to testify to, the guy you saw was 5'7"? He stood in a line up, you didn't pick out Mr. Snow. You picked out these other two photos of these other guys, but it wasn't Mr. Snow? You looked at different photo lineups, and there were multiple pictures of Mr. Snow in there, but you didn't identify him?

So they would have you believe that they were going to actually call him as a witness and present that evidence, because that's all they had at the time. And what I think is really disgusting about that scenario, we find out that they were meeting with him in April of 2000, in May of 2000, in June of 2000. All of them together--attorneys, the detectives, Jeff Pelo. And he never said, "Hey, that dude you arrested. That's him. That's the guy." And something else that my lawyers didn't do that really, I think is just the craziest thing ever, was they didn't call the investigator Mark Foster to testify about his conversations with Danny Martinez. You know, they didn't call him down to their office for this little pre-trial interview until they found out that Steve Skelton was going to subpoena and call Danny Martinez as a defense witness. He was going to be a defense witness. Danny had told Mark Foster that he saw my picture in the paper and that I was definitely not the guy that he saw. And that he thought if he ever saw the guy again, he'd be able to identify him. But that I was definitely not the guy he saw. And my attorneys never talked to this investigator, and they never called him to the stand. But we've got his testimony and you guys can read exactly what he said. It is the greatest, the biggest smoke screen house of cards that you could ever imagine. And I hope that we can work together to clear the smoke and knock down the house of cards.

Bruce Fischer: Martinez testified in Jamie's trial that his family had a particular tradition on Sunday nights. They would sit down and watch TV together. He would go to the Clark station to get some pops, and his wife would make popcorn. Martinez also testified that he had a car tire that would go low. So he took his car with him so he could put some air in that low tire. He stated that when he got to the parking lot, he started to put air in his tire. And while he was doing that, he heard two bangs. He

thought maybe his car was backfiring. After putting air in his tire, he started walking towards the gas station. Here's an excerpt from Martinez's testimony from Jamie's trial.

(Re-enactment)

Prosecutor: And as you walk towards the gas station, do you notice anything? Observe anything?

Danny Martinez: Well, when I was putting air in the tire, I saw a gentlemen coming out of the door backwards. And I didn't notice anything. You know, it just... I started walking towards the station. And I heard my car was about to die so I turned around. And when I turned around, I ran... didn't run into a person, but I just was maybe a foot three, a foot apart from the gentleman that was there.

Prosecutor: Okay, so when you initially saw the individual they were backing out of the door?

Danny Martinez: That's correct.

Prosecutor: And then you turned around to look at your car, and then you turned back around to go into the station, and you were kind of face to face for a while?

Danny Martinez: That's correct.

Prosecutor: Could you just say what you did observe about that person? What did they do?

Danny Martinez: The person stopped the same as I did. We were both surprised. It's just like if you're about to run into someone, and you turn around and...

Prosecutor: So after you noticed that about this individual, what did you do?

Danny Martinez: Well, I started walking towards the gas station. At that time, I heard somebody say, "Hey, hold up" or "Stop." I had turned around and I saw an officer across the street. At that time, there was a pickup that pulled up into the gas station. And the officer had said to the person in the pickup to get out of here or take off. And then I don't know if he recognized me from being the next door

neighbor. He asked me if I had saw anything. And I told him yeah, I had just saw a gentleman go around the corner.

Prosecutor: Why were you walking to the station? Were you going to pay for the air in your tires or buy drinks?

Danny Martinez: No, I was going to buy drinks.

Prosecutor: You, as I recall your testimony, then saw a man backing out of the gas station. Is that correct?

Danny Martinez: That's correct.

Prosecutor: And about the same time he turned around is when you were about three feet from him and you looked into his eyes, correct?

Danny Martinez: No. I stated that I was going... When I was pumping air in the tire, I saw a gentleman coming out of the gas station. I started walking to the gas station. I heard my vehicle was about to die. I turned around. When I turned around, I saw a gentleman there that was surprised the same as I was surprised that we were both there.

(End re-enactment)

Bruce Fischer: Recall that Officer Pelo was the officer on the scene that parked behind the credit union and approached on foot. Here's an excerpt of the questioning of Officer Pelo.

(Re-enactment)

Prosecutor: Did you happen to notice anything around the station itself then?

Jeff Pelo: The main thing I noticed was a vehicle on the southeast corner of the lot by the air pump.

Prosecutor: Did you see anybody around that vehicle?

Jeff Pelo: There was a man putting air in, I believe it was the right front tire of the car.

Prosecutor: And did you do anything once you made that observation, then?

Jeff Pelo: One of the initial things I did was, I can't remember exactly when I did it. But I did indeed run the license number of that vehicle.

Prosecutor: And did you have any problem when you did that?

Jeff Pelo: Yes. The dispatcher wanted to argue about me giving it to her.

Prosecutor: So did you have a little disagreement with dispatch on the radio, then?

Jeff Pelo: Yes. We had kind of a prolonged conversation back and forth about why she should write it down.

Prosecutor: Okay, and were you asking her to hold that license plate?

Jeff Pelo: Yes, ma'am.

Prosecutor: And what did that mean?

Jeff Pelo: Holding means just simply to write it down in case it's needed later. We have a record of it.

Prosecutor: And when you said that you were kind of having that prolonged conversation with her about that, you kind of leaned over into your microphone that you were wearing?

Jeff Pelo: Yes ma'am. We had to talk and look down at it. Yes.

(End re-enactment)

Bruce Fischer: Pelo used the term prolonged conversation. But according to the dispatch tape, the exchange from the time Pelo asked to run the plate until he asked her to hold the plate was approximately 20 seconds. He also says he had to talk and

look down at his radio. That doesn't even make any sense. Are you starting to see how they got away with it? Officer Pelo on cross examination testified as follows:

(Re-enactment)

Attorney: Okay, all right now after you're in dialogue with dispatch over running the plate on the Martinez vehicle, what did you do next?

Jeff Pelo: Again, I can't put... I remember running the plate, doing other things as I was walking. I remember crossing the street. I remember at one point Mr. Martinez walks towards the station. And then I remember him getting back in his car. And I remember him leaving the lot. I can't recall whether he backed out or u-turned through the lot. I walked up on the east side of the lot.

Attorney: And I gather from what you've told us, he turned around, walked to his vehicle, and drove away?

Jeff Pelo: I don't remember seeing him turn around. I remember him walking towards the station. And I remember him getting back in his car, as he was coming back to get in his car.

Attorney: Officer, do you recall telling Mr. Martinez to leave the parking lot as you were approaching on foot?

Jeff Pelo: No, I never told him that.

(End re-enactment)

Bruce Fischer: On redirect, it's clear by the questions asked that the state was trying to imply that maybe Martinez heard Officer Pelo talking to the guys in the pickup truck that had pulled into the lot, telling them to stop or back up. And that would explain why Pelo said he didn't talk to Martinez before he left the lot. This is important to remember, Pelo explicitly testified that he doesn't remember Martinez turning around. However in March of 1999 during his interview, Pelo described every movement Martinez made as he was watching him, stating that Martinez got up from airing the tire, walked towards the Clark station, stopped, turned back to look at this vehicle, and then turned around to proceed back to the Clark station. Pelo stated that Martinez then stopped a second time to look at his vehicle again. He

then walked back to his vehicle and left the parking lot. Pelo even added that he never spoke to Martinez at all, and also described the distance from the store before Martinez turned around.

The evidence from Pelo's taped interview and the dispatch tape proves without question that Martinez left the lot before the truck pulled in. The state knew about Pelo's taped 1999 interview, which was conducted 16 months before Martinez identified Jamie, meaning that the state knew that it would have been impossible for Martinez to see what he testified he saw without Pelo seeing a person nearly run into Martinez. Jamie only heard this tape when he went pro se in 2005 and received discovery. The Pelo interview tape was never used in Jamie's trial. The jury never heard this evidence.

Mark Foster was an investigator for Susan Claycomb's defense attorney. Foster gave stunning testimony at Susan's trial. Foster testified that his first in person contact with Martinez was on July 13, 2000 at Martinez's residence in Bloomington. Foster testified that in his first meeting, Martinez was cooperative but hesitant. Here's an excerpt from that testimony.

(Re-enactment)

Attorney: Let's focus on the 13th if we could please. What, if anything, did Mr. Martinez tell you about his ability to identify the person he saw coming out of the Clark station?

Mark Foster: He stated without a doubt that if he saw the person again, he could identify the person.

Attorney: Moving on to your next conversation, is that the entirety of the portion of your discussion that you had with Mr. Martinez on the 13th? I believe it was relating to the identification.

Mark Foster: We talked about Mr. Snow at the time, too.

Attorney: And what did he say, if anything, in reference to Mr. Snow?

Mark Foster: That it was definitely not Mr. Snow that came out of the Clark station.

(End re-enactment)

Bruce Fischer: Martinez had seen the pictures of Susan and Jamie when they were arrested in 1999. He was referring to the picture in the newspaper when he stated to Foster that it was definitely not Mr. Snow that came out at the Clark station. After this identification, Foster reported the July 13, 2000 encounter to Steve Skelton, Susan's attorney. And Skelton put Martinez on the defense witness list. On July 18, 2000, Martinez was called into a private meeting at the state's attorney's office. Present were Assistant State's Attorney Tina Griffin, State's Attorney Charles Renard, and Detectives Katz and Barkes. Martinez identified Jamie from a picture from the Pantograph, and a picture from an in person lineup he attended in 1991, in which he failed to identify Jamie but asked two others to move forward. At that time, Martinez was put on the state witness list.

On July 28, 2000, Foster returned to Martinez's residence to ask Martinez about the distance that separated him from the person he saw coming out of the station. During the course of the conversation, Martinez informed Foster that he identified Jamie as the person coming out of the station. Mark Foster testified:

(Re-enactment)

Attorney: What statement, if any, did Mr. Martinez say to you on the day of July 28th concerning identification of the person that he had seen on Easter Sunday 1991 coming out of the Clark station?

Mark Foster: On the 28th, Mr. Martinez had informed me that he identified Jamie Snow as being the one who had left the Clark station.

(End re-enactment)

Bruce Fischer: Let's talk about July 28, 2000. It was a busy day. On that day, the same day that Martinez ID'd Jamie Snow in a private meeting at the state's attorney's office, Claycomb's attorney Skelton and state's attorney Renard met to discuss a few case issues. Although general matters were discussed, Renard never revealed that Martinez had identified Jamie previously that day. This is the topic of the pretrial motion. In addition to an attempt to get the ID thrown out because it was

coercive, Skelton asked for sanctions against the state for failure to disclose Martinez's identification.

The State's Attorney's Office did not take any notes or write anything down from the meeting with Martinez. And State's Attorney Renard argued vehemently that it wasn't Brady material because it was not memorialized, even though Detectives Katz and Barkus told almost every witness how important it was to record interviews. And even though Detective Crowe made meticulous notes during his seven year investigation on this case, this seasoned group of law enforcement that included the McClain County State's Attorney neglected to memorialize on tape or in writing this critical moment when Danny Martinez identified Jamie after nearly 10 years.

Skelton lost on both accounts, but the transcripts are well worth reading. Foster testified in the pretrial motion held August 14, 2000 that when he met with Martinez on July 28, 2000, Martinez told Foster - off the record - that a detective showed up and showed him a photo of the lineup. And that's when Martinez IDed Jamie. Martinez stated several times during that conversation that it was his understanding that they had a lot of evidence against people that were in jail, so they must have the right people. None of this information ever made it into Jamie's trial.

On August 10, 2000, Foster again contacted Martinez at his residence, but Martinez would not talk to him. Martinez told Foster he was upset because Foster shared info off the record with the defense team. Martinez said they would talk at a later time, but they never did. At the time of trial, Jamie only knew about six encounters that Martinez had with law enforcement. We saw a few early meetings that were unknown to Jamie before, but of great concern are the meetings with Martinez shortly before he identified Jamie. All of these meetings were not known to Jamie.

There was a meeting in the summer or fall of 1999. Katz says he did trial preparation with Martinez. Later in his testimony Renard poses a question to Katz, and he clarifies it was actually in April of 2000. There were meetings on and off from the fall of 1999 to July of 2000. Katz testified that he had intermittent contact with Martinez, contacting him up to six times. There was a meeting in April of 2000 at the Bloomington Police Department with Assistant State's Attorney Griffin and State's Attorney Renard. Detectives Katz and Barkus may have also been present. They discussed the night of the crime, showed crime scene photos to Martinez so Martinez could point out where he was that night. This meeting could not have been trial prep, because Martinez had not yet been served a subpoena.

There was a meeting in late May or early June of 2000 at the Bloomington Police Department with Assistant State's Attorney Griffin and Officer Pelo. Detectives Katz and Barkus may have been in and out of that meeting as well. Both Pelo and Martinez were trial witnesses. Why were they in on the same meeting discussing the case before they testified? Martinez testified that when he saw the arrest in the paper, that the only person he told was his wife. This was 10 months before he actually ID'd Jamie in that private meeting. Before the time Martinez saw the picture in the paper and the time he ID'd Jamie in the office, which was 10 months later, Martinez was contacted by the state approximately nine times. In each of those meetings, he never said, "Hey, the guy from the paper. That's the guy." All of these meetings and contacts were never mentioned in either trial.

Okay, as we started our discussion here with Tim and Lesley, we've obviously been focused on Danny Martinez and how he went from basically just a bystander at the crime scene to their 11th hour star witness. So Lesley, let's get into the testimony. What stood out for you the most, with Danny Martinez's testimony over the years?

Lesley Pires: Well, there are five different stories that Martinez gave over a 10 year span, and they got more elaborative with every telling, eventually building up to the point that he becomes a reliable eyewitness to a supposed armed drug addict fleeing the scene after shooting somebody. And it's important to note that one of the first deviations began when he had to explain why an officer didn't chase the suspect he had just reported fleeing the scene. In his first police report, he says he didn't talk to any officer until he was already at his house, which is also what the officers reported. But then eight years later, after cold case detectives started to implicate Jamie in the crime, he changes that story and puts himself back on the scene when an officer was actually chasing somebody else off the lot. So he took that opportunity to claim that dialogue and say it was him that reported the suspect that just went around the corner.

And later, he also decides that it's a good time to throw in that the suspect had something under his coat. The detectives actually brought that up to him, to account for a weapon or the missing cash register drawer. And later at the pretrial for Jamie's codefendant, over one year later, eyes got brought into this all the sudden. Martinez made an accusation for the first time ever that the suspect wasn't only surprised but that his eyes appeared wide because he was under the influence. And he kept elaborating on the eye issue at the actual trial. And he says he was

paying so much attention to them that they made him 85% sure it was Jamie coming out of the station. And that story just kept growing. And five months later, he took the stand against Jamie and says he was actually close enough to the suspect to hold eye contact. So he can just never forget those eyes. He's now 100% sure it was Jamie.

Tammy Alexander: When he's talking about the eyes... The first time he talks about him being under influence is at Susan Claycomb's pretrial motion. So it goes from, in the very beginning he was surprised. They looked at each other and they looked surprised. And that's all he says all throughout those years. And then all of a sudden, he looked like he had been up all night under influence. He looked like he had been doing drugs and drinking all night, which is kind of an odd thing to say since it was all day. Right? Because it happened at 8:00 that night. But I just think that's a really important point about the eyes.

Also, in Susan's trial he was 85%. Sure. Well, she was acquitted. So it had to be 100% with Martinez. What's really important about Martinez, people want to say that he was not the star witness. That... because they've discredited him in the courts. But he was the star witness at the time. Now remember that Susan would not testify against him. They had to have somebody besides a bunch of jailhouse informants. He was a star witness. There is an article in the Pantograph after the trial:

A juror who asked not to be identified was quoted in the paper, as saying that Snow's testimony failed to adequately refute the allegations against him. He said, I don't think it was specifically incriminating. But his testimony failed to answer a lot of questions and accusations that could have been answered, or should have been answered more easily. The juror said that the most compelling evidence was a number of witnesses who testified Snow made statements implicating himself in the shooting. Also important was Snow's ID by Danny Martinez, the juror said.

Jamie Snow: I really wanted to comment on this juror. One of the things that... Well there's a couple of troubling things to me about what this juror said. You know, of course, what I've been saying all along is Danny Martinez's identification was critical in finding me guilty. And it's extremely disingenuous by the circuit courts and the appellate courts and the federal courts to say that he wasn't an important witness. Clearly he was. This is the words of a juror saying his identification was critical. That bothers me.

But what really bothers me more than anything is that clearly that jury member didn't understand his duty as a juror, in that he was basically saying that I had to refute. I had to rebut the charges and the accusations, which is absolutely not what I had to do. I didn't have to testify. Every single juror was questioned during voir dire. And they were asked specifically, and I remember it like it was yesterday. They were asked specifically, you do realize that as Mr. Snow sits there right now he is considered to be innocent. That he retains that innocent until or unless the state proves beyond a reasonable doubt that he is guilty of this crime. You do understand that?

And every single one of them said, "Yeah, yeah, yes." And they went on and was really drilling it home that, you know, he doesn't have to testify. He doesn't have to say anything. It's not on him to prove anything. It's on the state to prove everything. And every single one of them was like, yeah, yeah, yeah, we get it. Yeah. Yeah, we understand it. Clearly in his mind, he was saying... You know, he was guilty, and all this stuff was true. And he didn't rebut it. He didn't refute it. He just was automatically taking what these people were saying as being true. And that it was on me to rebut it and refute it. And, you know, it's a terrible thing that simply because you are a state's witness, you automatically start out with credibility.

State puts you on the stand, doesn't matter if you're a child molester. Doesn't matter if you're a bank robber, doesn't matter if you're a... Whatever your background is, as soon as the state puts you on the stand, you've got credibility. And now, it shifts to the defense to have to shake your credibility. And it's just an unfair advantage for the state. I mean, everybody should start on a level playing field. That's not how it happens. But this guy, this juror, absolutely demonstrates with his statement that, you know, when people say that you're guilty until proven innocent... That's absolutely what was going on with that guy.

Tammy Alexander: So he was a star witness in this trial no matter what anybody tries to say and how muddy they want to make it. He was a star witness in this trial. And now we know all of these other things. Luna was the first one that said something about a cash drawer. Right there at the night. Now he's saying this guy in a long trench coat is coming out. And we're discussing this next week, but the guy... And he says he looked like he might have had a cash drawer. Like why would you even think that if somebody was holding something under his jacket that it was a cash drawer?

Bruce Fischer: Right. That never made any sense.

Tammy Alexander: That never made any sense. So what we think, and I hate to speculate. But what we think was that when they were doing that canvas, that they were actually... "Did you see anybody leave with a cash drawer? Did you see any...? Because they knew that insert was missing. Maybe, uh...

Bruce Fischer: They fed that information because they knew that piece of evidence was missing from the scene.

Tammy Alexander: Very early on. But Martinez did not say. Martinez said in the very beginning, he said no. Did it look like, was he carrying anything? No. Was he... I don't remember exactly how it was phrased. But he said no, that he had his jacket zipped up, that he had his hands in his pockets.

Lesley Pires: He didn't say anything about the cash drawer until eight years later in that interview. And that's when Barkes starts saying to him, oh well is it possible he could have had something under his coat? And then Danny Martinez says, yes it's possible. He doesn't even go as far to say he did, until you get to Susan's trial.

Bruce Fischer Right. It's classic training. I mean they feed you the information slowly and effectively. And pretty soon, you're repeating what they told you. Lesley, can we elaborate a little bit more on some of the inconsistencies that Martinez presented on the stand?

Lesley Pires: Yeah. So at Jamie's trial, he also changed the popping sounds that his car made into bangs. And that was probably to convince the jury that he heard a gun, and not his own car. And it's funny though because even though he insisted he came face to face with that suspect, he actually screwed a few things up. And he went back to his earlier story, and said they were three feet away, which really isn't face to face. And he put himself back down to kneeling at the tire when the guy walked out of the store. And that makes him looking over his hood at him, all while an officer is diligently watching him fill that tire. And what's even more ridiculous is what the defense pointed out. Ball caps are meant to shade eyes--so if the suspect was wearing one at night, how did he even see white and bright eyes? And Jamie's five inches taller than Martinez, so it's almost offensive that he can claim he saw his eyes while looking up under that ball cap from three feet away,

Bruce Fischer: Jamie is 6'1" and Danny Martinez is 5'7". And he said he came eye to eye with this man.

Lesley Pires: Yes.

Bruce Fischer: Which makes very little sense. It's not possible.

Lesley Pires: Exactly. Where in previous interviews, at Susan Claycomb's trial, he says he came eye to eye. He was one foot away. Then later in Jamie's trial, he says he came face to face. They made eye contact. But then when he's asked to retell the story again, all of a sudden they're three feet away. And that's what he originally said.

Tammy Alexander: He waivers and that's what makes it so muddy. In one of the testimonies, he was like, "Yeah, I was between one and three feet away." You were face to face. "Well between one and three feet away." And a huge point is if Danny Martinez is walking, I mean, the suspect is fleeing. Okay? Supposedly fleeing after shooting someone. So he goes all the way out into the parking lot to meet Danny Martinez face to face. He would have to come out to the parking lot and then go to an angle to go back behind the alley. Now, why would you walk out... You would take the quickest path, right?

Bruce Fischer: You would think so, right.

Tammy Alexander: You'd shoot out, take a left. But he has to come all the way out to the parking lot to see him, to meet him face to face.

Bruce Fischer: Can you speak about the distance at all between the door and where they claim to meet in the parking lot?

Lesley Pires: Yes. He actually says when questioned about that multiple times by the defense that the suspect had to step off the curb to get down and walk into the lot, instead of continuing on the sidewalk around the corner. And he also agrees that it was probably 12 feet in length from the door to the edge of the building, based off how wide the plywood was that was up against the windows. So it's a 12 foot distance. And Tammy's right. He should have just come out, spun around, walked the 12 feet, and then taken a left down the grass to the alley. But Martinez has him placed spinning around, coming out of the door, walking straight, stepping off the

curb, bumping into him, and then making another 45 degree turn and going down the grass patch on another angle.

Bruce Fischer: So not only does Martinez change his story numerous times with how they actually came face to face or one foot or three foot. He also, his storyline is completely ridiculous when you think about where they made contact in his storyline. Because the person fleeing in the heat of the moment would have never wandered out into the parking lot and then decided to head around the corner.

Lesley Pires: Yes. And the defense tries to pull that off a few times by saying, what color were his shoes? I thought you saw his shoes. And he'll say he saw his shoes; they were white. And he'll say, "Oh but when did you see his shoes though?" And Martinez will say, well when he turned around the corner, I saw the bottom of the shoes from the back. And he'll say, but I thought you didn't watch him when he turned around the corner and walked down the alley? So how could you see his shoes?

And that's interesting. Because really, if he's looking over the hood of his car when the suspect is supposedly coming towards him, how did he see the shoes? So the defense in Susan's trial did a good job of bringing all that up. And it was talked about some in Jamie's trial, but definitely not as effectively.

Bruce Fischer: At what point in time did the popping sound go to banging sounds?

Lesley Pires: That happened at Susan's pretrial hearing. It was always a popping sound that could have been his car backfiring. And that was from the time of the crime in 1991 through the cold case interviews in 1999. And then all of a sudden in the year 2000, up until Jamie's trial in 2001, they're now two bangs. And it could have been the car backfiring. But he never says that he heard the two bangs that were actually in fact his car backfiring.

Bruce Fischer: Right. Just that slight change of wording makes me think that's a very clear sign of being guided by police. And the investigators are guiding him along by changing that one word. It's subtle, but it's a big deal.

Tammy Alexander: On that note, I've always wondered how, if his car backfired, his tail of his car would have been facing Pelo. If he heard that car backfiring, why didn't Pelo hear that car backfiring? If he heard two pops or bangs or whatever you want to

call them, how could Pelo not hear that? I mean, they make it sound like this huge wide space, but that was not a wide space at all. He was a few feet from Pelo when he was airing up his tires.

Bruce Fischer: But there's really no way that Pelo would not have heard those sounds. Because they were, like you said, they're very close together. I mean, if you look at the pictures that we have of the parking lot, it's not a large parking lot. There's no way that those sounds would have happened if Pelo was there and he wouldn't have heard it.

Tammy Alexander: Well at that time, Pelo would have been standing across the street on the east side, right across the street. And the air pump is close to the street. So his car would have been facing Pelo. In fact, Pelo would have heard the sound better than Martinez, who was not facing the sound. Does that make sense?

Bruce Fischer: It does.

Lesley Pires: Yes. And in Martinez's, one of his interviews, they are asking him where did the sound come from? What direction? And he specifically says it came from the hood of my car while I was down at the tire.

Tammy Alexander: Is that where you hear a sound from backfiring?

Bruce Fischer: No, it's not. You hear a sound from backfiring coming from the tailpipe.

Lesley Pires: That's your entire point, is that it would be coming from the tailpipe facing Pelo. And then he says it's coming from the hood. And that could be another instance of it leading, where that makes no sense where it's backfiring, and somehow they get him to relent and say it came from forward facing.

Bruce Fischer: Okay. There's a lot to cover here. Tam, can you chime in? What would you like to add?

Tammy Alexander: A couple of things. In 1994, Jamie voluntarily took a polygraph on this case. We didn't have the worksheets from that until recently, a few years ago, through a FOI request. And on that FOIA request, it has notes from the calligrapher that he got from the police officer, which was Crowe. So it says in the notes, it's

talking about the guy that was airing up his tire, and the witness. It says, "Witness says this is not the person he saw." Which is something else that was hidden from us. Now, we know that you can't use a polygraph. It's inadmissible in court. But those notes should be admissible. That was hidden. It's saying that again, Danny Martinez said that Jamie Snow was not the person that he saw that night.

Bruce Fischer: Right. Detectives at the time of that polygraph had already known that Martinez said no, this was not Jamie Snow that I saw that night.

Tammy Alexander: Exactly. And then we have another instance of Danny Martinez's prior knowledge. A friend of Jamie's from a long time ago. Unfortunately, he's passed away. Billy Hendrix. Now Billy Hendrix did not have a license. And Danny Martinez, they were both working at the same place in the union hall. And Danny Martinez would give him a ride. And Billy gave an affidavit stating that Danny Martinez had mentioned that he said I know that you're friends with Jamie Snow, and I just want you to know that I haven't picked him out. I know that he's a suspect in this case, but I just want to make sure that you know he wasn't the one that I saw. And that's not who I picked out.

So there's another instance of information that was, you know, that's new. All of these issues, they add up. His evolving story, just with Martinez alone. His evolving story. All of a sudden we see the polygraph. All of a sudden we see that the police were contacting him in the fall of 1999 after Jamie's arrest. They were following him. They were going after him, going to see him, and contacting him nine times. That is not trial prep.

Bruce Fischer: No, it's not.

Tammy Alexander: That is not trial prep.

Bruce Fischer: Now Jamie mentions that when he's speaking, how many times that they were in touch with Danny Martinez. And of course Jamie didn't learn that until years later. But before we get into that, I think it's important. I know you said that the polygraph is not admissible, but I think listeners should understand that Jamie passed that with flying colors. They asked him specific questions. Did you shoot William Little? Answer: no. He passed. Even if it's inadmissible, he had no problems with that polygraph test.

Tammy Alexander: Exactly. And Charlie Crowe told him. He said, "Okay. No I don't believe that you did this. But I think you know who did." And Jamie said I don't know who did it. I promise you I would tell you if I knew who did this.

Bruce Fischer: As far as discussing Danny Martinez, those notes on the polygraph are the most pressing issue here. But I think it's also important that people understand that he passed. And they asked him point blank questions and he had no problems whatsoever.

Tammy Alexander: Not at all. And we can post the polygraph on the documents.

Bruce Fischer: Now let's get into this. Because Jamie talked about it in his discussion on the podcast this week, how many times they met with Martinez, and how his story changed over time based on those meetings. Can we discuss those meetings a little bit more in detail? Jamie goes by month by month by month. They're just constantly hounding this guy until his story matches exactly what they want him to say.

Tammy Alexander: What's really important about this is Jamie had no knowledge of all of these meetings. So what we see is that, okay well, Danny Martinez had four or five encounters with the police. Those were where he was doing the lineup, giving his police report on the night of the crime, a couple of photo arrays over the years. And that's all the jury knew. That was all that was presented to the jury.

Bruce Fischer: They didn't know that Martinez had picked out two completely different people, and that over all those years he never once said, "Hey, it's Jamie Snow. That's the guy I saw." They never knew all of that information.

Tammy Alexander: They never knew. And all of these meetings, these fast and furious meetings, started after Martinez ID'd him. As Jamie explained, we have Foster, who was Susan Claycomb's investigator, defense investigator. And he goes out there to see Danny Martinez, just because he was there. Nobody took Danny Martinez seriously. He wasn't even on the state witness list at that time.

Bruce Fischer: And Danny Martinez told Foster that Jamie Snow was not the guy that he saw.

Tammy Alexander: He did. And that's what I was getting at, is he came out there. And he said, "Hey, look I just want to let you know, that's not the person I saw. I think I could ID him. That's not the person I saw."

Bruce Fischer: Jamie's defense team failed to use Foster at trial.

Tammy Alexander: Failed to use Foster at trial. Martinez stated several times during that conversation that, after he told Foster that he ID'd him, that it was his understanding that they had a lot of evidence against the people that were in jail. And that's what Foster testified to in Susan's trial. And we also have those transcripts up there. You know, that was really important. And then Jamie's attorney did not lay the foundation for Foster to come in and testify.

Bruce Fischer: Which was crucial information that was never heard at trial.

Tammy Alexander: Absolutely. And this may come in later, but he was paid thousands of dollars. Frank Picl was paid thousands of dollars to sit in on Susan's trial. He didn't use the most crucial evidence that they had of Jamie's innocence.

Bruce Fischer: Now Jamie asked if that's a good sign of ineffective counsel. And of course, ineffective counsel is incredibly hard to prove, but that's a sure sign that he had ineffective counsel.

Tammy Alexander: And one other thing I want to add about the meetings, was that there was a meeting with Jeff Pelo and Martinez in the same meeting. What were they doing? You have two material witnesses in the same room, getting their story straight. That is so wrong. And it's also something that Jamie did not know when he went to trial. Imagine if the jury would have known all of this information that we know now. I mean, do you really think that they wouldn't have had reasonable doubt?

Bruce Fischer: Oh, the outcome would have been far different.

Tammy Alexander: At least, as it relates to Martinez.

Bruce Fischer: Now, is the information from all these meetings, was it given to the defense and Jamie's attorney didn't use it? Or was all that information withheld?

Tammy Alexander: I first saw it when I got Susan's documents. And it was a pretrial motion, which is... You know, there are many of them. Right? But this was huge. Susan's attorneys wanted them sanctioned, because they did not reveal that Martinez had made an ID in that private meeting. And Charles Renard and Steve Skelton, Susan's attorney, they admit the same day after Danny Martinez had made that ID. But they did not memorialize it. And in that motion, that's Renard's argument. Well, it wasn't written down. Well, it wasn't taped. So it's not Brady evidence. I don't have to turn it over. They did not tape that or write anything down on purpose.

Although the detectives throughout this whole new investigation that started in 1998 had told witness after witness after witness, we have to get this on tape in case something changes. We have to get this on tape. Just making sure that everything was documented and everything was taped. And then all of the sudden this one crucial critical moment where this witness comes up 10 years later and IDs Jamie Snow as the person. Which happens to be the person they've been after for all of this time. And they don't say anything about it. The same day they met with Susan's attorneys, and didn't say anything about it. And that pretrial motion is one of the most... It's got so many details in it that it's unbelievable. But it's the most incredible thing that I've ever seen.

And that's where we see they're not getting their story straight. Because Dan Katz testified. Charles Renard testified. Tina Griffin testified. I mean, these were the key people in this and they weren't even having their story straight in the pretrial motion. But once it got. well the judge was like, no we're going to keep him as a witness. You know, that was it.

Bruce Fischer: Now in the Claycomb trial, at the pretrial, it shows that her attorneys were at least doing their due diligence. Their challenges might have been rejected, but at least they made those challenges. We never saw that with Jamie's attorneys.

Tammy Alexander: No. And I guess that's why I would encourage people to read it. Because first of all, these state's attorneys are questioning each other. And correcting each other's testimony with questions. It's the most incestuous thing that I've ever seen. Susan's attorneys were so passionate. You can rarely read a trial transcript and hear the passion. But they were so incredulous that this had happened.

Bruce Fischer: Right. They saw right through it.

Tammy Alexander: And they were just floored. And that's why they called for sanctions. Which is unusual, small town defense attorneys calling for sanctions against the state.

Bruce Fischer: Sure. We'll provide all that information. Hopefully people will stop and read it. Because I think that, like you said, it's very compelling. That entire pretrial, all that information.

Tammy Alexander: It is.

Bruce Fischer: Now Lesley, before we move on, I want to make sure that we hit all the inconsistencies. I don't think we can hit all the inconsistencies with Martinez because there's so many. But were there any more details that you wanted to add, regarding his changing testimony and changing statements over the years?

Lesley Pires: Well, there is a lot of information and there are a lot of notes. I mean, the defense attorneys go over the jacket he supposedly saw the suspect wearing when he left. The length, the color, where his hands were. And they do get them to actually relent that he has no idea what was in his coat, that it was cold that night. His fists were in his pockets because they were cold. He could have just had his own stomach under that coat. So there's so much more, so many more examples that you can find. And we really think you should see it for yourself by examining that testimony. And we supplied it on the podcast webpage. Or you can review our Snow notes that site the changes in more of a list type format that's easier to read. And we've also made a table that compares Martinez's five different stories over time. And that's available online too. And we think that you should take a look at all of it.

Bruce Fischer: See, for me when I've researched this over all these years, the most important thing to me is that Martinez failed to identify Jamie over all that time. So I know that we're focusing on the changing stories, but I think the changing stories simply prove that he had no idea. You know, there was nobody there. This whole story is a fabrication.

Tammy Alexander: And that's a good point. And we talked about this earlier. But just to reiterate, there were at least two times over the years where there were multiple pictures of Jamie in the photo arrays and Danny Martinez did not pick him.

And you're so right about that. That is huge. Because he just, he did not pick him out, even though and...

Bruce Fischer: Well most importantly, he picked two different people. He picked out a guy named Charles Renfro one time, he picked out another guy at another time. I don't have the notes right in front of me. But not only was he not picking Jamie Snow, he was picking other people.

Tammy Alexander: He was picking other people. But he never made a definitive ID, which is why we think he didn't see anybody. One of the huge issues too is there were multiple pictures of Jamie. There are innocence projects statistics that show when you're presented with someone, the same person over and over and over over the years, the way that your memory works. Or it could just be, hey, this must be the guy they want. Were there multiple pictures of everybody else? Or was it just multiple pictures of Jamie Snow? We know it was multiple pictures of Jamie Snow. We don't know who the other ones were. But we suspect that they did not...

Bruce Fischer: Well we know that Danny Martinez was presented with Jamie Snow multiple times over the years, just to plant it into his head.

Tammy Alexander: Even after he was arrested. Foster didn't go talk to him, it was 10 months after Jamie and Susan had been arrested. And he didn't even say at that time. In fact, he said no, it was not Jamie Snow. This is not Jamie Snow that I saw. The people that they arrested, that's not who I saw.

So when he testifies, he says he told his wife when they were arrested. He told his wife and that's the only person that he told. He says he told his wife, and then 10 months later he tells Foster no that wasn't. And then a couple of... I mean, within a week, he's IDing him from a picture of the very lineup that he attended in person. So those times seeing him over and over and over, and the fact that they had multiple pictures of Jamie is absurd. That they had multiple pictures of Jamie in those photo arrays. And you know what? We've been trying to get those photo arrays forever. And we still haven't been able to get those. They just say they're not there. So we have no way of knowing what pictures, what multiple pictures they have. Was it the same picture that he ID'd him from?

Bruce Fischer: Right, just how far did they go?

Tammy Alexander: When he said he saw the picture in the paper, was it the same picture? That's what we want to know.

Bruce Fischer: That's in Lesley's notes as well. We were talking about it earlier, that the Innocence Project lays this out. I mean, you mentioned it as well. The percentages are so high in wrongful conviction cases for witness misidentification. I mean, we're talking upwards of 70% of cases that were... The Innocence Project deals with DNA. So over 367 cases, and upwards of 70% of those cases include witness misidentification. But I think in Jamie's case, it's even more egregious because there's not a mistake. This was all done by design.

Tammy Alexander: You're 100% right on with that. It was... He lied. Martinez lied. This is not a mistaken ID. He lied. We don't know why, but it doesn't matter, as Lesley pointed out. It doesn't matter. It's not for us to figure out why he lied. It's for us to prove that he did. And I think we have.

Bruce Fischer: Oh, it's very clear. I mean, the evidence is there for anybody who's really willing to read through it all. I mean, it's very clear that Danny Martinez has been completely destroyed. I mean, he has no credibility at all.

Tammy Alexander: None.

Lesley Pires: In this episode we focused on demonstrating how Danny Martinez, an innocuous bystander, was modified at the 11th hour--completely morphing into a credible eyewitness by trial. He ultimately convinced the jury that Jamie could have been placed at the scene of the crime. Details were slightly misconstrued, and then used by the state as powerful weapons to pull off a wrongful conviction. We really think you should see the discrepancies with your own eyes and take the time to view Martinez's case file for yourself on our webpage at Snowfiles.podbean.com under Docs By Witness. And if you have any information of your own, please call the tip line at 888-710-SNOW. There is a \$10,000 reward for any information leading to a new trial or the exoneration of Jamie Snow. It is really tragic that 69% of DNA exonerations in the United States involve eyewitness misidentification. But what makes this case even more tragic is that there were actually two other eyewitnesses who reported seeing a different suspect. So how did they get away with this? That's next time on Snow Files.

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