

# Episode 3



Season 1 : E3 - Key Witness Wrap Up

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**Episode Description:** The night of the crime, two witnesses spoke to police officers after realizing the gas station clerk was shot dead. Both witnesses had seen someone suspicious, but not dangerous. A boy, looking out his bedroom window, saw someone leave the gas station and turn the corner into the night. He then heard police sirens and saw an ambulance. Minutes earlier, a customer at the gas pump looked on as someone harassed the clerk inside. When he went to pay, the man shielded his face and waited at the end of the counter. The clerk was shaking, and could not talk or properly take his payment. After ten years, these witnesses took the stand. One said it was Jamie who fled into the night. The other refused, and maintained he could never identify Jamie as the man he saw harassing the clerk. This third episode of Snow Files wraps up the key witnesses from the crime scene, and exposes the elaborate reconstruction of witness testimony told to the jury, through the State's Attorney.

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

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**Jamie Snow:** The last time I was talking to y'all, when we were talking about Danny Martinez, I had said that, you know, the way the suspect left the gas station was, was important to remember. And the reason I say that is the testimony that came in from a guy who was, at the time, 14 years old, named Carlos Luna. He was across the

street, claiming that he was looking out his bedroom window when he saw someone exit the gas station and go around the corner. Now, the important thing is that Carlos said the guy that he saw coming out the gas station was coming out face forward, opening the door with his left hand, he was pushing the door open with his left hand, with a long black trench coat down towards his ankles, I think. And he said that, you know, the guy had something stuck under his coat, which he later said he thought was a cash drawer. Said the guy went around the corner. Now Carlos did identify me in a, in a lineup, definitively identified me in a lineup like, six weeks later and said that, you know, he thought I look like the guy. He has since given us an affidavit clarifying his, you know, some of his testimony.

But what, what's important, I think, is that the state and, and it seems like everybody has tried to, you know, portray these guys, except for my my co-defendants' lawyer, Steve Skelton, everyone's tried to portray these guys is that they saw the same guy, and it's just impossible. It couldn't have been. The state knew that there, you know, there had to have been two different people. I mean, one guy sees the person backing out of the gas station with his coat zipped all the way up, waist length coat, leaning into the door, opening the door like that, by leaning into the door coming out. The other person who's 220 something feet away, you know, says he sees the guy coming out, opening the door with the left hand, with a coat completely undone down to his ankles. You know, and like I said the only person that that really, you know, nailed that down for the jury was, was my co defendant, Susan's lawyer, Steve Skelton. I mean, he nailed it down and pointed that out for the jury and you know, and we all know she got a not guilty verdict.

A couple of the things that are really important about Carlos is there was someone else in the room with him that night, that's Juan Luna. And there's nothing, we were, they didn't, they didn't call Juan to testify to the grand jury. He claimed he was looking out the same window, they had him looking at lineups, the same as Carlos. But he didn't testify to the grand jury and he didn't testify at any of the trials, and there's no police reports that they've ever written about him. As a matter of fact, we located, through a Freedom of Information request, which is going to be up on the website for you guys to look at. We found a memo where there's a police officer who is claiming that, on the night of the crime, he went and looked out that window, towards the gas station, 220 something feet away. And he said that, you know, there was no way that the Lunas could have made an identification, even if they wanted to make an identification. Because, you know, he's looking out that window, and he

couldn't identify people running around in the parking lot and they were people that he knew, his co-workers, you know, and that's really, really important.

And another thing in that memo is the police officer says that he interviewed them individually, a week or so later. And, you know, neither boy could provide any disruption other than a general description, so on and so forth. But what's important about that is there is nothing. There has never been anything turned over in any discovery materials about any reports or notes or anything that was ever in that interview with, with Carlos and Juan individually, later on. There was a composite artist, who did the composite drawings, was unable to do a composite with Carlos and Juan because neither one of them could provide a description of the person's face. They could do nothing but, you know, describe what the person was wearing. And all of this is so unbelievably critical, because my lawyers didn't call the composite artist to testify about that.

The state withheld the memo, we could have called a police officer into the testify that he'd actually looked out that window. There's no way somebody could have made an identification. They're still withholding, you know, any reports or, or any notes that was written concerning the individual interviews with Juan and Carlos, you know, a few days after the crime. And I mean, you don't take my word for it, look at the memo. This is their evidence, not mine. And the reason it's so critical to me, is that my jury asked one question, they had one question for the court. And the question was, they wanted someone to describe for them the distance of 220 feet, because they wanted to know someone can make an identification from distance or not. And the court responded to them something along the lines of, you're, you've received all the evidence that you're going to receive, and, you know, just to continue to deliberate.

And when you read that memo, when you look at that memo, I mean, it's clear why they withheld that, why they withheld that memo. I mean, it's clear, you know, there was a police officer witness who could have got up on the stand and testified, you know, to the conditions and his observations on the night of the crime, and he could have demonstrated for them how easily you know, somebody could make an identification from that distance, and that's why they withheld it. You know, there's a little bit of, you know, attorney in-effectiveness going on there and some prosecutorial misconduct by, by withholding the evidence, but, but, but what's really troubling to me, is the man sitting in prison, you know, for this crime, is that the state, just like they knew Danny Martinez could have never seen what he claimed he

saw when they put him on the stand. There's no way that he could have seen what he claimed he saw, they knew it. And they knew that the Lunas and Martinez could not, and did not, see the same guy, but they put them on the stand and portrayed it like they did. And the evidence is what it is. Look at it, review it.

Very critical piece of the story, I believe, personally, is that the vantage point of the Lunas was that, in order for them to be looking out their window, towards the Clark Station door, they would have had to look straight through the Martinez vehicle. The Martinez vehicle was directly in their line of sight. We're trying to get some, some materials that we can put up here so that you guys can see the exact line of sight. But you know, he, he would have had to have seen the Martinez vehicle. It would have been impossible not to see it, and the state knew that. So it's, it's, you know, it's just, it's just a part of the story that, you know, they would like to bury. But I mean, it's just the facts. This is their evidence, it's not our evidence. It's theirs.

I thought about this today. He didn't come back from my co-defendants trial, in late, I think it was September maybe, or October of 2000. Because his wife was having a baby. And that really struck me. Because my youngest son was born in July of that year. So, we both have kids that were born in the same year, within a couple months apart of each other, you know, and I've got to spend no time with my son, Jeremy, at all. And, you know, I wonder, I'd really like to send a message out to Carlos and I wonder, you know, if he would be willing to talk to us. So far, he hasn't. He did give us an affidavit. You know, there are still some, some, some unanswered questions. So, I think really his, his testimony was really contradictory to uh, to Danny Martinez, and you know, we'd really like to talk to him some more, you know?

**Bruce Fischer:** Fourteen-year-old Carlos Luna lived across the street from the Clark station at 807 East Empire. Carlos and his 12-year-old nephew, Juan, were hanging out in Carlos' bedroom watching television on the night of the crime. Carlos testified later that around 8:15pm he was looking out of his window to see if he could see his ex sister in law, Jeannie Luna, who worked at the gas station. He thought if she was there, maybe they could go get some candy or something. According to Carlos, in his first police report, taken by Officer Pelo, on the night of the crime, both Carlos and Juan stated that at approximately 8:20pm they saw a male exit the Clark station wearing a black coat and black hat. Carlos went on to state that the suspects left hand was under his coat and he was carrying what appeared to be a cash drawer. The statement from the Luna boys went on to say that the suspect went east around the building, then north toward the alley.

Another statement was taken by Officer Sanders, who created the composites for the other witnesses, from both boys, the day after the crime, at the police station. The police report says the same but also includes that the boys were about 100 feet from the suspect, and that the suspect carried something in his hands as he ran. At that time, they both admitted that they were afraid of retribution if they identified the suspect, but they could anyway. Sanders concludes that the boys could offer no details about the description and a composite could not be created. However, they were both shown a composite from a recent armed robbery at the same station, at which Jeannie Luna was robbed, and stated that the person in the composite looked like what they saw. In a memo recently obtained through a Freedom of Information Act request, we discovered new evidence, that in 1993, there was a written exchange between detective Dan Katz, who was offering reasons to indict Jamie for this crime, and an unknown law enforcement official, seemingly with some authority.

(Reading from memo)

*The reason Carlos Luna did not positively pick someone out of the lineup is he couldn't if he wanted to. I interviewed him and his friend the night of the murder. I talked to them that night, and a few days later, individually. Neither of the boys could see the person clearly. I stood at the window they looked out and it was difficult to identify the people running around on the lot, and I knew most of them. There was no way they could make an ID. The most they could give was general height, weight and type of clothing. This is why Detective Crowe questioned any ID by the boy, he knew the foregoing facts.*

**Bruce Fischer:** Carlos Luna testified in Jamie's trial, that on the night of the crime, he was looking at his bedroom window in the direction of the Clark station at about 8:15pm. And that while looking out his window toward the station, he saw an individual walking out of the station. He said that it seemed to him that the guy was carrying something under his coat, and he thought it might be the cash register tray. Carlos stated that his nephew, Juan, was also in his bedroom that night, and that after Carlos saw this person walk out of the station, he thought the person he saw had just robbed the station. Carlos went on to state that a little while later, he heard the sirens and saw the lights of the police cars and ambulances that were responding, and that he saw a police officer after going outside and told them what he saw.

He stated the next day that he went to the police station and gave a description, and a statement concerning what he had seen the night before. And that he couldn't remember if he had told any of the police officers whether or not he thought he would be able to identify the man he saw that night, if he ever saw him again. Carlos testified that in June of 1991, he attended the in-person lineup. He stated he was shown some composite drawings and that he picked one out as looking like the guy he saw, but he couldn't remember which drawing it was. Carlos testified that while looking at the lineup, he picked out number six. He said he closed his eyes and imagine each person doing it and number six was the man he saw. However, Carlos was never asked to make a positive identification in court.

(Reading from trial transcript)

*Q: Okay, do you recall which, if any, of the individuals you picked out?*

*A: Yes.*

*Q: Which, which numbered individual was that?*

*A: Number six.*

*Q: And what did you say to describe what you believed at the time?*

*A: I just imagined every one of them doing it, and he came to mind and he fit the picture.*

*Q: You imagined the man that you saw that night and he was the one that fit the image?*

*A: Yes.*

**Bruce Fischer:** Jamie's investigator, Don Hopper, testified that he measured the distance from Carlos' bedroom window to the Clark station door and stated that the distance was 212 feet and six inches. Clearly his testimony was meant to inform the jury of the huge distance between Carlos and the man he saw, making it impossible for Carlos to make an accurate and reliable observation of the man he saw.

Officer Sanders was the officer who put together the composite drawings for witnesses. He testified in Susan Claycomb's trial, but again wasn't called to testify in Jamie's trial. Sanders testified about the procedure for creating composites. He would ask questions of a witness, and from their responses would translate those into drawings. He stated for example, if the witness said the suspect had a beard or a mustache, the witness would have to be able to describe it. Additionally, the witness would also have to be able to describe the shape of the suspect's, nose, ears, mouth and head in order for him to be able to put together a composite drawing,

(Reading from trial transcript)

*Q: And would it be fair to state that the more precise those facial characteristics or features can be described to you, that is helpful to you?*

*A: Oh, sure.*

*Q: So, if I just came in, and I'm not talking about you here, and said that the guy that I saw was ugly. That doesn't help very much does it?*

*A: No.*

*Q: Beauty's in the eye of the beholder and ugly could be 1000 different things.*

*A: Yeah.*

*Q: And how much time did you spend with Mr. Luna?*

*A: I don't remember exactly.*

*Q: A long enough time in to satisfy yourself that you didn't have enough to work with?*

*A: That would it be fair to say, yeah.*

**Bruce Fischer:** Sanders testified that he went through the question and answer technique with both Martinez and Gutierrez, and was able to put together composite drawings based on their descriptions, but Sanders was unable to create a composite

drawing based on Carlos Luna's description of the suspect. Within hours of the crime, Carlos was unable to provide any details about the suspect's features. Nothing about his lips, hair, eyes, face, weight. In fact, the only description Carlos was able to give, was that the suspect was a male, wearing a black coat down to his ankles and a black ball cap. If Luna couldn't describe the face of the man he saw on the night of the crime within hours, how could his testimony that Jamie looked like the man he saw be in any way reliable? And how can Jamie's attorney be anything but ineffective for failing to bring these details to the attention of the jury? During deliberations, the jury foreman sent the question to the judge.

(Reading from the trial transcript)

*I would like to see the distance of 200 feet measure to determine how easy it is to identify someone.*

*Judge Bernardi responded, we cannot provide any assistance to the jury in resolving this question.*

**Bruce Fischer:** This was the only question sent to the judge during Jamie's trial and the judge refused to assist them. In 2010, Carlos gave an affidavit recanting his identification. In light of the jury question, Carlos's affidavit, and the memo that was hidden from Jamie, how can we have confidence in this alleged eyewitness?

The third witness we'll discuss today is Gerardo Gutierrez. Gutierrez lived in the neighborhood and had stopped for gas around 8:05pm. He stated while he was pumping gas, he saw the attendant arguing with someone in the station.

**Jamie Snow:** Gerardo Gutierrez, I mean, I think there was a reason why detectives and the police, they believed him more than anyone, that changed later on. But I mean, his testimony was basically that, when he was getting gas that, you know, he saw an argument going on between Bill Little and an unknown suspect, and he, you know, he seen him, there was a heated argument going on. And when he went in the gas station, the guy kind of turned, he got a good enough look at him, he could see that the guy had a scar on his chin. He had an injury on his chin, it was a scar that he said was so fresh, he could still see the holes from the stitches. When he went to give Bill Little the money, his hand was shaking so bad that he dropped the money.



Now, there's, there's been a lot of speculation as to what time this was. On the night of the crime, he said that, you know, when he went home, he learned about it, he came right back. I think your memory is probably better at the time that these occurrences happened than years and years later. And the detectives and the state attorney kind of got him to, sort of, hedge on the time frame, based only on the last time that a \$3 purchase of gas was made in the gas station, and I'm going to make the argument now, as I've always made, I really don't think that if Bill was being robbed, when Gutierrez came into the gas station, he's going to say, just a minute, let me go on ahead and ring up this purchase real real quick, Mr. Robber. I want to keep, I want to keep the books straight. I want to keep everything you know, in order. I just don't think that happened.

I also believe that, you know, Bill's best friend, Danny Hartley, came to the gas station after this \$3 purchase of gas was made, and rung up, and I just, I really believe that had he have had this con - and I'm speaking from my own personal point of view, how I would react if I had been into a confrontation with someone to the point where it actually had me shaking, and my friends, my friends showed up, I'm gonna tell them. I'm gonna say hey, you know, there was, there were some crazy dude in here, just now giving me, giving me a hard time, you know, and he'd never said nothing to Danny, or Dion, when they were there, and that's why I really believe that what Gutierrez said in the beginning was the truth.

And you know, he also, Gutierrez also says that he saw the guy again. A couple weeks later he called the cops to tell them that hey, I just saw that guy again at a gas station in Peoria, Illinois. And I know it was him because I still see the scar on his chin. You know, that's why they were looking for a guy with a scar on the chin and an earring in his ear for so long. I don't have either you know, once they manipulated this case into the direction they wanted it to go in, then it became you know, just a scratch. Tina Griffin described it as you know, just a scratch on the guy's chin. Well, Gutierrez said it was a scar, and it was a scar that was so, so fresh, that you know, you can see the holes from the stitches.

So you know, there was a really huge language issue going on to trial. Gutierrez didn't speak very good, he didn't speak very good English. So there's a lot of confusion going on at that time. But, and another thing you know, he described a guy wearing a motorcycle jacket with, with zippers on it. So, you know, you got Danny Martinez with a waist length, brown windbreaker. You've got Carlos Luna with a long, black trench coat down to his ankles, and you've got, you know, got Gutierrez

with a, you know, a motorcycle jacket. Tina Griffin argued to the jury that you know, they were all right. That these people had all seen me. So, I guess in their point of view, I was, you know, doing a wardrobe change three times a night, as I was running around the gas station, I guess. I mean, I really don't know.

**Bruce Fischer:** Gutierrez stated in his first police report, on the night of the crime, that he stopped at the Clark station around 8:05pm, and put \$3 of gas in his car, and then went inside to pay the attendant, Bill Little, with two \$2 bills and some change. He stated that Bill wasn't his usual friendly self, that Bill seemed nervous, and upset, and didn't say a word the whole time Gutierrez was in the station. He reported that Bill looked at him real strange, that when he handed him the money to pay for the gas, Bill almost dropped the change.

Gutierrez stated there was a man standing at the end of the counter by Bill. He described the man as a white male, 23 or 24 years old, with shoulder length, blondish-brownish hair. He said the man had a mustache, not too thin, not too thick, just sort of medium, and appeared to have two or three days of growth of facial hair as if he hadn't shaved. He said that the man had a one inch scar on the right side of his chin and was wearing a small gold ball earring in his left ear. He went on to state that the man was wearing a black baseball cap with a logo on the front that was yellow or white, an army green t-shirt under a black, motorcycle type waistline jacket with a belt at the bottom, and shoulder tabs. Gutierrez said the jacket was zipped up in the front and had a flap that folded over starting at the left shoulder area and went down towards the waist. He said the man kept his hands in his pockets, but took them out once to pull out a box of Marlboro cigarettes and light one up, and that the man had blue jeans on, but he didn't see his shoes.

Gutierrez stated that after he left the station, he drove home, and heard about the shooting on the radio and came back to the Clark station to talk to the police that were there. On the night of the crime, Gutierrez went to the police station and viewed photo arrays. He picked out Mug BP6345. This was one of two that Martinez picked out. He stated it's between these two. At that time, Gutierrez also gave information to create a composite. That composite that Gutierrez worked to create would be used for the next two plus years, as a suspect in all local media and posters.

Gutierrez was then approached by police a few days later, on April 4, 1991. At this time, he was shown pictures of motorcycle jackets and green shirts. Gutierrez gave a

few additional details. He described the man as being 6'2", in between 165 and 167 pounds. He stated that the suspect's legs were long and thin, and that the suspect had hair down to his shoulders, more brown than blonde. And that he had seen the suspect before, but couldn't remember where. Gutierrez said that when he handed Bill the change, that Bill actually dropped the change because his hands were shaking so badly, and that he knows he was in the station around 8:00pm, because he drove straight home, and when he walked in the door, it was 8:12pm. He said he watched TV, and then he saw the report about the robbery on channel 31 and then went back to the Clark station to tell the police what he had seen.

A couple of weeks later, on April 17, Gutierrez called an a tip. He said he was in the parking lot of a McDonald's in Peoria, and he saw the same person he saw come out of the gas station that night, but the person had shorter hair and no mustache. He said he knew it was him because he was able to see the scar on the right side of his chin. He stated the suspect was driving a late 70s, reddish-maroon, Chevy Nova, two door, but he didn't get the license plate number. Gutierrez said the person saw him and acted suspicious, walking into his car and quickly leaving the parking lot. As a result of this tip, police again showed Gutierrez numerous pictures collected for this investigation, and he was unable to identify anyone from the pictures shown. The report states this lead was cleared at that time. The following week, on April 23, Gutierrez was again shown photo arrays and failed to identify anyone.

Around a month later, on May 18th, police received a tip that, while in county jail, Gutierrez told an inmate that he was there when the crime happened and that he got free gas. When police followed up on the lead on May 28th, Gutierrez stated that he was in jail for a warrant on a battery charge, that he claimed he didn't receive notice for. He initially denied making any comments about the shooting to anyone, then stated he was mad because he was arrested for no reason. Gutierrez then admitted to telling the two police officers who arrested him about being a witness in the shooting and showed them Thomas's business card, but still denied making any comments about getting free gas, or having any conversation with anyone while in the county.

The report states at about 30 minutes later, Gutierrez stated, he remembers talking to an inmate in his cell block, and said the inmate had asked him if he was there when the shooting occurred, and Gutierrez told the inmate that he was there, and went on to say that he did tell the inmate that he got free gas, and then told the inmate he was just kidding. Gutierrez said he made the comment because he was

still mad about getting arrested, and that the alcohol made him say that. At the time the lead was cleared by police.

Police showed Gutierrez photo arrays again in October of 1991, with no result. Two years later, on October 22, 1993, Gutierrez was shown more arrays and failed to identify anyone. At that time, police reviewed Gutierrez's accounting of events, and a couple of new items were added. When shown this sketch he did with Sanders, Gutierrez said it was still good, and that he remembers the high prominent cheekbones. He also added at that time, that while he was pumping gas into his car, he looked inside and saw the suspect waving, and pointing his finger at Bill. In 1999, when Detective Katz and Detective Barkus took over the case, they interviewed Gutierrez again, and this is where his story deviates substantially.

He stated again that he was at the gas station a little bit earlier, and saw the attendant arguing with someone, and the attendant was nervous. Gutierrez states that he had never seen the person before. Recall previously, Gutierrez reported that he had seen the person before, but just couldn't remember from where. He also stated at this time that there were no other cars in the parking lot when he was there. When asked why he was at the station, he responded he was there to get gas to get him where he was going.

He goes on to say that he was headed to downtown Bloomington to pick up his friend, who lived on Mulberry Street. He said he couldn't remember if he picked up his friend at the Metropol, or went to his friend's house, after he left. He said he put gas in his car at about 7:00pm, he either went to his friend's house, or Metropol, and stayed for about one and a half to two hours. Then on his way home, he stated he saw all of the police activity, parked about one half block away, and walked up to talk to a police officer.

The detective points out that Gutierrez said before, that he was at the gas station that 8:00pm. Gutierrez responds that it was between seven and 8:00pm. This is when the detective brings up the cash register receipt, and states that there was a \$3 purchase of gas at 6:55pm, then asks Gutierrez if he was wrong about the time he was there. To which Gutierrez responds that it's possible, very possible.

When questioned about the photo that Gutierrez picked out on the night of the crime, it is clear that Detective Barkus is leading him, and ultimately gets him to agree, that he's not 100% sure the guy he picked was the guy. It is painfully obvious

that Gutierrez was trying to please the detective. At the end of this episode, we will illustrate why Gutierrez's initial ID, and the time he was at the gas station, were critical to convicting Jamie. But first, hear for yourself, how Gutierrez was coerced into changing his story.

(From recording)

**Rick Barkes:** *The police took a statement from you, Now, in that, when the police took their statement from you, you said that you thought you were at the gas station about eight o'clock.*

**Gerry Gutierrez:** *Mmm hmm.*

**Rick Barkes:** *And now you're saying you are at the gas station closer to seven o'clock, which do you think is correct?*

**Gerry Gutierrez:** *The only thing I can tell you right now is this was around between 7-8 o'clock. I cannot really specifically tell you it was this time and, I can't....*

**Rick Barkes:** *Now, if I tell you that, when we went through the cash register receipt, you said you bought, how much gas?*

**Gerry Gutierrez:** *About three dollars.*

**Rick Barkes:** *And we go through the cash register receipts, there's actually a slot there, said at 6:55 I believe it was. Somebody came in and bought three dollars worth of gas. That's it. There's no other three dollars worth of gas throughout the whole time. Are you saying that, maybe, that if that's what the receipt says that's correct and you were just wrong about the time when you were there?*

**Gerry Gutierrez:** *That's very possible. That's very possible that that's what happened. I just got it wrong on time (unintelligible).*

**Rick Barkes:** *Now, so you said you did a composite.*

**Gerry Gutierrez:** *Mmm hmm.*

**Rick Barkes:** And then also, Detective Crowe, I think, showed you books of pictures periodically, is that correct?

**Gerry Gutierrez:** That's correct.

**Rick Barkes:** And in those books, every time he shows you those books, how many times did you look at these books, do you recall?

**Gerry Gutierrez:** Well, every day, we looking at different ones. We went through that for several weeks, uh just bringing me updates and uh (unintelligible) looked at several, several pictures.

**Rick Barkes:** Okay, when you're looking at those, you told, you told Detective Crowe that none of these pictures look like the guy. Now, are you saying that the person wasn't in those books? Or are you saying, just from what you recall, nothing brought your attention to say, I think this is the guy.

**Gerry Gutierrez:** Yeah, that sounds about right because I don't really, like I say, when see a person like that, for a second there, it's not really too clear. If uh, you saw a person the way you remember, you can probably work better. That person changes clothes right away or different angle and-

**Rick Barkes:** What are you seeing, a different haircut, little different haircut?

**Gerry Gutierrez:** Yeah, it make it more difficult for you bring to, uh, but uh-

**Rick Barkes:** So what you're saying is that person could have been in those books and you just, because of either the picture or clothes or something, you just weren't able to identify it.

**Gerry Gutierrez:** Yeah, that's possible. It's because I don't see it from the angle that I saw the, the accurate person probably, not easy to identify.

**Rick Barkes:** Sure. Now you also looked at some pictures, and you did pick out one that you said, I think this is it. Were you saying that this person was actual, the person who actually did the shooting, or were you saying, this is the person who close, resembles most of what I remember?

**Gerry Gutierrez:** *There is, uh, ninety percent chance, that it's uh, it's more like that. That I might find a lot are common with the first one.*

**Rick Barkes:** *He resembles most, of all the pictures seen, you thought, this guy resembled the most.*

**Gerry Gutierrez:** *Right.*

**Rick Barkes:** *But you're not saying that's it's the guy. You're not, you're not a hundred percent?*

**Gerry Gutierrez:** *I know the (unintelligible) is kind of hard. For some reason, you don't have nothing to hide, it make you kinda, it's just a different position (unintelligible) For me, right now, it's not really clear, you know back then, nine years ago, what happened, but um, but um (unintelligible) pretty much, pretty much what you want (unintelligible).*

**Rick Barkes:** *So basically, I want to make sure I understand exactly what you're saying, Gerry, because it is nine years. All those pictures that Detective Crowe showed you in those books, you're saying, because of the clothing, and because the angle, because of the characteristics, the person could have been there, you're just not sure. Is that what you're saying?*

**Gerry Gutierrez:** *Yeah.*

**Rick Barkes:** *And that one picture that you did pick out, I forget who showed you, I think you Detective Sanders showed you some pictures.*

**Gerry Gutierrez:** *Yeah, you're talking right now about that. That (unintelligible), fresh in my mind that I actually, I uh, I worked with one picture. See that's, that stuff is like, buried there, you know, in your brain. Somebody's start talking about stuff and now it's a little bit more open about it, yeah.*

**Rick Barkes:** *Okay. So, and then, I just want to make sure I got everything right. The one picture you say that, I think this looks a lot like this person, you talk about some of the characteristics, You're not saying it was that person, are you?*

**Gerry Gutierrez:** Right now, my point of view right now, how my brain works like this, right, this man, if I tell you that this (unintelligible) was on the chin, that I picked out the picture, but now worried about, like, pointed, like this.

**Rick Barkes:** I can understand that.

**Gerry Gutierrez:** But I can be a little bit different back in nine years, you know, my statement. I am, I just did my best to try to make, you know, the information you need and but, you know, once this time, you know, remind this, you know, like, work again and this stuff. I can probably say I remember more things (unintelligible).

**Rick Barkes:** Well, actually, I think you did a real good job.

**Gerry Gutierrez:** Well, since, you know, nine years. I actually, you know, first of all, me, my father, I get this from my father, you know, I get, I hear in the streets. Sometimes I think, oh no, (unintelligible) so, I'm really, I don't know what you call that, from some kind of, what you call, confusion inside in your brain, and uh memory's not too good, but I think, you know, if I hear a little bit more and (unintelligible) remember more, you know, I'm working with-

**Rick Barkes:** Sure

**Gerry Gutierrez:** Working with it, you know, but right now, as I'm like this. I'm blank, I'm complete, like, nothing goes too, too clear right now. But once I start to see more information or heard more things about the case, and then I can probably come up with something more clear, you know, and, but-

**Rick Barkes:** Okay.

**Gerry Gutierrez:** I, you know, I'm, I'm ready. I can do you know, I do anything to, to solve this, this uh, crime.

**Rick Barkes:** Great.

**Gerry Gutierrez:** Because what happened there, that's like, devastated the whole town.



**Rick Barkes:** *Sure, it sure did. Well, Gerry, we have no more questions and we really do appreciate you letting us come into your home this evening to talk to you.*

(End recording)

**Bruce Fischer:** Susan Claycomb's attorney, Steve Skelton, at her trial, did a great job of pointing out Gutierrez's inconsistencies over the years. Getting the witness to admit the following on the stand. Gutierrez couldn't recall picking out a photograph on the night of the crime. He couldn't recall the detectives mentioning the register tape in the 1999 interview. He told Detective Crowe that he had seen the person before. He couldn't remember if his friend was home or not. Gutierrez admits that in his original statement, he said the attendant almost dropped the coins. He then said states that the clerk did drop the coins.

(Reading from trial transcript)

*Q: And I apologize that I didn't hear distinctly what you said earlier. Did you hand him some coins as well as some currency?*

*A: I believe it was like, two dollars and some change.*

*Q: Maybe four quarters, 10 dimes, whatever it may be, but you paid for your full purchase?*

*A: Uh huh. That's correct.*

*Q: Which of those, either the two one dollar bills, or the change, was dropped, if you recall?*

*A: Just like, the change.*

*Q: Onto the counter?*

*A: Some on the floor and some like, two, three quarters on the counter. And part of it went on the floor.*

*Q: You just said thank you and out the door you went?*

*A: I just told him, I'll see you later. That was it.*

*Q: You didn't ever see the sale rung up and placed into the cash register, did you?*

*A: No.*

**Bruce Fischer:** In Jamie's trial, Gutierrez admitted to the following. He was at the Clark station between seven and 8:00pm. After he got gas he went to a friend's house. The friend had just gotten a pool table and invited him to go play pool on Mulberry Street. When he left he thinks there is still change on the floor. He was confused about whether he went home and saw the station got robbed on the TV news, or if he was riding back to his house and saw police activity.

In reference to the clerk's hand-shaking, he stated, I cannot remember, he had his hands on his pocket, or he had his pocket, but I don't remember seeing any object, anything and. This was a very odd statement. Gutierrez admitted that he didn't remember anything until the state visited him and started reminding him of little details. He only saw the suspect for seconds. He doesn't know how long he stayed at his friend's house on Mulberry Street. He admits in his original statement that he said the attended almost dropped the coins. He states that the clerk did drop the coins. He said there were no stitches or holes in reference to the chin injury.

It was critical to the state's case that Gutierrez had not previously identified anyone, and that he was there around 7:00pm in order to corroborate the jailhouse informant Bruce Roland's testimony, which we will cover at a later time, but has also been completely discredited. Additionally, it was important to give an explanation as to why Martinez and Gutierrez described different coats on the suspect. In Assistant State's Attorney, Tina Griffin's, closing arguments. She maliciously tied these things together.

(Reading from trial transcript)

*The review of the cash register detail tape shows you that there was indeed a three dollar gas purchase and that was at 6:55pm. There was no purchase of any kind of gas after 7:53pm and no other three dollar gas purchase after 6:55pm. I suggest that this provides corroboration for the notion that Gutierrez was in the station before 7:00pm. And Bruce Roland's testimony would also tend to support this notion that Gutierrez was in the store earlier, because what Roland says the*

*defendant told him sounds remarkably similar to what Gutierrez describes. When you remember what Gutierrez described, it goes well with what the defendant says happened.*

*The defendant told Roland he was in the station earlier to get cigarettes, did not have enough money to pay for them, and the clerk refused to let him have them without paying the full price. And he said he got mad about that. Doesn't that sound very likely that that could be what Gutierrez saw, that hour before, when he saw the tension, as if there was an argument between the clerk and the customer? And doesn't it then further corroborate what the defendant told Roland, that later, the defendant went back to the station to get cigarettes and money? And doesn't it seem likely that when he went back, the defendant would change jackets, maybe even try to tuck his hair under his ball cap, like Randy Howard said was his trademark when he didn't want to be identified, and to look different than he did when he was at the station earlier.*

**Bruce Fischer:** Roland's story, which again, we will cover more in depth later, is basically that Jamie was attending a party a couple of blocks down the street and walked to the store to get some cigarettes, but became angry when the clerk wouldn't give them cigarettes for free. He goes on to say that Jamie left, then went back later and shot the attendant, and got his cigarettes.

Griffin goes on.

(Reading from trial transcript)

*This defendant told Bruce Roland that he shot Bill Little when they were together at the Logan Correctional Center, for one month, in December of 1994. And what details did Roland provide? The group had been partying at the Whitmer's, three or four houses north on Linden. He went for cigarettes at the gas station, got into an argument with the clerk, went back later to get his cigarettes, to take care of business, and he shot the kid, took the money and they left. Was this the earlier time that Gutierrez described? Did Roland get together with Mr. Gutierrez to invent this disagreement between the defendant and Bill Little? Yes, Roland admitted he hopes his information helps in his pending case, but he's been made no promises, received no consideration.*

**Bruce Fischer:** In fact, we know that Roland received the deal of a lifetime in exchange for his testimony. And we also know that Gutierrez's story stayed relatively

consistent until he spoke with the new detectives in 1999. They couldn't have Gutierrez identifying the person in the mug shot on the night of the crime, because it wasn't Jamie. So they skillfully manipulated him until he began to doubt his original ID. They also glossed over his composite sketch in an attempt to rewrite history.

Jamie gave us a lot of information about Gerardo Gutierrez and Carlos Luna. Let's break it all down a little bit and go over a few of the questions people might have. Now, Lesley, I think we need to clarify times and locations for the key witnesses we've discussed. Can you give us a brief recap on where the key witnesses were on the night of the crime?

**Lesley Pires:** Yeah, so on the date of the crime at about 8:05pm, Gerardo Gutierrez was filling his car with gas and noticed a man waving and pointing his finger at the clerk through the front window, and he went inside and the clerk was nervous and dropped his change, and then he left for a friend's house shortly after. And then at 8:20, 14-year-old Carlos Luna was peering out his bedroom window, looking across the street at the gas station towards his left. At that time, Danny Martinez was supposedly filling his tire with air in the corner of the lot nearest Luna's house. Two police officers arrived on scene one minute later, and each positioned themselves across the street, facing the bottom corners of the lot. One watched Martinez fill his tire and leave and the other watched the front door. Neither saw anyone leave the gas station but both eyewitnesses claimed someone did exit and flee up the alley. No one alerted the police that they saw a suspect until after the victim was found dead.

So, when we envision this in our minds, we can see that shortly after Gutierrez leaves, Luna is looking out the window, at the bottom right-hand corner of the gas station lot, where Danny Martinez was supposed to be filling his tire with air at the exact same time, and where Officer Pelo is also standing, watching Danny Martinez fill the tire, walk to the station, turn around and leave. Officer Williams is at the other bottom corner on the left watching the front door, and it's important to note that the only accounts that match here are Pelo and Martinez talking about him filling the tire with air, and not going into the store. And then Williams who watched Pelo walk around and agree that no one left the front door either.

**Bruce Fischer:** So in looking at all of the witnesses separately at trial, the prosecution might be able to make a case that sounds compelling but when you put them all together, and look at all as one, it completely falls apart.

**Lesley Pires:** Yeah, it's just completely obvious that, that Luna could not have been watching that gas station lot looking for his ex-sister in law, to see if she was working, and not see somebody filling his tire with air, right across the street, and then not see the police officers watching him too. So he you know, he wasn't there at that time.

**Bruce Fischer:** So it's crucial that we put everything together in one big picture when we look at this, because if you do that, you know, regardless of everything else, it just doesn't work. The story doesn't come together.

**Tammy Alexander:** I think he may have been able to see, because Luna is going to be on the same side of the street as the credit union. And then Williams, Officer Williams is going to be all the way at the intersection. And if Pelo is on foot, it could be feasible that he didn't see Pelo or Officer Williams. He had to be able to see, he knew Martinez, they knew each other. He, Martinez lived across the street, you know, they were neighbors, they saw each other. I mean, they said he, Luna said that he knew him and the question was at trial, did you see Danny's car? Did you see Martinez's car? And he said, no.

And the the point is, is it's right in the line of sight from where he would have to look through Martinez's car to see the door of the gas station. And it wasn't there. And people say, you know, that I mean, I don't know, I don't know how people say that, you know, well, maybe he just didn't see it because you would, you would have to see it. You would have to look through it to see the door and he would have recognized Martinez car, because they're, you know, they were neighbors.

**Lesley Pires:** Danny Martinez takes the stand and testifies. He says he doesn't watch the guy go down the alley. This is the same man that supposedly Luna saw running down the alley, but he testifies that he didn't hear any gravel moving at all. And that was right after Luna supposedly turned away from from the window. And Luna says he watched that man for five seconds. So, if Luna watched him for five seconds, and Danny Martinez watched him for, you know, walk down the gas station for 10 seconds in slow motion, as Jamie puts it, how does nobody else see him?

**Bruce Fischer:** Now, looking at this whole thing, if Martinez car wasn't there, Luna, 14-year-old kid has his time frame wrong, there's a pretty good chance he just saw a

customer leaving the store. Because there was two sales rung up prior to the murder.

**Tammy Alexander:** I've always suspected that it was much earlier. That there wasn't anybody at the store, and maybe he did see somebody walk out. He says the police came and talked to him, like an hour and a half later. After he saw all the cops, all the lights and the ambulance and all that, and then they came about an hour and a half later. That's a long time that they were canvassing that neighborhood. You know, I'm just not sure about any of that timeline story.

**Bruce Fischer:** Now when looking at Luna, what discrepancies were there in his trial testimony?

**Lesley Pires:** Well, Luna does relent a little to the idea that maybe he wasn't there at the same time. He admits to Jamie's defense that he doesn't even know if the man he saw was actually inside the station when the shooting occurred. He even relents to the idea that the man had something under his coat that was possibly sold at the store, like a two liter bottle of soda. And there was a \$7 purchase at 7:18pm and a \$5 purchase at 7:28pm. So, it's possible that Luna just saw a regular customer coming out of the store with something, right before the shooting.

The other thing I noticed is that Luna always says there wasn't a car in the parking lot. So, a customer's coming out and maybe he parked behind the store or he didn't come with a car. Yeah, he's gonna have to walk around the building, and walk on the foot to get away, and that doesn't mean that he just robbed the store and put the cash insert under his coat.

**Bruce Fischer:** Right, which means he's not technically getting away, he's just going back home. Tam, during Luna's testimony, he mentioned a cash drawer. Can we elaborate on that?

**Tammy Alexander:** It doesn't surprise me that that was in his testimony. What does surprise me is that it was on the police report the night of the crime. I think it was Officer Pelo wrote that statement. That he said he had something up under his jacket. He thought it was a cash drawer. Why would a 14-year-old boy think that there was someone who had, if they had anything tucked up under their coat, that it would be the cash drawer? I don't think anybody would just automatically think that.

We think that when they were canvassing the neighborhood, they were asking people, did you see anybody carrying anything? Did you see anybody carry a cash drawer? I mean, what did what did the police know? They knew that the cash insert was missing. That's all they know when they get there. The first thing that they're talking about. And we think that maybe that, maybe he was asked that. I'm not sure that he was even led, per se in the, in the beginning. But, just the fact that he even said he had something up under his coat and I thought it was a cash drawers just, really odd.

**Bruce Fischer:** I certainly think that that shows that, you know, the witnesses were led. What were the most pressing issues when looking at how the lineup was conducted?

**Tammy Alexander:** To me, like, I don't think that they have the same, I don't think they, the people in the lineup look the same. I think people, maybe I've seen photo arrays, those people in the photo arrays looked more similar than the people in the lineup. They were, it says they were all six foot tall, but you can see that there's a difference in height. And just from the picture of it, they're not all the same height. And then a couple of them have blonde hair. A couple of them have brown hair. One of them has, like, really dark hair, but it all says, it says on the sheet, they all have similar colored hair. Carlos was the only one who picked Jamie out but he didn't even make a good ID. He said, I just closed my eyes and imagined every one of them doing it, and number six was the one that fit the closest, or something to that effect. He gave us an affidavit later saying that he doesn't think that it was him. In that same affidavit, he says he knew who the defendant was because he had he saw his shackles, you know, when he was sitting at the table, which is a big deal.

The other thing is Luna, Juan Luna, his nephew, who was 12 years old. I think it's important to talk about him. He was interviewed as well. He was also with that in person lineup. But, there are no police reports about him. Did he say that Jamie wasn't the person? Yeah, they, they, he did not testify, he never picked anybody out. And then of course, we have that memo that we found just a couple of years ago, where there was a person of authority, who was over the crime scene, had said that he went over and talked to those boys, and he looked out the window. He said he couldn't recognize people that he knew. And he knew most of the people that were across the street. He said in that memo that that was not a good ID, that that was not a real ID. It's very, very weak.

**Bruce Fischer:** Jamie discussed that memo in this, in this episode, and that never made it to trial?

**Tammy Alexander:** No, we had never seen it 'til we got it, 'til we got it in FOIA.

**Bruce Fischer:** So, nobody's ever seen, the jury never saw that information stating that the ID could not have possibly been made from that distance.

**Tammy Alexander:** I would encourage everybody to read the memo, because this this officer was, he was not trying to defend Jamie, but he was saying, this is weak. You know, we do not have good evidence here.

**Bruce Fischer:** Right. He wasn't working for the defense when he said that, he was making an observation.

**Tammy Alexander:** No. And what I meant by he was a person of authority, he was there, at the crime scene, that day. But the actual memo is in 1993. Detective Katz was trying to make the case to indict Jamie. And he goes point by point, and we'll talk about the memo a lot, because he covered a lot of things, you know, and these are things that, you know, we had no knowledge of. But just that one piece of it, this is the, this is this person of authority, who we don't know, he's unknown to us. We don't know who it is. But he responded to that and was like, look, there's no way that they made an ID. This was not an ID. I was there. I talked to them. They couldn't describe them.

While the other big, glaring thing besides, you know, the lineup, was that he was was unable to, the boys were unable to create a composite and Sanders, Officer Sanders, who was the artist, the police artist, who put the composites together for Martinez and Gutierrez, testified in Susan's trial, and stated that the boys were unable to make, unable to create a composite, because he just couldn't give him enough information. They have to know about their lips, and the shapes of their faces, and all of these different things. You know, it's very odd that Martinez and Gutierrez both made these strong composites. They don't look the same. But they made, you know, they were able to make composites. The one person who actually picked Jamie out of the lineup was not able to do composite. So it just shows you how, how weak eye witness ID is.



**Bruce Fischer:** Right. I think that's a very good point. Now when I'm looking at this thinking originally, you know, the Luna boys, they were kids in the beginning when they first were interviewed. And then, of course, all the years went by, and they, Carlos gave, you know, testimony again. Juan is an adult at that point, why wasn't he, why didn't he ever come into the picture?

**Tammy Alexander:** I have no idea. I think he would be, we would love to talk to Juan. As far as we know, nobody's ever talked to Juan. I don't know why he didn't testify. I have no idea.

**Bruce Fischer:** I can understand people not approaching him at 12. But, you know, as, as far as defense goes, but not now. I mean, at that point, eight years later, he's an adult.

**Tammy Alexander:** Yeah, but they, but they did talk to them.

**Bruce Fischer:** Right. They talked to him. He, they just said though, it seems that there is information about about Juan, they're just not presenting it.

**Tammy Alexander:** I agree. I think that there's a police report somewhere that they don't want us to see.

**Bruce Fischer:** I have a hard time believing that at no time from his childhood through adulthood, he's had absolutely nothing to say. I don't, I just don't believe that.

**Tammy Alexander:** I agree. They just kind of shoved that under the table, you know, under the rug. Just that little piece, there's like a whole person was, didn't even matter, you know, although he was act, literally doing the same, standing there with his uncle. It's ridiculous.

**Bruce Fischer:** I think we've pretty much exhausted the Carlos Luna discussion. But let's talk a little bit more about Gerardo Gutierrez. Lesley what stood out to you about Gerardo Gutierrez's testimony?

**Lesley Pires:** Well, 17 days after the crime, he reported to the detectives that he looked inside the station while pumping gas and saw a man waving and pointing his finger at the clerk. This was never mentioned again in any interviews or at trial. So,

this information suggests that the suspect was in the store for a while and it wasn't a quick stick up for the cash drawer. And that was just never followed up on as a motive, again.

Also, Gutierrez stated he didn't get the impression, when he walked in the store, that there was a robbery going on. He got the impression he walked in on two friends arguing, where someone owed someone, and he never saw a weapon. He even says that the suspect did not appear dangerous, and that was at Jamie Snow's trial. So, this is important because this doesn't align with what Danny Martinez claimed, creating the story that an armed drug addict shot and killed the clerk. And Jamie also didn't know the clerk so he had no personal reason to be arguing with him that night.

Gutierrez also confirmed that he did not see the clerk ring up his purchase or place the money into the cash register. And that's important because it suggests that the register tape was probably not complete. And the lack of Gutierrez's purchase on that tape is not an indicator that he was never there at that time. Gutierrez also confirmed that the suspect he saw in the gas station that night, did not have a cast on his arm. And we know Jamie did have a cast on his arm that night. And most importantly, Gutierrez never identified Jamie Snow and any mug shot books over the years. And he never pointed the finger at him during either trial.

So, although the state attempted to discredit his eyewitness account, they were never able to actually flip him. But as you heard, they just went ahead and put those words into his mouth any way at closing arguments, and said he probably saw Jamie, even though he couldn't say it. And that's, in essence, how they got away with it, by changing his testimony and creating a positive eyewitness identification right at the end of the trial.

**Tammy Alexander:** It was those two things, they had to put Gutierrez there earlier, and they were able to do that because of the gas purchase. Now, let's talk about the gas purchase. If you're getting robbed, are you really going, do you think that you're going to ring something up? Somebody's in the middle of a robbery, somebody threatening you, somebody else walks in. Your hands are shaking so bad that you drop the change. And he does finally concede that he did drop the change and some of it was on the floor. At least a coin was on the floor. And he also concedes he never saw Bill Little ring anything up. So I'm not sure that Bill Little is going to be worried

about ringing up this three dollar gas purchase while he's getting robbed anyways. That just doesn't even make any sense.

**Lesley Pires:** Yeah, and that's why we heard Jamie saying, he's not going to say, just a minute, let me go on ahead and ring this up real quick, Mr. Robber, I want to keep the book straight. I mean, under that kind of pressure, he just couldn't do it. The charge was just missing from the register tape. And it was Detective Barkes, the cold case investigator who had it hot for Jamie Snow, who introduced that idea to Gutierrez, during his cold case interview, and brought it up to Gutierrez that maybe he was responsible for the three dollar purchase at 6:55 instead of eight o'clock. And when eight years have passed and Barkes brings that up, and Gutierrez is saying that his memory is bad, but he'll do anything to solve the case. It's easy to see how he would agree to that and you know, just say well, maybe I was there an hour earlier.

**Tammy Alexander:** Right, and I just want to point out right here that we can, you guys can listen to all of this, we have everything that we have available online. So, if you want to listen to the, I know that we play excerpts, but if you want to listen to the whole thing, you can listen to the entire case, everything that we have, and also read all of the testimonies and the police reports related to this issue or other issues, we're just putting everything up by witness. So, as we introduce witnesses, we're putting everything up that we have on, on those people.

**Bruce Fischer:** When we look at the two trials, Jamie's trial and the trial of his co defendant, Susan Claycomb, what are the differences between how Gutierrez testified in the two trials? As we know, Claycomb was found not guilty, and we're here talking today because Jamie's trial did not go the same way. So let's look at the differences in Gutierrez's his testimony there.

**Lesley Pires:** Well, Gutierrez was always a state's witness. However, in the first trial for Susan, State's Attorney, Tina Griffin only asked Gutierrez about one specific thing, trying to get him to confirm that he took a certain route home that passed the Clark's station. And this was to prove that he could have seen the lights and sirens on his way home and just decided to swing by to talk to the police and that's it. However, after Susan's found not guilty, she's better prepared for Jamie's trial. She immediately goes in hard, focusing on the logistics of Gutierrez's night, to harp on how he was there between seven and eight, instead of closer to the time of the actual crime. And it's also now that he suddenly can't remember what exactly he was doing out that night. For the first time now, he says he's going to a friend's house to

play pool, and since he doesn't wear a wristwatch, he doesn't even know what time he got there. He also can't remember what time he got home or recall what prompted him to return to the scene. And that's how Griffin muddies his timeline. She lays the foundation that he doesn't know when he was there, which suggests that the person he saw harassing the attendant probably wasn't there near the time of the murder either.

In Susan's trial, when she's found not guilty, the defense is the one that goes after Gutierrez hard. Steve Skelton gets him to admit that he never saw the clerk run off his gas purchase, and the suspect did not have a cast on his arm like Jamie did. However, in Jamie's trial, defense attorney, Frank Picl, focused in on confirming Gutierrez didn't see the clerk collect the dropped coins from the floor. But he stops right there, failing to connect the idea that he dropped the coins, and then never rang off the gas purchase. Susan's attorney didn't let this go though, and he made Gutierrez read his original statement aloud to the jury and validate it for accuracy. In contrast, when faced with Gutierrez's account saying he probably got there between seven and eight that night, earlier on, Jamie's attorney only replies with the word. 'Okay.' So, is this another example of ineffective assistance of counsel?

**Tammy Alexander:** Yes. Absolutely. It was, it was masterful the way that Tina Griffin just wove this, this web. It's like you're writing the story. You know, she's just gonna, gonna pull from here and pull from there and just make it all fit. She had to put him there because we have Bruce Roland, which was a jailhouse informant. And we have this whole thing about them being down at Bryan Whitmer's house at a party. But what really got me was, that was incredible, was the changing his jackets. That he was down at Whitmer's house, he went up there to get cigarettes, he was mad because Bill Little wouldn't give him free cigarettes, Jamie decided that he just wasn't going to pay for 'em, and that he should get them for free, and Bill Little wouldn't give them for free. So he goes back to the party, and then he changes his hat and his coat and comes back. And that's when he shoots him. I mean, that is literally her theory. I don't, I have no idea how she got away with that because he's changing, changing jackets and hats like, that, that is insane. But it had to fit.

Then she's using you know, Gerardo. Oh, well, that's when he was in the store arguing because he wanted those cigarettes. The funny thing is that Gutierrez says that the guy opens a pack of cigarettes and smokes. Why is he going to be trying to get free cigarettes when he's actually sitting there lighting the cigarette that he pulled out of his pocket? Why is he going to be leaving mad because he didn't get,

because the guy wouldn't give him cigarettes? Although Gutierrez saw him light a cigarette. And then at some point, it may be in the closing arguments, Tina Griffin addresses that by saying, she just kind of glosses over it, but she says, well, haven't you known smokers, they're never without cigarettes. He wanted cigarettes. But he, but he could have still had some cigarettes in his pocket, but they always have a backup. They don't go anywhere without their cigarettes, just like, this is absurd. I don't know why defense counsel wasn't, wasn't all over pulling out these inconsistencies.

**Bruce Fischer:** Well, it seems they were in a the Claycomb trial, but certainly not in Jamie's.

**Tammy Alexander:** Yeah.

**Bruce Fischer:** Gutierrez testified over the years that the person he saw had a scar on his chin. Does Jamie Snow have a scar on his chin?

**Tammy Alexander:** He does not. He also said that the guy had a left earring and a gold ball. Jamie has never had a piercing. So, the guy didn't look like Jamie at all. And that, that's the thing is that they really just kind of glossed over all of this at trial. I don't recall right off how they got around this composite that was very detailed. But he didn't have a scar on his chin and in the beginning, they were actually clearing people that didn't have an earring and didn't have a scar. They talked about the scar all the way up and then just kind of, they just, glossing over something is the only way that I can, the only way that I can express it.

**Lesley Pires:** So let's not forget that just two weeks after the crime, Gutierrez was at McDonald's in Peoria, and he saw the suspect again in the parking lot, with a different haircut and no mustache, and the same low cut tennis shoes with white laces, and he had the scar on his chin. And he didn't get the license plate number, but he did say that the suspect was acting suspicious and quickly left when he noticed him. And this was just never followed up on. Nobody found the car, nobody went and looked again for somebody with a scar on their chin who might have been driving that car. And you know, it just got let go.

**Tammy Alexander:** But they brought, he called in the tip, they brought him in and showed him mug books, and then said he didn't pick anybody out of the mug book, this lead is cleared. That's it.

**Bruce Fischer:** Just like that.

**Tammy Alexander:** Just like that. They didn't go to McDonald's, they didn't go canvas a little bit you know, nothing. They did the same thing, they brought him in to look at mug books, probably with 50 pictures of Jamie in it.

**Bruce Fischer:** It's not that surprising that the person who doesn't fit their narrative is ignored.

**Lesley Pires:** It's also surprising that Jamie's defense doesn't bring this up. I mean, we can clearly see it now. And so, you know, we do have to wonder, did they not have this information at the time of trial? Is it you know, is that what happened there? But you know, now as we're presenting it, you can see where all this stuff would have really mattered that day.

**Bruce Fischer:** I think it would have, all these things come together, but each little detail shows clearly that the outcome of the trial would have been different if all this, all of this information we're discussing now, and we'll be discussing, as we keep moving forward. The trial would have ended, would have ended differently.

**Tammy Alexander:** It's just untangling this web. I hate that sounds like a Lifetime show, but it is literally a web of lies.

**Bruce Fischer:** It's true.

**Tammy Alexander:** And you start pulling, you know, you start pulling on one of those, one of those strands and everything starts unraveling. For example, we know that Bruce Roland got a deal. He got a great deal, and we'll talk about that later. Now we have discredited Gutierrez's ID, his testimony changed. So how are they corroborating each other? When you pull out Gutierrez, then all of a sudden, he cannot corroborate. When you find a witness that that has been used to corroborate another witness, and then you find that one of them's lying, then it just kind of falls apart.

**Bruce Fischer:** Correct. It does.

**Tammy Alexander:** And this is we found this throughout, throughout this. We just have to untangle it and point out how they were used to corroborate each other.

**Lesley Pires:** I mean, it is just infuriating that Gutierrez, over 10 years, never IDs Jamie Snow, doesn't even bend at trial the way Carlos Luna did. Doesn't even say, oh, well, that's the defendant sitting there in shackle, so it must be him. I mean, kinda had long hair. I'll just say it, he never does that, ever. He won't do it. But still, Tina Griffin builds that story and just says that he saw him, said he must have seen him that night, and he must have seen Jamie Snow causing all this kind of trouble. And then later Jamie went back and took care of business and killed the kid. I just don't understand how she could have, she can get away with that, and how Jamie's attorney could not combat that, and how the jury just accepted it, you know, word for word.

**Bruce Fischer:** Well, prosecutors have a lot of freedom, too much freedom in fact. I mean, it's a topic where we, we can't possibly cover in one podcast, but they don't have to be using facts when they're giving their closing statements. That's unfortunate, but it's just reality.

**Tammy Alexander:** Apparently, in McClain County, they don't have to use facts to convict somebody either.

**Bruce Fischer:** That's we're finding out isn't it?

**Tammy Alexander:** Yeah.

**Lesley Pires:** In this episode, we presented two additional eyewitnesses who testified against Jamie Snow. A 14-year-old boy chose Jamie from the police lineup and accused him of murder, because he imagined him fleeing the scene of the crime. This boy admitted he never even thought the station was robbed. He never even saw a shooting. And he didn't even see the other individuals on the scene, including two police officers. But he was believed.

The other eyewitness, who actually saw a man harassing the clerk through the window, walked in on him, shielding his face, and observed the clerk shaking under duress, just 10 minutes prior to the silent alarm going off, was completely manipulated. When he wouldn't identify Jamie Snow as the man he saw, the state tried to make him look like an idiot who couldn't remember what he was doing that

night. At closing, the prosecutor fixed this issue by telling the jury, she thinks he probably did see Jamie Snow. Without all the facts, the jury had no problem following this false narrative.

If you have something to add, 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. Just five months before Jamie's trial, his defense attorneys accepted payments to watch another attorney destroy these witnesses on the stand during Jamie's co-defendant's trial. But they still couldn't get it right. How did they get away with this? That's next time, on Snow Files.

*Transcribed by: Jinger Fiola*

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