

Proof: A True Crime Podcast
Season One: Russian Roulette
Episode 14: The Coroner Calls
Monday, June 13, 2022

Darrell Lee Clark:

What's it like to be where I'm at right now? ... It's like one foot in the grave and one foot out of the grave. You're living but you're not living. and that's what it feels like to be me. You're existing but you're not existing. Like nobody cares.

Susan Simpson: A couple of weeks ago, at the end of May, Lee Clark marked his 25th year since that day he walked into the Floyd County Jail and was arrested for the murder of Brian Bowling.

That was his last day as a free man.

Back then, it had seemed impossible for him to imagine that this many years later, he'd still be behind bars.

Lee:

I couldn't see myself facing this, being in here for a life sentence for something I didn't do. And I told myself then --- your life is over with man, you're not going to make it, you might as well kill yourself and get it over with.

But I didn't do any of that. I made myself keep pushing forward. Mainly for my family. More than anything.

Susan Simpson: Lee was sentenced to life in prison, but his sentence does carry the possibility of parole. In fact, his case was before the parole board earlier this year – and he was hopeful that, maybe this time, things would go different than they had before.

They didn't, though. He recently found out that his parole application was denied.

Another setback, in the long line of setbacks he's had since he went to prison.

Lee:

I'll tell you now, I ain't been an easy road. It's been a hard road for me. And I

have gotten to a point now where I'm in some easier prisons than I were in. But when I first started, I was in some real hell holes. I went through some real hard times.

But, I don't know, if you say it's by grace of God, or dumb luck, whatever, I don't know. But I made it. I made it this far. So. I'm just hoping I can make it the rest of the way.

[02:13] Susan Simpson: Hi, my name is Susan Simpson. I'm an attorney and podcaster and previously I hosted the *Undisclosed* podcast.

Jacinda Davis: Hi, I'm Jacinda Davis, and I'm a true crime TV producer.

Last year Susan and I decided to team up and re-investigate the murder of Brian Bowling. Along with Kevin Fitzpatrick, president of Red Marble Media, we decided to launch – *Proof*.

You can listen to *Proof* like you would any podcast.

And you can Follow us everywhere with the handle @proofcrimepod, and on our website, proofcrimepod.com

Thanks for listening and welcome to *Proof*.

Jacinda Davis: Lee Clark has never given up on trying to prove his innocence. But he had run out of ideas for how to do so.

He'd appealed his conviction back in 1999, and the Supreme Court of Georgia had agreed that there had been a lot of errors made at his trial. But the Court concluded these errors were all harmless, and his appeal was denied.

After that, Lee couldn't afford to hire another attorney. So, at one point, out of desperation, he decided to represent himself. He filed his own motion with the court.

Darrell Lee Clark:

This is back when I was at Smith State Prison, but I'd never got to argue none of this stuff, Susan I didn't know what the hell I was doing.

Susan Simpson: Oh, you did it pro se?

Lee:

Yes, I didn't know nothing and I'm sitting there in the courtroom looking stupid as hell.

Susan: So, you did file something?

Darrell Lee Clark:

Yeah, I did file, but it didn't do nothing because hell I didn't know what the hell I was doing.

[03:54] Jacinda Davis: With no routes available to Lee through the court system, he thought that maybe if he could just explain to the right person that he'd been wrongfully convicted, they'd be able to alert the proper authorities and get things fixed.

Lee:

You try to talk to people that you think might matter, that might say something to somebody. You know what I'm saying?

Like, "Hey, look, y'all got this dude locked up some shit he didn't even do."

There's been no... no lawyers or nothing like that, it's been people that worked for the prisons. I sat and talked to a counselor. I did that when I started, when I was real young, and this, I thought, was about to do me some good to say something to these people.

Well, I sat there and tell them my story. Susan, they sit there and look at me like I was just straight full of shit.

Jacinda Davis: Telling people he was innocent hadn't done any good. So, eventually, he decided to try to find a lawyer who didn't care that he couldn't afford to pay them.

Lee:

I said, "Look daddy," I said, "You got these lawyers out here that do stuff on pro bono. These people don't even want no money. They're doing it because they're, because they know it's the right thing to do."

I said, "Why don't we pursue something like that? Try to talk to some of these people?"

And that's when I tried the Innocence Project that one time and then that's when they wrote me back. Told me, "Oh, we can't help you because your case ain't DNA related."

Jacinda Davis: Lee applied to the Georgia Innocence Project, and the Innocence Project in New York, but both told him that they couldn't take his case.

So that was that. Lee was out of options. And the years kept ticking by.

There was only one thing left to do, that he could think of, to improve his chances of ever going home.

Darrell Lee Clark:

I started working out, started trying to get myself in better health. Right now, I'm in better health than I was in my 20s. I've got to keep myself in the best health I can stay in and hope to walk out of here one day.

Jacinda Davis: Cain Storey has also tried to prove his innocence through the court system. In 2003, his family got the money together for an attorney who brought a habeas petition on Cain's behalf. The petition argued that Cain had been given ineffective assistance of counsel by his trial attorney.

Cain Joshua Storey:

Yeah. Yeah, I mean... Yeah. I ... went to the habeas corpus hearing.

Susan Simpson: And Barkley admitted he was ineffective?

Cain:

Yeah, he admitted it. He admitted it on the stand. He said, I'll never forget it. He said, "I didn't think he was guilty then. I don't think he's guilty now. I just didn't represent him effectively and I'm sorry."

That's exactly what he said.

[06:25] Jacinda Davis: After Cain's habeas petition was denied, he decided he'd try to represent himself. He filed motions with the court, asking for his conviction to be overturned, and that he be given access to evidence that he believed would prove his innocence.

Cain:

In Floyd County Superior Court after I filed the motion to try to get him exhumed. They sent me back a letter from, a Judge Ro-, Robert Waldren (*) talking about that no motions, papers, or report, with the above titled case will be submitted to the court.

It would all be sent back "return to sender" and everything else. Would not be heard, none or that.

Susan: I wasn't aware they were allowed to do that.

Cain: No, that's what I was about to say. That, that's denying me access to court.

Jacinda Davis: In the case file at the court in Floyd County, there's a signed order instructing the court to reject any further attempts by Cain Storey to challenge his conviction. Any filings from him are to be sent back, unopened.

But Cain had hoped that, if his request for an exhumation was granted, a medical examiner would finally be able to do an autopsy. And, finally be able to confirm that Brian had been killed by a contact shot. And not, as the prosecution had alleged, by a shot fired from a distance.

Dan Whitrock:

I mean, unfortunately, they already dug the body up once and no one seemed to look at that to confirm it.

Susan Simpson:

Yeah, if there was an autopsy, we'd know for sure. But there was no autopsy, so there's no confirmation.

Jacinda Davis:

It is interesting, like I, I also worry that we're missing files, right? Like-

Susan: We are, 100%.

Jacinda:

That missing files that have some of these answers. Amanda was 100% convinced that Brian's body was sent to a crime lab.

Susan: It was not.

[08:26] Jacinda Davis: It wasn't just Amanda who was certain an autopsy had been performed. The rest of Brian's family thought the same thing – they all told us, in separate interviews, that yes, Brian had been autopsied, and yes, the autopsy had confirmed he'd been murdered.

It's possible that Brian's family had just been remembering things wrong.

But – they'd all been so confident there'd been an autopsy. And they'd all been so obviously confused when we told them that, no, Brian had not been autopsied.

Plus, there's the fact that it makes absolutely no sense whatsoever that an autopsy hadn't been done. Murder victims are always autopsied. It's not the kind of thing that investigators simply forget to do.

So, what happened with Brian Bowling? Why wasn't there an autopsy?

Susan Simpson: Well, because the county coroner decided there wouldn't be one. In one of my very first conversations with Lee Clark, he'd mentioned this coroner to me.

Darrell Lee Clark:

The coroner was Craig Burns, wasn't it? Yeah, the coroner was Craig Burns. And if I ain't mistaken, he might have got caught in some stuff.

I think he got caught up in something. You might want to look into that.

Susan Simpson: Lee was not mistaken, Craig Burns had indeed gotten caught up in something. In 1999, he'd ended up in state prison on 36 charges of theft and racketeering, and then did some more time in federal prison on three charges of credit card fraud.

But Burns hadn't been arrested until a year after Lee and Cain's trial. And at first it didn't occur to me that the coroner's later legal troubles could have any relevance to our investigation.

As I learned more about this case, though, I realized that all of this – the murder investigation, Lee's and Cain's arrest, their conviction – all of it kind of began with Craig Burns.

Jacinda Davis: In the wake of Brian's shooting, Sgt. Dallas Battle was initially confident he'd been killed by a self-inflicted gunshot wound.

It wasn't until two days later, when he got a call from Craig Burns that Battle decided this case was actually a potential homicide. We don't know exactly what Burns said – Battle wasn't allowed to testify to that at trial, because that would be hearsay – but whatever Burns told him, it caused him to head down to the funeral home where Brian's body was being held, so that they could inspect the body together.

As a result of what they observed at the funeral home, Battle and Burns concluded two things:

First, that the shot that killed Brian had been fired from a distance, and therefore, Brian had been murdered.

And second, there was no point in doing an autopsy, because an autopsy wouldn't tell them anything useful anyway.

[11:25] Susan Simpson: Now, the second thing is simply untrue. An autopsy would've determined conclusively whether or not Brian was killed by a contact wound. And based on the blurry photos of Brian that were taken by Craig Burns at the funeral home, which show the inside of the gunshot wound had a blackened appearance, it certainly looks like this was a contact shot.

At trial though, Burns was able to explain this away, by testifying that the blackened area was actually a granulated embalming powder that was applied to stop the body from leaking while they inspected it.

I was skeptical though of Burns's explanation, and we asked ballistics expert Ronald Scott what it would mean if Craig Burns was lying about this.

[11:59] Susan Simpson:

Assuming that this is not mortician's powder. What would that tell you about the nature of the shot that he received?

Ronald Scott:

Well, if it was - if it was soot, and if it was charring or thermal damage, I would say that that's indication of a contact gunshot wound.

Jacinda Davis: Burns described the substance that caused the blackened appearance as a granulated powder, or a hardening compound. None of the experts we spoke to could think of a substance that would cause this effect, but without knowing exactly what substance it was, they couldn't say for sure.

The only person who could answer that question was Craig Burns himself. And he wasn't talking. We'd reached out to him every way we could think of. Finally, he replied to an email we'd sent: "I don't remember the case," he said, "so there's nothing more I can tell you."

Susan Simpson: Since we couldn't talk to Craig Burns directly, we tried to learn more about the coroner system in general.

One of the people I spoke to was Bob Rowe. He'd been listening to this podcast, and after hearing about the role the coroner had played in the case, he sent us a message about his own experiences as a county coroner in Georgia.

Bob Rowe:

Every coroner is elected, and, basically, your job is to investigate any death that is not attended by a physician.

Susan Simpson: Bob Rowe had been working as a paramedic and EMS instructor in a small county in South Georgia, when the previous coroner announced that he would not be running for reelection.

Bob Rowe:

I had all these people started coming to me, "You should run for it. You should run for it."

And I just kind of laughed. I said, "Well, maybe."

I thought almost like a lark, honestly, and so I said, "Sure, I'll do that."

And I filled it out. And then apparently, no one else had ran. So, I got elected, which totally shocked me.

Susan Simpson: The coroner is tasked with establishing the cause and manner of all suspicious or unobserved deaths in the county. To determine how someone died, and whether it had been a homicide, suicide, natural, or accidental death.

So, what qualifications do you need to have, as a coroner, to make this kind of weighty determination? Well, none. You just have to be elected and go to a week-long training course. After that, you can do what you want.

Bob Rowe:

Susan, it's really crazy because how you operate is up to you. No requirement to send bodies to the state medical examiner's office.

They have their own investigators, people who do have the experience, different certifications, and of course, their forensic pathologist. But, you literally have to reach out to them.

Susan Simpson:

So if a coroner never wanted to send the body to the crime lab, they wouldn't have to?

Bob Rowe: They wouldn't have to.

[14:56] Susan Simpson: Under Georgia law, when someone dies as a result of violence or by suicide, the coroner is required to order an inquiry by a medical examiner. But there's nothing to enforce this really— if the coroner decides to skip the post-mortem, then no post-mortem is done.

Being a coroner is a hard job, though. You get called out at all hours of day and night to attend to bodies, investigate deaths, and fill out paperwork. And the compensation for this is minimal.

Bob Rowe:

I think \$150 a month, whether you saw a body or saw fifty, no expenses, you paid for your gas, you did all that.

So I was actually losing money in the process, right? And then eventually it just got to where I said I can't keep doing this.

Susan Simpson: In counties where the coroner is not a salaried position, the pay is often not enough to cover the coroner's own out of pocket expenses, let alone compensate them for their time. So, who would even want this kind of job?

[15:50] Susan Simpson:

You have someone who, if they're gonna do it, it's gonna be out of the goodness of their heart, essentially.

Bob Rowe: Yeah.

Susan: Or, it's gonna be because they get a kickback.

Bob Rowe:

The larger counties it was busy enough that it was a full-time job. But for the smaller counties, yeah, I could see that.

And like I said, I thought, well, let's help them out. And when I got in there I went, man, this is a thankless job.

Susan Simpson: Counties can choose how they want their coroner to be paid, and it varies from county to county. Some counties pay their coroners better than others.

Bob Rowe:

So it really kind of depends on the amount of people that are involved. And really, the population.

Susan: Floyd County paid by the body.

Bob Rowe:

Ah, yep, yep, I do remember hearing that too. Yep, some people...

That said, almost sounds like that would lead you to want to come up with bodies, doesn't it?

Susan: Yeah, it does actually.

Bob Rowe: It's just, oh, that's funny.

Susan: Do y-, do you know anything about the Floyd County coroner?

Bob Rowe:

I, I don't, other than what I heard you guys saying the other day on the podcast.

Susan Simpson:

Yeah, he went to prison. When you pay by the body you got an incentive to -

Bob Rowe: Oh my God, you're serious, I was joking.

Susan Simpson: Oh, no, I'm dead serious.

[17:19] Susan Simpson: In Floyd County, the more deaths the coroner investigates, the more the coroner gets paid.

And when Craig Burns was coroner, there were a lot of deaths investigated. In fact, they had been a huge increase, at least on paper, in the number of deaths the medical examiner was called in to do a post-mortem.

It's one of the things that he went to prison for.

So, Craig Burns had every incentive to do more autopsies, not fewer. And the fact that he didn't autopsy Brian Bowling made no sense at all.

The only person who might be able to explain why no autopsy was done in this case, would be Craig Burns himself.

Susan Simpson: One evening, I got a phone call from a number I didn't recognize. I was pretty sure it was going to be a spam call -- but I answered anyway.

[Phone rings.]

Susan Simpson: Hello, this is Susan speaking.

Craig Burns: Susan.

Susan: Hi, who is this?

Burns: My name is Craig Burns.

Susan: Hi, Mr. Burns. How are you doing?

Burns:

I am good. I am returning a call to you and I am going to see in what limited capacity I can try to help you.

Susan Simpson: The 'limited capacity,' Burns explained, was due to the fact he simply didn't recall anything about this case.

Susan Simpson:

From Dallas Battle's testimony it sounds like it's when he's at the funeral home with you that he starts thinking it's a murder.

Craig Burns: Okay.

Susan:

So you don't remember going with him to sort of examine the body and try and determine...

Burns:

I honestly don't because that would be such a normal thing for me that it would not stand out in my mind.

Susan: Did you know Dallas Battle?

Craig Burns:

I did know Dallas. Dallas was a good man. I never had a problem out of Dallas. I never had... to me, he was always humble, and to me he was always willing to learn from me, and I was very willing to learn from him.

[19:15] Susan Simpson: Craig Burns did remember that he'd later helped exhume Brian Bowling's body. He was there to supervise when they dug him up.

But that time he and Dallas Battle examined Brian's body at the funeral home, and decided not to do an autopsy? Well, that he didn't recall a thing about.

I explained to Craig Burns why he was such an important part of in this case, and why I'd been so interested in hearing from him.

Susan:

Your testimony was pretty crucial. Because that was the proof that it could have been the guy out of the window who did it. And that it was not from someone inside the room.

Craig Burns:

And you know it's so unusual for me to testify in a case like this. When you actually told me the first time that I had testified, I thought she's got me confused with somebody else.

Susan Simpson: The only reason Craig Burns had needed to testify in this case was because he hadn't requested an autopsy. Which meant there was no medical examiner for the prosecution to call instead.

So, if Prosecutor Steve Cox had wanted to show that Brian Bowling had been shot by Lee Clark standing outside of a window, then he had no choice but to use Craig Burns to try to prove it.

I asked Burns what the process would have been for requesting an autopsy back then. I was wondering if maybe the bureaucratic headache of making a request could explain why he decided against doing it. Turns out though it would've been pretty easy. Burns told me that, in Floyd County, coroners often used private doctors for post-mortems, rather than using the GBI's medical examiners at the crime lab.

[20:53] Craig Burns:

And so, if we had a case that either I felt like needed an autopsy or the officer felt like needed an autopsy, I would talk to the physician who was on-call today and tell him "Hey, this is what I've got downstairs. I feel like we need to post this individual."

The other thing that you would always think about is, and I would rather spend 10 minutes telling somebody why I'd done something rather than 2 hours on a witness stand telling somebody why I wished I had done something. If that makes sense to you.

Susan Simpson: Yup.

Susan Simpson: This was a point that Craig Burns made to me repeatedly. It was always better to err on the side of requesting an autopsy, he said.

Craig Burns:

My theory is that I would rather spend 10 minutes on the witness stand telling a jury why I did what I did versus 2 hours telling a jury why I wished I had done what I done.

Susan:

And in this case, I mean, it seemed odd to me that no aut-, autopsy was done given that it's a homicide. Does that seem strange to you?

Craig Burns:

Not if Dallas Battle was in agreement, and I was in agreement and after talking to the family they were, they were placated, they were satisfied. I can certainly see the decision not to do an autopsy to be made.

Susan:

It sounds like it t-, it turned into one of those cases where instead of 10 minutes to request an autopsy, you had to spend 2 hours on the stand explaining why you didn't get one.

Craig Burns:

Well, and that's ok. As, as we mature and develop in our formal education, w-, you know, I have learned to change my decision-making process.

Susan Simpson:

So is it ultimately the coroner's call or the police officer's call to have an autopsy done?

Craig Burns:

Police officer and coroner and the medical examiner all three have to agree.

[22:52] Susan Simpson: This is not true, by the way. Under Georgia law, it's the coroner's call.

In practice, this decision is usually made in consultation with law enforcement. So it makes sense that Burns would've been talking to Dallas Battle and the GBI's medical examiner.

But what doesn't make sense is Burns' claim that the GBI's medical examiner would've told him he didn't need an autopsy here.

Craig Burns:

If, if the medical examiner said to me, "Well, Craig, you know, I can see these types of problems down the road," then what I would have to do is decline LifeLink's authority to harvest organs.

Susan:

Is it not possible to have LifeLink involved, have the organs harvested, and then have an autopsy performed?

Craig Burns:

Is it possible? Yes. Is there any value to it? Not really. You have to realize that you're not getting a complete autopsy by a forensic pathologist.

Susan Simpson: Craig Burns acknowledged to me that in plenty of other cases involving organ donors he had ordered autopsies. And the experts we've spoken to have all agreed that an autopsy would not have interfered with Brian's organ donation. They told us in this case there would have been immense value in having an autopsy done.

Susan:

We've talked to a couple pathologists who told us that, if the medical examination had been done here, they that would have given an answer as to what happened to him, and whether this was a distance shot, or contact wound, or in-between.

Craig Burns:

And in, and in 2022, I would agree with you. Had we opened the head and had an autopsy been done and had the brain been looked at, then there would not be these types of questions today.

And in 2022, I agree with you. In 1996, I, like say, I don't remember the case.

Susan Simpson:

Can you think of another homicide case where there was not a referral for an autopsy?

Craig Burns: Independently, I cannot.

Susan:

Other than the organ donation, do you recall why an autopsy wasn't done?

Craig Burns:

I would give you my best 25-year guess, and that would be that it was to respect the wishes of the family that Mr. Bowling wanted to be an organ donor.

Susan:

Yeah. The family actually thought there was an autopsy done. I'm not sure why. But their memory, they told me he was autopsied. So.

Craig Burns: Look on the death certificate, and it'll tell you yes or no.

Susan:

The coroner's death investigation report, it doesn't have it, there's nothing checked. There's, like, a section that says like "exam type," and has 4 options.

It says, "none, autopsy, external only, and tox."

Craig Burns: Ok.

Susan: ...and none of them are checked off.

Craig Burns:

That's unusual. That I would have left that blank is very unusual. It should've been checked off.

Susan:

Can you think of a reason why there wouldn't be anything checked off? Was that just an oversight, or...?

Craig Burns:

I honestly can't give you an answer. If it was done, if that report was filled out by the secretary at one point, I had hired a person to do a lot of my clerical work, and if she prepared that report, or typed that for me, it could've been that she missed it.

[26:20] Susan Simpson: I didn't know it at the time, but this was a line Craig Burns has used before.

During the investigation into his misconduct as coroner, at one point he blamed an assistant who was unfamiliar with billing procedures for some fraudulent invoices that were issued by his office. But, as is noted in Floy County's investigative report:

Kevin Fitzpatrick, reading:

No administrative office staff for the Coroner has been identified, and none is Budgeted.

Susan Simpson: Craig Burns did acknowledge though that it was indeed very strange that the report on Brian Bowling's death did not specify whether or not an autopsy had been performed.

Susan Simpson: I don't think an autopsy was done, is it possible that one was done here?

Craig Burns:

Again, I would have to see what's in my case file. It could've been looked at by one of the clinical pathologists. I just don't remember.

Susan Simpson: Craig Burns said that, although he had no memory of this case, he would have taken detailed notes about his investigation. He may have even visited the Bowling's trailer. And his notes would still be in the coroner's file today. If an autopsy really had been done here, there'd be a record of it in that file.

Before Burns called me though, I'd already made an attempt to get those records from the current Floyd County coroner, Gene Proctor. That request had been ignored.

Craig Burns:

You said that you have not heard anything from Gene Proctor. Did you make an official Georgia open records request for his information?

Susan:

I did. And I talked to him briefly, actually. And he never followed up. I know that our assistant's trying to follow up with him now because we never heard anything more.

Craig Burns:

Well, he only has 3 days to comply with that Georgia open records request.

Susan:

See, Floyd County doesn't believe in that. We have had the hardest time getting anything.

Craig Burns:

Well, it doesn't matter what Floyd County believes, Georgia law states. I would.... If I was in your shoes, I would go back and say, "Georgia open records law requires a response within three days or a valid reason why you've not responded."

I know there's wiggle room there, but I never failed to respond to one.

Susan:

Well, I've found that most people in Floyd County don't have that philosophy, unfortunately.

Craig Burns: Well, that's, that's sad.

Susan Simpson:

Yeah. You know, we have yet to get a single document from the DA's office about anything.

Craig Burns: That's sad.

Susan:

Their response is either they've lost the files or else they just don't respond at all.

Craig Burns:

Well, just follow the chain of custody receipt and see who's got it. I mean, you have to sign the records in and sign the records out.

Susan: They can't even find those.

Craig Burns: Mmm, I'm gonna say that's bullshit.

Susan Simpson: On this point, at least, Craig Burns and I agree.

But once again, I was on the Floyd County merry-go-round. Where you can't get any answers, because some other agency has them. Only, that other agency doesn't have the answers either, because they already gave them to someone else.

[29:35] Craig Burns:

But, but Gene should ab-, absolutely ha-, have that in a, in a filing cabinet somewhere, or it should be i-, in records retention.

In my opinion, he's not giving you the attention it deserves. I'd love to read my notes that Gene has. But I can promise you he's been told not to release them.

[30:00] Jacinda Davis: In addition to the coroner's files, we'd also been trying to get records from the investigation into Craig Burns himself.

Technically, the DA's office only has 3 days to respond to a records request. But even though we had been exchanging emails, after 5 months, we still hadn't gotten the documents from the DA's office. So, we pared down our request hoping that might help move it along.

Susan Simpson:

I'm just curious what's in there and now I'm more curious when Leigh Patterson stopped responding. Why does she not want to give it over to us?

Craig Burns:

My gut feeling is someday somebody will put 2 and 2 together, but I have, I have stopped fighting it.

Jacinda Davis: Last week, the Floyd County DA's office finally got back to us. They let us know they had the documents we'd requested. A small portion of the Craig Burns file would be made available.

Susan and I happened to be down in Rome, so we said we'd drop by the DA's office to pick them up in person.

The files that we picked up from the DA's office are a little underwhelming. For instance, one of our requests was for a copy of all records of interviews done in the course of the investigation into Craig Burns. But in the files we were given, there's a summary of an interview from exactly one witness.

Still, these records gave us a little more insight into the investigation into Craig Burns. Like, for instance, what had caused Burns to be investigated in the first place.

When Susan spoke to Burns, he told her the investigation had been politically motivated – the DA at the time, Tami Colston, he said, hadn't liked him.

[32:00] Craig Burns:

But, Tami just always had it out for me. Because I was trying to improve the coroner's office, I was trying to improve death investigations. I turned down the county's offer of a government office in the courthouse because I didn't want nobody to be able to have their thumb on me, I didn't want nobody to be able to say, well, we've done this for you, you do this for us.

[32:38] Jacinda Davis: The files show this is not why Burns was investigated. Although apparently complaints about Burns had first been made in January of 1998 -- the same month he testified at Lee's and Cain's trial -- it was actually the U.S. Secret Service that had kicked off the investigation, not Floyd County.

The Secret Service is part of the Department of the Treasury, and in addition to protecting the president, they also investigate certain financial crimes. And in May of 1998, they were investigating Burns for credit card fraud. Burns was employed by a funeral home chain that had a few locations in Rome, and he was using his employer's credit card processing machine to transfer \$56,000 to his own accounts.

Two months later, the Floyd County Police Department formally opened its own investigation into Craig Burns' conduct as coroner. Investigators began looking into complaints that Burns had been issuing bills to the families of people who had died in Floyd County. He was charging them for the services he provided as coroner.

These bills were bogus. The families owed nothing to Craig Burns. He was paid by the county – he earned a fixed fee of \$100 for every death that he accepted jurisdiction over. But many of the families who received these bills didn't know that.

One of the bills Burns issued was to the mother of a man who had died of bacterial meningitis. When the mother explained to him that she didn't have the money to pay him, Burns had responded with the following:

Kevin Fitzpatrick, reading:

"DISCOUNT AUTHORIZED BY CORONER CRAIG BURNS – [] - Dear Mr. & Mrs. Williams. ... Knowing that you are faced with this bill and knowing that it is a large amount, I want to help you with it as much as I can. I have taken 50% off this bill and paid it for you with money I have in my coroner budget for when such cases arise as this has. The balance will be your responsibility and may be paid any way you like by the month. I am sorry to have caused you such an increase in your debts to pay but we needed to get the answers to the questions you were asking me when James died. Unfortunately, this type of testing was the only way to do so."

Jacinda Davis: Even in murder cases, Burns didn't pass up on the opportunity to earn some cash. In one homicide case, the victim had been sent to the GBI crime lab to be autopsied – which is a service provided to the county free of charge. There's no cost to the county for it. And yet Burns had sent a bill to the murder victim's family – payable to his personal bank account.

[35:30] Susan Simpson: Burns wasn't just stealing from families. He was stealing from the county, too.

The investigation found that between January of 1997 and September of 1998, Craig Burns had charged the county for 166 post mortem examinations by the local medical examiner –

examinations which were never actually performed. The county would issue checks to the medical examiner to pay for these services, but Burns would intercept the checks, and deposit them in his own account. And since the medical examiner had never performed the exams in the first place, he wasn't expecting any payment for them, and did realize it when the checks went missing.

I didn't have the DA's records when I spoke to Craig Burns, but I'd known about these charges, and I'd asked him about it.

Susan Simpson:

The investigation into you, I know that there were out, something to do with autopsy reports, or death investigations that were not done, they wouldn't give me the file so I actually don't know too much about your case. But I know that was one of the allegations made.

[36:35] Craig Burns: That was, that's never been mentioned to me.

Susan: But the, but there, so one of the reports we do have says that there's an issue with autopsies being billed for that weren't performed?

Craig Burns:

That got into the local medical examiner that I had appointed at the time did not complete his paperwork and then he denied that he had done those external exams for me.

Susan: So you'd referred them and then he didn't perform them?

Craig Burns:

He claims he didn't perform them. I think his documentation is what was bad. And, and he turned around and left town, I just had poor judgment in who I chose as my local medical examiner.

Susan Simpson: We'd been hoping that the files from the Craig Burns investigation might contain records about his handling of the Brian Bowling case.

Unfortunately, the investigative file notes that it only covers the period from 1997 to 1998. Which means the Bowling case, from 1996, was not part of the investigation.

And anyway, even if the investigation had covered the 1996 time period, it's not clear what records investigators would have actually found. Because there's a note in the file about what happened when investigators obtained a search warrant, and presented it to Craig Burns:

Kevin Fitzpatrick, reading:

At the time Officers searched Defendant's home[,] Defendant said [to] Sgt. Carney: '[you will] not find what [you are] looking for, I have known for two weeks that this search warrant was coming.'

Defendant also stated ... that he was glad that he still had a friend in the [] Police Department.

Also present at the time these statements were made was Dallas Battle [and] David Stewart.

[38:29] Susan Simpson: When the search warrant was served on Craig Burns, he informed the investigators that, coincidentally, his computer had recently crashed. The entire hard drive had to be replaced. Oops.

So, if the documents investigators were looking for were on the hard drive, they were gone now.

The records we have about the Craig Burns case are still spotty. But the most important question I had for Craig Burns didn't need any documents for him to answer. What I needed to know from him was the name of the substance that had been applied to the gunshot wound in Brian Bowling's head.

Once I knew for sure what the substance was, I could find out whether or not it was possible for it to have caused the blackened appearance of the wound.

[39:18] Susan Simpson:

So I've shown these photos to some doctors and some police officers, and they have looked at it and said, "That looks like a contact wound to me."

And, to them it looks like the black in there is burning, or soot, or something caused by the high heat.

Craig Burns:

Well, if I had saw, or if I see tearing of the skin where the gas gets up under the skin, then you c-, and I, and I saw stippling, then I would say yes, a different type of wound would be a, a close contact wound. But I don't see a tearing of the skin. I see more of circular wound here.

And even today, 25 years later, if I was looking at that, the first thing that would not come to my mind would be a contact wound.

Susan: The, is there always skin tearing, though, when it, with a contact wound?

Craig Burns:

All that I've ever seen that have been contact wounds have had skin tearing.

Susan Simpson:

Ok. So if you were there with Dallas Battle trying to figure out what happened to this boy, you would look at the lack of the skin tearing.

Craig Burns:

I would have, yes. If Dallas and I were there, and you're telling me that, I would probably say to Dallas, this looks like a distance shot to me.

Susan Simpson: Craig Burns told me that he does not recall what he and Dallas Battle talked about at the funeral home. But, he said, based on the lack of tearing around the gunshot wound to Brian's head, he would've concluded that Brian had been killed by a shot fired from a distance.

We asked medical examiner and forensic pathologist Dr. Eric Peters about Burns' conclusion.

Dr. Eric Peters:

You know, a little revolver is not exactly a high-powered weapon. You don't necessarily have to have tearing of the wound. So, if someone shoots themselves right dead-center in the middle of the forehead, invariably, whatever type of weapon it is will cause a stellate tear. In the temporal area, you have a little more play in there, as far as soft-tissue. So like I said, often, more often than not a contact wound will have some tearing at the entrance.

Susan Simpson:

Have you seen like suicide or contact head wounds that did not have tearing?

Dr. Eric Peters: Yeah. I have.

Susan Simpson: Skin tearing around contact gunshot wounds is often but not always present with contact shots to the head. Burns' determination that the lack of tearing meant Brian had to have been killed by a shot fired from a distance is just factually wrong. Even though that seems to be the basis of his and Sgt. Battle's conclusion that Brian had been murdered.

And that still leaves the question as to why the inside of the gunshot wound has the blackened appearance that you'd expect from a contact shot.

Susan Simpson:

I'm curious what the hardening compound was that would cause that coloration.

Craig Burns:

The hardening compound that comes from the trade house for embalmers would be a white-type substance. It's usually white powder. Then if it's placed into a wound, it absorbs the fluid.

So what you would have is the, the hardening compound would be the color of blood that has dried, blood that has deoxygenated, and the serum off of the blood, which is a clear fluid. The hardening compound itself is not that color.

[43:04] Susan Simpson:

So to my eye, it's a, it's a really black color. It looks burned to me. Does that look like a normal appearance of hardening compound or is that how usually it, it would react to old blood or?

Craig Burns:

Well, if it was successfully packed with hardening compound and allowed to congeal I would, I could certainly see that there, that that wound would have hardening compound in it.

Susan: Okay. So to you, that looks like a hardening compound.

Craig Burns:

To me that looks like it could have a hardening compound in it.

I understand what you're talking about, the tissue being charred, but with me being at the funeral home and having the opportunity to know what they had done to the wound, or what had not been done to the wound, that's how I would come to my conclusion that that is hardening compound.

[43:55] Susan Simpson: To get some insight into what Burns had told me, I spoke to Dominick Astorino – funeral director, embalmer, and professor of mortuary science.

Professor Astorino is the embalmer that other embalmers call when they have a job that they don't know how to handle. He specializes in trauma cases and is very familiar with how funeral homes prepare bodies for viewing when they have had gunshot wounds to the head and face.

And when I showed him the photos that Craig Burns had taken of Brian Bowling's body from the funeral home, he saw something that everyone else had missed.

Astorino:

He's, he's all embalmed. He's already embalmed in all these photos.

Susan Simpson: In all of them?

Astorino: Mm-hm.

Susan Simpson: The photos that Coroner Burns took of Brian's body – the ones with the rod through the gunshot wound, and that everyone mistakes for autopsy photos – these were taken after Brian's body had been fully embalmed.

Astorino:

The embalming is done, but the cosmetic work has not yet been done. So, it's a two-step process, for sure.

Susan Simpson: I asked Astorino what he thought about Burns' testimony about what had caused the blackened appearance of the gunshot wound.

Astorino:

It seemed to me like he probably wasn't there and probably doesn't do a whole lot of the work himself and was told what to say, because the appearance of the wound, that's not caused by packing powder.

I believe it was caused by another thing that we do in embalming.

Susan Simpson: Professor Astorino told me that the blackened appearance was in no way caused by some kind of granulated substance or hardening powder.

But, it was likely caused by a certain embalming technique.

Astorino:

What you're looking at in that photo is again, we have to get the tissue firm and dry because eventually they're going to put wax over that wound and then put cosmetics over the wax and the skin to get it all to blend. And in order for that to work, the skin and the inside of the wound has to be cauterized and dry.

So, what we do is, we introduce a, it's usually a liquid chemical soaked in cotton, like phenolic acid, carbolic acid that works to cauterize the wound.

Susan Simpson: So, the burned appearance in the gunshot wound— could that have been caused by soot deposited from a contact wound?

Astorino: Well, that we can't tell.

Susan Simpson: There may have been soot and charring inside the gunshot wound. Or, there may not have been. These photos can't tell us either way. Because they were taken after Brian's body had been substantially altered by the embalming process.

Astorino:

The wound has already been cauterized and the edges of the wound have already been trimmed away and cleaned. So, if you, if you compare that, your, the picture is not good, because it's 30 years old.

Susan Simpson:

If the skin had been torn around the bullet hole, would they have trimmed it up? And, like –

Dominick Astorino:

Yeah, the proper protocol is to trim away any jagged or unembalmed edges. just look at the entry. This is the entrance wound right here.

Susan: Mm-hmm.

Astorino:

It's got an appearance of, it's wet and it's jagged. So, they definitely cleaned it up once it was cauterized so that they can wax over it and make it lie flush and level.

Susan: So, it's possible the skin was torn. That's very interesting.

Astorino: Well, it's, I mean, it's here. The skin's lacerated right here.

Susan:

So, the perfect round entrance, it didn't occur to me that the embalmer or the, who-, whoever was cleaning up the body could have done that.

[47:22] Susan Simpson: At trial, Craig Burns never mentioned that, when he and Dallas Battle inspected Brian's body, it had already been embalmed. Bur Burns had to have known that.

He also had to have known that the blackened appearance of the gunshot wound had nothing to do with hardening compound.

Susan:

So, what this guy was, he is a funeral director. He should have been familiar with basic practices. So, why is he calling this hardening compound?

Astorino: I don't know.

Susan Simpson: Based on what he said at trial, Professor Astorino had assumed Craig Burns didn't have any real embalming experience. Because no licensed embalmer would've made this error.

Dominick Astorino:

I mean, just the real thing that stood out was the under-qualifications of the person making these, these determinations and that was before I knew he was a criminal.

Susan Simpson: Craig Burns really was a licensed embalmer, though. He really did have years of experience preparing bodies. He would've recognized what had actually caused the blackened appearance of the gunshot wound.

So, why would he have come up with this story about the hardening compound?

Well, maybe because if he had told the truth, if he'd explained in court what had really caused the blackened appearance, that would've meant explaining Brian's body had been fully embalmed before he and Sgt. Battle went in to examine it.

Still even then – even after the embalming – all of the important questions in this case could still have been cleared up if Burns had simply requested an autopsy.

Astorino:

So, the discharge goes off and then you see the soot and everything embedded into the bone. you don't have pic-, at least I don't have the pictures of, of the bone.

Susan Simpson: They did not take any. They just didn't take any.

Astorino:

Yeah, without an autopsy it's gonna be really unlikely. But that's what you would expect to see, tattooing into the bone.

[49:20] Jacinda Davis: So that brings us back to the question we started with. Why wasn't there an autopsy done in this case?

It doesn't make any sense that Craig Burns would have failed to do an autopsy – or failed to pretend to do an autopsy – because that would have deprived him of an opportunity to bill someone for it. Especially in a case where literally everyone wanted an autopsy to be done.

Based on what we'd learned about Craig Burns' brand of corruption, the fact that Brian Bowling wasn't autopsied made even less sense than it had to begin with.

But recently, we got a chance to speak again with Brian's uncle, Mikel Baker. And to ask questions we hadn't known to ask the first time we spoke to him.

[50:00] Susan Simpson:

I remember when we first talked to you, we were surprised that all of y'all assumed an autopsy had been done. And I was kind of thinking maybe y'all had requested one not be done because I couldn't imagine why else there wouldn't have been--

Mikel Baker: Right.

Susan: An autopsy.

Mikel:

We were told over and over and over that it was done. You know, that's what we were being told by the police department and the funeral home.

Susan: What did the funeral home tell you?

Mikel:

We had called about the funeral because that's when they had told us that Josh was involved. So we had told him to hold the arrangements and they told us that the body was still at the state crime lab.

Jacinda Davis: Brian's family remembers being told repeatedly that Brian was being autopsied. They had no reason to doubt that's what had happened.

Susan:

And then after that, did y'all ever get like confirmation that the autopsy had been done

Mikel: We received a bill for it, it was like seventy-five hundred dollars.

Susan: Did your family ultimately pay the bill to Craig Burns?

Mikel: We did. We did pay the bill.

[51:17] Jacinda Davis: As county coroner, Craig Burns sometimes falsely billed for autopsies that had never been done. And sometimes he falsely billed for autopsies that had actually happened – but for which the families of the deceased hadn't owed a thing.

We still don't know which scenario happened with Brian. We don't know if Craig Burns was billing for an autopsy he never had done – or for an autopsy that was performed, but for which no report or record was ever disclosed.

The only thing Brian's family ever remembers seeing is the bill.

Susan Simpson: Was it your parents that ultimately paid the bill you think?

Mikel Baker: Yes, ma'am. My mom and dad.

Susan:

I think you mentioned that they tried to offer to use the life insurance policy.

Mikel: Yes. And they wouldn't take the life insurance policy.

Susan: Did they give you a reason?

Mikel:

They did not. They did say that the state would pay two hundred fifty dollars is all that the state pays for the autopsy. The rest was on us.

[52:09] Jacinda Davis:

Can you explain that to me because I don't know that I've heard this about using the life insurance money?

Mikel:

Yeah, we asked them because my mom had some life insurance on all the grandkids and they asked if we could use one of those policies to pay for the autopsy, but then they were advised they could not.

Susan: I wonder if he was concerned that he wouldn't get paid if he did that.

Mikel: Or some kind of paper trail, maybe.

Susan:

I wonder if he was worried that the death was ruled accidental, he might not get paid out.

Mikel: That's possible, yeah.

Susan: I also--

Mikel:

And that's a very good point. I've never even thought about it that direction, so because life insurance usually won't pay for a suicide.

Jacinda Davis: When Brian Bowling died, his family wasn't just left to deal with the loss of their son, brother, grandson, and nephew.

Like a lot of families in Floyd County, because of Craig Burns, they were left with the loss of a loved one – and also a hefty financial obligation.

[53:10] Susan Simpson: After Episode 12 of this podcast came out with the interview with Angela Bruce, Mikel Baker called me. We hadn't spoken since my last trip to Rome, but he told me there was something he thought I should know.

Angela Bruce isn't lying about what happened, he said. I know she's not lying. Because I was there when investigators first told us about the new witness they had in Brian's case.

Mikel Baker:

Dallas and David both told us, you know, that she had come forward saying that she'd overheard them saying that. Asked them to leave the party, but that she didn't want to testify.

And then, so it got my sister really upset. It's like, well. "What are we gonna do?"

And they're like, "Well, don't worry about it because we've got other things on her that we can take her kids if she does not testify."

So that... during all that story, I mean, it hit me hard right there.

[54:05] Susan Simpson: At the time, Mikel Baker had thought that investigators had found a way to convince a reluctant witness to testify to what she knew.

But listening to our episode, Mikel realized the investigators' threats wouldn't have just compelled Angela Bruce to appear at trial. They would have also compelled her to testify in whichever way the investigators had wanted.

Mikel Baker:

So they were just holding her kids against her to make her say what they wanted her to say. The cops in Floyd County are crooked. Crooked.

Susan Simpson: If the jury had known what we know now about the evidence in this case, it is difficult to see how they could have convicted Lee Clark and Cain Storey.

There was no Free Bird gang. Angela Bruce never heard Lee or Cain confess to murder. Charlie Childers did not see Lee outside of the Bowings' trailer. Neither Lee nor Cain had any motive to hurt Brian – and for that matter, neither did Brian's girlfriend Caprice. The blue pillow had nothing to do with anything.

And the State's entire theory that Brian Bowling did not kill himself was based on the personal, non-expert opinion of a discredited coroner who observed Brian's gunshot wound after he had been embalmed.

So the new evidence you've heard on this podcast clearly would have mattered – if it was introduced at trial. But it's far too late for that. So does any of it matter now?

Well, maybe. But once you've been convicted of a crime, challenging that conviction is an uphill battle all the way. And without legal representation, it's essentially impossible.

Which is why, when I began investigating this case, I told Lee that he should apply again to the Georgia Innocence Project.

Darrell Lee Clark:

Yeah, yeah. See, I remember, back in the day. I wrote them and they wrote me, sent me back a letter, told me that they couldn't help me because the case wasn't DNA related.

Susan Simpson:

Yeah, they've only recently changed their rules on that. It's, like, the past couple years.

Lee: Oh, see, I didn't know that.

Susan:

So, that, that's why, yeah, they would never have been able to consider your case until pretty recently.

[56:19] Susan Simpson: In the years since Lee first applied to them, GIP – the Georgia Innocence Project – has expanded their criteria for the kinds of cases they are able to take on. And I thought Lee's case might be one that they'd be interested in.

"Try applying to them again", I told him.

A few months later, I got a phone call from him.

Susan: Hey.

Lee: Hello? Susan?

Susan: Yeah.

Lee:

Well, I just wanted to call you and let you know that I just got off the phone this morning with the Georgia Innocence Project, and they're getting ready to start their investigation.

Susan Simpson: GIP accepted Lee Clark as a client and will represent him in his efforts to overturn his conviction.

Darrell Lee Clark:

Yeah, they called me. I was asleep. I was over in the bed asleep. It was about 8 o'clock this morning I was over knocked out and they come in here call my name. I sit up and I was looking at them crazy. They gave me the pass talking about, you got to go to intake, you've got an attorney phone call this morning. I said, "What?"

I looked at the paper and I said, "Attorney phone call?"

I said, "What's this about?"

It had me confused, because I wasn't expecting to hear from them. Then I got up there and they called in and got on the phone with her, and she wanted to explain to me all the process and all that stuff and, I don't know, but she's tripped me out this morning.

But it was great though. I tell you, it made my day.

Susan Simpson: The Georgia Innocence Project is currently working on Lee's case, and they hope that, before too long, he will be back in court again. If and when that happens, we'll be back as well to update you on developments.

So, while this is the final episode of Season 1 of Proof that covers our investigation, it's not our last episode about Lee's and Cain's case. In fact, we have two bonus episodes coming up, with a very special episode next Monday that you won't want to miss. There will also be a sidebar on Thursday, so don't forget to send us your questions. You can reach us on social media, or send us an email at proofcrimepod@gmail.com.

Also, because Cain Storey was Lee's co-defendant at trial, under conflict of interest rules, the Georgia Innocence Project is not allowed to represent him as well. That means that Cain is currently without legal counsel. So, if there happen to be any Georgia attorneys out there who are looking for a pro bono case to take on, let us know – we'd be happy to put you in touch with him.

You've been listening to *Proof*, a podcast by Red Marble Media.

We'll be back next Monday for episode 15. Send us your questions at proofcrimepod@gmail.com. We'll respond during our bonus episodes – *Proof: Sidebar* – on Thursdays.

Kevin Fitzpatrick is our Executive Producer; our logo was designed by Drew Husosky and our theme music is by Ramiro Marquez. Audio production for this episode is by George Panos and Michael Ulatowski. Production Assistance provided by Jude Slava. Our Social Media Manager is Skylar Park.

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That's all for this week... thanks for listening.