Proof: A True Crime Podcast
Season 1: Russian Roulette
Episode 11: Stay Gold
Monday, May 16, 2022

Susan Simpson:
So you don't really know when you learned about the Free Birds?

Mikel Baker:
Not me, I don't remember. Because I don't remember Brian ever saying anything about it.

Susan: About the Free Birds?

Mikel: Yeah.

[00:17] Jacinda Davis: If Brian Bowling really was killed because of his membership in the Free Bird gang, then the obvious people to talk to to find out more about what happened to him, would be the other members of the Free Birds. That's easier said than done, though. Because there's no agreement about who the members of the gang had been.

Brian's sister and brother-in-law told us that before Brian died, they hadn't even known he'd been in a gang.

Susan Simpson: Who all was in this clique-gang?

Kenneth Floyd:
Gang, or whatever they called it - we don't know. We really don't.

Jacinda: Did he ever talk about being in a gang, or…

Jacinda Davis: Kenneth told us that Brian hadn't mentioned the Free Birds. He didn't know about it until after Brian's death. But Amanda said she'd thought the Free Birds had been a group of neighborhood kids.

Susan: Which kids?

Amanda Bowling:
Brian, Tommy, James Archer, Josh, and Lee. Yeah. That was the only ones that I knew of.

[01:30] 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.*

[02:16] Jacinda Davis: In addition to Brian, Josh/Cain, and Lee, Amanda named Tommy Hyde and James Archer as the other members of the Free Birds. The prosecution has a different theory, though. They didn't believe Tommy or James were Free Birds at all. Instead, documents from the police file show that investigators thought the Free Birds had consisted of five boys: Brian himself, plus the four boys that had stolen the safe from Cain's father. A few pages of notes list the gang members and their possible gang names. The members were: Cain, gang nickname "Devil Eye," Brian, nickname "Joker," Lee Clark, nickname "Spic," Pete Jordan, nickname "The Italian," and Joseph Wilkins, nickname "Slick."

These last two gang members, Pete Jordan and Joseph Wilkins, were not called as witnesses at trial. In fact, there's no record that investigators ever tried to speak with either of them. So we went to speak to Pete Jordan, and asked him about the Free Birds.

> **Susan:** He never heard of a gang. Never heard of the Free Birds.
>
> **Jacinda:**
> And he's one of the ones who was listed as one of the gang members, and he's like, "There was no gang." And he didn't know what the Free Birds were until Dallas Battle told him he was a gang member.

Jacinda Davis: It turns out that Pete Jordan had been interviewed. There was no record of it, but Pete told us that during the investigation, Dallas Battle had picked him up, taken him in for questioning, and told him he wanted to know more about this gang he was amember of.

Pete's response had been, "Gang? What gang?"

> **Susan Simpson:**
> What's interesting to me is he says he never felt like he was being accused of being involved in the murder. Battle was trying to find out- he was a gang member or whatever, but Battle was not approaching him as a murderer. He never felt like he was considered a suspect, but in reality if this whole theory of what happened to Brian is true--
>
> **Dan:** He would have at least had knowledge of the murder.

Susan: He would have been one of the four involved.

Jacinda Davis: Pete Jordan was one of the four boys who stole a safe from Cain's father. But the only evidence these four boys were in a gang together came from Debbie Kelley, who said she saw all four of their names in a gang notebook. But the idea that these four boys would be in a gang together didn't make much sense.

Susan:
He also wasn't even that close- this was not a tight-knit group. This was not like a band of friends that liked to hang out all the time. He was friends with Lee. He met Joseph Wilkins once, maybe. He knew Cain and kind of didn't like him, kind of wondered why Lee was always hanging out with him. And he met Brian a couple times--

Kevin Fitzpatrick:
These weren't people who had basically pledged their lives together in an actual gang.

Susan: This was more like a "Stand By Me" crew.

Jacinda: This wasn't even a friend group that hung out all the time.

Susan: Yeah. It wasn't like 'the gang,' informally.

[05:19] Jacinda Davis: Although the only other alleged gang member that Pete Jordan had been friends with was Lee Clark, Sgt. Battle seems to have believed that he was one of the Free Birds.

Strangely, though, there's no indication that Battle believed that Pete had been involved in Brian's murder.

Susan:
But if Battle had believed his own theory about the safe-theft-narcing by Brian being the motive for the murder, well then you have four boys who would have been involved and wanted to do the murder, and he's one of them. And yet, Battle apparently has no doubts that he's not part of it.

Kevin Fitzpatrick:
The gang theory was just a show for Battle. It was just a way to make his case.

[06:01] Jacinda Davis: The evidence that Brian, Lee, and Cain were in a gang together is based entirely on the testimony of Debbie Kelley who said she'd seen their names written in the Free Birds gang rule book. She also said that, according to this notebook, the Free Bird gang was bound by a set of rules, including rule number one: always stick up for your brother. And rule number two: if a brother narcs to the police, kill him.

But Debbie Kelley's testimony doesn't prove that Brian was killed because he broke rule number two. To prove that, the prosecution had relied on the Weed Eagle Note that was recovered from Brian's casket after he was exhumed. It's a drawing of an eagle carrying a bag of

weed, flying below a banner that says “Free Birds,” and in the corner of the eagle’s flag is the word “NARCS,” circled and crossed out.

The eagle is not signed. There’s nothing on the note itself to prove who wrote it. But at trial, the prosecution told the jury that it came from a gang member named Joseph Wilkins.

> **Susan Simpson:**
> The person we have not talked to, and really need to, is the same person the police, apparently never bothered to talk to either, Joseph Wilkins.
>
> **Jacinda:**
> He’s the one who drew the Free Bird note that they pulled out of the casket.
>
> **Susan:**
> And he’s the one who wrote “NARCS” on it, if indeed it was one of the boys who wrote it. How do they use that note as evidence against Lee and Cain in the first place?
>
> **Jacinda:** Without saying where it came from?
>
> **Susan:**
> Yeah. Without talking to the boy who drew it and while admitting that neither Cain nor Lee drew it or put it in the casket and yet they use that as proof that this was a narc revenge shooting?
>
> **Kevin Fitzpatrick:**
> It would seem to suggest that that kid had complete awareness of the so-called hit.
>
> **Susan Simpson:** Even the judge at trial, at one point, expresses surprise when the prosecutor is like, “Yeah, no one ever talked to him.”
>
> The judge is like, “Wait a minute, no one ever talked to the guy who drew this note? Well, that’s strange. Carry on.”

[08:04] Jacinda Davis: At another point during the trial, the judge had also asked the prosecutor if the boy who had drawn the Weed Eagle Note was going to testify.

“No,” the prosecutor told him, “that person will not be called as a witness.”

The judge asked, “Wouldn’t he be pretty important if this is supposed to be the symbol of a group and he’s the one who made it?”

“Well, let me evaluate that,” the prosecutor replied. And the prosecutor is right, it’s the prosecutor’s job to decide who should be called as a witness, not the judges. But the judge had a point; Joseph Wilkins is pretty important to the case. And it’s not just the Weed Eagle Note. According to the testimony of Debbie Kelley, the gang rule book that she’d found at the Storey residence had actually belonged to Joseph Wilkins.

So why did no one talk to him?

[09:08] Susan Simpson: Everyone in this case, the investigators, the prosecutor, the defense, basically just assumed that Joseph Wilkins really had drawn the Weed Eagle Note. There's nothing to prove, though, that that's really the case. No one ever asked him if he actually did.

But assuming he did write the note, there's a second question he was never asked, either. Did he draw the "NO NARCS" symbol that's in the corner of the Weed Eagle's flag?

I spent a number of months trying to get in touch with Joseph Wilkins, without success. And Lee Clark hadn't been able to tell me how I might track him down.

> **Susan Simpson:** How well did you know Joseph?
>
> **Darrell Lee Clark:**
> Not too well. I think I met him on two or three occasions. He was more Cain's friend than he was mine. The most hanging out I did with him was when we actually stole that safe.

Susan Simpson: Lee hadn't even wanted Joseph to be involved in the safe theft in the first place.

> **Lee:**
> Joseph just got into it because he was there with Cain. I even told Cain, "Are you sure you trust this dude, man? Is he trustworthy?"
>
> He said, "Yeah, man. Yeah, yeah, yeah. I know him."
>
> I said, "Well alright, let's get this- let's go."

Susan Simpson: That night, Cain and Joseph were both charged with theft for stealing the safe. A few days later, Lee and Pete Jordan were also arrested.

Lee said it was obvious to him that either Joseph or Cain must've told the police what had happened, but he wasn't sure which one of them it had been.

> **Lee:**
> Cain's been my lifelong friend, I'm choosing to believe him when he's telling me, "Hey, look. I didn't do it, man."
>
> When Cain told me that- when he kept telling me over and over again that he didn't do it, I was convinced that Joseph was the one that told 'em.

Susan Simpson: At trial, Lee learned that both Cain and Joseph had talked to the police. Both of them had fully confessed to their roles in the safe theft, and named the other participants. Which makes it even stranger that Joseph Wilkins would have written "NARCS" on the note left in Brian's casket.

Why would Joseph been complaining about Brian supposedly talking to the police when he'd already gone ahead and confessed to everything himself?

We asked Amanda if she knew of Brian and Joseph ever having problems with one another.

Amanda Bowling:
Never. Because, you know, to me he was just a little loner, to himself, you know. I never really seen him hang out with anybody.

Susan Simpson:
The people that I talked to kind of described him as "the artsy kid."

Amanda: Yeah, yeah.

Susan:
Do you know why Joseph Wilkins would have written a note about NARCS?

Amanda: Not really, because I never thought he- I mean, I knew that he was friends with Josh and everybody, but I didn't know that they hung out like that.

[11:43] Susan Simpson: Amanda wasn't aware of any problems between Brian and Joseph. In fact, she wasn't even aware they'd been friends.

Amanda:
I remember Joseph. Him and Brian were the same age, and I mean… they knew each other but that was it, that I knew of.

Susan:
So, to your knowledge, was Joseph Wilkins one of the Free Birds?

Amanda:
I had heard that, afterwards. The one that would probably give you more insight about the Free Birds would be Tommy.

[12:10] Susan Simpson: I had already looked for Tommy, but without success, and I asked Amanda if she knew where we could find him.

"Prison," she said.

[14:04] Susan Simpson: Tommy Hyde was not a witness at Lee's and Cain's trial. But he is one of the major reasons that many of Brian's friends and family believe that Lee and Cain murdered Brian.

Susan: What has Tommy told you about all this?

Amanda:
He's just now getting to where he's comfortable with talking about what happened with Brian. Because it really messed him up, too. And whenever they did that to him in the graveyard, too… that really messed him up.

That's why I believe Tommy did do what he did, out of self-defense. That's why he is where he is right now, out of self-defense. Because of what happened when he was a kid. What happened with…

Susan: We were told he was convicted of killing a friend of his.

Amanda Bowling:
Yeah. Well, they wasn't like *friend*-friends, but I mean, they were hanging out together at one point. So.

Susan Simpson: And… I don't think the police ever did talk to Tommy.

Amanda: I don't think they did, either.

[15:00] Susan Simpson: Tommy, Brian, and Cain were all neighbors. They all lived in trailers that bordered the Pleasant Hope Cemetery. Amanda told us that the three boys had been close friends. "Like three peas in a pod," she'd said.

Lee had not been a part of this trio. For one thing, he lived over in Lindale, not Silver Creek. And for another, Tommy hadn't liked Lee.

Amanda:
Lee didn't like Tommy, either, from what I always understood. They had gotten into it up there. I don't know… boys are so unpredictable.

Susan Simpson: Those who knew them remember that long before Brian's death, Tommy Hyde and Lee Clark had a mutual dislike for one another. Though, when they were younger, they'd often found themselves hanging out together anyways, because they'd both been close with Cain.

And Amanda and Kenneth told us that they thought that Tommy Hyde and perhaps another boy nearby named James Archer had been the other members of the Free Birds.

I finally got a chance to speak with both of them.

Susan:
So, the Free Birds… I talked to James Archer. He did not know about the Free Birds.

Amanda: Oh, okay. I didn't know that. I figured-

Susan:
Tommy is the only person I've spoken to that has heard about the Free Birds.

Amanda: Yeah.

Susan:
He said that he wasn't really a part of it, because he'd moved away, but he said he'd heard about it.

[16:22] Susan Simpson: I wasn't able to record my conversation with Tommy Hyde, but after the first time I spoke to him, I called Jacinda with an update.

Susan Simpson:
The way he told it, it was not really a thing. It was just a group. They talked about being in a group of something. It was not really that serious, either way.

Jacinda Davis: Right.

Susan:
Anyway, his lineup for the Free Birds was basically the three of them that lived right there by the cemetery, plus Lee. Which doesn't really make sense.

Jacinda Davis: No. It doesn't make sense.

Susan: I also mentioned the notebook- the gang notebook?

Jacinda: Yeah.

Susan:
And his reaction was, "See that's something that Floyd County would just make up if they have to go to a jury trial."

Jacinda: Wow.

Susan:
He did not believe that the gang book was real.

And then I told him that one of the gang rules was like, "a brother shall not do drugs."

And then, he was like, "Yeah, that's not… if there had been a gang and we'd had a rule book, that would not have been a rule."

[17:17] Susan Simpson: Tommy told me that it had been very shortly after Brian's death that he began to suspect that Lee Clark might have been responsible.

Susan:
Tommy mentioned… It seems like he thought it was Lee pretty early on.

Amanda Bowling:
Now, he probably did. I guess he did- that might have been Tommy's first thought.

Kenneth Floyd: It may have been Tommy that told us that Josh didn't do it without Lee's say-so. Without Lee being right there to make sure it happened. I don't know.

Susan Simpson: Amanda and Kenneth told us that it made sense to them that Tommy would suspect Lee of being behind Brian's death.

Amanda: Brian and Lee had already gotten into it.

Susan: About…

Amanda Bowling: In the graveyard. I think.

Susan Simpson: What happened in the graveyard?

Amanda: I don't know. They had jumped on Tommy or something.

Susan: What do you mean, "jumped on Tommy?"

Amanda:
Like… see, I had heard that they'd put guns to both of them's head before this.

Susan: Wait, who put guns to whose head?

Amanda: Josh did. To Brian's and Tommy's.

Susan: Josh put a gun to Brian and Tommy's head?

Amanda: That's what I heard. That's what we heard. But Lee was there, too.

-

Susan: Why were they threatening Tommy?

Kenneth: They just threatened him. And, supposedly, he told me that they put the gun up to his head and pulled the trigger, but it was empty.

Jacinda: That's what Tommy told you.

Kenneth: Yep.

Susan Simpson: The story about Lee and Cain firing empty guns at Brian and Tommy did not come up at trial. In fact, Tommy didn't tell anyone about this until many years after Brian's death.

But to Brian's family, it's an important piece of evidence that points at Lee's and Cain's guilt.

When I finally spoke to Tommy, he told me about an incident that occured at the house of an older neighbor, where the boys sometimes hung out. I updated Jacinda on what Tommy had said.

> **[19:08] Susan:**
> Well, the guns were empty, I guess. They pull up at Brent Forsyth's house. Both Lee and Josh have a gun. They each pull a gun… I mean, the details are pretty vague.
>
> **Jacinda Davis:** Right.
>
> **Susan:**
> Josh and Lee both pull a gun and point it at the back of the head of Brian and Tommy, and like, they apparently pulled the triggers but the guns aren't loaded.

Susan Simpson: Tommy told me that he believed that Brian was killed, not because of anything having to do with the safe theft, but in order to prevent Brian from telling anyone about the dry-firing incident.

But what Tommy couldn't explain to me is why Lee and Cain might have done this in the first place. From what Tommy described, it had all just happened out of the blue.

I told Lee what I had learned, and asked him if he remembered the incident that Tommy was describing.

> **Susan:**
> He said that he and Brian were over at Brent Forsyth's house, and that you and Josh showed up and pulled guns on Brian and Tommy Hyde.
>
> **Darrell Lee Clark:**
> Oh, really? Ok. Well, let me go ahead and clarify this story right here for you, since he wants to tell it backwards, and don't wanna tell it right? I'll go ahead and tell you the real truth of the matter.
>
> We was at a party at Brent Forsyth's house one night. Me, Cain, Tommy, Brian. We was all up there drunk. Well, we get up there, and Brent Forsyth's got a lot of guns at his house, and he leaves those guns laying around on the tables up there. It's like, it's just free to pick one up.
>
> Well, just luckily he's got a - if I'm not mistaken, it's a 9mm - he had it sitting on the coffee table over there.

Brian was so drunk, Brian couldn't walk. And Tommy had decided - well, he's drunk, too. Tommy gets stupid when he drinks. He gets to stumbling around and picks that gun up, points it at Brian and starts clicking it, points it at Cain and starts clicking it, and he pointed it at me and started clicking it.

I mean, that ain't cool. You don't point a gun at nobody and I don't care if it's unloaded or not. My Daddy told me all the time when I was growing up, when I was a little bitty boy, he told me, "The most dangerous gun in the world is an unloaded gun. You should not play [with an] unloaded gun, because you'll assume it's unloaded."

Well when he turned it around there and clicked it at me… well. I done had enough of that shit right there. I went over there and grabbed him, dragged him out over in the yard and DDT'd him in the ant bed over there and I left him in the ant bed.

[21:19] Susan Simpson: Alright, first off. What was that last thing?

Lee: Do what, now?

Susan: You "DT'd" him in an ant bed?

Lee: A DDT. You know what a DDT is, don't you?

Susan: N-n-n-... no?

Darrell Lee Clark: It's a wrestling move. You lock their head in and you slam 'em into the ground. I slammed him face-first in that ant bed.

Susan Simpson: That was not part of the story that I got from Tommy Hyde.

Lee: Yeah… I'd imagine he left all that out. He didn't tell it to you straight.

[21:40] Susan Simpson: Since there aren't any records about the dry-firing incident, we're left with Lee's word and Tommy's word about what really happened. But there are a few things that Tommy says that don't quite add up.

First, Tommy told me that this all occurred not long before Brian's death; maybe a couple of weeks, at most. But, Lee said that it had been much further back in time than that. Maybe even as much as a year before Brian's death.

And that would make more sense, because Brian had been on house arrest for a couple of months before the shooting. He wouldn't have been hanging out at night at other people's houses in that time period.

And then there's what Tommy said when I'd talked to him the second time, after hearing from Lee. I told Tommy what Lee had said about the two of them fighting at Brent's house because

Lee had been upset about Tommy dry-firing the gun at him, and Tommy insisted that this isn't how things had gone down.

"That night that Brian and I were at Brent Forsyth's house," he told me, "We were really drunk. Lee and Cain showed up and shoved me out the door. I stumbled down the porch steps, and I remember landing on my chin. I still remember the ants crawling on my head."

I hadn't told Tommy what Lee had said about DDT'ing him into an ant bed, but that part of Tommy's story at least, matches up perfectly with what Lee had told me.

[22:59] Susan Simpson: What makes me the most skeptical about Tommy's story though, is that there's nothing else to corroborate it, even when it seems like there should be.

> **Susan:**
> But, the fact that, ok- one, Brent Forsyth didn't tell us the story, and it was at his house. Two, Brian apparently never mentioned it to anyone else. And third, Tommy Hyde never mentions it to anyone else?
>
> Tommy said that he was never talked to by the police, because Tommy does say that he eventually told Debra Bowling about it, but that's it. And like, why would Debra not have told the police about that?
>
> **Jacinda Davis:** Right.
>
> **Susan:** Why would nobody interview Tommy Hyde about it?

Susan Simpson: The first time I spoke to Tommy, he told me that investigators had never talked to him about this case. But I asked him why he hadn't told anyone else about the dry-firing incident?

"I can't say. I don't know," he told me. "But now, knowing what I do about life? Oh yeah, of course I'd say something."

But back then? Well, he just hadn't.

Later on, though, Tommy mentioned something else that surprised me.

> **Susan Simpson:**
> There was a water tower that had some graffiti on it. Did you ever hear about that? I think it was up in Lindale, and the graffiti says, "T-Birds." Not "Free Birds."
>
> But apparently they must have thought it was related, because Tommy was saying that David Stewart took him up there to look at it?

Susan Simpson: If Lee and Cain really did shove Brian and Tommy to the ground and really did fire empty guns at the back of their heads, then there's no apparent reason that Tommy would

not have told investigators about it. Tommy hadn't liked Lee to begin with; he'd already been going around telling people that he thought that Lee was involved in Brian's death.

And, according to Tommy, he actually did talk to police about this case. So why did he wait until years after Lee's and Cain's convictions to tell anyone about the dry-firing incident?

[26:36] Susan Simpson: Before talking to Tommy Hyde, I hadn't talked to anyone in this case who said they had first-hand knowledge about the Free Birds. I'd begun to wonder if the Free Birds had even been a thing at all.

But, later on when Cain finally called me, I got a chance to ask him something I had wanted to ask for a very long time.

> **Susan:** Cain, I've been wondering. What were the Free Birds?
>
> **Cain Joshua Storey:**
> It was a concept. It was basically a concept. You know, a concept where you're "free as a bird," you know what I mean?

Susan Simpson: Free Birds was not a band. It was not a clique. Not a gang. According to Cain, Free Birds was a concept. He explained to me how this concept had come about.

> **Cain:**
> It was just basically… I'll tell you. One day, me and Lee were walking by my house, around the cemetery up there. And a little bird ran up the cuff of his pants. And he's like, "Woah, look at that, man!"
>
> And we weren't but like 12, 13 years old. He said, "That's us, dude. We're free as birds, man."
>
> And that's how it got started. That's all it was.

Susan Simpson: The next time I spoke to Lee, I asked if he remembered a time that he'd been hanging out with Cain and a bird had landed on him.

> **Darrell Lee Clark:**
> Oh yeah. When we was out in his yard, out there? Yeah, I had a bird land on me one time. I think we was about 11 years old, and I was standing there and it come down and it landed on my foot. Matter of fact, I think we was listening to that song, Lynyrd Skynyrd when that happened.

Susan Simpson: I told Lee what Cain remembered about him saying all those years ago, "We're free as birds, man." And how Cain had said this had been the origin for the concept of Free Birds.

Lee had been surprised.

> **Lee:**
> The origin of Free Birds? I remember that being said, but I don't remember it being the origin to no Free Birds. Not like we started calling ourselves "The Gang" or "Free Birds" or no stuff like that.
>
> We was young kids when that happened. We couldn't have been no more than 11, no more than 12.

Susan Simpson: Lee had heard Cain talk about Free Birds. He thought it was primarily the name of one of Cain's garage bands or something like that, and over the years he had quizzed Cain about whether or not there had been a gang, but Cain always insisted there was no such thing.

But Lee said that he had never asked Cain how the phrase Free Bird had come to be in the first place.

> **Lee:**
> He must've shared this concept with his buddy Joseph, or something.
>
> He could've shared that idea with Tommy, too. Tommy lived next door to him, and Tommy being Tommy, he would've spun it into something it wasn't.

[29:05] Jacinda Davis: There's no evidence that before Brian's death, Cain and his friends in Silver Creek had actually called themselves the Free Birds. But Lee says he wouldn't have known about it, even if that was something that was going on.

> **Lee:**
> It's not like before all that I was going out there all the time. Hell, me and Shelly was so caught up with each other I mean, I was hardly ever seeing him any more. I don't know the exact time frame of it though. I mean, six, nine months. It may have been longer than that.

Jacinda Davis: In 1996, Lee didn't have much time for hanging out in Silver Creek. He'd already dropped out of school, started living with his girlfriend Shelly, and had to get a job because he was now responsible for his own living expenses.

He and Cain weren't around each other much. And Cain told Susan the same thing.

> **Cain Joshua Storey:**
> Yeah, we didn't hang out that much, because really he'd done got shacked up with that girl or whatever, and he was working most of the time. I was still in school, so, not a lot to be honest with you.

Susan Simpson: That brings us back to the only tangible evidence of the Free Birds existence: The Weed Eagle Note.

Someone did write a farewell note to Brian, and drew an eagle carrying a banner that says "Free Birds," and then stuck the note in Brian's casket. So was this note a reference to Brian's affiliation to the gang?

The only person who can answer that question is the boy who supposedly wrote the note in the first place: Joseph Wilkins.

While investigating this case, I'd tried reaching out to him several times, but I never got through. I wasn't even sure if I'd managed to contact him at all. It turns out I had, though. That's how he got my phone number when he finally decided to give me a call.

> **[30:51] Joseph Wilkins:**
> I still have it saved. I've been looking at it for almost three months debating whether or not I'm going to call you back or not.
>
> **Susan:**
> I'm glad you did. I've wondered a lot about… your name comes up at trial a lot in this case and it kind of blew me away when I found out that no one had talked to you.
>
> **Wilkins:**
> Yeah. They didn't give a crap what I had to say. I was a fifteen-year-old kid. No one listens to a 15-year old kid.
>
> I sat here and I debated whether or not I should call you back. I guess sometimes I feel guilty that I could have done something, you know?

Susan Simpson: Joseph told me that, aside from Cain, he hadn't really been friends with any of the other alleged Free Bird members, and some of them he hadn't even known at all.

But Cain and him had been close, and he'd never thought that Cain could have been capable of murder.

> **Wilkins:**
> I mean, our girlfriends dumped us right at the same time and we held each other and cried in each other's arms. That doesn't seem like someone that would ever do what he's been accused of.
>
> **Susan:** Did you ever hear anyone talk about a gang or gang membership?
>
> **Wilkins:**
> There was never any gang. I think they ended up making up this whole narrative that there was a gang, when there wasn't.

Susan Simpson: I asked Joseph about the incident that started everything: The theft of the safe from Cain's dad. He told me that that day, he'd been hanging out with Cain when Pete and Lee had come over.

Joseph Wilkins:
They showed up and Lee was like, “Hey, let’s steal your dad’s safe. Let’s go get some pot.”

Susan Simpson: Joseph was ultimately convinced to go along with the plan. But he’d been reluctant. He’d thought that when the safe turned up missing, it was going to be pretty obvious who had taken it.

[32:50] Wilkins:
I even told Josh that. I was like, “There’s no way we’re getting away with this.” But no one seemed to care.

Susan: I guess yall took it somewhere and beat it open?

Wilkins: Yeah. And it broke open, and they found $3,200 in the safe. Lee pretty much said, “Let’s go get some pot.” So.

Jacinda Davis: The boys did buy some pot with the stolen money. Very shortly after that, though, Cain, Lee, and Joseph were all picked up by the police and driven down to the station to be interrogated.

Wilkins:
Yeah. They all put us individually in rooms and played ‘good cop, bad cop’ with us, and I played stupid as long as I possibly could, but I didn’t really have a solid story or anything like that.

I told them I went to a Piggly-Wiggly and put in an employment application, and he acted like he called the manager there and wanted to see the cameras, and I was like, “Oh crap!” So…

Susan: That was your alibi? The Piggly-Wiggly?

Wilkins:
Yeah. That's what I said at first, because I didn’t want to get in trouble. But I told them everything that happened, and Josh did too, because he told me that he did.

Jacinda Davis: After Joseph gave his statement to the police, admitting to the safe theft and telling the police who all had been involved, both Cain and Joseph had been charged with the theft. But only Cain got booked into jail.

Wilkins:
All I remember is they were taking him to jail, because I was 16, they let me go home with my mom and I told him to “Stay Gold,” and that was the last thing I said to him that night.

Susan Simpson: Stay Gold?

Joseph Wilkins: Yeah. That was a line from *The Outsiders.*

Susan Simpson: *The Outsiders* is a famous coming-of-age novel by S.E. Hinton. In telling me what had happened back in 1996, Joseph had described a couple of times when his 15-year-old self had quoted the book, which kind of fit the image I already had in my head of what Joseph had been like back in high school, just based on what I'd heard from people who had known him then.

Wilkins:
Well, a lot of people at my high school thought that I was a - because I was a little different - and I didnt' really fit into the herd of everybody else and the way society was. I was just a little bit more, I guess, liberal, or maybe just a little bit different.

Susan Simpson: Joseph's classmates had described him to me as a lonely kid who had won awards for his art and done ok in school, but nothing I heard about Joseph seemed to fit with what the State claimed at trial. That after Brian's death, he'd written a note to suddenly brag about how he'd been murdered for narcing, and then placed it in the casket as a sort of signature, to celebrate the gang's achievement in killing him.

Susan: Were you at Brian's funeral?

Wilkins: Yes.

Susan: Did you put something in his casket?

Wilkins: I did.

Susan Simpson: Joseph confirmed that he'd drawn the Weed Eagle note with its Free Birds banner and the note below saying that Brian would be missed and that they'd see him at "Tha Crossroads," a reference to the rap song by Bone Thugs-N-Harmony, which had been one of Brian's favorites.

I asked him why this had been the drawing and the message that he'd chosen to put in Brian's casket.

Wilkins:
I wanted something nice to put in there to represent all of us guys that we were all friends with and the people that couldn't be there, like Josh. Because I didn't want to go out and say, "I want to put this in there for Josh," or anything like that.

Because everybody was thinking that he had something to do with it, or whatever. So, I wanted something nice and still kind of respectful but kind of represent what we did as a group of guys.

Susan Simpson: Joseph had said that he didn't want to put anything offensive in the casket, but he also wanted the message to be a genuine expression of the friendship that he and Cain had had with Brian, which had often involved smoking weed and listening to music.

This note, though, had been the State's proof that Brian was killed for talking to the police, because of what was written in the corner of the eagle's flag. I texted Joseph a picture of the image, and asked him about it.

Susan Simpson: Have you seen what's on the flag?

Joseph Wilkins: Yes.

Susan: There's a little symbol- it says "NARCS" and it's crossed out.

Wilkins: Right.

Susan: Did you do that?

Wilkins:
I don't remember ever doing that, because that word wasn't a part of my vocabulary. I never heard anybody in our group, our circle of friends use that word. We never really talked about that kind of stuff. We never talked about, you know, people ratting on each other or anything like that.

So we never used that word, so that's the reason why I think I didn't write that.

Susan: Do you have any thoughts on what might have happened?

Wilkins: No.

Susan: … and how that got there?

Wilkins:
No. I wouldn't know. Because I drew the picture and then I stuck it in, and then that was the last I saw of it.

Susan Simpson: Besides, Joseph told me, even if "NARC" had been a word he'd actually used, he still would have had no reason to apply it to Brian.

Wilkins:
Like I said, everybody knew that that safe was stolen and everybody knew that we had something to do with it. And so I don't know why Brian knowing anything on us or me knowing anything on anybody else or anything like that would have been a thing.

Joseph said that if investigators had ever asked him anything about the note, that he would have told them what he told me. But, they never did.

Susan: Did anyone ever try to question you in this case?

Wilkins: No.

Susan:
At trial, they say that you wrote this note and that you wrote the NARCS thing.

[38:34] Joseph Wilkins: I wasn't allowed… I was told that I was on a need-to-know basis, and they'll let me know if they need me. And they never asked me anything about anything.

Susan Simpson: And who is 'they,' the investigators?

Wilkins: Yep.

Susan: So they were in touch with you, but they never tried to question you?

Wilkins:
Nope. They knew where I lived, they knew my phone number, they knew my parents.

[40:37] Susan Simpson: There's no record of Sgt. Battle trying to talk to Joseph after Brian's death, but to be fair, during much of the investigation, Joseph also hadn't been in Floyd County.

Shortly after Brian's death, Joseph's parents had pulled him out of school and sent him to live with relatives several hours away. But, he'd returned to Rome the next summer; he'd been living in Floyd County when Lee and Cain went on trial, and Joseph wondered if there was something he should be doing to set the record straight.

Wilkins:
I tried to talk to a few sheriff's deputies, I talked to the lawyer that I had for the whole safe incident, I talked to my parents. I tried to talk to absolutely everybody that I could at the time and they all told me to leave it alone.

Susan:
So, your attorney said this as well. He advised you, "This is not something that you want to get involved in."

Wilkins:
Yeah, I think… I'm pretty sure he told me that.

I was just like, "I don't think this is right. Is there something I can do?"

And he said, "No, just stay out of it and let things just come out the way that they're supposed to," or… I forgot what he said, but he just basically told me to leave it alone.

[42:00] Susan: What did you think when you heard that they were convicted?

Wilkins:
It broke my heart because I knew that they didn't have anything to do with it. I neve thought that they were guilty at all.

Susan: Do you think Brian was playing Russian Roulette?

Wilkins: Yes. Because he would do crazy things like that.

Susan Simpson: One interpretation of what happened here is that investigators just screwed up. They failed to interview a crucial witness, and because of that, they didn't realize that they'd gotten off track with their theory of the Weed Eagle note being proof of a gang murder conspiracy. But I think that interpretation is the wrong one.

I think the story of Joseph Wilkins' role in this case is much more complicated, whether he knows it or not. Because after speaking to Joseph I realized that Sgt. Battle's failure to interview him in the Brian Bowling case had been even more bizarre than I'd realized.

[43:06] When I asked Joseph about Lee Clark, he said that they'd hung out on maybe two occasions. The second time had been when they'd all stolen that safe and got arrested. But the first day had been a random day sometime before that, when he and Lee and Cain had driven around and smoked pot together.

Joseph Wilkins:
The night that we snuck out of the house and ended up smoking a joint and riding around, we ended up getting pulled over that night and we had just smoked so I figured that we were all going to go to jail, but luckily we were able to go home, but the very next day, Sgt. Battle ended up calling the house trying to get in touch with my mother. And she wasn't there at the time, so. But he told me who he was, and I knew exactly what he was doing.

Susan: What was he doing?

Wilkins:
I'm guessing he was… because he had such a thing against Lee that anyone hanging out with Lee, I guess he was calling and letting all the parents know that we were hanging around someone that was getting in trouble a lot.

Susan Simpson: So, before Brian's death, Sgt. Battle had known exactly how to find Joseph. And sure, maybe Battle hadn't been able to interview Joseph after Brian's death because his parents had sent him out of town. But Joseph had returned to Rome the following summer. In fact, he and Cain had ended up getting summer jobs together, at the same fast food joint.

Wilkins:
There was a part where I was driving us to Bojangles to go to work and I was told I should probably stay away until all of this blows over. But it didn't.

Susan: Who told you that?

Wilkins:
My parents. They were just like, “You should probably just stay away from them.”

And actually, I heard Sgt. Battle [unintelligible] once that they followed us to Bojangles one morning and that’s how they knew that we were still hanging out with each other.

Susan: They followed you to Bojangles?

Wilkins: That’s what he said.

Susan Simpson: I had asked Cain about how often he had seen Joseph after Brian’s death, and he had remembered the same thing that Joseph had.

Susan:
He told me that that summer while you were still out on bond, that y'all hung out a couple of times.

Cain Joshua Storey: Well, we were working together at the Bojangles.

Susan: That’s what he said.

Cain:
And, if I recall, I think Dallas Battle or somebody found out about it and told us we couldn’t do that no more, something. I don’t know, I [unintelligible] think about how that went, but something to that effect, right there.

Susan:
I thought it was interesting because clearly, Dallas Battle could have found Wilkins, if he had wanted to.

Susan Simpson: We have no record of the police speaking to Joseph Wilkins, but that doesn’t mean they never did. And from what Joseph’s mother remembers, it seems like Joseph might have been in contact with the police very shortly after Brian’s death.

I had ended up speaking to his mom once, when I’d been trying to reach him. And afterwards, I’d told Jacinda about how she’d told me a confusing story about how the week after the shooting, the police had been called to Pepperell High School because of something having to do with Joseph and his connection to the case.

Susan:
And she’s like, “But there should be police reports, because there was an incident at the school--”

Jacinda Davis: You know what? There was a newspaper article about that…

Susan: Oh really? About what?

Jacinda:
There's a newspaper article about a threat at the school… I'm gonna have to look at… I'll look for it again. It's in our files. But the police came--

Susan: Oh- so there was something?

Jacinda:
I think the police came and they said that it was unfounded, or it didn't amount to anything.

Susan:
We have no records of this incident. They must be among the records that have been lost. But the newspaper shows that the police came to Joseph's high school the wednesday after Brian's death, due to unspecified tensions that had risen in the wake of the shooting.

Susan Simpson: The news articles also note that there were "wild and outlandish rumors" going around town about Brian's death.

So we don't know exactly why the police went to Pepperell High School that day, other than that it had something to do with Joseph, according to his mother.

Joseph told me that he does not recall the police coming to the high school, but he does remember something happening that caused concern for his well-being in the wake of Brian's death.

Joseph Wilkins:
Somebody asked me if I needed protection, or something, and I was like, 'I don't know.'

Susan Simpson: Was that at school someone asked you?

Wilkins:
Maybe the guidance counselor, maybe? I don't … I'm not really sure. I mean, it happened pretty quick, this whole time frame. And the next thing I know, I'm getting shipped off to another school for my safety, and the next thing I know, I'm there, and still kind of confused about what was going on at the time.

[48:15] Susan Simpson: So where did investigators come up with the idea that Lee, Cain, Brian, and Joseph had all been in a gang together and lived by gang rules that included the oddly-idealistic command to "always stick up for your brother?"

Well, I've wondered, but there's one possibility I don't rule out. Because although the records were missing, it does seem like investigators knew about Joseph Wilkins very early on in this

case. And, based on their presence at the high school, if they didn't speak to him themselves, they had at least spoken to someone who had.

And the investigators' story about the Free Bird gang, well… it doesn't sound like something that happened in real life, which the prosecutor fully admitted in closing arguments.

After describing how Lee and Cain had killed Brian because of their membership in the Free Bird gang, he told the jury, "Now, that might sound stranger than fiction, but sometimes truth is stranger than fiction."

But, sometimes, fiction is just fiction. And this story about the Free Bird gang and their book of rules doesn't sound like something that would happen in reality. But it does kind of sound like something that might have been said by a 15-year-old boy who likes to quote S.E. Hinton's *The Outsiders,* a novel about a bunch of teenage boys who join a gang whose first rule is, "When you're in a gang, you stick up for the members, and make like brothers."

[49:40] Jacinda Davis: At trial, there was another piece of evidence that the prosecution relied to to prove that a gang had existed. 25 years later on, Brian's brother-in-law, Kenneth, does not remember Brian telling him about the Free Birds. As you can imagine, 25 years later, it's hard to remember all the details.

But at trial, Kenneth testified that Brian had once casually mentioned to him, "Hey, I'm in a gang called the Free Birds. The other members of the gang are Lee, Cain, Joseph Wilkins, and Tommy Hyde."

This was the prosecution's strongest evidence that Brian had been in a gang, and it was one of the things that Lee Clark raised in his appeal, arguing that the trial court had made an error in allowing it into evidence. Once again, the Supreme Court of Georgia agreed with Lee.

> ***Kevin Fitzpatrick, reading:***
> *At trial, the victim's brother-in-law testified that Brian had told him that Brian and appellants were "in a gang called Free Birds." It is undisputed that the witness's testimony as to what Brian reportedly had said was hearsay, the admission of which is limited to specified cases of necessity. In the case at bar, the trial court made no inquiry or finding concerning the particularized guarantees of trustworthiness necessary for the admission of the hearsay. However, the erroneous admission of the hearsay amounted to harmless error, since establishing Brian's membership in the gang with appellants was admitted through the testimony of the party hostess.*

[51:20] Jacinda Davis: In its decision denying Lee's appeal, the Supreme Court of Georgia concluded that, just like with the evidence about the gang rule book, Kenneth's testimony about the Free Birds had been mistakenly admitted. But once again, just like with the gang rule book, the court concluded that this error had been harmless.

Although the jury should never have heard any of the prosecution's other evidence about the Free Bird gang, the court held that these mistakes didn't affect the jury's verdict because Angela Bruce, the party hostess, testified that Lee and Cain had confessed to killing Brian

because he was trying to leave the Free BIrd gang. And she, according to the court, was enough to support the jury's verdict.

But was letting the jury convict Lee and Cain based on what Angela Bruce had to say really a harmless error?

Next time, on *Proof:*

*****

"Did she go to court and testify?"

"She did."

"Did she testify in court specifically about the pillow?

"Yep. Over the head."

***

"I promise you, 100%, that cop made her lie."

"What did she lie about?"

"I think it was Dallas Battle had her tied up- maybe caught her with something. Told her, "Hey, you're gonna do this for me, and I'm gonna let you go." "

***

"They didn't have, like, that many witnesses to talk to, and they just, like, never bothered to talk to someone else who was an important party?"

"I don't think it was a matter of not bothering- they were selective."

***

"Well, we talked to Angela Bruce."

"We found her, too."

***

"You know, there was a lot of things that were said that I know I didn't say."

*****

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

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

Transcribed by Skylar Park