



S4 | Episode Four | Butch Martin and Allison Clayton

Allison Clayton: So even though Butch presented a defense, the jury didn't buy it. And at the end of the day, you have two dead babies and their dead mother. And it's a horrific tragedy. And Butch took the fall.

(Music)
(Walking)

Taylor Peters, Host: WE BEGIN THIS STORY AT THE START OF 2024... IT'S WINTER, THE CAMPUS IS ALERT AND BUZZING AGAIN THE WAY IT ALWAYS IS AT THE START OF A NEW SEMESTER.

(Door opening)

Peters: THOMAS AND I WEAVE OUR WAY THROUGH THE SCHOOL OF LAW, PASSING STUDENTS AND FACULTY IN LECTURES OR STUDYING IN THE OPEN ATRIUM UNDER THE STREAMING SUNLIGHT FROM OVERHEAD SKYLIGHTS.

(Walking continues)

WE FIND THE ROOM WE'RE LOOKING FOR, A SMALL STUDY TUCKED AWAY IN THE BACK OF THE BUILDING.

Peters: WE'RE ABOUT TO SIT IN ON A PRACTICAL LESSON WITH REAL WORLD IMPLICATIONS. THEY'RE TAKING THEORY AND APPLYING IT TO REAL CASES, INVOLVING REAL PEOPLE.

(Music)

Peters: WHEN I HEARD ABOUT ALLISON CLAYTON'S WORK AS THE DIRECTOR OF THE INNOCENCE CLINIC ON CAMPUS, A CERTAIN IMAGE CAME TO MIND... PEOPLE SITTING AROUND A TABLE IN A SMALL ROOM, OPEN MANILLA FOLDERS OVERFLOWING WITH PAPERS AND LOOSE DOCUMENTS. IF YOU'RE THINKING OF EVERY DATELINE EPISODE YOU'VE EVER SEEN... YEAH, SAME. I TOLD HER THIS ONCE, ADMITTING THAT MY OLD CLICHE WAS PROBABLY WAY OFF BASE AND SURPRISINGLY, SHE LAUGHED... SAYING SOMETHING LIKE 'WELL THAT'S NOT FAR FROM THE TRUTH!'

Peters: WHEN I WALK IN TO HER OFFICE AND CLINIC, I REALIZE THAT I KIND OF *WAS* RIGHT. IT **DOES** FEEL A BIT LIKE WE'RE IN AN EPISODE OF A TRUE CRIME SHOW.

Clayton: I don't really watch TV, maybe the way they do it on TV and movies is a little bit like, I'm the crazy person doing this.

Thomas: The It's always Sunny in Philadelphia...

Clayton: Yes, that meme we're just like and there's like a board behind him with all the art and stuff. Yeah.

(Music)

Peters: FOR CONTEXT, THE INNOCENCE PROJECT HAS CHAPTERS ACROSS THE COUNTRY. ALLISON SERVES AS THE DEPUTY DIRECTOR FOR THE INNOCENCE PROJECT OF TEXAS. SHE IS A CLINIC FELLOW FOR TEXAS TECH, TRAINING LAW STUDENTS IN APPELLATE AND POST-CONVICTION LITIGATION. MEANING BASICALLY THAT SHE'S ATTEMPTING TO EXONERATE THE INNOCENT.

(Chattering)

Peters: TWO LARGE BULLETIN BOARDS SPAN THE LENGTH OF THE BACK WALL. THERE'S A CORKBOARD CONTAINING BLACK SILHOUETTE PICTURES WITH BIG WHITE QUESTION MARKS, STICKY NOTES ATTACHED BY YELLOW TACKS. THERE ARE PICTURES OF LANDSCAPES, GRADUATION PHOTOS OF YOUNG PEOPLE FROZEN IN TIME, MUG SHOTS. ANOTHER BOARD IS COVERED WITH BLACK BUTCHER PAPER CONTAINING YET MORE PHOTOS, NAMES WITH HEIGHT AND WEIGHT LISTED... COLORED THUMB TACKS WITH RED AND YELLOW YARN CONNECTING THE DOTS- CONNECTING STORIES, PEOPLE, PATHS.

Clayton: So let me give you a quick tour of our clinic. So the first thing we have are my murder boards and I'm running out of space in my like, dream vision is to have like a clinic that is just like solid white, white board, you know?

Peters: THAT'S WHAT SHE SAID- THEY'RE HER MURDER BOARDS. IT'S HOW THEY KEEP THE DETAILS OF CERTAIN CASES STRAIGHT AND ON THE FOREFRONT. AS WE'RE GETTING A MURDER BOARD TOUR, MADYSON, PRYCE, SHELBY

AND PATRICK FILE IN AND CHAT WHILE THEY UNLOAD BRIEFCASES AND BACKPACKS. SIPPING ICED COFFEE FROM CLEAR PLASTIC CUPS AND OR STEEL TUMBLERS. YOU'LL HEAR ALLISON CALL THEM STUDENT ATTORNEYS, THEY'RE IN THEIR THIRD YEAR OF LAW SCHOOL.

THEY SETTLE INTO ROLLING CHAIRS AND REST THEIR LAPTOPS ON THEIR LEGS OR DESKS.

(Mouse clicking and keyboard)

Peters: THE CLICKS OF A MOUSE AND TYPING OF A KEYBOARD RESONATE IN THE SMALL, STILL ROOM. FOR CASES THAT TAKE HOURS, MONTHS, YEARS OF REVIEW... THIS IS WHAT PROGRESS SOUNDS LIKE. TODAY THEY'RE TALKING THROUGH A CASE OUT OF MIDLAND FROM THE LATE 90'S... A HOUSEFIRE KILLED A WOMAN AND HER TWO YOUNG CHILDREN. HER HUSBAND SPENT DECADES IN PRISON FOR THEIR MURDERS. HIS NAME IS BUTCH MARTIN. IN OCTOBER OF 2022, A JUDGE RULED THAT HE HAD BEEN WRONGLY CONVICTED; THAT HE WAS FOUND GUILTY BASED ON JUNK SCIENCE ALL THOSE YEARS AGO... THANKS TO INFORMATION PRESENTED TO THE COURT BY ALLISON AND HER TEAM. ON THIS DAY IN JANUARY 2024, THEY'RE PREPPING FOR HIS UPCOMING BOND HEARING.

Clayton: Okay. So, there's a rule in Texas that says that if someone's in prison and they have been wrongly convicted and the trial court in the state both agree that they've been wrongly convicted, then that person can be released on bond, which means they can be free even though their case is still pending.

Peters: SIDEBAR HERE- NO PUN INTENDED... THERE'S A DIFFERENCE BETWEEN A WRONGFUL CONVICTION AND ACTUAL INNOCENCE- ALLISON EXPLAINS THAT TO PROVE ACUAL INNOCENCE IN THIS CASE, THEY'D NEED TO KNOW DEFINITELY WHAT ACTUALLY CAUSED THE FIRE.

Clayton: And the fire marshal back in the nineties threw that extension cord away. So, we don't have a way that we can prove for a fact what the origin of the fire was. So, the only thing that the judge and the state have agreed to is that Butch was wrongfully convicted.

Peters: SO, THIS BOND HEARING THEY'RE PREPARING FOR... IT'S TO DETERMINE WHAT THIS NEW FREEDOM WILL LOOK LIKE FOR BUTCH. IF HE GETS IT AT ALL... THAT'S THE RISKY PART OF THIS JOB. IT'S ENTIRELY POSSIBLE THAT BOND CAN BE DENIED AND HE WILL RETURN TO PRISON.

(Music)

Clayton: Who he'll live with? What's the housing situation going to be like? Is it going to be stable? ... How is he going to make money? Does he need money? If so, who's going to employ him and what will that employment look like?

Student: Is she providing transportation or is there an extra car that she can give us for the time being?

Peters: IN MID-FEBRUARY, ALL OF THIS INFORMATION IS PRESENTED TO A JUDGE.

(Music)

Peters: BOND HEARINGS ARE ONE OF THE MANY WAVES OF PROGRESS FOR ATTORNEYS LIKE ALLISON AND LAWYERS IN TRAINING LIKE THE FOUR IN THIS ROOM.

Peters: THERE MIGHT BE FOURTY CASES THEY WORK ON OVER THE SPAN OF A YEAR. EACH WITH ITS OWN STATUS, ITS OWN CHALLENGES, ITS OWN JUDGES SHOWING GRACE AND CONSIDERING A WRONGFUL CONVICTION... OR DENYING IT.

(MUSIC)

Peters: ALLISON AND HER TEAM GOT BUTCH THE OUTCOME HE HAD HOPED FOR... NO, THE OUTCOME HE SPENT DECADES FANTASIZING OVER, DREAMING ABOUT EVERY MINUTE OF EVERY DAY AS HE SAT IN PRISON OBSESSING ABOUT HIS CIRCUMSTANCES. AND AFTER SPENDING YEARS ADVOCATING FOR HIM, ALLISON CRIED AND CHEERED AS HE WALKED FREE...FOR THE FIRST TIME IN HALF HIS LIFE. IT'S THE SAME OUTCOME ALLISON FIGHTS FOR IN EVERY CASE SHE TAKES ON. FOR EVERY PERSON SHE VISITS IN PRISON OR WHOSE FAMILY MEMBERS SHE GROWS TO KNOW OVER THE MONTHS AND YEARS. FOR EVERY PERSON WHO BELIEVES ALLISON CAN MAKE THIER LIFE A SUCCESS STORY LIKE BUTCH. WE'LL SPEND THE NEXT TWO EPISODES GETTING TO KNOW MORE ABOUT THIS CASE AND WHAT WENT WRONG. AND HOW ALLISON HELPED BRING THE FREEDOM AND JUSTICE BUTCH DESERVED. IN THIS EPISODE WE LAY OUT WHAT HAPPENED ON THAT FATEFUL DAY AND THE SPECULATION THAT BUILT AROUND BUTCH.

THIS IS PART ONE.

Peters: People might be familiar with his story. It's maybe one of the more well-known cases, particularly in this area, but fortunately we have the expert on the case...

Clayton: ...and I can tell you everything about this case.

Peters: Can you... can you take us back to the very beginning of where this story starts?

Clayton: Sure. So, it's 1998, Midland, Texas. And for those of you don't know, Midland, Texas is kind of, you know, it's not a small town, but it's certainly not a big town. It's an oil community, just in a flat, windy West Texas. Butch lives in a house with his family, kind of out in the country. His family is Marcia and his son Brady, who was a toddler.

Clayton: And their daughter, Kristen, who was a baby. And it's just kind of like a normal day, not really unlike any of the other days that they had had. They went and they visited with his wife's mom. They came back. Butch had a job across town that he needed to go work on. So, he and a friend go across town to give this guy an estimate for how much this job was going to take. They come back home, and they grab a six pack of beer, and they drive back home. As they're driving home. Butch says that he sees emergency vehicles just flying past them, and he remarks to his friend man and realizes we're in the country. So, it's not like there's a whole lot of houses around. There's not like a whole lot of things that could be going to. And he remarks to his friend, man, I hope they aren't going to my house. And they roll up and they see Butch's house just completely engulfed in flames, nothing but flames and black smoke all around. And they see firefighters trying to get in and before the car has even stopped. Butch is out running, and he goes through the front fence and he's straight to the door and he's screaming. This is from multiple accounts on the scene from multiple firefighters and law enforcement. He's screaming, my babies, my babies are in there. And he goes into the black smoke and he's trying to get in the front door, but he can't get it to open. The reason he didn't know at the time, but the reason why he couldn't get it to open, is because Marsha woke up at some point during the fire, which we know is very, very common, and tried to make it to the front door and she just couldn't get out. And that's a very common thing that you'll see in a lot of fires, is they just they just can't quite make it. And that's what happened to Marcia. She's right there at the front door blocking Butch's entry. They didn't know that at the time. And so Butch is just like he's trying to open it up. You know, the door handle is really hot, so he's throwing himself against it. He can't get him to open. He's getting burned. His hair is burning. His skin is burning. He runs out, runs back in, tries again to get in, is unsuccessful, runs back out, runs around to his daughter's room. Tries to open the window to the daughter's room, breaks the glass, flames out because that fire was fed all this oxygen. And the firefighters around, you know, they know at a certain point, like, you're not going to survive this fire. And so, they're on Butch. They're trying to pull him. Hey, you got it. You got to stop. You're going to you're going to get her yourself or you got to stop. So, they pull him out and they handcuff him. They handcuff him to the they, like, handcuff him to the bumper of a patrol car.

Peters: Because why? They were he was suspicious or because they were just trying to, they...

Clayton: Yeah. They were, they were just trying to control him. He was. He just.

Peters: Me too. Is it normal for law enforcement agencies to handcuff somebody at a scene just so that they can contain them? Like, wouldn't you oftentimes see them maybe, like, put them in the backseat of a cop car? Like handcuffing somebody who's not a suspect on a scene? Seems a little bit like it.

Clayton: Handcuffing someone in the car does seem a bit weird. Honestly, I really can't fault them for that because it sounds like it was a very dynamic situation and he was just out of control trying to get in, and they had to stop him. And so, I'm guessing that's just the fastest thing that. But yeah, they handcuffed him to the patrol car, and he just is on the ground just watching his house burn with his family inside. And, they came over after a little while and there was, of course, neighbors had shown up and they said one of the neighbor being a very loose term because this country's neighbor, like a mile down the road, neighbor came over and, and they said, hey, can you take him back to your place? You know, we are just he needs to go. So still in handcuffs? They took him over to the neighbor's house. They gave the neighbor the key to the handcuffs, which, now that you're mentioning, it does all feel very weird. And Lucy Goosey, but in Midland in the late 80s or, sorry, the late 90s. So, he goes to his friend's house. It's him and his friend. He convinces his friend, hey, I'm cool, I'm cool, I'm fine. Just let me let me out of the handcuffs. So, my friend let him out of the handcuffs.

Peters: And he takes off.

Clayton: He takes off and he runs the mile back to his house to still try to get in, to be with his family. They had to detain him, and they ended up taking him to the hospital because Butch himself had had sustained pretty significant burns to his arms and all his hair was gone, on his arms. And so, they took him to the hospital for medical treatment. And from there they took him to a different hospital for psychiatric care because, as you can imagine, he was demolished. Just completely broken from what he had witnessed, what he'd been through. So, he was there, for a while, and, they came in, they got him from the psychiatric unit and took him straight to the grand jury to testify in front of the grand jury about what had happened. It was very fast. And I remember speaking with one of the prosecutors in this case back in 2023 at one of Butch's hearings, and he said, you know, I was here the day that they brought him in, and I saw him coming down the hall and he said he looked like a madman. And I said, well, they literally drag him from the psychiatric hospital. So maybe that could explain that. But, you know, you don't know the background of someone when you see them. And so, the prosecutors are all thinking, yeah, this guy is clearly insane. Yeah, he definitely looks like someone who would just be a complete nut and do this to his family, or they didn't know a little story, but in any event, they drug Butch in and obviously, he testified they took him to the scene. He walked them around.

Peters: Was he testifying? It is like someone who witnessed things or.

Clayton: At first, yeah, it was it was just like, you know, this is what I did. This is where we went, like, I don't know what happened.

Peters: What you....

Clayton: Saw. Yeah. Okay. Yeah. And he did a great job. Actually. I've, I've read the transcript, and he did a really good job for someone who was in, you know, a psychiatric break doesn't seem accurate, but he was definitely going through it, you know? In the meantime, you have the firefighters on the scene, and they need to know, was this intentional? Was it accidental? Back then, not so much now, but back then, the way the arson investigator role was filled is it was filled by someone within the fire department. So, you had someone who'd been a firefighter or for a very long time, and they would become the fire chief. The fire chief was the arson investigator. It's not like that so much anymore. But that's the way it was back then. And the way firefighters were trained in arson investigation was just kind of through the lore of what their predecessors taught them. So, if their predecessors would go through a fire scene and point to a pattern in the concrete and say, so, you see, that's a poor pattern, and that's where we know accelerant has been poured, then that's what they learned. And it was just kind of passed down from generation to generation. It wasn't until maybe a decade after this happened that you started having actual scientists become arson investigators, but back then, it was just a firefighter practice.

Peters: Yeah, that was sort of handed down.

Clayton: Yeah. That's right. Who was going off of the law that they had been taught?

Peters: And what did this arson investigator find?

Clayton: So, they found a couple of things that they thought were indicia of an intentionally set fire. One of the things I found was a poor pattern in the concrete, they saw that poor pattern, and he thought that that's where something has been poured. An accelerant has been poured. The other thing they did was they went through, and they tested the fire debris. There's a testing method called the carbon strip testing method. What you do is you just put, like, some of the ashes in there, and it's just kind of like a yay or nay kind of test, and it just pops. Pops positive for the presence of accelerants. So that was probably the biggest indicator for, for the, the investigator at the time. The problem, whenever you have someone who is in a role, who hasn't necessarily been trained in a very strict way, in a very strict environment, is they don't know what they're doing. So the investigator in this case went through and they were just like, he was just throwing things away. That should not have been thrown away. One of the things that he threw away was an extension cord. Butch had Butch and Marsha, his wife, had on their back porch, an old deep freezer. And the back porch is not like, like a nice backboard. It's like a lean to kind of back porch.

Clayton: And there's an old deep freezer that they had on it. Well, the back porch didn't have any outlet on it. So, what they'd done is they had taken an indoor electric cord extension cord, plugged it into the deep freezer, and they had run that cord down the back porch, through their bedroom, into the kitchen, and had plugged it in above the stove. That extension cord now we're pretty sure is what happened is that that extension cord failed. That's what started the fire. And we would be able to for sure prove that. Investigator. Yeah, if the investigator hadn't thrown it away on the scene as they're investigating, like, that's not that's just not something they kept. So in any event, they go through, they find the presence of an accelerant in the debris. They look at it at the time, the science, the science. I use that term very loosely. The science at the time had indicated that, that these accelerants can only be there if they are intentionally placed. Right. So, they went through the chemicals of what could possibly, you know, what could this possibly be in? There were two different accelerants. One of the accelerants, they said, well, that's lighter fluid like you would use in a like a grill. And the other one they said, well, the only place that they could find that chemical at that time was in lamp oil, not just any lamp oil, lamp oil from the UK. And remember this is in the late 90s. So it's not like you can just go online and buy lamp oil from the UK and there wasn't any indication like how would you have even paid for that back in the 90s if you didn't have the internet? How would you even have done that? But they said yes, this is, lighter fluid over here in one spot and then lamp oil from the UK in another. And that's what they went with. So, and I don't know if, if you want to get this deep into it, but, but the original pathologist, not a forensic pathologist, it's an important distinction.

Clayton: But there was a pathologist that they had that looked at the bodies of all three of the victims, a house fire victims, and he looked at their levels of carbon monoxide and carbon dioxide, carbon, whatever the levels of the chemicals in their blood. And he said, yes, all of these people were alive when the fire started. So, in other words, it's not like Butch had killed his family and then left and then said the fire to cover something up. It wasn't like that at all. No, all of the all of the people were alive at the time that the fire started. So the original cause of death was they just died in house fire and they were buried and all that stuff happened. Well, then they got the testing back and they decided, no, there were accelerants that were placed within the house. So this was an intentionally set fire. So then they had the bodies exhumed, brought in a forensic anthropologist who came in and looked at the bodies and said, these people were knocked out before the fire started, which if that's raising some flags, it should. That's not actual. That's not something you can actually say, there's not any kind of indicia that would support that theory. Far, far. Later on, whenever we took up the case, we would prove that that was just. You're just making stuff up. And even the anthropologist would actually come around eventually. But that's later on in the story. So. Yeah, so it was. And what's butcher's defense? You know, it's not like he could point to somebody and say they did it. You know, it's an accidental fire. There was no motive for the case. He had no, no, no life insurance, no house insurance. He had just finished remodeling the house. Actually, that was one of the the aggravating factors, we think, is that he'd been remodeling the house and he had some of that chipboard, you know, like the chipboard.

Clayton: And he had leaned that on the back porch next to the freezer on top of the extension cord. So but in any event, he has no motive. He had an alibi. But juries never really buy alibis. This jury certainly didn't buy an alibi. So at the end of the day, you're looking at a man who, like the science, is saying that this fire was intentionally set and there you have it.

Clayton: Who else was going to be the one to take the blame for it? But the last person to see them alive who had access to them. And that was Butch. So Butch went to trial. They tried to put on the best defenses they could. The science at the time was not on their side. They came in with their own expert, their own, you know, fire investigation expert who looked at burn patterns and tried to explain, hey, this fire started on the back porch, and I don't know so much if that's something that you can legitimately, honestly, but that was actually supported by the objective evidence, because another one of the witnesses that they brought in was a neighbor from far down the road, the first one who called 911, who said she looked out across the field and she saw a big fire on their back porch. And so she called them and she said, hey, there's a fire on their back porch. Someone should go over and check it out. That was first person to call 911.

Clayton: And the idea that it started on the back porch was also supported by the wind data from that day, because the back porch was facing towards the west and the wind was blowing from the west to the east. The the state's narrative was that the fire started within the house and then burned out. But the problem with that is that the there was a 40 mile per hour wind that day.

Clayton: So, for the state's theory to be accepted, that means a fire would have had to have burned into a 40 mile per hour wind. And that's just not how fires work. Like, you don't have to be a scientist to understand, you know, a set of fire. It's going to go in the direction the wind is blowing. But the way they accounted for that, they said the fire was just so hot and so strong that it blew into a 40 mile an hour wind. And the way that they accounted for what the neighbor had seen is they said, well, she's old, and she didn't see what she thought she saw.

Clayton: So even though Butch presented a defense, the jury didn't buy it. And at the end of the day, you have two dead babies and their dead mother. And it's a horrific tragedy. And Butch took the fall. And so this is I mean, I know that you probably get kind of a lot pretty personal, especially with people like Butch who are really forthcoming and kind of an emotional type of person when he describes what that is like to be in the courtroom that day and to hear those words, what did he say that was like for him? Obviously, you can't change anything. This is the fate that you were accepting. So, I mean, this was in 98, the conviction came out in 99. If you talk to Butch about it, to this day, he will break down and cry. And I felt so bad anytime we had to go to prison, actually, and ask him about, hey, what about this? What about that? Because he would relive it and, you know, he's still he's still traumatized by it.

Clayton: He still is grieving. But when that came down, I think everything just came to a halt for him in his grieving process. In his life really. I mean, imagine that the absolute trauma of losing your family, your whole family in such a horrific way, and then you don't even get to grieve their death because now you're being sent away to prison for the rest of your life for it. And, you know, I've talked to Butch about it. In that moment. He was in disbelief. He was angry.

Peters: Who's just broken.

Clayton: You know, just could not believe that they would think that he would do that to his family.

(Music)

Peters: BUTCH WAS TRIED AND FOUND GUILTY OF THREE COUNTS OF CAPITAL MURDER. HE SPENT THE NEXT TWO DECADES IN PRISON JUST WAITING. HE TRIED APPEALING HIS CONVICTION TO NO AVAIL. BUT WHILE HE WAS SITTING, WAITING AND HOPING... SCIENCE WAS STARTING TO CHANGE. TECHNOLOGY WAS ADVANCING AND RESEARCH WAS BRINGING UNDERSTANDING IN CERTAIN AREAS... LIKE HOUSE FIRES AND ACCELERANTS. SOMETHING THAT WOULD BE CRITICAL FOR BUTCH, AND FOR ALLISON, AND THE STUDENTS WHO WOULD COME ALONG 24 YEARS LATER AND HELP OVERTURN HIS CONVICTION.

Peters: NEXT TIME ON FEARLESS, THE INNOCENCE CLINIC GETS INVOLVED IN BUTCH'S CASE.

(MUSIC)

Peters: FEARLESS IS PRODUCED BY TEXAS TECH MARKETING AND COMMUNICATIONS. IT'S HOSTED AND WRITTEN BY ME, TAYLOR PETERS. THOMAS BOYD IS OUR AUDIO ENGINEER- HE DOES SOUND DESIGN AND EDITS THIS PODCAST.

Peters: TO SEE PHOTOS OF BUTCH TODAY, CLICK ON THE LINK IN OUR SHOW NOTES. AND TUNE IN NEXT WEEK FOR PART TWO OF BUTCH'S STORY.

Peters: FEARLESS IS A TEXAS TECH PRODUCTION. FROM HERE, IT'S POSSIBLE.