



SEASON 5 EPISODE 2

## How Guilty Pleas Fastrack and Derail Justice

The US Constitution guarantees a right to trial to anyone accused of a crime, but less than 3 percent of criminal defendants get a trial. Instead, they're regularly cornered into pleading guilty, sometimes admitting to a crime they didn't commit. Reporter Mark Betancourt retraces one innocent man's legal ordeal to explain why this happens.

Mitzi Miller:

I'm Mitzi Miller, and this is 70 Million. The US Constitution guarantees a right to trial to anyone accused of a crime, but the fact is, very few criminal cases in the United States go to trial, [less than 3 percent](#) in many places. Instead, they end in [guilty pleas with defendants bypassing a trial and admitting to a crime](#). Most do so to avoid more serious charges, convictions or increased prison time. Alarming experts have concluded that defendants aren't just choosing to plead guilty on their own, the system is rigged to force them.

Premal Dharia:

This romantic idea that we have of trials and trials by jury isn't really happening in criminal courts around the country.

Miller:

That's [Premal Dharia](#), Executive Director of the Institute to End Mass Incarceration at Harvard Law School.

Dharia:

You have been in pretrial detention for six months. You're offered a plea deal that says you can go home tomorrow or you can go to trial and face five years in prison. What are you doing? That's not a real choice, it's just not. When we talk about plea bargaining now, in current times in the United States, we're really talking about [coercion](#).

Miller:

[Since the 1970s when about 15 percent of federal cases went to trial](#), prosecutors tripled the number of criminal charges they filed in federal court. Criminal charges peaked and then fell off again in 2011, but not without leaving lasting change.

Dharia:

Our country has expanded its reliance on the criminal law and the criminal legal system to address any matter of social problems, and as a result, our criminal laws have expanded themselves and the scope of law enforcement, of policing, of prosecution has expanded as well.

Miller:

That means the courts are left with a system that relies on guilty pleas to close out cases. The reason, a plea deal is easier than a trial. As Mark Betancourt reports, that's especially true if the suspect is innocent.

Mark Betancourt:

Late one summer night in 1996, [Eric Weakley](#) and his older brother Wayne, pulled into a parking lot in the tiny town of Lignum in Culpeper County, Virginia. Eric was just 16 at the time, his brother was 28, they'd been out partying.

Weakley:

Wayne is like, "Man, Eric, I'm tired. I'm going to try and go to sleep." So we just stopped and just had a nap.

Betancourt:

They didn't know that an elderly woman named [Thelma Scroggins had been murdered](#) just up the road. She was killed in her house, shot and the police had no idea who did it.

Weakley:

We had a knock on the window and the officer said that it's really not safe for y'all to sleep here, because a woman just got murdered not too long ago. You know what I mean? So, well, I guess we need to go home. I don't want to be a part of that.

Betancourt:

Eric was not part of it. Not yet. But a few years later, he'd get dragged down a rabbit hole inside the [Culpeper County justice system](#), and he would go to prison for that murder. [16 years after his release from prison](#) on a chilly spring morning, I'm sitting in Eric's trailer. It's nestled in a pretty spot at the foot of some hills in southern Pennsylvania. Eric's on a couch with his daughter, Alana on his lap. She's 10 months old. Eric's wife, Stephanie tries to keep her away from my microphone.

Stephanie Weakley:

You can't eat it.

Betancourt:

Eric's 41, but he looks like he's been through a few lifetimes. He's got a fair number of tattoos, most done in prison, across the inside of his left arm is a name in big calligraphy, Emily.

Weakley:

She's a very, very, very, very important person in my life that I had to leave behind for seven years, man.

Betancourt:

Emily is Eric's first daughter. She was born in 1998, a year and a half after that night in the parking lot. The pregnancy was an accident and Eric didn't think he was ready.

Weakley:

I was 17. I did tell the girl, I was like, "Dude, I'm out of here. Bro, I can't be a dad at 17.",

Betancourt:

Eric says he was into drugs including selling them, but Emily changed that.

Weakley:

And once I first met Emily the first time with her little Fisher Price Timberlands on, I just knew right then and there I didn't want to have any more dealings with that whole street life, man, selling drugs and et cetera, et cetera. Man, I just didn't want to do it anymore. I got a job, my girlfriend got a job at the time. We were just trying to live our family life, man, the best we could.

Betancourt:

So back then, in the late '90s, Eric's life changes. He works his new job laying underground cable. Emily learns to crawl. Eric turns 19. Then one spring day in 2000, two investigators from the Culpeper County Sheriff's Office show up at his house.

Weakley:

Officer Jenkins was like, "Mr. Weakley." I said, "Yeah, what's up?" He said, "Man, the reason why I'm here is because we're investigating a murder of one Thelma Scroggins, and it happened in the Lignum area, and we have information from a reliable source that puts you, Jason and Michael Hash in the vicinity of that timeframe." Okay.

Betancourt:

Jason Kloby and [Michael Hash](#) had been Eric's best friends when he was younger, but they had drifted apart by 1996. Eric told the investigators he didn't know anything about any of them being involved in a murder.

Weakley:

And then, I'd say about a couple weeks later, they come back again and just said the same spiel over and over. "We know that you were involved in this, man."

Betancourt:

He says the investigators, [Scott Jenkins](#) and James Mack would not let it go.

Weakley:

They would show up at my house. They would show up at my job. They would show up if me and my girlfriend was grocery shopping. And then I told my mom, I said, "Well, I'm going to go on down here and I'm going to sit down with these people in the interrogation room and see what they're talking about. Because apparently they got all this evidence on me, Mike and Jason. I want to see it. I want to see that you got my DNA, my fingerprints, the gun."

Betancourt:

The investigators didn't have any of that. In fact, another deputy had determined that only one person had killed Scroggins. What they did have was an informant.

Weakley:

It was like, "All right, Mr. Weakley, so this is what we know so far. We have a witness that stated that they overheard that you and Michael and Jason were having a conversation at a park in Lignum, stating that you were going to murk this," because she knew of criminal activity that we were doing in Lignum.

Betancourt:

The witness was Alicia Shelton. She was the cousin of Michael Hash, Eric's friend who was now being accused of murder. She was incarcerated at the time. She had pleaded guilty to a robbery and shooting. Officers Mack and Jenkins went to talk to her and made her an offer. If she could give them any information on who killed Thelma Scroggins, they'd see what they could do to reduce her sentence.

I got ahold of the transcript of that conversation. At first, Alicia tells them she doesn't know anything, that she wouldn't want to make something up, point the finger at someone who didn't do it, just to get her sentence reduced. Then the tape stops for a cigarette break. There's no recording of what happens during the break. But Alicia comes back and tells the investigators that Michael Hash, Jason Kloby and Eric Weakley told her that they killed Thelma Scroggins.

I asked both Scott Jenkins and James Mack for an interview. I wanted to ask them about what happened on that cigarette break and about everything that came after. But they declined. When the investigators told Eric they had an informant, he didn't know who it was, but he knew what she told them was a lie.

Weakley:

I was like, "Man, you know what, dude? Am I free to go, because I'm clearly not under arrest?" They said, "Yeah, you're free to go." I said, "Okay, I'm going to get up and leave." "Oh, but wait Mr. Weakley, we got some more questions for you." "You just clearly said I was free to go, not under arrest, but you have more questions for me. Sure. Let's sit down."

Betancourt:

Eric says, he asked for a lawyer and the investigators told him that he was only a witness, not a suspect, so he didn't need a lawyer. But to his confusion, they also warned him that the other two guys, Michael and Jason, were probably going to say that Eric had killed Thelma Scroggins. In other words, they'd rat on him if he didn't rat on them first.

Weakley:

They kept telling me, "You're not getting charged with anything. You're just a witness and you'll be okay. I promise you will be okay. You won't see any jail time."

Betancourt:

These interrogations were recorded, but just like with Alicia, the recording kept stopping and starting. Eric could tell when the camera was rolling because a red light was on.

Weakley:

So they would leave the room and I would hear them open the door and I would watch and they would turn the light off and they would come back in and say, "Okay, here's the problem, you gave us a little bit of truth and a whole lot of." I said, "Okay, what do you want to know, man?" "How did you kill Thelma Scroggins?" "Okay, me, Jason and Mike were out hanging out and apparently we just had a thought in

our head that we were just going to go kill somebody and we bum rushed her and we beat the hell out of her with a baseball bat."

Betancourt:

He was being sarcastic, trying to tell them anything just so he could go home and it didn't even add up. Scroggins was shot, but Eric didn't mention that.

Weakley:

No matter if I told them that I knocked on the door and asked for a cup of sugar and we beat the out of her, it was always beating somebody. It was never to the point, until after they showed me the pictures of this woman's face and head... Sorry, it's kind of hard on me on that. I can't never get that image out of my head. When they came in and when they had the lady's house laid out in front of me, they said, "Now this is what you did." And I will never forget that picture of four bullet holes in a woman's head. I threw up in the interrogation room. So, when they showed me the picture of her head completely blown off, man, I just said, "Okay, what do you want to know?"

Betancourt:

The shock of this moment derailed something inside Eric. It shook his confidence and it scared him. He reacted with a lie. At first, he told the investigators that he heard Michael and Jason talking about the murder.

Weakley:

But I would totally it up. "Well, Mr. Weakley, do you know what gun was used? What type of gun?" "No." "Well, it was a 22. Okay. It was a 22 rifle." Now this was all off camera. You know what I mean? All off camera. So they would sit down and they would legit tell me details about the case, so that way I can reiterate it back to them.

Betancourt:

A month later, after several of these interviews, Eric finally told a story that satisfied the investigators that he'd been there inside Thelma Scroggins' house when his friends shot her.

The number of people who falsely confess to crimes each year is impossible to know for sure, but the national Innocence Project reports that of the first 375 people exonerated using DNA evidence, nearly [a third of them had confessed](#) to the crime. About half of those who falsely confessed were [21 or younger when they were arrested](#). Studies show that young people are [more likely to admit to something they didn't do](#), partly because their brains [haven't yet developed the ability to assess future consequences](#).

But our vulnerability to false confession goes even deeper. Later, Eric would write that after repeating the wrong information so many times he'd come to actually believe it, or at least not to know whether it was true. This might sound crazy, but it's not. Psychologists call it the [illusory truth effect](#). Every time we hear the same information repeated again and again and again, it gets more familiar, which makes it easier to understand, oh, I've heard this before, I know this information already. Our brains are wired to equate repetition with truth.

Deidre Enright:

Looking at his just seems sort of classic to me.

Betancourt:

Classic, in that it's common.

Enright:

Common.

Betancourt:

[Deidre Enright](#) is the former director of the Innocence Project at the University of Virginia Law School, where she now leads a project geared towards criminal justice reform. Years after he got out of prison, Deirdre helped Eric clear his record. She's seen a lot of false confessions and Eric's was textbook.

Enright:

I remember one of the first things he said to me that I realized how traumatized he had been, was that he kept saying, "They showed me photos of her. They showed me photos of Thelma dead," and it was like that blew his mind and he kept thinking, I guess I must have blocked that, if I did that I was part of that, if I, so he's just, he was ripe for the picking.

Betancourt:

Police showing a suspect photos of a crime, giving them details, even lying to them, it's [completely legal in most states](#). A few states have recently [banned lying when the suspect is a minor](#). In general, though, investigators are allowed to tell people what they want. It's part of a method of interrogation called the [Reid technique](#), named after former Chicago street cop and polygraph expert John Reid, who developed it in 1947. Today, it's [standard practice for police](#) across the country.

But sometimes deceptive interrogation techniques can turn into misconduct. According to a 2020 report by the National Registry of Exonerations, official misconduct is a factor in more than half of false confessions. Usually that takes the form of police [using physical violence or the threat of it against the suspect](#). In Eric's case, the investigators didn't need violence to push him to his breaking point.

Enright:

They went after him and after, showing up at his work, showing up at his home, at some point, anybody's going to cave, right? I love people who say, "Oh, I'd never confess to anything I ever did." I always think, if they found your button, you would.

Betancourt:

Eric's button was obvious.

Weakley:

When they told me that they were going to make sure that I was never going to see my daughter again, they can make sure that I either spend the rest of my life in prison, or be put to death for it. They were going to make sure of it that I was never going to be able to see Emily again. What do you do on that? And I felt, you know what I mean? If I just told these people what they wanted to hear, then I can get home back to my baby.

Emily Weakley:

I remember my mom yelling at me to come to the living room because she was like, "Oh, it's your dad. It's your dad."

Betancourt:

Some of Emily's first memories are from this time when Eric was just trying to get home to her. She's 24 now, older than he was then.

Emily:

I remember thinking in my head, hey, my dad's home. And then I remember running out to the living room, but it was his mugshot on the TV.

Betancourt:

Eric did not come home. He wasn't being treated like a witness like the investigators told him, he was charged with Thelma Scroggins' murder along with Michael and Jason. Even though he was only 16 at the time of the murder, he'd be tried as an adult because of the severity of the crime and it would be almost a year before his case got to court.

Emily:

I didn't really get to see him that much. It was maybe around holidays, my grandparents tried to take me as much as they could, but. He would always braid my hair and stuff every single time. And then, the one time when we came home, I didn't want to take it out of my hair for two to three weeks.

Betancourt:

At some point when she was really little, Eric was moved from jail to prison. At the time, Emily didn't know why, she just knew her dad was getting moved farther away from her.

It's hard to understand how Eric wound up convicted of a murder he knew nothing about, without knowing what was going on in Culpeper County at the end of the 1990s. In the span of about a year, between 1996 and '97, 8 women and girls were murdered in Central Virginia under mysterious circumstances, three of them were near the tiny town of Lignum, including Thelma Scroggins. Culpeper County is a small place, at the time it had [a population of about 35,000 people](#). This string of murders was a big deal and people were scared.

Nancy Neff:

We lived in the country, we didn't think much about having to worry about somebody coming in the night, knocking on your door and maybe forcing their way in.

Betancourt:

Nancy Neff has lived in the county for decades.

Neff:

But once that happened, yeah, you're going to be a little more cautious as to making sure your doors are locked. And there for a little while, I'll admit that you tried to be home before dark, that way you could see what was going on and unless you knew the person, you weren't going to open your door.

Betancourt:

Then came Lee Hart, a longtime Culpeper police officer who ran for sheriff on the promise that he'd close the unsolved murder cases. He went door to door campaigning on the idea that the incumbent sheriff, Roger Mitchell wasn't doing enough about the murders. Nancy thinks that stirred things up even more.

Neff:

When you've got someone driving the fear, the public's going to grab a hold of that and begin to believe it.

Betancourt:

I sent Hart a letter asking for an interview and didn't hear back. But I learned that 16 years earlier in 1983, he had been one of the officers to interrogate a developmentally disabled black man named [Earl Washington Jr.](#), who confessed to [raping and murdering a white woman in Culpeper](#). Initially, Washington didn't seem to know where the victim lived, then Hart and a State police officer showed him. At first he said she'd been black. They asked again and he said she was white. Then they showed him the only piece of physical evidence from the crime, a blood stained shirt left by the killer. Washington said it was his.

All of this was used to convict him and he went to prison for 17 years, nine of them on death row. He was about to be executed when [DNA evidence cleared him of the crime](#). Lee Hart was elected Sheriff of Culpeper County in November, 1999. The following January, after taking office, he put two new investigators on the Thelma Scroggins case, Scott Jenkins and James Mack.

After he was charged, Eric's parents hired him a lawyer, but he says he didn't get the help he expected.

Weakley:

He told my parents before they gave him any money, 20 years is what he is going to get, that's it, 20 years. We're not going to fight for him, we're not going to do anything, we're going to get him the best deal that we can get and move on.

Betancourt:

So they were basically telling them, we're planning to plead him out?

Weakley:

Yeah. right off the rip.

Betancourt:

Eric's lawyer, Charles Bowman, also didn't respond to interview requests. Under the guilty plea he negotiated with the prosecutor, Eric's sentence would be reduced from capital murder to second degree murder. He'd get 20 years and serve less than seven, plus probation. And in exchange, Eric would testify against his childhood friends, Jason and Michael. Eric didn't know it, but neither of them had confessed or pled guilty, so the prosecution needed Eric's testimony. The problem was he still couldn't remember what he was supposed to say.

Weakley:



The prosecutor, the two, the sheriff of Culpeper County, the investigators Scott Jenkins, Officer Mack and my two attorneys would legit take me into a room, would prep me, bring their little photos, bring everything they have just to prep me for trial. Make me sit down in a door jamb, position myself just like she was in the photo. You know what I mean?

Betancourt:

So that in court you could demonstrate that.

Weakley:

Right. And make sure I had my story straight from the get go, when I go to take the stand against Jason.

Betancourt:

But when it came time for Jason's trial, it turned out Jason had a solid alibi. He'd been with his dad in Pennsylvania at the time of the murder. [The jury acquitted Jason after less than two hours of deliberation](#). Michael's trial was next.

Weakley:

I was hoping the same outcome that happened with Jason was going to happen with Mike. You know what I mean? Because the jury of Jason's trial clearly knew it was crap and-

Betancourt:

Your testimony you mean?

Weakley:

Yeah, my testimony was crap.

Betancourt:

You were hoping they wouldn't believe you?

Weakley:

Right.

Betancourt:

Because they could tell it was a lie.

Weakley:

Yeah. I was praying that nobody would believe me.

Betancourt:

That, at some point it'd be clear and they would almost come to your rescue, the jury would almost be like-

Weakley:

Or the judge, or a media person, somebody out there that would just be like, hey, hold on, man. So that's why I didn't shut up, man. I didn't have the courage to, because I was raised to believe in the justice system.

Betancourt:

Before his trial, the Sheriff's Office moved Michael Hash to a new jail where he was put in a cell with a known jailhouse informant. Later in court, the informant testified that during the one night they'd been held together, Michael had confessed to the murder. In exchange, the informant had his sentence reduced and soon went free. The informant's testimony combined with Eric's was enough to convict Michael. He was [found guilty of capital murder](#) and sentenced to life in prison without parole.

Weakley:

When Michael got found guilty, I was all, I cried for three hours, bro, because I knew that I'm screwed.

Betancourt:

Eric worried he might still get a life sentence too, or even the death penalty. He knew he had to take the deal his lawyer had set up. He called his mom from jail.

Weakley:

I said, "The reason why I'm going to accept this deal, Mom, is because I feel that it's the quickest way I can get home to Emily and to you all and to be able to fight it when I get home."

Betancourt:

[Gary Close, the state prosecutor in this case](#) did not respond to my letter asking for an interview. But a few years ago, he told a Maryland news outlet that he sought a plea deal in Eric's case, because an argument could be made to the jury that may lead them to find him not guilty.

In many ways, plea bargaining is about creating a story. The story lawyers tell in court, the story investigators want to hear, along the way things can get mixed up and manipulated until it's hard to know the truth. But a guilty plea becomes the official record of what happened, even if it's a lie. A guilty plea doesn't just rig the outcome of a case, it rigs reality and accepting a plea deal has consequences.

Eric met his wife, Stephanie only a few years after he got out of prison. They got married, had three kids, but they struggled to put a life together, or even find a place to live.

Weakley:

We went up to one place and we turned our application in, and of course, I'm going to be honest with you, because they're going to find out regardless. And I told the lady that, she said, "Did either one of you have any felonies on your record?" I said, "Yeah, I have a second degree homicide charge on my record, will that be a problem?"

Stephanie:

I didn't do it.

Weakley:

"I didn't do it, but." And she was like, "Oh my God."

Stephanie:

She looked like she was about ready to poop her pants.

Weakley:

She was ready to, it looked like she was ready to call the police.

Stephanie:

Financially it was hard, because most of the time he didn't have work. He would have little odd jobs here and there that would last a month or two and then we would be stuck again.

Weakley:

I would have to lie on applications. "Have you ever been convicted of a crime?" "No." And then a couple of weeks later, they do the background check. "Hey, we need to talk to you, bud. Due to the nature of your crime, we can't have you working here."

Stephanie:

I was struggling just to pay my bills and just provide enough gas for me to get back and forth to work.

Weakley:

I don't mind struggling in my own house, but it's all on my wife's shoulders to pay the bills, dude. And it gets rough, it does get rough, man.

Betancourt:

Their experience isn't an outlier. According to surveys done around the time Eric got out of prison, [80 percent of landlords ran background checks](#) on prospective tenants, two-thirds of employers [used background checks as part of their hiring process](#). People with criminal convictions are [still barred from applying for many professional licenses](#). In some states [they can't vote](#). So on one end of the system, defendants are being encouraged, even coerced to plead guilty, on the other end after they serve their time, those guilty pleas cut them off from what they need to survive. A guilty plea ripples outward too, Eric's didn't just hurt him and Stephanie.

Emily:

My whole life has basically been structured around my dad's charge.

Betancourt:

Here's Emily again, her daughter, November, who's two, really wanted to sit with us while watching cartoons on Emily's phone.

Emily:

I was in a therapy support group when I was in primary school for kids that had incarcerated parents. And I remember asking my nana why, and she used to just tell me, the famous line was, "Wrong place, wrong time." So I think when you hear that, you think of, well, maybe my dad was involved with somebody and they actually did do it and my dad was there and then all of a sudden it switched to, "He was never there."

Betancourt:

Did you worry that maybe he had done it?

Emily:

Yeah.

Betancourt:

Yeah.

Emily:

Absolutely. Yeah, I really did because, again, a lot of people were just saying, "Wrong place, wrong time." And I'm like, "What does that mean?" And then, all of a sudden it switched to the whole, "He wasn't actually ever there."

Betancourt:

So the fact that the story kept changing, that in itself bothered you?

Emily:

Yeah.

Betancourt:

That it wasn't consistent

Emily:

A hundred percent.

Betancourt:

Eric got out of prison in 2006 and he was back in Emily's life, but it wasn't easy.

Emily:

He's now learning how to be somebody that is supposed to function in society, while also trying to be a dad to somebody that's nine or 10 years old at this point. And it sounds bad, but I didn't really see him as a father figure, because he wasn't there.

Betancourt:

More than [5 million kids in the US know what it's like to have an incarcerated parent](#). That's according to a 2015 report by the research organization, Child trends. Like many of them, Emily has had to live with other people's perception of what her dad's guilty plea meant.

Emily:

I grew up in a super small town, so everybody knew about it. I couldn't really have a lot of friends, because my friend's parents knew about it and it was just an immediate thing of, "No, you can't go over to their house. She can't come over here." I was really thankful that I graduated high school so I can get

out of there and do stuff on my own, without having the preemptive judgment of, oh, you're a murderer's daughter. Cool. Great.

Betancourt:

Even with that pain, Eric and Emily did get closer.

Emily:

As I've gotten older, it's definitely more of a friendship kind of thing that we have now, now that my dad and I have pretty much grown up together.

Betancourt:

And Eric has relied on Emily as a friend to help make hard decisions. For one, deciding whether to recant his testimony against Michael Hash.

In 2010, Deirdre and a colleague from the Innocence Project showed up on Eric's porch just like investigators Jenkins and Mack had a decade earlier. They told him Michael was [appealing his conviction in federal court](#) and Eric could help get him freed if he admitted in writing that he had lied on the stand. Emily was in junior high at the time.

Emily:

From what they were explaining to me, there is a chance that if he does do that, because he was technically lying on the stand, that he could possibly go back to jail. That was the one thing that really scared me, because I'd just got my dad back after seven and a half years, and then now there's this opportunity where if things go wrong, he could go away again.

Weakley:

I told her, I said, "Emily, I have a chance to right my wrong." She was like, "Well, Daddy, you've always raised me to do what's right. To fight for what you believe in, and if this is going to right your wrong and help you live a better life personally, then go for it."

Betancourt:

Eric signed an affidavit explaining how the investigators had pressured him into confessing and that as far as he knew, Michael was innocent. Scott Jenkins, one of the investigators who pressured Eric to confess, wrote his own affidavit. In it, he said Sheriff Hart instructed him and James Mack to pursue Michael and Jason as suspects, even in the absence of hard evidence. Based on the evidence at the crime scene he wrote, "I believe it is highly unlikely that three teenage boys murdered Mrs. Scroggins." A federal judge said the way the Sheriff's Office handled Eric's interrogation was outrageous misconduct. He placed the rest of the blame for the false conviction on Gary Close, the prosecutor who failed to tell Michael's defense attorneys that Eric and the informant would get shortened sentences in return for their testimony.

Two weeks later, [Michael Hash was released](#) and was later exonerated. He was free, but Eric was still struggling, still stuck with a murder conviction. His conviction would be extremely difficult to appeal, because he had pleaded guilty. Deirdre told him the only thing that could set the record straight was a pardon from the Governor.

Enright:

In the beginning, I couldn't say, oh, we'll get you exonerated, because of the guilty plea. Because most of the time people would say, that's fatal.

Betancourt:

It was an uphill battle. But Deirdre and others at the [Innocence Project](#) stuck with Eric's case for another 10 years. In January of 2022, more than two decades after he was charged with murder, Eric got a call from Deirdre.

Weakley:

I said, "What's up Deirdre?" She said, "Well, it's not official yet, but I just got confirmed that [Ralph Northam](#) is going to sign your pardon and exonerate you." And I cried. I was happy, I was overwhelmed, sad, I don't know, it's just a mix in emotion. It was probably one of the greatest days of my life, man.

Betancourt:

I wanted to know how all this felt from Michael's perspective, knowing Eric helped put him in prison. Then having Eric be the one to help get him out. He and Eric have made their peace, but he didn't want to talk to me. What I do know is that throughout their whole ordeal, from the time they were first questioned to their release, Eric never talked to Michael and Jason. That's part of why the investigator's manipulations worked. Here's Deirdre.

Enright:

When I first went to Eric, the thing that I was trying to show him was that Michael thinks Eric did it and then just turned around and pointed at him, and Kloby thinks these two did it and they tried to point it, right? They pit them against each other and then this guy's calculation changes for what to say, because of. So, in all of those cases, it takes them all years to realize they're all victims. Had they all gotten together, they could have known, no one is telling anyone anything.

Betancourt:

If they had both gone to trial and Eric had done what Michael did and basically refused to talk, would they have had enough to convict them?

Enright:

Well, I don't think if any of them confessed it would have gone to trial, they couldn't go to trial, because they had nothing. I think they could have gotten acquitted.

Betancourt:

This idea that maybe Eric and Michael and Jason should have cooperated and agreed to say nothing unless they all got a trial, it's not new. It's [supported by some activists and academics](#) as a way to fight back against the system of plea bargaining. It would basically be a plea strike. Just like with a labor strike, defendants have something police and prosecutors need, their cooperation. In many parts of the country, individual prosecutors handle [more than a thousand cases a year](#), it's physically impossible for them to thoroughly investigate all those cases to find and subpoena all their witnesses, meet with experts, not to mention the work done by public defenders, judges, clerks. Even with a tiny fraction of criminal cases going to trial, the [average felony takes over 250 days to resolve](#).

Premal Dharia, the Executive Director of the Institute to End Mass Incarceration, says [the government literally can't afford to give everyone a trial](#).

Dharia:

The resources are not unlimited. And so, we have landed on a process that maximizes coercion, in order to accommodate the limited resources we have. That doesn't have to be the case, of course, there are levers there for change.

Betancourt:

Premal and her colleagues are talking to organizers across the country, trying to envision how the collective power not to plead guilty, basically a plea union, would work. The vision is in its infancy, but Premal says it would have to start with the community.

Dharia:

It happens before arrest and prosecution. It happens in a way that is bigger than the courthouse and that's bigger than the criminal legal system. It's about communities who are directly impacted or consistently targeted by the criminal legal system coming together and saying, no, look, we don't take this.

Betancourt:

Premal says police strikes could be organized in an over policed area. They could also be one way to push back against police officers or prosecutors who abuse their power.

Dharia:

There is tons of work to do to think about harms and risks and what ways are to address those harms and risks, and that's why individuals don't and probably shouldn't undertake this alone. This is why the collective is the key. It's why solidarity is the key.

Betancourt:

I asked Eric whether he would have thought differently about pleading guilty if he had known that Michael Hash wasn't going to.

Weakley:

I think I would have just said, it, and just shut up. You know what I mean? Which I should have done in the beginning. I tried to, but it just didn't work out the way I wanted it to.

Betancourt:

And do you think that was just, knowing that he was doing it too would have given you-

Weakley:

A little bit more courage. You know what I mean? To just say, you know what? You.

Betancourt:

Would it have made a difference to you if you had known that everybody in Culpeper County was not pleading out?

Weakley:

Yeah, I would have jumped on board 100 percent.

Betancourt:

I asked Emily a similar question.

Knowing what you know now, would you rather that he not pled guilty?

Emily:

Oh, absolutely. Yeah. How things are going right now, I think back then definitely should have said, not guilty. You look up Eric Glenn Weakley and it's the first thing that pops up. And it sucked because that's all my dad was known for and then I became associated with that. Which isn't his fault, it's not, I don't blame my dad, but at the same time I do, because I'm like, why did you plead guilty?

Betancourt:

There's one last way Eric's guilty plea warped reality, even rigged it, it buried the question of who really killed Thelma Scroggins?

Weakley:

She's been forgotten through this whole case. It's always been about Jason, it's always been about me, it's always been about Mike, but what about her? And her family deserves to know the truth.

Betancourt:

Lee Hart [served two terms as Sheriff](#) of Culpeper County and later moved to North Carolina. Gary Close, the prosecutor was formally reprimanded by the [Virginia State Bar](#) for his role in falsely convicting Michael Hash. But by that time, he had resigned from his post and quit practicing law. Eric's lawyer, Charles Bowman, who pressured him to take the guilty plea, has since retired. Scott Jenkins, one of the investigators in the case was elected Sheriff of Culpeper County in 2011, and he was reelected in 2015 and 2019. James Mack, the other investigator still works there. The murder of Thelma Scroggins remains unsolved.

Miller:

Thanks to Mark Betancourt for that story. For more information, toolkits and to download the interactive transcript for this episode, visit [70millionpod.com](http://70millionpod.com). 70 Million is made possible by a grant from the Safety and Justice Challenge at the MacArthur Foundation and it's produced by LWC Studios. Monica Lopez is our editor, Paulina Velasco is our managing producer, Erica Huang mixed this episode, Ryan Katz fact checked the story, and Michelle Baker is our photo editor. Juleyka Lantigua is the creator and executive producer. I am Mitzi Miller. Thank you for listening.



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