

[Transcript] True Sunlight / MMP #90 - 'We are here to right wrongs': What's Next After Murderer Illegally Released + Alex Murdaugh's Prison Life

I don't know if the justice system in South Carolina will ever be fixed.

The South Carolina Supreme Court took a big step in the right direction when they voided the release of drawn price on Wednesday.

And while I want to recognize that that is a big deal, and through accountability, we need to ensure that this never happens again.

My name is Manny Matney.

I have been a reporter in South Carolina for more than seven years now.

This is the Murdoch Murders podcast, produced by David Moses and written by journalist Liz Farrell.

Our team has spent the last week diving down different rabbit holes related to the drawn price case.

We talked about price a lot in the last episode, before a quick reminder, in December 2003, price was sentenced to 35 years in prison for the 2002 murder of Carl Smalls Jr.

In March, price was secretly released from prison more than 15 years early due to a shocking secret order which was recently unsealed and we will unpack all of that in this episode.

Like the Murdoch cases and the Bow and Turner case, the price case has consumed our entire team ever since we first heard of it last week.

It is filled with so many examples that show exactly what is wrong with our system.

So last night, as I was reading a 500 page document in the price case, which we will send out to the premium members along with a handy timeline so y'all can go down the same rabbit holes, something that I read stopped me in my tracks.

I found a transcript of the sentencing portion of Price's trial from 2003.

Carl Small Sr., a retired Army Sergeant whose eldest son, Carl Smalls Jr., was murdered by Price at a Colombian nightclub in 2002, spoke during the victim's impact portion of sentencing. Carl Smalls Sr. described his son as a good man with a lot of potential who did something stupid in the wrong place at the wrong time.

According to witnesses, his son apparently imitated a Crip Walk that night, which is a sign of disrespect to the bloods the gang that Price was reportedly affiliated with.

This started an argument between Price and Smalls that eventually led to Smalls death.

During his statement, Carl Smalls Sr. said that his son was a good kid, a good man, a potential good member of society that we lost for absolutely nothing, for nothing, over nothing.

I want to have David read this part of Carl Smalls Sr.'s victim impact statement because it is so important.

And, sir, I would say one last thing to you.

There's a man and a staff writer for the Washington Post named Mr. William Raspberry, who I respect tremendously.

Listening to one of the morning talk shows, I heard him say just talking about social problems, social issues.

He said, you know, sometimes I wonder if it's better to build a fence at the edge of the cliff or to put an ambulance in the valley.

And judge, I say to you, and you know better than I do, the valley is full of bodies.

It's full of bodies, the people that can put, build that fence, that wall at the edge of

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the cliff, that wall being deterrence from doing this type of a thing.

They're not going to do it and they reside right down at the end of the street, down at the end of Main Street.

They're not going to do it.

But I say to you, sir, it has to be done right here in this courtroom.

But you know what, sir?

It's too late then.

The body is already in the valley.

So we got to fix this thing at the back end because people that are charged with fixing it at the front end, they're not going to do it.

He ended his speech by saying this to the judge.

Sir, I just ask you to please, please, sir, be that fence, that fence of deterrence so we can stop piling these bodies down in the valley, sir.

Minutes later, Judge Lloyd sentenced Price to 35 years in the South Carolina Department of Corrections.

He specifically said that this sentence was a no parole sentence.

And less than 20 years later, due to a secret deal and a sealed order by South Carolina public officials, Jarrod Price was let out of prison in March 2023.

And I can't get the words of Carl Small Seniors out of my mind, quote, the body is already out of the valley.

So we've got to fix this thing at the back end because people that are charged with fixing it at the front end, they're not going to do it.

Smalls was right then and he is right now, as his son's killer was free due to a secret order done by elected officials who were supposed to be working for the public, but instead were apparently more concerned about a killer's safety than they were about the public at large, the law or the victims.

The Jarrod Price case then and now has always been about more than just one murder.

The system is on trial here.

The good news is that the system passed its first test on Wednesday.

As we were writing and recording, we got word that the state Supreme Court had ruled in favor of avoiding Judge Casey Manning's secret order and that Price should be headed back to prison.

That was the first challenge cleared.

Now it is time to focus on the how and the why of this.

How did we get here and why did this happen?

The plan to get Price out of prison ended up backfiring, but Wednesday's ruling does not mean this can't and won't happen again.

If the Substantial Assistance Statute is ever determined to be inclusive of allowing murderers out of prison early, then that would sure open up a whole new revenue stream for defense attorneys in our state.

A president like that would mean that murderers with money, like you know who, would again have a way of trying to pay their way out of consequences.

Before we get into it, let's quickly talk about the latest with South Carolina's biggest

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liar, Alec Murdoch.

Last Thursday, Alec's ride or die attorney Jim Griffin went on News Nation to talk about how the guy he swore he wasn't friends with before all this has been doing in prison. Turns out Alec isn't loving the protective custody that he's under at McCormick Correction Institution and wants to join the prison's general population.

This surprises us zero because Alec is that guy.

When he was in Richland County Detention Center before getting sentenced for killing Maggie and Paul, he put in a similar request.

On October 16, 2021, the same day Alec was brought to the jail, the booking officer filled out an incident report saying he had offered Alec protective custody, quote, due to his high profile case, but detainee Murdoch declined.

Attached to that report was an affidavit from Alec.

Here's David with what he swore to.

I am of the belief that I am no longer in any immediate danger or harm from the general population of the facility.

I make this request with the full knowledge that the Alvin S. Glenn Detention Center and the County of Richland cannot provide me the degree of protection in the general population that can be afforded me while in protective custody status.

This means on the very first day of going to jail, Alec was like, put me in the really bad section, please.

We're not talking about the holding cell at police headquarters here, by the way.

We're talking about big boy jail in Columbia, the state's capital city, which we're learning is apparently a hotbed of gang activity related to a robust drug trade there.

From the get go, Alec was apparently like, let's go make some crimey friends in Richland jail, y'all.

There are a few reasons why this is weird.

One, by all indications from his jailhouse calls, Alec seemed to view this lock up as temporary.

As you all might remember, he fought hard to get out of jail, to the point that this dumb dumb even admitted to stealing from the Satterfields in an apparent attempt to show Judge Lee that he was capable of remorse and taking responsibility for his actions and therefore should be let go on his own personal recognizance.

To this day, that is one of my favorite Dick and Jim backfires.

Two, why would someone who didn't want to be in jail not opt for that upgrade?

In every other aspect of this case, Alec Murdoch has wanted special treatment.

His entire life has been about special treatment.

He wanted the system to work for him at all times.

So when the system was like, hey look, we totally agree, you are special, also it's better for everyone here if you are protected, and he was like, nope, send me to the bowels of hell.

This is him doing it his way.

But why?

Why did he want to be immediately part of the fray?

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For the story of it, did he think this was a fun little tale for his future tinder dates or tailgating parties?

Well, Alec was at Richland County Jail.

It seems like he did end up spending time in the sick ward away from the general population and he didn't seem too happy about that, according to the calls with his family.

But we should note also, there were a handful of times over the past year and a half when Alec had to appear in front of a judge, whether remotely or in person, and occasionally he looked like he had maybe gotten into a fight.

His hands would be sort of cut up and swollen or he would appear to have some sort of bruising on his face.

During the murder trial, his legal team was asked about marks on his hands and they attributed it to a lack of lotion.

By the way, Alec Murdoch can throw down several people who knew him well have told us about his scrapping throughout the years.

In episodes 34 and 63, we talked about a 1993 fight at a Hilton Head Island strip club that he allegedly started, where his friends got arrested, but he was driven home an hour and 20 minutes away by a deputy at any rate.

Jim Griffin, who, like we said, keeps on riding and dying for Alec, said that Alec wants to be in McCormick's general population so he can help people, help them.

He wants to contribute, Jim told Chris Cuomo, Alec hasn't received any direct threats in prison so far, but prison officials have told Jim apparently that threats have been made against him, which Jim says isn't anything new.

He says this happened in Richland County as well, quote, anytime you're in prison and you're a name like he is, you're going to be challenged, but he was able to overcome and develop relationships and he was productive in the county jail.

Ah, develop relationships.

There it is.

In December 2022, two men were arrested, one of whom was a 43-year-old named Alan Benton from Colleton County and another of whom was a 31-year-old named Dante Caraway from Hampton County.

They were arrested for allegedly flying a drone and trying to smuggle meth, crack, marijuana and other items into McCormick.

A third man from Richland County was arrested for allegedly trafficking the drugs.

A year ago, a prisoner was stabbed to death by multiple inmates at McCormick.

In December 2020, five prisoners took a guard hostage, locking him and his cell before escaping at McCormick.

There is a long and interesting rabbit hole to go down if you want to learn more about what happens in South Carolina's prison system and we plan to cover that in a future episode because it's wild.

This is all just to say, Alec wants to be in the middle of whatever is going on there.

Now are we advocating for Alec to get special treatment?

No.

But Alec is a different kind of prisoner given his notoriety and his long-time role working

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for the 14th Circuit Solicitor's Office.

Helping him in protective custody isn't just good for him, it's safer for the guards who might be tasked with breaking up anything he gets himself into in general population. And like we said, there's that question of why?

Why does this man want to be in the mix?

Which brings us to Gerard Price.

We have some thoughts on that beyond just the here and now.

There is an informal system of power, a full illicit economy within each prison and within the prisons as a whole in South Carolina.

Gerard Price was considered to be the godfather of the Bloods Gang according to sources. Like we told you last week, he was known for quote unquote running the prisons in the state and this in part is why he was sent to New Mexico according to sources.

By all accounts, Gerard Price was considered a prison kingpin.

And now after being released in mid-March, just nine days after Alec got his one-way ticket to SCDOC, there is an opening at the top.

Maybe Jim Griffin is right, maybe Alec wants to simply contribute to the well-being of his fellow prisoners, but it's also not far-fetched to wonder if he's looking to climb to the top of the mountain and live out the rest of his days doing what he did best in the outside world, wheeling, dealing, schmoozing, and well, helping.

And when we say rest of his days, there was a moment there where we started to wonder if Alec would someday be released because of what was happening in the Supreme Court.

So let's go back to that Gerard Price case again.

This week, we discovered that in 2003, when Price was arrested and tried for the murder of Carl Smalls Jr., the federal government was on to him as well.

In January 2003, the U.S. Attorney's Office filed a complaint against Price and issued a bench warrant for his arrest.

In April, the complaint was dismissed.

All of the records related to this online appear to be sealed.

We asked around about this and confirmed that not only was the FBI investigating Price back then, they apparently continued to keep close tabs on him during his time in South Carolina prisons, but they allegedly stopped when he was moved to New Mexico.

We were told that the feds found out about Price's secret release when everyone else did last week, and we were told that they were back to monitoring him.

At least as of last week, Price was allegedly confirmed to be in the Columbia, South Carolina area.

On Thursday of last week, the state's Attorney General's Office issued its own bench warrant for Price's arrest.

They called for the court to void Judge Manning's order, rescind Price's reduction in sentencing, and put him back behind bars where he legally belongs.

And of course, Price's attorney, Representative Todd Rutherford, disagreed with that in a major way.

So let's talk about that, starting with some questions we want you to keep in mind as we go through what happened over the past week.

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The first question is why now?

The Substantial Assistance Statute has been in play for 13 years now, and the assistance Price allegedly offered happened in 2010, 2012, and 2017.

The second question is why draw Price?

Is this simply a matter of Price hiring a good defense attorney who knows how to work the system, or is something else going on here?

To be clear, we're not saying that Price was enlisted to test the statute.

We have no evidence of that.

No source has even suggested that.

What we're saying though is this, Price's release has prompted the Supreme Court to step in, which means the Substantial Assistance Statute is being tested at the very top from the get-go.

If Rutherford had successfully argued the case, it could have set a precedent as to who could be released under that statute.

Could it include murderers?

And if so, would that murderer had to have been a model prisoner to qualify for the Substantial Assistance Law?

Or could he have been a straight-up menace like Gerard Price appears to have been?

Price would have set a very low and dangerous bar.

And the third question is what is with the timing?

Judge Casey Manning signed this order on December 30, 2022, which oh, hey, was right before Ellic Murdoch's murder trial was set to begin.

The order got sealed and stayed sealed until March 9, 2023, which oh, hey, was about a week after Ellic Murdoch was found guilty of murder and sentenced to life in prison without parole.

The order got resealed and Gerard Price, the so-called Godfather of the Bloods, was secretly released.

We'll be right back.

Now no one is saying that this case is related to the Murdoch case, but there was a time not so long ago when we not only felt crazy for making a strange connection in this case, we were literally told that by people who could not imagine Ellic Murdoch being the kind of person who could have killed his wife and son.

Honestly, and this totally sounds like bragging, but we have been right way too many times to be statistically possible at this point.

Again, I am not saying that these two cases are related at all.

But if this were a TV show, now hear me out, like House of Cards or Blacklist or Damages, and there were let's say like a high profile, highly connected defendant who was also a crafty attorney who seems to have been involved in something so sinister that it led him to murder his own family and that defendant who also had a history of exploiting the law and everyone around him hired one of the most cunning lawmaking attorneys around to defend him.

A guy who was known for seeing the bigger picture, for planning five steps ahead.

And let's say those two came up with a game plan that included several what if scenarios

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with solutions at the ready.

It would be a very smart and very interesting plot twist to learn in like episode 10 or something after this defendant is convicted in those murders and sent to prison for life.

That one of their plans included another seemingly random and unrelated case such as, I don't know, one that involved the secret early release of a murderer who did the absolute least amount of good work to earn his release while in prison.

And let's say that case was deployed right around the time when it was certain that this newly convicted murdering attorney was going to have to go to prison.

Let's say that that case was the kind that would force the Supreme Court to test the law and that this test might end up benefiting the newly convicted murdering attorney down the road, at least to the point where the newly convicted murdering attorney could occupy his mind with the deluded hope that he could beat this thing.

I know, I know, it's totally ridiculous.

But I do think we'd have to call that show the dirty double down.

Something like that.

Anyway, keep all of those questions in mind, okay?

The ones Mandy mentioned before my tangent on that very imaginary TV show plot.

So on Wednesday, State Attorney General Alan Wilson argued the state's case in front of the South Carolina Supreme Court.

His argument was basically the argument that any sane person would make in this scenario.

In a nutshell, the AG's office is asserting that under the statute, a person must serve a minimum of 30 years for murder.

That person would not be eligible for any credit that would reduce the sentence below 30 years or, in Price's case, 35 years.

Price was released before those 35 years were up.

No one notified the victims of any hearing that might affect Price's sentencing.

The substantial assistance law that allows for circuit court judges to change the sentence requires a motion to be filed and no motion was filed by the circuit solicitor.

No hearing was ever scheduled, and solicitor Byron Gibson admits as much.

Further, the order was sealed and everything was done in secrecy.

So the AG's office was like, void this thing, dear justices, please and thank you.

That please and thank you was met with a whole lot of hold on a second there, junior, from the justices, but we'll get to that.

On Monday, Price's Attorney Representative Todd Rutherford had filed a 30-page response to the state motion to void the sentencing reduction and re-arrest Price.

By first, let's talk about that order signed by Judge Casey Manning on December 30, 2022, the day before he retired.

After this story became known last week, the State AG's office moved to have that secret order unsealed.

Gibson and Rutherford agreed to that, and last Thursday we got our first glimpse at this flimsy, see-through, practically written on a stained cocktail napkin order that by most accounts other than Todd Rutherford's was improperly sealed.

First, the order doesn't mention that in sentencing Price in 2003, the judge made a

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point of emphasizing that this 35-year sentence did not include a chance of early release. Second, the order refers to a motion that Gibson did not make, something he himself said in a statement last week, saying he did not get a chance to make that motion because the judge preemptively signed the order.

Third, the order is short.

Way too short to explain for the record why releasing a murder 15 years early is in the public's best interest.

To make up for the shortness, the order refers to an explanation or supporting evidence outlined in an addendum, which, few, right?

There's an explanation!

Amazing!

Here's David with that addendum.

Defendant assisted the Department of Corrections here and after DOC by putting them on notice that a dangerous inmate had escaped one of their facilities.

Unbeknownst to the DOC, inmate Jimmy Lee Causey had escaped custody and been on the run for three days.

Defendant's cooperation put the DOC on notice of inmate Causey's escape and led to his eventual capture.

That's it.

That's the explanation.

Oh, and there were two exhibits.

Exhibit one was a 2018 affidavit from a Larry P. Benjamin who pleaded guilty in 1985 to one count of murder of a teenager he tried to rob and four counts of armed robbery.

He was sentenced to life in prison for the murder and 95 years on the armed robbery charges.

Larry said that in 2017 he had witnessed an incident in which Jarod Price saved a prison guard from getting beaten.

Larry was released from prison just a few months after that incident.

You heard me right on that.

The second affidavit was from 2019 from a former prison guard named Asia Love who was reportedly Price's girlfriend at some point while she worked there.

She said that another prison guard was saved by Price in 2010.

Do either of those things sound like putting the DOC on notice that Jimmy Causey escaped prison?

No.

They do not.

You know what they also don't sound like?

Giving law enforcement information on the bloods or being a confidential informant, which is what Solicitor Byron Gibson indicated was the reason for Price's early release in that statement he made last week.

So to summarize, the judge released Price because of the help he gave during the Causey escape.

The evidence of this help is two affidavits recounting two times Price allegedly saved prison guards.

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One from a convicted murderer and one from Price's ex-girlfriend, a woman who blurred the lines professionally and ethically by dating a prisoner she was guarding.

So which is it?

Nothing about this order made sense.

But Representative Rutherford did fight hard to keep Jirad from going back to prison.

So hard that he threw his longtime friend Byron Gibson under the bus, saying that if the foundation for rescinding Manning's order is that the process wasn't followed, well, that's on Gibson.

Do we mention that in 2018, John Monk, a reporter from the state newspaper, ran a photo of Representative

Rutherford at the elections office supporting Gibson as he filed to run for Solicitor.

Talk about blurred lines.

After Wednesday's ruling ordering Jirad back to prison, one has to wonder was it worth it?

Was all of this worth it to Todd Rutherford?

So let's talk about the hearing that led to Jirad Price getting sent back to prison.

The decision came fast and as of the time that we're recording this episode, we've been told that Price has not turned himself in yet and that he's on the run, which is surprising to no one.

So the hearing was held at noon Wednesday.

This was announced on Monday.

Traditionally, the South Carolina Supreme Court livestreams its hearing through a publicly funded network called SEETV.

In fact, earlier this week I checked out SEETV's website, which said it was scheduled to broadcast the hearing.

Then we woke up on Wednesday morning and suddenly that announcement was gone from the website.

We called the South Carolina Supreme Court and they said they weren't allowing live streaming or recording for this hearing.

Naturally, being the pesky podcast girls that we are, Liz and I immediately raised on Twitter about how absurd it is that the South Carolina Supreme Court was breaking protocol by fighting transparency for a hearing to find out answers after elected officials worked out a secret deal in the dark to release a prisoner 15 years before he completed his sentence.

Several of our followers called the South Carolina Supreme Court to tell them that it was wrong of them to change course and that the public deserves maximum transparency, especially when it comes to this case, which is absolutely a matter of public interest.

By noon the South Carolina Supreme Court had changed its mind again and we will say that Lauren Brown, who assumed the role of PIO for the South Carolina Supreme Court in February was swift to respond as we were frantically trying to make a coverage plan.

By noon the Supreme Court had changed its mind and allowed live streaming, which might seem like a small feat to some, but to us that is a big deal.

It means that what we are doing to elevate the public's voices and put pressure on

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our government to maximize transparency is working, but at the same time, we shouldn't have to work this hard for transparency and I honestly wonder who at the Supreme Court was trying to prevent the public from viewing this hearing.

What were they trying to hide?

So that said, Wednesday was crazy with a lot of scrambling and shout out to Eric Allen who dropped everything Wednesday morning to go to court in Columbia just in case they weren't going to allow recording.

So because the plan seemed to have been very scrambled, things were screwy at the beginning at this hearing.

It began streaming on SETV without sound.

When the sound finally came on, it was clear that Allen was giving it his all and was catching flak from some of the justices in the meantime.

We have come before this court today to basically say that we firmly believe that no representative of the state, the defense, or any court has the authority to enter into a secret agreement that would ignore circumvent laws and mandates and requirements duly passed by the General Assembly.

We also believe that the defense, the state, and the court cannot enter into an agreement that violates the constitutional rights of victims.

We believe that this court, by avoiding the order that released Mr. Price, can send a powerful message to all of South Carolina that justice doesn't happen in the shadows and in the darkness that happens in the light of day.

We are here today because what happened on December 30th was an order was signed that did not have legal authority.

The judge did not have jurisdiction to pass this.

A few things were happening at first.

The justices challenged Wilson on how exactly he thought they could help here.

We all seem to agree that this was a mess, but we're unsure legally how to fix it in terms of their own jurisdiction in the matter.

Essentially the justices were telling Wilson, this is on you buddy.

The solicitor did this and you are in charge of all the solicitors in the state, so hmm.

In response, the Attorney General's office gave it right back by politely reminding the Chief Justice, who ended up being one of the two dissenting votes, invoking Manning's order, that the state constitution had something to say about all this.

They were like, this is actually on you buddy.

The judge sealed the order and allowed this to be done in secret and well, you're in charge of all the circuit court judges in the state, so hmm.

I mean my god, the mess they made here, it is astounding.

So a couple of things.

The first is from the other dissenting voter in this, Justice George C. James Jr., who tried really hard to pin this on Alan Wilson, insisting that the statute in question, the Substantial Assistance Statute, does not actually require anything of the solicitor, but rather quote, the state, which Justice James took to mean Alan Wilson.

What's odd about this is that in December 2022, Representative Rutherford introduced

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a change to this statute to include the Attorney General as someone who could also move to reduce a prisoner's sentence, meaning Rutherford is right now actively trying to make it so the AG can get the very same authority that Justice James was insisting the AG already had.

It makes you wonder why it was so important to Justice James to blame Alan Wilson.

Here's their exchange.

Are we through, Justice Kittridge chimes in with my favorite phrase in all of this, which is, it's a phantom order?

Let me ask this question.

If this order, I was a circuit judge, as was everybody up here, would I have signed this order?

No, but it was signed.

And it was not, the state did not appeal from that order, correct?

Well, we didn't know about it, Your Honor.

Mr. Gibson knew about it.

Mr. Gibson knew about it, yes, sir.

Okay, he did not appeal, had 10 days to appeal, correct?

Yes, Your Honor.

But again, it's- And I know that a separate issue, go ahead, I'm sorry.

I was going to say that I don't think that 10 days would apply because the order is void on its face because they didn't file a written motion as compliant with Rule 4 of the Rules of Criminal Procedure, didn't file a copy, and they didn't have a hearing to resolve the motion from the first requirement.

Well, you have a sealed order with no hearing to seal it.

It was never filed.

Who knew it?

Who could file an appeal?

It's a phantom order.

You're taking the words right out of my mouth, Justice Kittridge.

I mean, it was a phantom order.

It was an illegal order.

They did not follow the procedures required by the statutes in the General Assembly passed.

The General Assembly is giving the court authority to do something, but they're saying if you're going to do this, you have to follow the requirements in the process.

The Solicitor's Office failed to do that.

The court signed the order anyway.

The order is void on its face.

But also, it also is defeated by 163-20, which the General Assembly said, you can't go below the minimum mandatory of 30 years to life.

Well, that's why perhaps the Solicitor should not have engaged in the process at all.

Well, according to 1725-

But the fact is he did.

Well, 1725-65 says the Solicitor in the Justice Assembly.

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It says the state.

It says the state.

I mean, there could be an argument that once the conviction becomes final, that this is a statewide matter up to the Attorney General, not the Solicitor.

When it was Rutherford's turn to present his oral argument, Kittridge was seething and seemed to even sneer at him at one point.

Rutherford was arguing that it was completely proper for the order to have been sealed in order to protect Price's identity as a confidential informant.

And Justice Kittridge was like cool story, but there are things that needed to happen publicly and I want to know why they didn't.

Here is how that went.

We've edited for length so you can get a feel for it.

The full version is on our MMP YouTube channel and MMP Premium members have a link with our commentary.

Let's say that 1725-65 is good law.

No question.

Given the complete lack of compliance with 1725-65, would you now join the Solicitor and ask that we vacate the underlying improper order and allow for a new proper proceeding?

Unfortunately I would not and I would rely on State v. Hayward and others that allow the State or in this case the Solicitor or his step in, the Attorney General, to keep the identity of confidential informant secret.

You may be able to talk for two hours about how wonderful this order was and how Mr. Price was entitled to it.

But the law requires the filing of a motion.

It was not done.

Why was a motion not filed?

I've got a series of questions and I go down every requirement of 1725-65.

There's not a single requirement in the statute that was satisfied.

Not one.

You want to talk about sealing the record.

Davis v. Jennings from 30-plus years ago, this court has held that when you want to seal a record, the court must make specific findings on the record which weigh the need for secrecy against the right of access and public openness.

Where is that balancing and weighing conducted on the record in this matter?

John, I believe that that is what this court should find as to how the procedure should move forward in the future or the General Assembly should decide how to do this when you have a case.

In the future in this case or in just future cases?

In the future, using this case to give procedure when someone has given information that has been used by the Department of Corrections and that person's identity needs to remain confidential.

I do not believe and I have looked and that's why the Attorney General's Office I believe continues to rely on TAB, which I don't believe applies here at all, because there is no case

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law in South Carolina as it relates to 1725-65.

And because of that, no procedure for the solicitor trying to shield the identity of a confidential informant, so that is why it was sealed by the judge and what moved forward from there.

Again, not a secret proceeding, the solicitor was there, the defense attorney is there and the judge is there, simply a proceeding to try and shield the identity of someone that had cooperated with them.

You're indicating there was a hearing.

I'm sorry, I don't mean to indicate there's a hearing.

There was no hearing.

There was absolutely no hearing.

Nor do I believe that one is required under 1725-65.

Also dubious were the claims about price's safety being at risk.

We are not saying there are not consequences for confidential informants.

There can be serious ones.

What we're saying is that there have been questions about the legitimacy of price's role as a confidential informant.

There have been questions about how price, who was incarcerated in New Mexico at the time of Kazi's escape, would have known about his escape before the Department of Corrections did.

And there have been questions about how Kazi would have the connections outside to escape in the epic fashion that he did, cutting his way out of the yard with tools that got dropped off by a drone and then being found in Texas two days later with \$50,000, a fake ID and a firearm.

Who did that for him?

Anyways, there's the thought inside the Department of Corrections that Kazi's escape was a means to an end, not just Kazi's end.

Here Rutherford explains why price can't go back to prison.

I believe the apparatus that starts that procedure is the solicitor going to the judge saying, hey, we've got somebody that cooperated and now we're going to start that process of getting that reduction.

If a defendant says I would rather not have a hearing, I'd rather give it to the judge to give me my downward departure or not because I need my name to remain secret because the information I gave is against someone in the Department of Corrections who is my roommate and that person will kill me if they find out, which could happen here.

That person will kill me if I find out.

I need my identity to remain secret.

I would ask not to have a hearing simply to have my downward departure given by a judge who has the property authority to do that with the sitting solicitor there.

So to unring this bill and send it back and actually follow the law cannot be done because of potential harm to Mr. Price?

I think that honestly that sending it back and sending Mr. Price back to the Department of Corrections is like ordering a death sentence on him.

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I think even the Department of Corrections would acknowledge that it is difficult to keep someone safe after they've told on someone that escaped and was gone for two days and could have been gone completely or could have been sitting in the victim's house in Jimmy Lee Cosby's victim's house until somebody figured out that he was actually missing. To send Mr. Price back I believe is a death sentence.

Now we'd argue that if Price was legitimately a confidential informant then he wasn't safe on the outside either.

Also what about the safety of the public?

Hello?

After Rutherford was done with his argument, Heather Weiss gave the state's response.

We saw some criticism about how she was nervous.

But Heather's reputation is that she's a badass.

After Byron Gibson's predecessor was being investigated for corruption in 2018, Weiss is who the governor chose to appoint as a temporary solicitor of the Fifth Circuit.

She knows her stuff.

And despite the fact that it seemed like she was being interrupted by the justices to a greater degree than Wilson and Rutherford, we think she was really effective in her argument. She told the court, this stuff matters.

And this is where we need to go from here.

Yet again, a woman saves the day when it comes to schooling the good ol' boys on the system that they insist is amazing and unbroken.

Yes, we are here to right wrongs.

But procedure matters.

Getting the case before us in a proper legal vehicle is important.

Rules and procedure matter.

And I'm just trying to find what is the hook?

What is the legal framework or argument that allows us to accept this in our original jurisdiction, rid of prohibition or otherwise?

We can sue a sponte, convert it to a common law rip, whatever it may be.

But what is the legal vehicle that allows us to go back and undo this?

The legal vehicle is Article 5 of the South Carolina Constitution that puts you over the integrity of the judgments of the unified judicial system.

There was an order signed by a circuit court judge that on its face did not meet the law as it is in South Carolina.

We are bound as attorneys to our oath to follow the rules and the law as it's set forth.

There was an order and this is the court where we bring it.

And it's under an extraordinary rip because we have a violent defendant who has been released and it was sealed so nobody could find out about it and there's nobody's knowledge.

And we'll be right back.

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Before we go, I want to tell you about last Friday's hearing, which ended up being much more action packed than we anticipated.

Originally, we thought it was a scheduling hearing to discuss Eddie Smith's case.

But surprise, the hearing focused on scheduling possible trial dates for several of Ellic Murdoch's alleged accomplices, including suspended attorney Corey Fleming and convicted ex banker Russell Lafitte.

The hearing started off with some shocking, but also not shocking breaking news.

State Representative Todd Rutherford is now representing Russell can't accept defeat Lafitte.

That Todd Rutherford, the one who was awfully quiet last week as his other client, Gerard Price, made international headlines.

The one who is in the middle of another problematic superstorm.

Turns out, while South Carolina's citizens were up in arms worried about Price's apparently illegal release, Rutherford was gaining another high profile pricey client.

Russell Lafitte, who has been changing attorneys like Underwear for the past few months, hired Rutherford as one of his criminal defense attorneys for the state charges against him.

And remember, Russell is still awaiting sentencing for his federal case from back in November when he was found guilty of six felony charges.

Naturally, his attorneys want to delay the trial for his state charges as much as possible.

And Rutherford had zero shame as he stood up before the court on Friday and asked for more time.

And I thought it was interesting, he brought up the fact that he could use his legislative immunity, but isn't using it at this time.

Legislative immunity is essentially another advantage defense attorneys who are also lawmakers have in South Carolina to delay their cases.

The law gives these lawyer lawmakers protection from having to be in court during session.

I want to talk about this because Justice James was sure to bring this up in Wednesday's hearing in relation to Price.

Justice James weirdly wanted to make this point.

More fundamental question is Mr. Rutherford's status as a lawyer legislator relevant to any legal or procedural defects that you have argued.

I'm not making what he does professionally an issue in this case, this specific case.

Because it seems to me that that has been a driving factor in forums other than one here today.

He didn't exert any undue influence over Mr. Gibson, did he?

There is no evidence in the record that I've seen that he has as the record I have right now, Your Honor.

But again, the secrecy of this whole thing makes people look at this with great skepticism.

But the lawyer-legislator angle you agree is wholly irrelevant.

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In this court, it's all about the law, Your Honor.

All about the law.

I just want to be clear on that.

Thank you.

This was concerning.

Justice James, one of the two Supreme Court justices who voted in Price's favor, was for some reason wanted to get on the record that this whole situation was not Todd Rutherford's fault, and had nothing to do with the fact that he is a lawyer-lawmaker.

I don't fault Allen Wilson for saying that there is no evidence of Rutherford using his legislative power in this matter.

There really isn't evidence of it.

That kind of power is usually not seen on paper.

We all know this.

But hearing a Supreme Court justice really force this point on the record gave me nothing to see here vibes.

It bothered me.

Because we've seen this several times now, with Brad Hudow, with Dick Harputlian and now with Todd Rutherford, defense attorneys who moonlight as lawmakers too often have conflicting interests between their client and the public that they represent.

Todd Rutherford has been a member of the Essie House since the 1990s.

During his tenure as a House member, he has built his own law firm, which specializes in criminal defense work, which is fine.

We know that lawmakers have to make a living somewhere.

What isn't fine is seeing how many times his two worlds collide.

And it seems like his business as a criminal defense attorney takes precedence over public interest.

No matter what anyone says, no matter how many times these guys try to convince the public that legislature lawyers don't have any special ends with the justice system, we know it's not true because we can see that it's not true.

Over and over we see it happening.

Just like this, legislature lawyers saying that their position of power doesn't help them in the courtroom is like when your boss tries to join in on the conversation that you're having with your work friends in the break room.

No matter how cool your boss is trying to sound, or no matter how normal the conversation is going, he or she is never not your boss.

There is a power difference there.

It is undeniable, and it always factors in because at the end of the day, this person has the ability and authority to change the course of your day and your life.

That is why it is a problem.

And that is why all of us need to keep calling it out when we see it.

No matter how many times Justice James types are out there trying to gaslight us into thinking that all is well.

All is not well in South Carolina's justice system.

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And that should be obvious, especially after the past week and a half.

Stay tuned, stay pesky, and stay in the sunlight.

The Murdoch Murders podcast is created and hosted by me, Manny Matney, produced by my husband, David Moses, and Liz Farrell is our executive editor from Luna Shark Productions.