

# CRIMINAL



## **Episode 54: Melinda and Clarence**

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**Phoebe Judge:** Hi. This is the second part of our very first two-part episode. In order for this one to make sense, you should first listen to Episode 53. It's called "Melinda and Judy." We should also say, this episode contains material that may not be appropriate for all listeners. Please use discretion.

**Melinda Dawson:** I vowed on the day that we buried my mom that I would find out who did this to her. And I lost my entire family because I was saying, "Clarence did not do this." And I had no support. It was just me and our two sons.

[Music comes in.]

And so I decided, "I'm going to find out who did this."

**Phoebe Judge:** This is Melinda Dawson. We left her in our last episode at the sentencing of her husband, Clarence, who had been convicted of killing her mother and raping and assaulting her 6-year-old niece. Clarence received two life sentences, and Melinda didn't believe that he could

have committed any of the crimes he was sent to prison for. But she wasn't able to convince anyone else in her family. They wouldn't even speak to her.

**Melinda Dawson:** I had no one for emotional support. I had no one to bounce anything off of, definitely.

**Phoebe Judge:** Her mother was dead. Her niece had been assaulted. Her husband was in prison. Melinda thought that the only way she would convince anyone that Clarence had not committed these crimes was to find out who did. And that's exactly what she decided to do. She started by making a list of suspects and then looking into them one by one. She had no training, no money, and absolutely nothing to lose.

I'm Phoebe Judge. This is Criminal.

Melinda combed through area newspapers, looking for people who had been convicted of sex crimes in the area. And she kept adding to her list.

[Music fades out.]

**Melinda Dawson:** After I put their name on the suspect list, then I started looking where they lived, what kind of charges they've ever had, things like that. And making sure that I knew what they look like. And thank God for the internet, which was pretty in its infancy at the time to try to look up people back at that time. But I got a lot of information from the same county that I was fighting, and they had pictures and they had charges and dockets, court dockets, that I pulled together on these people.

[Music comes in.]

So the Hicks adoption stuff went on the back-burner, obviously.

**Phoebe Judge:** A few years before her mother's murder, Melinda learned that she was one of at least 200 babies who had been illegally adopted from a small clinic in Georgia. They called themselves the Hicks babies because the doctor who'd sold them to their parents was Dr. Thomas Hicks. The group had started searching for their biological relatives with DNA. The idea was to create a database of DNA samples from both the grown Hicks babies and anyone from the area in Georgia where they had been born.

**Melinda Dawson:** We were doing DNA to see if we could find any matches. I had learned from that experience, what DNA can show. I learned from watching crime shows and Forensic Files. And just knowing that DNA is the answer to a lot of rapes and murders, and it's unrefutable.

**Phoebe Judge:** The police had collected lots of evidence from the crime scene at Melinda's mother's home, but only a couple of strands of hair had been tested for DNA. And Clarence was

not a match. There was no physical evidence whatsoever placing him at the crime scene. But somehow, that wasn't compelling to the jury.

[Music fades out.]

But Melinda knew that because only those hairs had been tested, there were more things to test, and that gave her an idea. Melinda set out to secretly collect DNA samples from each person on her list of suspects.

**Melinda Dawson:** The first person on my suspect list, I found out where he was hanging out, during the weekend. So I went on a Friday night to one of the local bars in Barberton. I was dressed... Not like I normally dress, I'll put it that way. I was a little sleazy-looking. And I went in, kind of checked out the area, and sat down by myself and was watching him a little bit. And then he got up to play pool, and I put my quarters on the pool table, and he won against the other person, and so I was up next. And so we were playing pool, and I was flirting with him and just talking, and my ultimate goal was to get a cigarette butt. However, the barmaid kept coming over and dumping the ashtray. Like, every time somebody would put a butt out, she would dump it.

[Music comes in.]

And so, okay, I'm thinking, it's the beer bottle I got to get, I guess. And he went to the bathroom, and I had a baggie, and I put that beer bottle inside the baggie and left before he got out. And believe me when I got to my car and locked the doors and was trying to get out of the parking lot as fast as possible, I was literally terrified, and thinking to myself, 'what are you doing?'

**Phoebe Judge:** But once she had that first sample, she kept going down the list.

**Melinda Dawson:** Once they either went to the bathroom or went to talk to someone else, I got either their cigarette butt, or their beer glass, or a beer bottle, and secured it and got the heck out of there.

**Phoebe Judge:** At one point she even followed a man to a strip club and sort of flirted with him just so she could pull some hair right out of his head.

**Melinda Dawson:** You know where the girls dance and the guys put dollar bills in their garter, or whatever. And I had never really experienced anything like that. And so a lot of this was so shocking to me that I had to really stay focused. But, yes, I went up to him and we were talking and I just nonchalantly put my hand on the back of his head and raked my fingers down a little bit and got his hair.

**Phoebe Judge:** That's such a bold move.

**Melinda Dawson:** Yeah. Looking back on it now, yes, that is.

**Phoebe Judge:** Baggies of hair and bottles and cigarette butts were piling up in Melinda's refrigerator and freezer.

**Melinda Dawson:** I tried to keep some of the things that I was doing away from my sons. They were 15 and 12 at the time and very, very intelligent. And so I decided I needed to tell them what I was doing, because I was storing this DNA evidence in my freezer and my refrigerator. And I made sure that they did not handle it or disturb it at all. And that's how they found out what their mom was doing.

[Music fades out.]

**Phoebe Judge:** When you were secretly pulling out hair on people's heads, and swiping cigarette butts, did anyone in your life say, "Melinda, I love you. I'm with you. I understand this has been traumatizing, but this is nutty stuff. You are not a detective"?

**Melinda Dawson:** [Chuckles.] No, simply because there was no one to tell me that. It was literally my sons and myself. I had no one to bounce any ideas off of. So yeah, the things that I was doing were out of the world. But somebody had to do something. So I did what I could.

[Music comes in.]

**Phoebe Judge:** While she was doing her own investigation, she was also working with new attorneys to appeal Clarence's conviction. They made a number of arguments about problems with the trial: admission of hearsay, ineffective counsel, inflammatory remarks by the prosecution. When their appeal was denied, they tried to take it to the Ohio Supreme Court, which didn't work either. The attorneys were out of ideas, and the baggies in Melinda's freezer were just sitting there. She didn't know how or where to get them tested. She needed some help. So she contacted Centurion Ministries, which in spite of the name, is a secular wrongful convictions organization. They suggested she contact a private investigator named Martin Yant. Melinda wrote him an email with the subject line, "Curious," and asked if he would speak with her.

**Melinda Dawson:** My life was never the same after that point, he was pretty intelligent in his, the way he handled this case.

[Music fades out.]

**Phoebe Judge:** Martin told Melinda about something called a post-conviction action, which uses new information that surfaces after a trial. This is information that could reasonably cause a jury to reach a different verdict. And in order to get some new information, Martin suggested that Melinda try to go talk to her sister. They hadn't spoken in more than three years. When Melinda got to the house, her sister answered the door and immediately turned away, but then she came back.

**Melinda Dawson:** After that little reunion that we had, and my niece was now 10 years old... We were a family again. And my sister was listening to me, and I'm hearing things from her that I wasn't privy to regarding the case, and she was hearing things that she wasn't privy to. So together, we were trying to figure this out.

**Phoebe Judge:** They started spending time together, talking about their mother, and for the first time, grieving together. One day the whole family was at Melinda's house.

**Melinda Dawson:** And my son Brandon had, in the garage, had pictures of his dad up on the walls, like a shrine, pictures of my mom and pictures of his dad. And my niece had noticed the pictures, and I told Brandon, "Maybe we should take those down.": And she said, "You know, I don't think that his eyes were blue."

[Music comes in.]

And Clarence's eyes were blue.

**Phoebe Judge:** Didn't she say that she had only seen the back of his head, originally?

**Melinda Dawson:** Yes. Originally, during the trial and before the trial, she had said, it looked like him. It looked like her Uncle Clarence, but it was dark, and she just seen the back of his head, and one time when he went to punch her. And that must've been when...

I got to say this is so hard to... There's scenes going through my head right now. But it must've been when — right before she went unconscious, she saw a face in the dark.

**Phoebe Judge:** This eyewitness testimony had been the primary evidence against Clarence during his trial. And now, three and a half years later, his niece was saying she didn't think it was him. Melinda brought the investigator, Martin Yant, to hear what her niece had to say.

**Melinda Dawson:** And then my niece had said that it was not Clarence that was there that night, she was just saying what everybody was telling her to say, what everybody was expecting her to say.

**Lawyer:** Do you think it was Uncle Clarence?

**Niece:** At first, yeah.

**Lawyer:** At first, yeah. But do you think so today?

**Niece:** No.

**Phoebe Judge:** This is the audio from a deposition in May of 2002, in which Melinda's niece formerly recanted her testimony. Clarence's lawyers submitted a motion for a new trial. They also submitted a 20-point affidavit, describing the pressure Melinda's niece says she'd felt to stick with her initial identification of her uncle. But the prosecution argued that Melinda's niece had only changed her story because she'd been coached.

[Music fades out.]

**Melinda Dawson:** The judge said basically, along with the prosecutors, that I was the one coercing her to say this, and so there was no grounds for a new trial at this point.

**Phoebe Judge:** Melinda was furious, especially because she was the one being accused of coaching her niece. But she says that somehow, each roadblock was sort of like a catapult pushing her to think even harder about who could have committed these crimes. And there was a man on her suspect list she was interested in. She'd already collected his hair, and she also had him on video acting strangely around her mother, on an old family wedding video.

**Melinda Dawson:** A young guy, dark hair around the same height as Clarence, the mustache, the build. But what really stood out was the fact that he was constantly asking my mom to dance and wanting to stand by her. And so I said to this friend of my mom's, I said, "Who is that guy? And why is he acting like that?" And from that point on, she said, "This person was very obsessed with your mom. And your mom said to him, 'I'm old enough to be your mom, I can't date you.' " And so my thought was that maybe because of her rejection, he looked like a viable suspect.

**Phoebe Judge:** After some digging, Melinda found more reason to be suspicious of this man, including the fact that he'd been evicted after he was caught molesting his landlord's 10-year-old daughter. He had a rape conviction. He'd come to Judy's funeral, and people commented that he was acting strangely.

When approached by Melinda's investigator, he admitted that he'd been in Judy's neighborhood the night of the murder. And so the police questioned him, and he volunteered to give a DNA sample. All of this was interesting to the judge. He agreed to test this man's DNA against not only the hairs initially collected at the crime scene, but also against all of the previously untested evidence from Melinda's mother's house. This was a huge victory in Melinda's investigation. She was about to have so much more information.

But there was a catch. Melinda was going to have to pay for these tests herself. So Melinda and her sons started a website, freeclarence.com. They ended up raising \$40,000.

**Melinda Dawson:** That \$40,000 is what allowed us to test just about everything that was included in the crime scene evidence DNA.

**Phoebe Judge:** She sent this previously untested evidence to a lab. A pair of underwear, material found under her mother's fingernails. The results were tested against DNA from that man in the video. Not a match. However, the results were also tested against Clarence's DNA, and for the second time, Clarence's DNA was not a match.

[Music comes in.]

But the judge said it didn't matter. The case had never hinged on DNA. It was about eyewitness testimony.

**Melinda Dawson:** I just couldn't believe it. I was livid. I was in a state of... What is going on?

**Phoebe Judge:** By now, Clarence had been in prison for six years.

**Melinda Dawson:** And on my way to work one morning, I picked up an Akron Beacon Journal, and on the very front page, this name jumped out at me. And it was the name of the woman who lived next door, where my niece had went that morning for help. And so I thought that raised some red flags for me.

**Phoebe Judge:** Why were they on the front page?

**Melinda Dawson:** Well, after her name jumped out at me, I looked at the headline, and they were her and her common law husband, Earl Mann, were being charged with child rape of their own children. And I said, I had never heard Earl Mann's name before, didn't know that she had a common law husband, but I knew right at that moment that it was him.

**Phoebe Judge:** Earl Mann was a convicted rapist and had gone missing from the halfway house where he was staying in June of 1998, just five days before Melinda's mother's murder.

When you get that information you've been searching for so long and hitting these roadblocks, do you just go screaming? I feel like I would just go rushing to the nearest police station and say, "I've got him." How do you control yourself?

[Music fades out.]

**Melinda Dawson:** [Chuckles.] That's the hardest part. The police wasn't going to help me. The prosecutors definitely was not going to help. And so I started tracking Earl Mann, and it just so happened that I found him at Mansfield Correctional, the same prison that Clarence was being housed.

**Phoebe Judge:** Melinda didn't tell her husband that he was incarcerated with the man she now believed had committed the crimes he was serving time for.

**Melinda Dawson:** I started writing Earl Mann letters as a fictitious pen pal, and wanting him to send me a letter back so that I would have his DNA on that envelope from licking the envelope to shut it. I wrote in a total of about five letters and I never —

**Phoebe Judge:** Just kind of saying, hi, I heard about... What did the first letter say?

**Melinda Dawson:** Something like, "Hi, my name is," I used a pseudonym from the attorney at the time, her and I were trying to concoct this letter. And I told him that I was like five foot tall and long dark hair. And I saw a picture of him on the [laugh] offenders search, and I just wanted, thought he was attractive and I wanted to talk to him and send him money if he needed any money.

**Phoebe Judge:** So this wasn't a completely above board letter. This is flirting?

**Melinda Dawson:** Yeah.

**Phoebe Judge:** And the lawyer helped you draft it?

**Melinda Dawson:** Yep.

**Phoebe Judge:** [Both laugh.] It must have been so uncomfortable to write.

**Melinda Dawson:** It was.

**Phoebe Judge:** At this point, I guess, who cares? You'd do anything.

**Melinda Dawson:** Oh, absolutely. I knew what was in my heart.

**Phoebe Judge:** She never got a response to any of the five letters. And then while visiting Clarence at Mansfield Prison, she asked if he knew a guy named Earl Mann.

[Music fades in.]

**Melinda Dawson:** And he said, as a matter of fact, he's sitting right over there, behind you. And the first thought I thought was, 'I need to go to the vending machine,' [laughs.] Because I had to walk across where he was sitting, and I thought, 'If I go to the vending machine and come back, I can get a good look at him.' And when I did that and he looked at me, and I looked at him, the coldest chill went down my spine. And the only thing that I could think to do was smile at him, because I did not want him to know that I was onto him. He knew who I was, from being on the news and being on the shows. So I smiled at him and just went on. And that's when I said, "Clarence, you're going to have to get some DNA from him."

**Phoebe Judge:** What did Clarence say to you?



**Melinda Dawson:** At this point —

**Phoebe Judge:** He probably said what I would have said, was like, "How do I do that?" You were the expert at this point.

**Melinda Dawson:** Yeah. Well, he's like, "What am I supposed to do?" I said, "A cigarette butt is the best thing. Very easy to conceal. Get a cigarette butt." After I asked him, "Does he smoke?" "Yeah, he smokes." Okay.

[Music fades out.]

And so Clarence was having a moral, I guess, epiphany. He was thinking: is it morally right for me to take something from this guy if we don't even know he's actually the person who did it? And I said, "Look, he is the person that did it. Just get the DNA."

[Music comes in.]

**Phoebe Judge:** For a few weeks, Clarence tried to figure out how to do it. It was risky. He could get caught by the prison guards, or by Earl Mann. But one day he walked into a common area, and there was Earl Mann smoking a cigarette.

**Melinda Dawson:** And Earl Mann had an empty ashtray and put a cigarette butt out in it. And as soon as he walked away, Clarence picked it up with a tissue, a clean tissue, put it in a baggie, and then hid it in his Bible for two weeks to help flatten it. And then he wrapped it in paper and sent it out to his attorney as a letter.

**Phoebe Judge:** The day after Clarence got the cigarette butt, Earl Mann attacked another inmate with a lock inside of a sock and was moved to another prison.

**Melinda Dawson:** And so had Clarence not gotten that cigarette butt that day, that opportunity would have been lost.

**Phoebe Judge:** Clarence's attorneys sent the cigarette butt to the same lab that had tested the crime scene DNA. It was a private lab, so anybody could send material for testing. And Earl Mann's cigarette butt was a perfect match.

**Melinda Dawson:** And I was thinking, 'We have an ace in our pocket.' And then the reality that this was actually the person who put their hands on my mom and my niece, and did what he did... Now I had a face, and it was hard. It was very hard.

**Phoebe Judge:** Next Melinda sought the assistance of the Ohio Innocence Project. And together they presented the case to the Ohio attorney general, Jim Petro. Petro looked at the case and decided to speak out in defense of Clarence, a convicted murderer. The attorney

general's office ordered an official DNA test, using more specific DNA markers. And those results confirmed the DNA from the crime scene matched the DNA of Earl Mann.

**Melinda Dawson:** And so, ultimately, on December 15th, 2005, we were armed with this new evidence, this new DNA testing that also matched Earl Mann, and Jim Petro and I were getting ready to do a press conference at his office in Columbus, and we got word that the Summit County Prosecutor's Office were holding their own press conference.

[Music fades out.]

And what they said at this press conference was they were immediately dropping all charges against Clarence Elkins, and calling for his release from the prison immediately. And that charges were forthcoming on Earl Mann.

And it was just like the biggest, one-ton brick came off of me immediately. It was like, I could breathe again. I cried, and I was so happy for Clarence. And I was so happy for my sons. This was so hard on them, to have lost their grandmother, and then their dad was being called a murderer and a rapist... And I was so happy.

[Music comes in.]

**Phoebe Judge:** Melinda and her whole family, including her sister and her niece, picked Clarence up that very day, December 15th, 2005. It had been seven and a half years. Earl Mann later pled guilty to Judy Johnson's murder and the rape, assault, and attempted murder of Melinda's niece. He took a plea deal and was sentenced to 55 years in prison. He won't be eligible for parole until he's 92.

Today, Melinda continues to be outspoken about wrongful convictions. She was instrumental in getting Ohio Senate Bill 262 passed, which makes provisions for DNA to be tested even after a conviction. Since his exoneration in 2005, Clarence and Melinda have gotten divorced. Melinda told us simply, "It's a lot to come back from."

**Melinda Dawson:** I have three grandchildren, and both of my sons are married. And we have a new grandbaby on the way this month. And so life goes on, right? And we miss everything about my mom, and I'm working so hard to make sure that nobody forgets her. Because she was an awesome, awesome mother.

**Phoebe Judge:** Melinda is finally resuming the search for her biological mother that she started more than 20 years ago. In 2014, she organized a group of Hicks babies to travel together to Ducktown, Tennessee, to have their cheeks swabbed. They weren't far from McCaysville, Georgia, where the Hicks community clinic was, and the part of the country where many of their birth mothers lived, and maybe still do. They try to get as many people from the area as possible to submit their own DNA for testing. And Melinda tells us that she just got word. Eighteen years after losing one mother, there's a chance she's about to meet her other one.

**Melinda Dawson:** I have dreamed about this ever since I was told at the age of 7, right? And adopted kids have this grandiose thought about their long-lost family, and then you grow up and you get out of that fantasy world. And so for me, this is like a full circle coming together for my life. I have lived with so many loose ends and in limbo for so long that, yes, of course this is the greatest that I could ever ask for. And on the other hand, no one will ever take the place of my mother, my mother who raised me. No one would ever take her place. And I know that no one would ever try.

**Phoebe Judge:** What do you think your mother would say, if she could see you now?

**Melinda Dawson:** Really, all I want her to say is: thank you, good job, not — praise me, and just I want her to be able to be in peace, and that was my main objective. I just felt like she was not at rest. And she could say, "I'm good now," that'd be worth it.

**Phoebe Judge:** Criminal is produced by Lauren Spohrer, Nadia Wilson, and me. Audio mix by Rob Byers. Alice Wilder is our intern. Julianne Alexander makes original illustrations for each episode of Criminal. You can see them at our website, [thisiscriminal.com](http://thisiscriminal.com), and learn all about our fall tour, which we're right in the middle of, and we're still headed to Minneapolis, Iowa City, Seattle, Portland, San Francisco, and Toronto. We'll have all new stories told live and some surprises. We'd love to see you.

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