

Blood Town S1-E8

Red Herring

Penny 0:09

I'm Penny Dearmin, and this is Blood Town. In our last episode with Blake Brantley, the subject of a red herring came up a couple of times. And I think our listeners probably have differing levels of familiarity with that term. Jim, I was hoping that you could explain to the audience about red herrings as it relates to argumentation and why they're so effective in this case.

Jim 0:38

A red herring is just one of the classic logical fallacies in argumentation. You know, in rhetorical avenues and theatres where if something is put somewhere in an argument, intentionally or unintentionally, to kind of convolute the trail, if you will, then that's a red herring, the trail of, of trying to find out the truth.

Penny 1:03

So, a herring is a fish.

Jim 1:05

Yeah, the history of it is, herrings are kind of like sardines. They stink. What they were often used for, and where the term comes from, is there's really no there's no such thing as a red herring, the red color comes from the brine used to preserve the fish. And then, if, in the good old days, for example, you escaped from prison and the bloodhounds were on your trail, using your scent to find out where you went that one way to throw the bloodhounds off of track would be to find a more pungent smell than your own. To get them off your scent, that's where we get the red herring, and also to get the bloodhound off your scent, you might dilute your scent, but in the case of red herring, you find something stinkier than yourself.

Penny 2:03

In this episode, we're going to look at the red herrings that each party at the scene and the authorities involved, discuss and try to identify what the main red herrings might be. So, I know the first one that you want to talk about is the sex.

Jim 2:24

I mean, I'd, Yeah, I just see it as probably the biggest red herring in the whole argument is that it's almost impossible for any reporter to have reported on this case, or any news media source to have reported on it in any respects without mentioning the salacious details of a sexual encounter that may or may not have happened. However, just the idea that it was there is a red herring. And you'll note that it's gotten us too. I mean, the nakedness, the hot tubs, the asphyxiation sex. I mean, it's really hypothetical, I don't know of any proof, real proof at all, that there was any sexual activity going on.

Penny 3:09

Not only is the sex a red herring, it's part of a straw man argument where both sides, both defense and prosecution, are going to be building their case on the fact that this asphyxiation type sex was taking place without ever establishing that it truly happened.

Jim 3:32

Yeah, that's to me...what's one of the greatest ironies of this whole case is that the defense and the prosecution are going to use this hypothetical scenario to both prosecute it and defend it.

Penny 3:45

And for me, and I think for Blood Town, the focus has always been about making sure people are looking for the truth for Marianne Shockley. And that just seems to be presuming that that was the type of sex that they engaged in, and that that is actually what happened that night, and nobody's going to look into whether that's actually true. And that reflects back on her.

Jim 4:18

Well, at this point in time, and I guess this is, this is to me, one of the more disturbing realities of the American legal system is that one side seeks a prosecution, seeks a conviction, while the other side seeks an exoneration; whereas, what happened to Marianne Shockley is not going to be the focus of trial. What may or may not have happened will be the focus of the trial. And whoever argues those things best but what really, really happened to her will be, and is, not the focus of the trial.

Penny 4:56

It's called the justice system, not the truth system.

Jim 4:59

Yeah. Truth has become, and is, much to the chagrin of a lot of listeners, is...truth is, has for quite a many years, and probably since the beginning of mankind, been elusive to humanity. And not only that, by now in this time we have gone through many versions of the truth and theories of whether it even exists at all, which is more or less where we are in lots of literary theory and even social theory that anything is a construct, even truth.

Penny 5:36

Why is it so hard for people to look for the truth in this case?

Jim 5:41

I think sometimes and very often times, people don't want to know the truth.

Penny 5:46

In this particular instance, what are they afraid of?

Jim 5:50

What I can tell you about the truth is it's dangerous.

Penny 5:53

Is the red herring a factor as far as talking about there being rough sex and people being nude, and perhaps, you know, doing drugs and, and all of these details that maybe people don't want to think about?

Jim 6:10

That's what we've established that the biggest red herring is the fact that the red herring itself becomes unspeakable, it becomes so enmeshed and really these sexual details that are bizarre even to probably a pretty seasoned investigator; I think we've heard that, that even to those folks, it was

uncomfortable. So, take your average person. What would they do with this? Probably just not talk about it.

Penny 6:46

Well, that's true. When you try to talk to people around town, they'll say, Yes, that was a tragic thing that happened to her.

Jim 6:55

So that's how that red herring operates...because it is in the way of the bloodhounds finding the truth. And the red herring is big enough and stinks enough that it completely overrides the real trail, and the real trail should and always have been, what happened to her really that night.

Penny 7:20

Right. One thing that Blake brought up was that perhaps the prosecution is using the felony murder charge as a type of red herring.

Jim 7:32

It can be a red herring in the fact that it's gonna spend time talking about felony murder during the course of the trial, then if you can get that conviction, almost all of the three are definite. Is that a red herring? Yeah, I mean, it's a red herring, because it might also be in the way. Maybe there was, maybe Marcus Lillard didn't murder her. Maybe he did, but maybe Clark Heindel murdered her. Maybe he didn't, or maybe someone else murdered her. Or maybe they didn't. But if we're sure that Marcus Lillard murdered her, then we're not really looking at who may have honestly murdered her because she was murdered. It's just by who.

Penny 8:24

We also learned in the indictment that, you know, they dropped the aggravated assault charge. However, they have to...the jury needs to convict Marcus Lillard of aggravated assault if they are to find him guilty of felony murder, and that there was an unknown object utilized in her strangulation. We don't know if they have that object or know what that object is. But we do know that Blake, told us anything as possible. That they may be able to convict him without having that object but having physical evidence on her body, that that is what killed her.

Jim 9:07

if there were an object that's an unknown object, such as a rope or electrical cord or a belt...

Penny 9:16

A belt.

Jim 9:17

Then the idea of murder if you have a weapon, if you will. The conviction is going to be a lot easier because you have what they call the smoking gun.

Penny 9:28

Right.

Jim 9:30

As a red herring, if it is, it's whether it exists or not, the idea of its existence is more or less the red herring, and I guess the ligature marks on her neck and how they showed up. Like, did they show up in a rope pattern, or a cord pattern, or perhaps a belt pattern, you know, versus say, hands.

Penny 9:57

Well, we know the preliminary results said that it was manual strangulation, so new evidence must have come to light.

Jim 10:04

Yeah, the indictment doesn't say manual; it says an unknown object.

Penny 10:09

Right. Okay, so let's move on to the concealing a death charge as far as the red herring. What do you see that the prosecution is putting forth that is meant to distract us? Or maybe not allow us to see the truth?

Jim 10:30

Well, there's a member asking Blake, if, you know, what's the difference between concealing the death in a pecan grove, for example, for 15 to 16 years, versus concealing one for 45 minutes, up to two hours? And is it concealing death for 45 minutes or up to two hours if in fact, people were just confused, and scared. And not only for themselves, but I mean, every one of these people had, you know, under their, unto their own mind, you know, definitely reputations to keep intact.

Penny 11:13

They all had something to lose.

Jim 11:14

They all had something to lose, yeah.

Penny 11:16

You know, one thing we haven't talked about is what does it mean for Dr. Marianne Shockley to be a Professor at UGA in the South. People outside of the South might not understand what that means. What her reputation is that they might be trying to protect?

Jim 11:33

Well, her, you know, her reputation is a very prominent Professor at University of Georgia. And Dr. Clark Heindel's status as a psychologist. Their social standing, versus say the car salesman, Marcus Lillard, which, you know, hit the headlines more than once, several times is also a certain red herring in the fact that he wasn't up to their social level. And I'm sorry, that that's the way the world works. But you know, that's what the connotation of the used car salesman is. I mean, I'm, there's plenty, I'm sure, plenty of really good people, fine, upstanding human beings who are used car salesmen, but it carries a connotation, and the media certainly used it. And the media certainly will continue to use it. And it will be undoubtedly be used in the courtroom as well.

Penny 12:42

As far as what he had to lose, it was different. He was on probation. Right? So that might be a factor. If you're on probation, and something like that took place, you may be might be afraid to call the cops. I don't know.

Jim 12:58

You might be, and again, man, it's not trying to exonerate him for whatever, something the first moment something went wrong, obviously, and they knew something was really wrong, they should have called 911. And had EMS come out there; however, they didn't. And that's gonna be a problem, a major problem, and it will probably, I doubt Marcus Lillard will get out of prison for quite a long time because of that making that decision. I just wonder if it was intentional to conceal that death, or were they just afraid? I think that most any reasonable honest listener, or person in this case puts themselves in situation, would know what they would do in such a situation. Because that's pretty horrifying. And I don't know what the answer to it is, I just don't see that being a conviction or a charge that Marcus Lillard will ever, ever beat here.

Penny 14:02

The other thing is until we know what substances, all of them were under the influence of, that could potentially be a factor. Because we all want to believe that if something like this happened, we would call 911. Right away, right? And we definitely, everybody knows that that's what should have happened. But if any of us are under the influence of substances that make you paranoid or hallucinate, or maybe a bunch of different things, maybe voluntarily, maybe not, we have no idea what impact that might have had on their judgment.

Jim 14:34

I remember Blake also saying something to how, you know what at what level was the threshold of adventure, if you will, so, if there were just a six pack of beer in play, and this whole case, no, no, no DMT teas, no ayahuasca, no cocaine, no marijuana and none of these bizarre things just a good old six pack of Budweiser, for some people, and quite a few people, right nor wrong, that would be enough of a red herring because they were drinking at all, then they were putting themselves in danger. However, we have a school of red herrings by that nature. You have the DMT teas, you have the hydrangea ceremony, you have nakedness. You have hot tubs, you have just about every conceivable bizarre thing you could really, I mean, one of the most bizarre scenes that Baldwin County Sheriff has ever seen. And that's, that's, that's back to that's why it becomes a school of red herrings: the concept of the bizarre. Everything being a collective bizarre is most certainly in the way of the truth.

Penny 15:53

I want to talk about the nudity. I remember when the details first came out that two naked men, a hot tub, a dead UGA Professor, man kills himself headlines all came out. And a lot of people that I talked to really didn't understand how it could be possible that if you called 911 that you wouldn't put clothes on; that by the time they got there, they think they would have gotten dressed. They wouldn't have been there naked. Right? And in the incident report it says that Marianne was naked. It says that there was another nude male subject later identified as Marcus Lillard. Right? Nowhere in that incident report, does it say that Clark Heindel was naked. Everyone reported, I mean, I'm talking internationally reported that all three were naked. There was no notice, or no notation of Clark Heindel being naked in the incident report, and then an article came out on June 21st that stated that Clark Heindel was in fact clothed when the authorities arrived. How did we fall for the red herring because we read that article, we didn't pick up on it? We read the incident report so many times, didn't pick up on it, we fell for what the news agencies fell for around the world, this scene of three naked people in a hot tub.

Jim 17:28

Well, I think you're using that to illustrate just how powerful and slippery, if you will, a red herring can be. The way rhetoric works is that sometimes people believe maybe what they want to believe, and I think we're all subject to that tendency. So what happens here is that this nudity and the position of these people, I mean, the media is programmed to hit the most electric facts they can in say a headline, I mean, so think about what they said, you know, UGA Professor naked, hot tub, two men. I mean, that's, that's the kind of that's the way you write media headlines. I think the key to always remember about the media is to get read, and not the media's job is not to tell the truth either. And in 2020, nobody knows this better than the American public. The truth is not, that's not what it's about. It's about selling papers; so, seeking the truth is not what's done every day. What's a red herring? Everything. And in this case, the nudity and the supposed sexual nature of what was going on on Mother's Day is most certainly one of the largest. That's how authors of murders becomes a question early on is if you pick and choose what you put in there, to establish the narrative you want. The truth becomes irrelevant.

Penny 19:02

Why is truth so fluid and so hard to find?

Jim 19:07

We live in a postmodern society. We live in a society where anything that is a social construct is subject to being deconstructed.

Penny 19:20

I want to read something that is this chart about modernism versus post modernism, as it kind of relates to that: post modernists challenge the belief that truth can actually, exists, or is even possible or that we should even be looking for it. In almost every area: science, reason, technology, medicine.

Jim 19:43

Modernism relied on science to challenge conventions. For example, I don't know, probably one of the biggest of those is evolution. So, kind of modernism said, well, as long as we have reason, logic and science, etcetera, to challenge the old guard, then we will use them to challenge the convention. So, we will challenge truth to find truth. What post modernism would do would say that everything's fluid, the whole idea of truth is just completely subject to one's interpretation of it.

Penny 19:46

And the post modernists believe that the self is a myth, and largely a composite of one's social experiences and cultural context. An identity is fluid and performative; there is no true definition of self at all. We put on identities as masks or perform ourselves exactly as do actors on a stage, whereas modernists believe that there is an existence of the stable, coherent self, independent of culture, and society, so the views are very didactic. But just to be clear, is it possible for people to have modernist views in some areas of their life where there's an absolute truth? And then maybe have some postmodernist beliefs where they kind of are more open to there being more than one answer?

Jim 21:27

Yeah, I mean, that's, it's a really good way to define the current idea of the American culture is that the masks stick out, for example, you know, there are some who would believe that you are, who knows what you really are. Aristotle, for example, I say, Well, I can only I can observe the observable world and be informed by the observable world. You know, where Plato, for example, kind of said that there was a certain distrust of the observable world. We go by markers all the time.

Penny 22:05

Right.

Jim 22:07

But we also are aware that sometimes, you know, there are lots of masks that can be worn by people. Serial Killers, themselves. I mean, it's...people are fascinated that Ted Bundy was Ted Bundy to this day. People are fascinated that Paul John Knowles, you know, the Casanova killer. How could somebody who looked like that be a mass murderer? But you look at a Henry Lee Lucas, and of course, he was a mass murderer. Just look at him.

Penny 22:41

Right.

Jim 22:42

People just still can't get over the fact to this day, that Ted Bundy was a mass murderer, but he was. And the irony is, is that Henry Lee Lucas may or may not have been. But because he, because the American culture needed answers, needed someone to pin murders all across America on, they were like, well, this guy'll take it, he'll, he'll admit to it. And man, he fits the bill. He wears the mask. He looks like a serial killer; he doesn't have a tooth in his head besides those few hanging out, but if Ted Bundy was trying to own up to them, they'd be like, well, I don't know. I mean, we're all to blame for all these things. We're all to blame for red herrings. We're all to blame for masks. I mean, so, who killed Marianne Shockley, the used car salesman or the retired psychologist...

Penny 23:41

Or someone else?

Jim 23:43

Or someone else? But, which one? What's the easiest?

Penny 23:47

The used car salesman.

Jim 23:48

Of course.

Penny 23:49

Because the mask that he's wearing, does not have as much clout, right, as Clark Heindel would have as an upstanding member of the community.

Jim 24:01

It doesn't matter.

Penny 24:03

With a yoga studio and...

Jim 24:05

Yeah, I mean, you can dig and find out, you know, that there was drugging in his past of patients and all these things. But the most, the easiest mark is Marcus Lillard, and it has to do with the way he looks, it has to do with the way he's being presented. It has to do with what society expects.

Penny 24:34

So, the fact that a lot of people consider themselves post modernists and that there, there isn't really a truth that can be found...

Jim 24:45

We're like a blend of all of them. We're pretty sure that we have our own set of being. But even what I'm saying is kind of a postmodernist view of things and one of the things that I guess When it comes to theory, or that I've kind of held on to is Abraham Maslow, that we're all searching for self actualization, and very few of us actually achieve that.

Penny 25:12

But yeah, he has his hierarchy of needs, right? We start at our basic level of food and water and shelter. And at the very top, we're trying to get to self actualization.

Jim 25:21

Yeah, you will, yeah, you become self actualized. You take some, some post modernists might say, well, there's never going to be a self actualization because everything's fluid. So, there's never going to be a structured hierarchy of anything that's ever going to achieve any actualization, because the wind could blow from the northeast at 92 miles an hour once and change everything.

Penny 25:47

How do we arrive at the truth within a system, a construct, where there are people who believe that actualization comes, you know, from within, right? Some people believe in God or their version of God? And then, you know, you have these people who believe that there is a religious experience or let me say, spiritual enlightenment through the use of hallucinogenic drugs. How do we come to the truth? What does that look like? How do we arrive at any kind of a common ground or understanding of what happened here that night? That jury is going to be made up with people who are on both ends of the spectrum and anywhere in between about whether truth exists.

Jim 26:35

Yeah, when you think about the way the American judicial system works, I mean, why have a jury selection? Why do we strike some people and ask them questions, or ask them, you know, ask that person to stay on? What the two opposing sides of the argument are looking for is their person. They're looking for the person, that one person, like Blake said. Ideally, it's supposed to be a crosscut of, of, say, the demographics of a certain area, like in this situation, Baldwin County. If that were true, then you would just go pick 10 random people or however many random people that sit on a grand jury and but it's not it's very, it's very selective, but you've got to try to tell some people that, you know, there's no, there's no truth. They'll be like, yes, there is. I believe there is, but plenty of people tell you there's absolutely no truth whatsoever.

Penny 27:38

Interestingly, in this case, we have someone who seems to also really be challenging the truth and not just challenging it, or questioning the truth, but actually mocking it. Do you remember that article that Dr. Heindel wrote called Awkward Silence?

Jim 27:58

Yes, yeah, about the pedophiles?

Penny 28:01

Right, and he said sacred cows make the best hamburger. And it really creeped me out at the time. But it did. I tried not to think about it too much, mostly because it was about pedophiles. Now that I think about that, he was questioning the truth of whether pedophiles could be rehabilitated, and saying that the people who believed that they could not be rehabilitated were not only wrong, that that belief was wrong, and that that belief that pedophiles cannot be rehabilitated is a sacred cow. And that belief needed to be ground up and fed to them.

Jim 28:45

Yeah, that's pretty...quite a statement. I would have, I heard it and hoped it would never come up again. However, you know, Dr. Heindel was an academic; most academics, I would say, by and large are trained to challenge norms or challenge, you know, trained to challenge conventions. But as we know, there are different levels of that. By a sacred cow, I mean, in humanity there are universals like very few cultures condone murder. You know, you don't just...no matter where you're at, you don't just go out and kill somebody. There's consequences, major consequences. Most cultures don't condone cannibalism, you don't just get hungry and eat somebody else. And most cultures don't condone sexual acts with children. These are just kind of, you know, especially, you know, especially, you know, American culture being one of them. And I just list those three as probably the most universal ones and then, you know, probably the worst, you know: murder, cannibalism, and what amounts to pedophilia. So, the sacred cow that Dr. Heindel is talking about is that, that a pedophile in many cultures would simply be put to death. Jailhouse justice, for example. Generally, a pedophile who enters a jail or prison system is killed. That's just the way of the incarceration system. It's an almost unforgivable act. Dr. Heindel, has, you know, took the lead, and in believing that pedophiles can be rehabilitated, although they had done what most people would consider to be unspeakable acts, that they could be fixed, if you will, they could be...it's a horrible choice of words because he used the term...

Penny 30:52

Castration.

Jim 30:53

Castration, yeah. Sorry.

Penny 30:55

And now they can...Judges can't force castration upon those who have been found guilty, but they can choose to be chemically castrated as a condition of being released on parole.

Jim 31:11

Yeah, I mean, you know, we've talked a lot about Central State, I mean, eugenics, castrations, you know, were used. But Dr. Heindel felt that you could rehabilitate a pedophile, and it's just simply not a belief that a lot of people have. As he said, even budding, you know, very progressive young psychologists and psychiatrists are pretty convinced you could not. Now it's not for me to say you could or couldn't, but to explain the use of using that term sacred cow. It is to take a religion such as Hinduism, for example and mock it.

That you not only, you don't eat meat, which most certainly don't eat beef. It's, it actually touches on another tenet of, of social norms is that you don't eat people. Take it upon yourself to go look at what it would mean for a Hindu to eat a sacred cow. And it's an...it's a very disgusting, a very disgusting thing for him to have said. It does mock religious beliefs. It mocks long held moral convictions. It mocks people's very worlds. And not just the American culture, but you know, and not just the southern culture, but around the world. And it was said in a mocking way. What you have there is an idea that on a moral level, that kind of anything goes; if a sacred cow can be made fun of in such a way, and be made it into hamburger and basically fed to you, then what else could be?

Penny 33:05

I think it wasn't until I thought about how some people don't believe that truth exists, and used that to understand why I found what he said so disturbing because I was, I fell prey to what we are saying the audience or the jury might fall prey to or people in the south might fall prey to that I had a reaction, and rather than trying to understand why I had it, I just said I'm not going to think about it. And a lot of people might be having that same reaction to what happened to Marianne.

Jim 33:47

Well, that...that's the ultimate red herring is that some of the things and many of the things that have happened and are happening in this case are so unspeakable that it just simply shuts people down. And that's normal. There are things that have already been put across newspaper headlines in this case that people would rather just not even know happened. Sadly, this was a woman who was very loved in the academic community, the social communities of Georgia, across the country, across the world. Who...who would want to think of these things happening to her? And that's kind of what's in the way of the truth here is that because of that red herring, of the School of them, if you will, it just shuts people down.

Penny 34:48

We're each going to have parts of this case that are going to be hard for us to deal with. I think that that's why it's important that there's more than one person so that the other person can pick up that mantle and keep searching for the truth for Marianne Shockley and her family. Thanks for listening. Please rate and subscribe. You can follow us on Facebook and Instagram @bloodtownpodcast and Twitter @bloodtownpod.