

Wogenstahl's Conviction

Eric Horn /
Peggy Garrett

Physical
Evidence

Bruce
Wheeler

Eyewitnesses

Q. Around 3:30. Then you looked in and Amber was gone; is that correct?

A. Yes.

Eric Horn Trial Testimony, Tr. 990

Q. Around 3:30. Then you looked in and Amber was gone; is that correct?

A. Yes.

Eric Horn Trial Testimony, Tr. 990

SUMMARY:

Eric looks into the bedroom, but does not check each child individually, and closes the door. Eric goes back to watching television.

Shortly before 5:00 a.m., Eric leaves his mother's apartment and returns to his grandfather's residence, where he lives.

Pes say's She got home about 5⁰³
from Troy's (Troy and Lynn rode her home)
Pes looked in and thought she saw all three
kids in there

Investigator Notes, Ex. 131, p. 63

You heard testimony from Brandy Anderson and Anthony Bennett. They had been to Miami University that night, they had been to a party and they had just gotten back to this apartment. They were sitting in Brandy's car while Tony's was running and while it was warming up and as they sit there and talk

about 5 in the morning they see this defendant come from around the corner of his building without a coat on and he comes around and he goes into that apartment building.

Prosecutor Gibson Closing Argument, Tr. 2451

There is no

evidence in this case that anybody else ever
had any marijuana. Those are all the stories
he told.

Prosecutor Gibson Closing Argument, Tr. 2451

<u>DATE</u>	<u>DESCRIPTION</u>
08/22/1992	Detention Release
08/22/1992	Counsel present.
08/22/1992	Place on house arrest until 08/27/1992.
08/22/1992	Bond set at HOLD \$.
08/28/1992	Admit.
08/28/1992	Continued for possible bind over to 08/28/1992..
08/28/1992	Adjudged delinquent.
08/28/1992	Place on probation for investigation.
08/28/1992	Bind over proceedings dropped.
09/18/1992	Continue for disposition to 09/18/1992.
09/22/1992	Continue for disposition to 09/22/1992.
09/22/1992	Court costs.
09/22/1992	Fine of \$50.00 imposed.
09/22/1992	Place on probation.
09/22/1992	Terminate probation for pre-sentence investigation.
01/04/1993	Terminate probation.

Eric Horn Delinquency Records, Ex. 34

Q. You stated earlier that when you first found out about the arrest of Eric Horn for drug trafficking in August of '92, you called Joe Deters at his residence?

A. Yes.

Q. Do you recall any of the statements made by Mr. Deters at that time?

A. Oh, shit, you know, that was the --

Q. Okay.

A. You don't have to write that, do you?

I mean, that was the general consensus, oh shit. I mean, what next.

CHRIS T. BRICKNER was interviewed at RUSSELL's and AUER's residence. He stated that at approximately 2:30 a.m., on November 24, 1991, he was with a friend by the name of DANNY BROCK, 321 Weathervane, telephone number 367-0177. They were driving down the street when they observed ERIC HORN standing on the corner at 100 Harrison Avenue. As they drove by, HORN waved at them.

WJR

FBI Report, Ex. 31

Horn: Am I under arrest?

Examiner: No.

Horn: Then fuck you, fuck the machine and I'm out of here.

Eric Horn Polygraph, Ex. 28-1

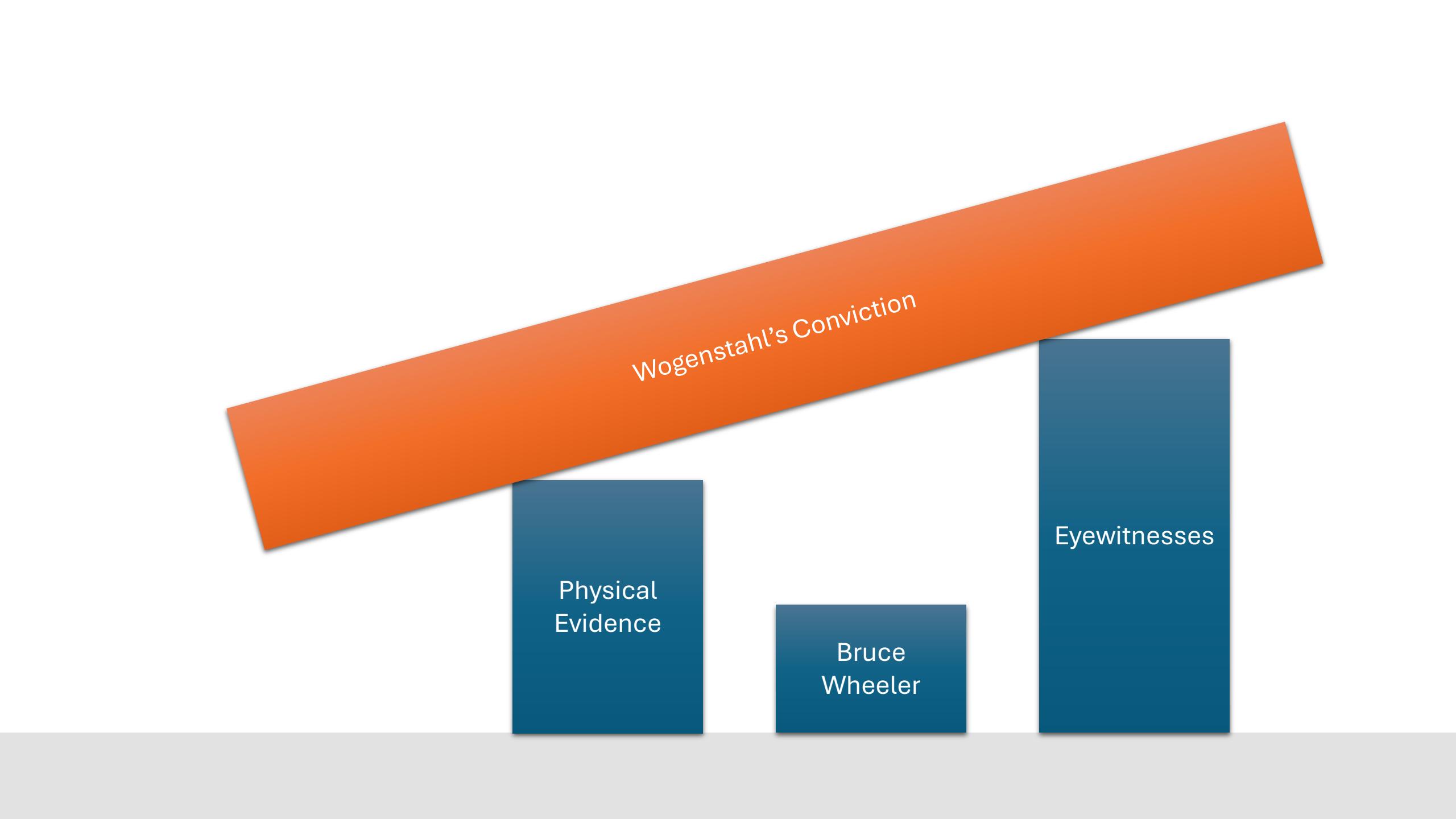
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That is the guy. There is no question in my
mind that is the guy I saw that night. She
got the same eerie feeling when she saw this
picture that she got that night when she
started to stop and then changed her mind.

You saw her on the stand, saw her on
the stand and saw her again. Look at this
person, and looking him right in the eye and
say that is the guy. Did she show you any
hesitation, did she show you any doubt about
that identification? She was certain. Again,
did Kathy Roth look to you who would make that
kind of statement unless she was absolutely
positive that she was right and come in here
and say yeah, that's him? She is not and she
didn't do that.

Roth further described the man as being under six foot tall, slender build,
short brown hair and wearing jeans, dark shoes, and a waist length
brown or black leather jacket. Roth was unable to observe the subject's
face as he had kept his head down while she drove past him.

Roth described the vehicle as being a dirty gray or silver colored
four-door with a light colored wide door guard strip.

Indiana State Police Records, Ex. 116

“Number four, right?” (0:54)
“Number four, sure looked like him.” (0:55)
“Great” (0:59)
“Good” (1:00)
“Sure looked like him.” (1:01)
“Well, good. Let’s go get some turkey.” (1:04)

Affidavit of Charles Goodsell, Ex. 137

Also on 11-28-91 at 8:05 p.m., the suspect vehicle was viewed by Brian Noel.

Noel stated that the vehicle appeared to be the same which he had observed

parked along Jameson Road with Woganstahl standing next to. Noel also

now stated he recalled seeing a front license plate bracket on the

vehicle which the suspect vehicle had.

Indiana State Police Records, Ex. 116



*note. Each red and blue line is approximately 50 feet

Figure 1. Google Maps image of the area surrounding the UDF store

This is an extremely far distance.

Affidavit of Charles Goodsell, Ex. 137

LOCATION: Harrison at Hill

TIME: 4:00PM

VEHICLE: ^{DARK} Blue P/U with whitecap (small?)

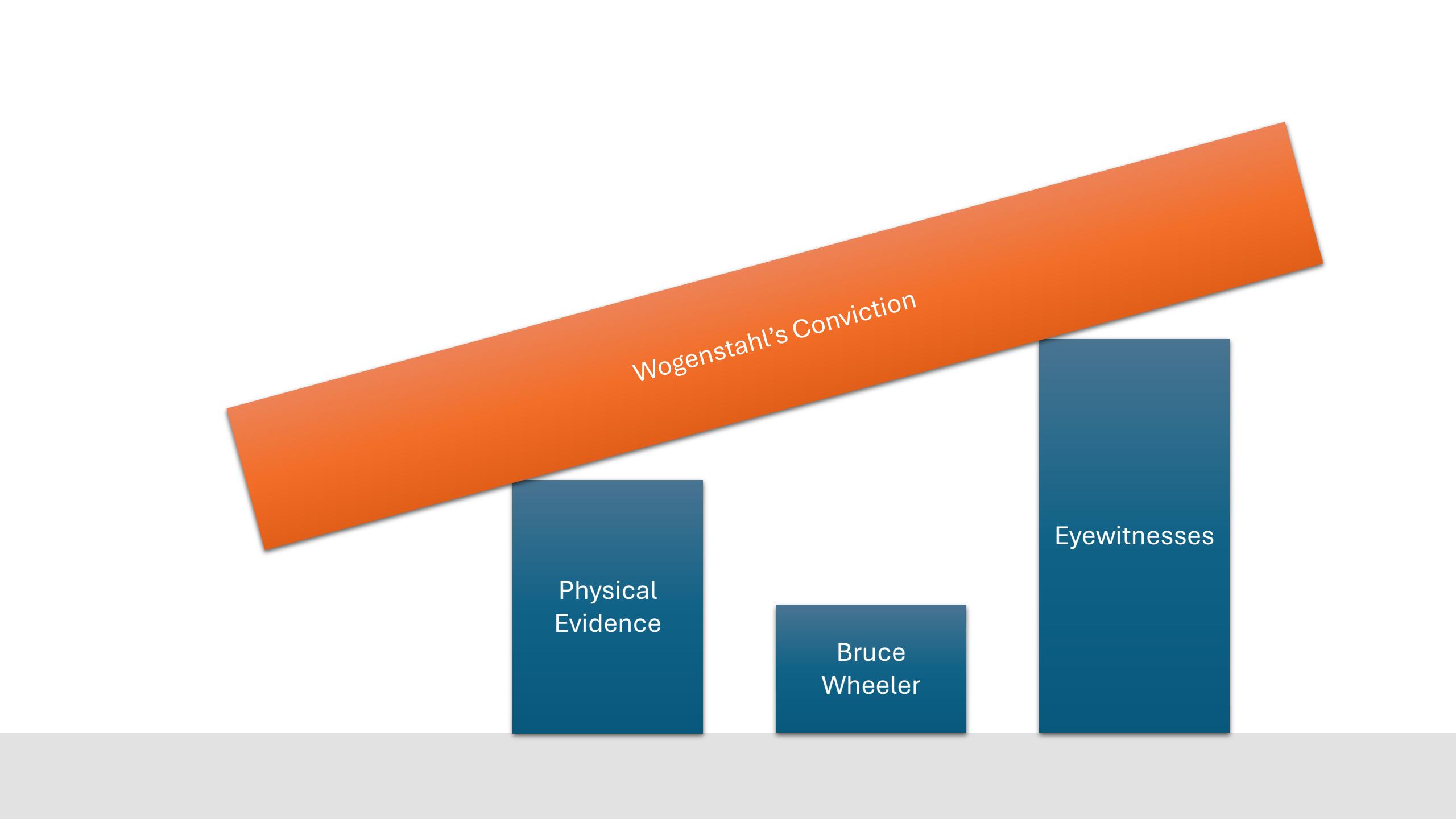
DIRECTION: going towards Indiana

OBSERVED: Leaning against window of truck
crying, wearing jean overalls - definitely Amber

DRIVER: BLACK hair, beard, mustache/
m/w / 37 yrs

Reporting Person: Amanda Beard 367-5323
4th grade 201 Park Ave Apt #6

Notes from interview with Amanda Beard, Ex. 68

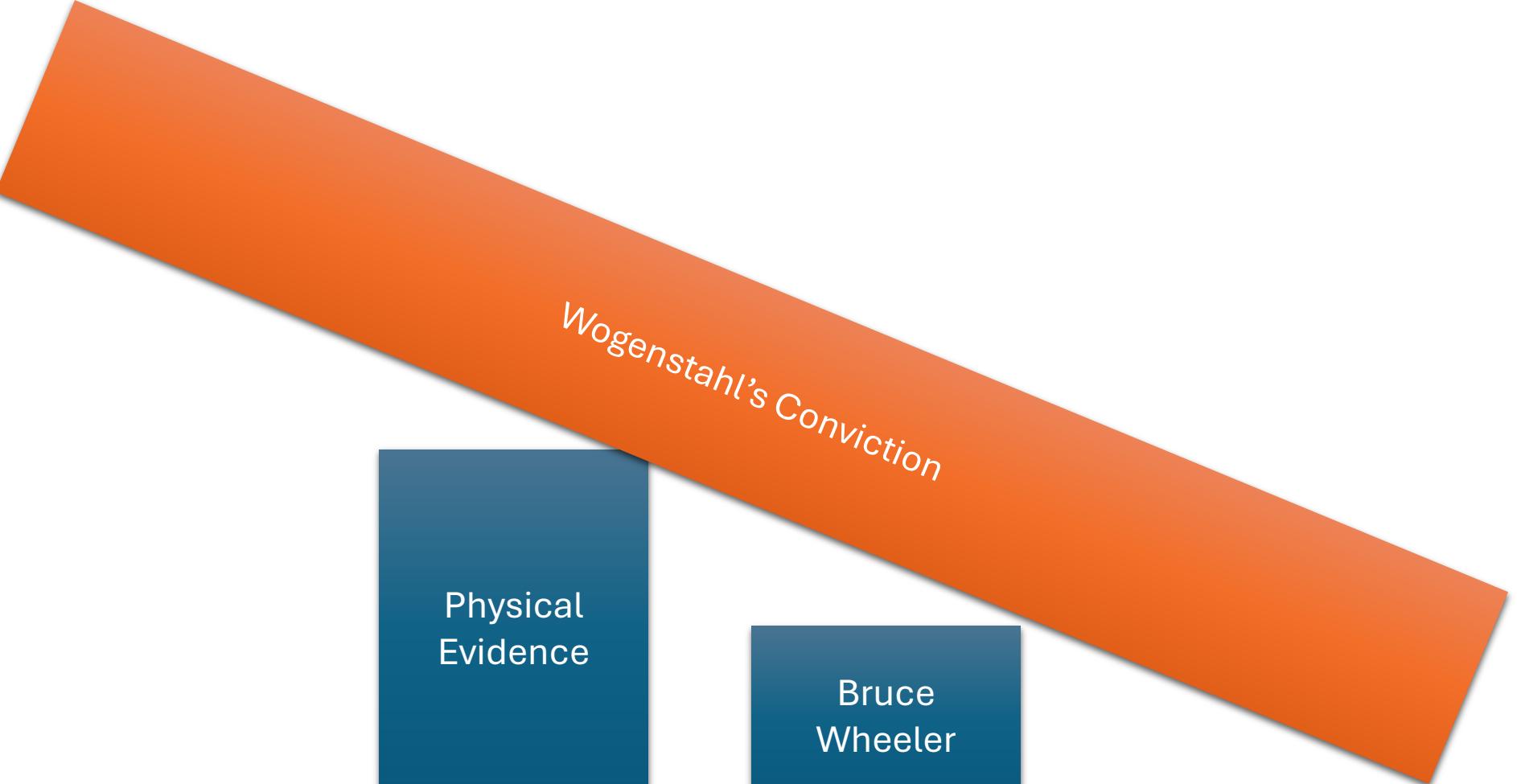


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But he told you he examined the questioned hair that came from Amber's panties and he examined it and compared it with more than twenty-five known pubic hairs from this defendant and in doing so he noticed that they were identical in every respect and that there were no differences that he could discern, and that in his expert opinion that pubic hair in Amber Garrett's panties was his.

What evidence refutes that? I know Jeff Wogenstahl says that's not mine. But what evidence do you have that Agent Deedrick is incorrect? He has examined four thousand hairs and he has told you that he has never found two known head hairs or two known pubic hairs that you could not distinguish and you could not say this goes to that person and that goes to that person. And he said that is Wogenstahl's hair. Who are we to believe, Agent Deedrick or the other hair expert in the room, Jeffrey Wogenstahl?

Testimony overstatements

Agent Deedrick overstates the significance of the evidence several times during his testimony.

Jason Beckert Report, Ex. 139

Testimony Results (mark as appropriate):

Inappropriate Statements : Yes No

If testimony contained Inappropriate Statements, cite each by page(s) and line number(s):

pg 1286, ln 13-23 - Error 1

pg 1290 - 1291, ln 20 (1290) to ln 2 (1291) - Error 2

pg 1296 - 1297, ln 20 (1296) to ln 11 (1297) - Error 3

DOJ Letter, Ex. 87

parties

Q11. = gray woolen fiber

Q12. = black hair frag (prob. h.)

Q13. = animal hair

FBI bench notes, Ex. 149

Q. Did you notice any type of hairs or
matters similar to hair in that debris?

A. No, sir, I did not.

William Dean Trial Testimony, Tr. 1176

Similarly, the FBI notes describe two additional hairs in Q4 that were not described in the FBI report or during testimony:²⁰

- “v fine br CO hh ~ 1” (club) extr limited value”
 - (i.e., very fine brown Caucasian head hair ~ 1” in length with a “club” root that is of extremely limited value)
- “v fine blonde h frag (nsfcp)”
 - (i.e., very fine blonde hair fragment not suitable for comparison purposes)

Jason Beckert Report, Ex. 139

Q. During the visible examination of Q-4, the panties, was there any trace evidence recovered?

A. Yes.

Q. Would you tell the ladies and gentlemen of the jury what was recovered?

A. There were fibers as well as a single light brown Caucasian pubic hair.

Douglas Deedrick Trial Testimony, Tr. 1267

What is missing from the testimony by Dr. Webster is serious consideration of high widespread the distribution for these same plants in the geographic area nearby the crime scene and within the immediate region, making up the border between Ohio and Indiana. There is no discernable perspective of how widespread this vegetation pattern in the area, i.e., how unique is this pattern.

Forensic Botanist Dr. Jane Bock Affidavit, Ex. 107

And
if you are stabbing somebody and this person
is sitting next to you boom, boom, boom and
stabbing them eleven times and you're swinging
back on your back swing and you're in the
driver's seat, where is this blood going?
It's going back behind you. Guess what
Wogenstahl missed? Jeff Schaefer said he
found that dry trickle of blood. I guess the
moral to that story is you just can't clean it
good enough.

Prosecutor Deters Rebuttal Closing Argument, Tr. 2596-97

The contention the victim was killed in Wogenstahl's Oldsmobile Omega is not supported by the evidence.

The contention the victim was transported in the Oldsmobile Omega either before or after she was killed is not supported by the evidence.

Brian Clark Report, Ex. 136

The laboratory conducted approximately 242 presumptive tests for blood on evidence collected from the vehicle using another presumptive blood reagent, benzidine (believed to be benzidine based on the abbreviation bz in laboratory bench notes). All tests were negative according to the Official Crime Laboratory Report⁴ and bench notes.

Affidavit of Brian Clark, Ex. 136



State's Trial Ex. 50



State's Trial Ex. 71

Specifically noted was the lack of any reporting that the vehicle was still wet from any apparent attempts to clean it or an odor of bleach or other cleaning materials.

Brian Clark Report, Ex. 136

The FBI laboratory examined the carpet removed from the 1978 Oldsmobile Omega (Q111) and the rear floor mats (Q112-Q113) for the presence of blood, on both front and back and no blood was found. It was also noted that a large amount of sandy dirt came out of the carpet (Q111) during the exam which is an indication there was no extensive cleanup of at least that area of the carpet.

Addendum to Brian Clark Report, Ex. 136.1



State's Trial Ex. 71

If any evidence items with a large amount of blood from Ms. Garrett were handled and manipulated at the same time or by the same individual, the chance of contamination is high.

Similarly, multiple documents from SERI suggest that the "very small trickle" specimen from the door handle of Mr. Wogenstahl's car was handled, manipulated, and processed in the same batch as Ms. Garrett's reference sample. This practice greatly increases the risk of cross contamination between the samples.

Report of Marc Scott Taylor, Ex. 103

As with the vehicle, no trace evidence examined could be associated between the victim and the apartment.

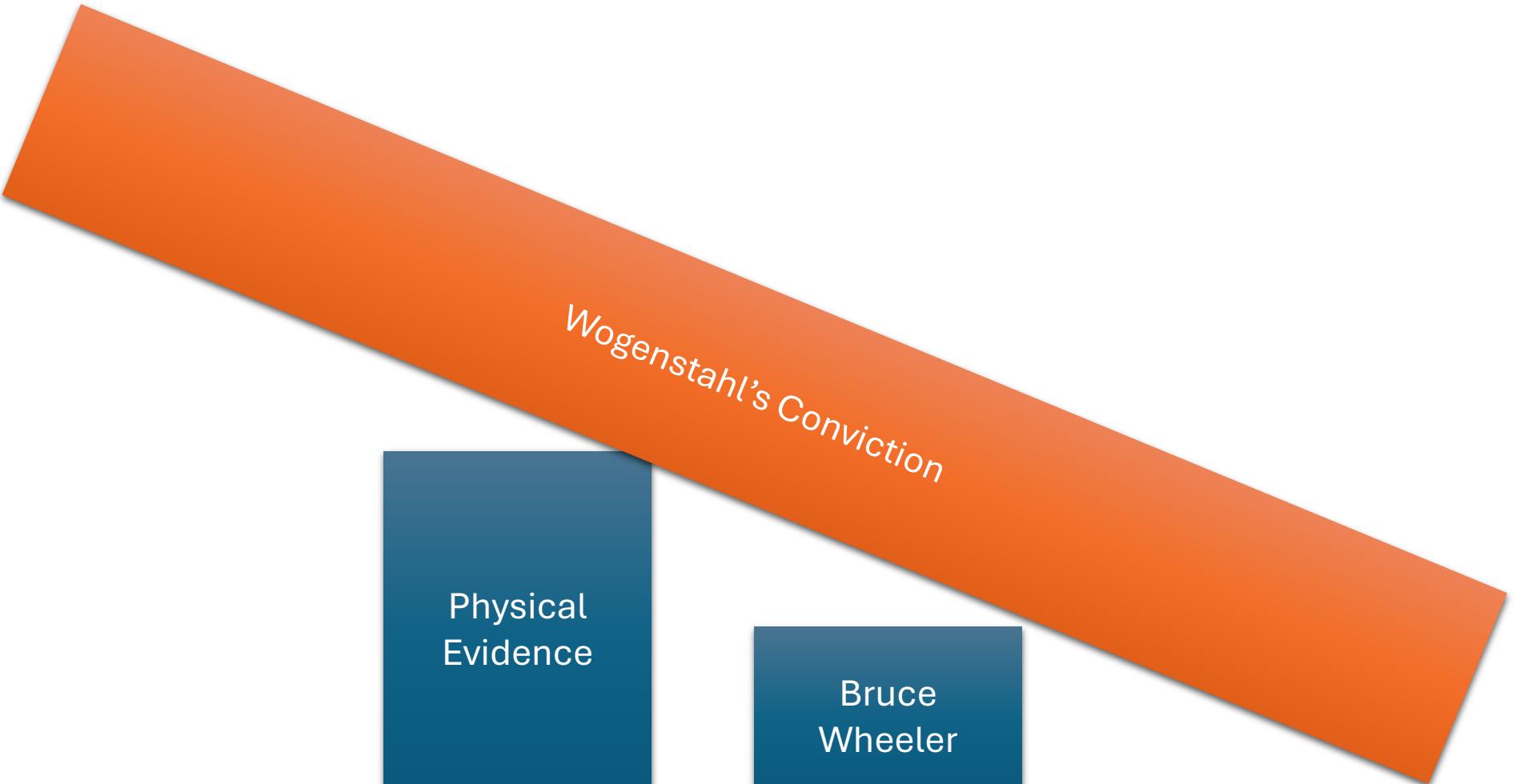
Brian Clark Report, Ex. 136

It is documented in the laboratory notes the jacket was tested 43 times for blood, including both the interior and exterior, with negative results.

Affidavit of Brian Clark, Ex. 136



State's Trial Ex. 9 (photo taken in 2014)



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Without holding Bruce Wheeler up as a model citizen, without defining what he did and what he is serving time for, I will tell you again you should believe him. Why? For two reasons: First, Bruce Wheeler got nothing for his appearance in this courtroom. . He got nothing. He pled guilty before Judge Winkler as charged. Nothing reduced, nothing dismissed. Guilty as charged.

Prosecutor Gibson Closing Argument, Tr. 2464

5. I felt that the prosecutors were going to help me with my case I testified. It was implied that I would do less time in prison if I testified.

6. I asked the prosecutors to get me to Ross Correctional as opposed to one of the institutions that was considered more dangerous, if I helped them in Wogenstahl's case. I ended up at Ross Correctional and I believe it was because of my testimony.

7. The prosecutors promised if I testified they would write a letter to the Parole Board on my behalf.

Bruce Wheeler Affidavit, Ex. 35



JOSEPH T. DETERS
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WRITER'S DIRECT DIAL NUMBER
632-8831

September 27, 1995

Ohio Parole Board
Adult Parole Authority
1050 Freeway Drive, North
Columbus, Ohio 43229

Re: Bruce M. Wheeler
Institution No. A266169
Case No. B-925576
Institution: Ross Correctional Inst.

To the Members of the Parole Board:

We are in receipt of your August 28, 1995 notification of release hearing scheduled for October, 1995, on the above named inmate. Our records indicate that this defendant is serving a sentence of 5 to 10 years following conviction for involuntary manslaughter in the above case number.

For your consideration, I have enclosed a copy of our prior letter dated May 24, 1993, written by Richard G. Gibson, the trial prosecutor in this case.

Respectfully,


Ronald W. Springman, Jr.
Assistant Prosecuting Attorney

Prosecutor Letter to Parole Board, Ex. 36

Wogenstahl's Conviction

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Wheeler

Wogenstahl's Conviction

Entry: "I hate myself. I hate my life. I hate my classmates. I hate to be around anyone alone because they are nosy. The only people I like to be around is [redacted]

[redacted] Because they are not so nosy. Sometimes I feel like running away or killing myself. Or anything just to get away for about 3 years. Then come back and maybe people will start paying more attention to me or start caring about me. Just yesterday before I came to school [redacted] beat me. She was punching me in the back. She just would not stop.

Love,
Amber Garrett

FBI Report re Amber's Diary, Ex. 17

Friends of Amber say she has been talking about running away a lot lately

HPD Notes, Ex. 20

SISTER THAT AMBER & PEGGY GOT INTO AN ARGUMENT, AND HIT DAUGHTER 3 TIMES IN THE HEAD, IT HAPPENED THE NIGHT BEFORE SHE WAS MISSING,

HPD Notes, Ex. 18

Wogenstahl's Conviction

Amber's diary

Wogenstahl's Conviction

during approximately [REDACTED] AMBER GARRETT had stayed at her apartment. [REDACTED] understood from AMBER GARRETT that [REDACTED] would not let her in the house, which forced AMBER GARRETT to stay elsewhere on several weekends.

FBI Report, Ex. 19

approx. one month ago [Amber] was raped by one of the men who came to the house. The female refused to identify herself or provide any additional information.

HPD Report dated 11-29-91, Ex. 42

EMMerson No Hosp.
Believes Amber was treated for
Sex Abuse about 6 mo Ago

HPD Notes, Ex. 55

Cousin:
She was Raped
By one of men who
come in there.

HPD Notes, Ex. 54

DIANE FRITZ. DIANE STATED THAT LAST SUMMER AMBER WAS A VICTIM OF AN ATTEMPTED RAPE BY 14 YOA MIN. THE MIN WAS UNSUCCESSFUL AND SHE STATES HAD SHOULD HAVE A REPORT ABOUT THE INCIDENT BECAUSE THE K-9 UNIT SEARCHED THE NEIGHBORHOOD FOR THE SUSPECT. DIANE WAS UNSURE IF

HPD Report dated 11-27-91, Ex. 41

Amber's diary

Wogenstahl's Conviction



Amber's diary

Sexual abuse
and neglect

Wogenstahl's Conviction

Saw Peggy doing Coke Sat. Eve (Sun. Morn)
24 Nov @ 12³⁰/ w/ 2 guys: "Bikers" @ Escape

HPD Notes, Ex. 23

Jessica Terry, Troy Russell told boys of anonymous caller
that Peggy owes money for drugs. (2107 hours)

HPD Notes, Ex. 52

Peggy Garrett owed \$8,000.00
for drugs

HPD Notes, Ex. 51



Amber's diary

Sexual abuse
and neglect

Wogenstahl's Conviction



Amber's diary

Sexual abuse
and neglect

Peggy's drug use
and debt

Wogenstahl's Conviction

Peggy Supposedly at Waffle House Crying
That She had nearly Flu's cause She had Sold
for Amber #1, 500.00,

HPD Notes, Ex. 56

a waitress from the Waffle House told him Russell, That Peggy Garrett was in Waffle House The day before [Amber] disappeared + was broke. The two days later. Peggy returned + claimed to have \$1500.00 in her purse.

HPD Report dated 11-29-91, Ex. 57

Bud Garrett
Girlfriend's sister Linda Campbell 931-9720

Heard from Friend, DEALS DRUGS in Harrison
Peggy got in too deep in debt. and sold her
to Dealer.

HPD Notes, Ex. 53

Peggy Garrett was heard at the layout as saying "He said that he wasn't going to beat her that bad" as she was going down the steps. Brewer advised that the following people heard

HPD Report dated 12-10-91, Ex. 58



Amber's diary

Sexual abuse
and neglect

Peggy's drug use
and debt

Wogenstahl's Conviction

Amber's diary

Sexual abuse
and neglect

Peggy's drug use
and debt

Rumors that
Peggy sold
Amber for drugs

Wogenstahl's Conviction

Peggy and the man were acting erratic. Peggy was running her fingers through her hair saying “oh my god, oh my god. Fuck. What am I gonna do? Fuck. Fuck. Fuck.” She was saying this over and over. Peggy seemed frantic. The man that she was with kept telling her “you gotta calm down, you gotta calm down.” The man also kept going over the window and looking out. He probably went over to the window at least 4-5 times while I was there. To get to the window, he had to walk right past my husband and me.

I remember exactly what the man looked like. He was heavy with a black leather jacket and blue jeans. He had black short hair and thick black-rimmed glasses. He had a thin mustache. He was tall, probably at least 6 feet tall. I one-hundred percent could have picked him out of a line-up, had I been shown one at the time. I remember that period so clearly that if I was shown a line-up now, I could still pick him out of a line-up today.

Mellisa Ellis Affidavit dated 7-15-21, Ex. 97

Amber's diary

Sexual abuse
and neglect

Peggy's drug use
and debt

Rumors that
Peggy sold
Amber for drugs

Wogenstahl's Conviction



Message Troy Russell
used to live with the
Barrets. Knows all
about the murders

HPD Notes, Ex. 16-2

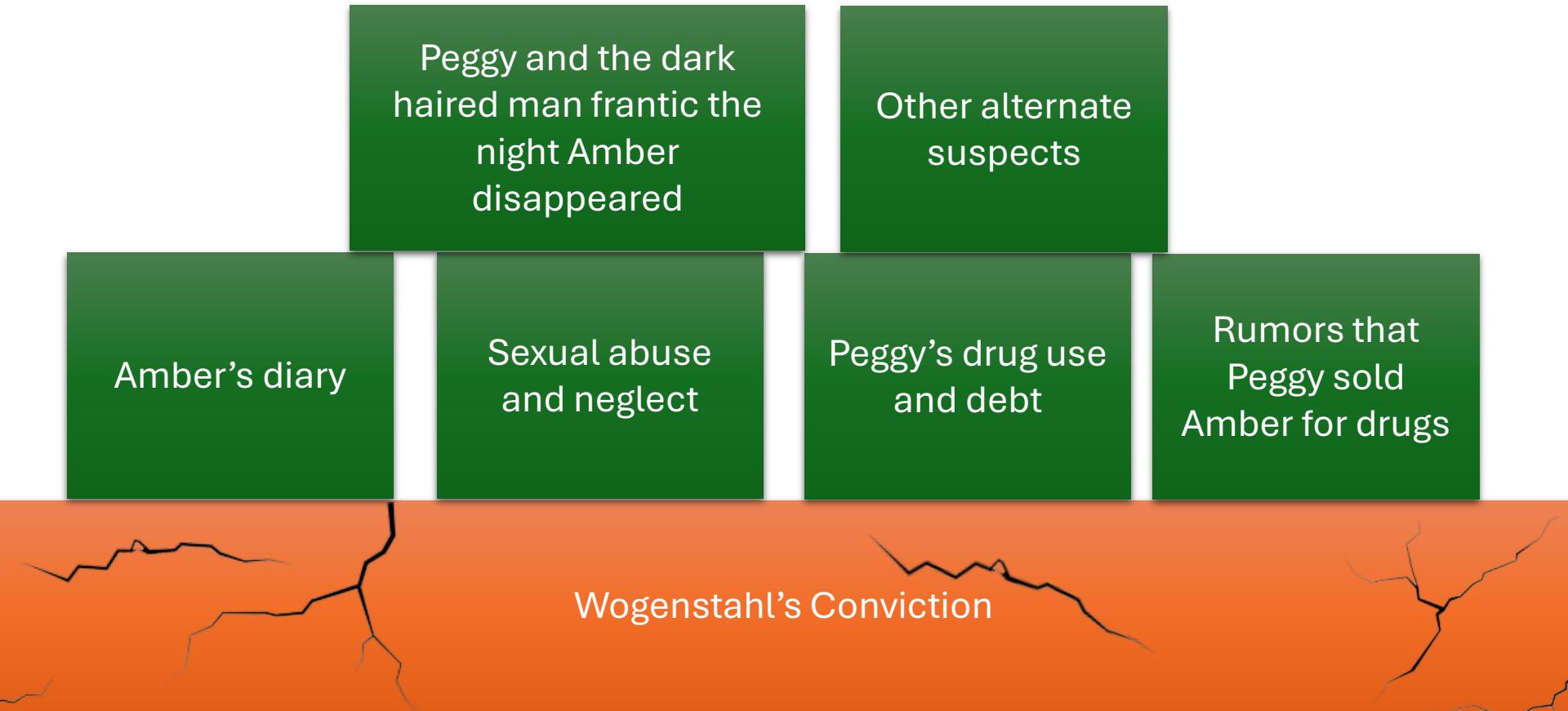
Said to "Someone" that he was "Guilty as Hell" of the Amber Harnett Kidnapping and Murder

HPD Notes re: Troy Russell, Ex. 99

Janie Wenzeyer (lives in the Apt above Peggy)
has a big Hunting knife
been going to K Marts saying they'll find
her body in Brisket but I don't know if she'll
still be alive

HPD Notes, Ex. 59



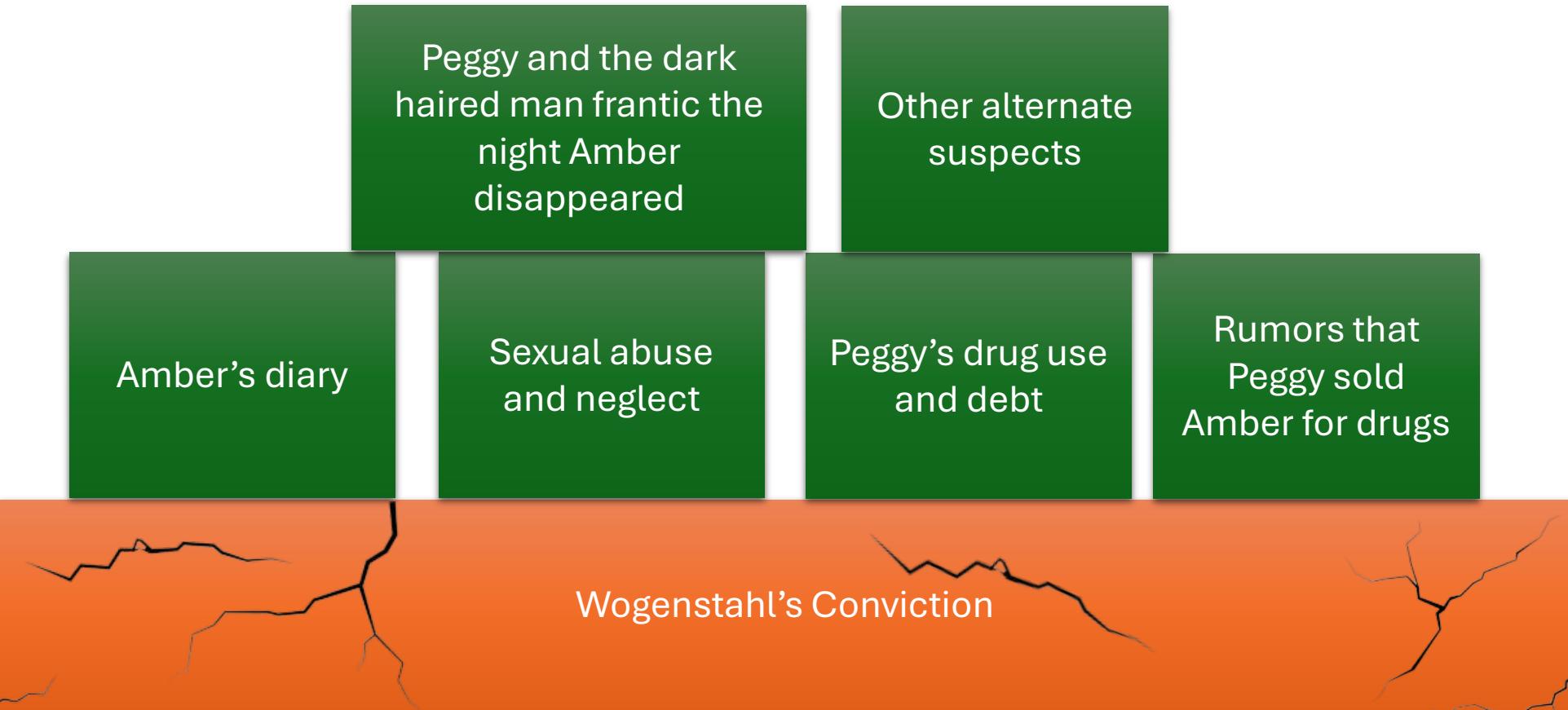


Annette said she didn't like riding the church bus without her brother because the church bus driver, Chuck Pennington, was odd.

Annette said she remembered November 24, 1991, like it was yesterday. She recalled that the church bus driver was late picking her up that day. According to Annette, the bus would usually arrive at her house between 8:45 and 9:00 a.m., but that day he didn't arrive until 9:30 a.m. Annette said that he was also driving his personal vehicle instead of the bus.

Annette said when she got on the bus she realized Amber wasn't there and asked Chuck if they could drive back by Amber's house. He did, and Annette knocked on Amber's door, but no one answered.

Investigator Martha Phillips Affidavit dated 10-
5-16, Ex. 43



Chuck
Pennington

Peggy and the dark
haired man frantic the
night Amber
disappeared

Other alternate
suspects

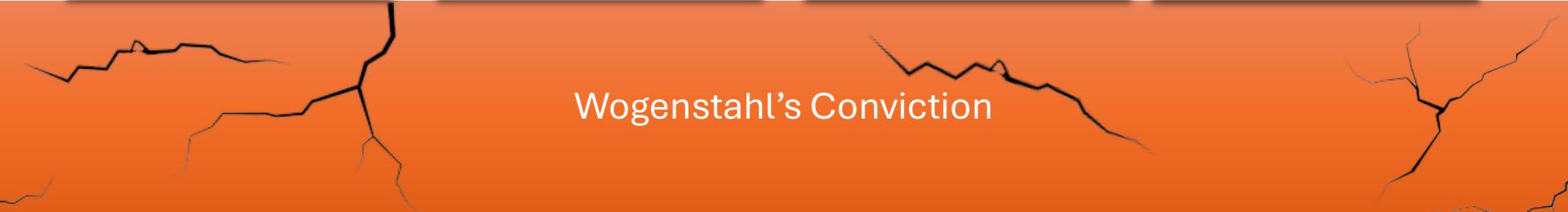
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