

LAW & ORDER"CONVICTIONS"TEASER

FADE IN

EXT. STREET - NIGHT (2 AM)

BRENDA and EDDIE, a thirtysomething couple (not necessarily white), walk home from a party --

EDDIE

I don't get what your problem is.

BRENDA

You don't get my problem with you staring at some skanky ho.

EDDIE

I wasn't staring --

BRENDA

Your eyes didn't leave her chest the whole night. How do you think that makes me feel?

EDDIE

I'm going home with you, aren't I?

BRENDA

(cold)

Remains to be seen.

Brenda quickens her pace. Eddie pursues. They turn a corner to --

EXT. AVENUE - CONTINUOUS

-- where they come upon the crumpled body of a woman dressed in a flimsy nightgown. Laying on the ground under an open window five stories up.

BRENDA

Oh my God --

Eddie moves towards the body --

BRENDA

What are you doing? Don't touch her --

CONTINUED

EDDIE

I'm just gonna take a look...

Eddie crouches down. A small envelope is visible in the pocket of the negligee. Eddie reaches out to touch it when...

*The body gasps for air.* Off Eddie's shock --

CUT TO

INT. EMERGENCY ROOM - NIGHT

Briscoe watches three ER docs work on the vic. After a beat, he turns to see McCoy arrive looking tired, not happy to be here --

MC COY

Three in the morning, Detective.

BRISCOE

This you don't want to wait on.

Briscoe leads him into the room where the injured woman struggles for life. Points --

BRISCOE

You might not recognize her after seven years and a header off a building, but--

MC COY

(recognizes)

Susan Heller.

BRISCOE

I guess star witnesses tend to leave an impression.

MC COY

The ones that put killers on death row do.

(beat)

Will she make it?

BRISCOE

Touch and go. She fell five stories.

MC COY

One month before Paul Lenhart's execution?

\*

BRISCOE

I know what you're thinking, but this was a do-it-yourselfer.

MC COY

How can you be sure without an investigation?

BRISCOE

Don't need an investigation when there's a note.

Briscoe produces the envelope we glimpsed in the previous scene.

BRISCOE (CONT'D)

She says she can't "live with the pain" of being the one who put Lenhart on death row.

MC COY

(incredulous)

She's feeling guilty because she testified Lenhart confessed to her? \*

BRISCOE

According to her note, she's feeling guilty because she lied.

Off McCoy --

FADE OUT

END TEASER

ACT ONE

FADE IN

INT. MC COY'S OFFICE - MORNING \*

McCoy hands Southerlyn the Lenhart case file, which she'll review under -- \*

MC COY \*

Paul Lenhart. Seven years ago, he bludgeoned his wife to death. \*

SOUTHERLYN \*

(digging into memory) In Central Park, right? They were out for a stroll... \*

MC COY \*

Walking their dog. To hear Lenhart tell it, he took the dog into the bushes and when he came back, Mrs. Lenhart was on the ground. \*

SOUTHERLYN \*

So he had opportunity. What about motive? \*

MC COY \*

He was carrying on an affair with a co-worker. \*

Southerlyn's not sure she's buying this... \*

SOUTHERLYN \*

This would be the same woman who recanted in her suicide note. \*

MC COY \*

Even if Susan Heller lied, it doesn't mean Lenhart's innocent. \*

SOUTHERLYN \*

But without that confession, all that's left is motive. \*

MC COY \*

And opportunity. Paul Lenhart was the only person connected to his wife whose whereabouts were unaccounted for that night. \*

CONTINUED

SOUTHERLYN  
You said Lenhart took the dog into the  
bushes...

MC COY  
Only for a minute. I doubt in those  
sixty seconds, some unknown assailant  
for unknown reasons crushed Sara  
Lenhart's skull.

SOUTHERLYN  
(off file)  
Looks like the jury doubted it, too.

Southerlyn is pretty convinced, but one issue still nags at  
her --

SOUTHERLYN  
Still... isn't Heller's recantation the  
type of thing we're obligated to  
disclose to Lenhart's attorney?

MC COY  
He doesn't have one. His right to  
counsel dried up when his capital  
appeals did.

SOUTHERLYN  
So who breaks the news to him about  
Susan Heller's fall from grace?

Off McCoy --

CUT TO

INT. CLINTON CORRECTIONAL FACILITY - VISITOR BOOTHS - DAY

Separated by bulletproof glass, communicating through phone  
receivers, McCoy talks to inmate PAUL LENHART (prison has  
aged him beyond his 50 years). No love lost here --

LENHART  
I told you I was innocent.

MC COY  
Several times. I never believed you.  
I still don't.

LENHART  
Susan recanting, this should at least get  
me a stay of execution, a new trial --

MC COY

(shakes head)

A new trial is warranted only if the  
new evidence would lead to an  
acquittal.

\*  
\*

LENHART

I didn't kill Sara. Why won't you  
believe me?

\*  
\*  
\*

MC COY

For one reason, you had her blood all  
over you.

\*  
\*  
\*

LENHART

From trying to revive her.

\*  
\*

MC COY

So you've said. But you haven't  
adequately explained why you waited a  
full ten minutes between supposedly  
"finding" Sara and calling for an  
ambulance.

\*  
\*  
\*  
\*  
\*  
\*

LENHART

I was in shock.

\*  
\*

MC COY

Understandable. It was your first  
murder.

\*  
\*  
\*

Lenhart stares daggers. Beat.

\*

LENHART

So if nothing's changed, why are you  
here?

\*  
\*

MC COY

To keep you up to date. As a courtesy.

\*

McCoy is about to end the conversation. When Lenhart says --

LENHART

Tell me, Mr. McCoy, how're you gonna  
feel when they strap me to a gurney  
knowing all the while Susan Heller  
lied?

\*

MC COY

I'm not convinced she did. That's why  
I'm having her interviewed once she  
gets out of surgery.

\*

As McCoy returns the receiver to its cradle --

CUT TO

INT. HOSPITAL - RECOVERY ROOM - DAY

Southerlyn and Briscoe with a recovering SUSAN HELLER (40s, attractive) and her attorney, DAVID GERKEN (40s, polished).

GERKEN

Ground rules. By recanting, my client opens herself up to a perjury charge. Accordingly, she doesn't say another word without full immunity.

SOUTHERLYN

(thinks; nods)

Let's have it.

Gerken nods to his client. A deep breath, then --

HELLER

Paul and I met while serving on the board of Applied Microsystems. It wasn't public knowledge, but Applied was being targeted for acquisition by Sutter Networks.

\*

GERKEN

It's a NASDAQ 100 company.

SOUTHERLYN

I get the *Wall Street Journal*.

(to Heller)

I'm still not seeing the relevance.

HELLER

A buy-out would send the value of our stock options skyrocketing. But every board member had a morals clause in their contracts.

SOUTHERLYN

And if they get convicted of a crime, they forfeit their shares.

HELLER

(nodding)

Which get redistributed among the remaining board members. Each slice of the pie gets thicker.

CONTINUED

BRISCOE \*  
How much thicker?

HELLER \*  
Two million dollars. \*

SOUTHERLYN \*  
This is repugnant... \*

HELLER \*  
Seven years ago, I was a different \*  
person. I had a problem. Cocaine. \*  
It's an expensive habit. I'm not proud \*  
of what I did to support it. \*

SOUTHERLYN \*  
You put a man on death row just to cop \*  
a fix. \*

HELLER  
I figured, bastard's guilty as sin,  
what's the harm?  
(remorseful)  
But... it's something I couldn't make  
amends for, a lie I couldn't live with.

Southerlyn and Briscoe absorb this.

SOUTHERLYN \*  
Okay. We'll be in touch. And so will \*  
the SEC, I'm sure. Market \*  
manipulation's punishable by prison \*  
time.

GERKEN  
You just gave her immunity --

SOUTHERLYN  
From state prosecution. I can't do  
anything about the feds.

And they're gone. Off which --

CUT TO

INT. MC COY'S OFFICE - DAY

Southerlyn and Briscoe update McCoy and Van Buren.

VAN BUREN \*  
Does this change anything? \*



MC COY

Paul Lenhart may not have confessed,  
but that doesn't make him any less  
guilty.

\*  
\*  
\*

SOUTHERLYN

But Susan Heller's eleventh hour  
recantation might make a cautious judge  
think twice.

\*  
\*

MC COY

Exactly.  
(to both cops)  
That's why I want you to go back into  
the case.

\*  
\*  
\*

BRISCOE

And find what?

MC COY

(a suggestion)  
We never recovered the murder weapon.

BRISCOE

Because Lenhart had a full ten minutes  
to get rid of it. In the sewer, the  
Kennedy Reservoir, wherever.

\*

But Van Buren has an idea --

VAN BUREN

We might not be able to find the murder  
weapon, but a picture'd be the next  
best thing, right?

SOUTHERLYN

A picture of something we don't have?

VAN BUREN

Whatever Lenhart used to crush his  
wife's skull had to leave some kind of  
impression.

(off looks)

CSU distributed a Forty-Nine on it.  
They can now use computers to draw the  
murder weapon from the impressions made  
on the victim's skull.

BRISCOE

And seven years from now they'll be  
partnering me up with a microchip.

\*  
\*

MC COY  
(to Van Buren)  
Get that started. No unturned stones  
on this one.

VAN BUREN  
(for Briscoe's benefit)  
It'll probably take a while...

BRISCOE  
("great")  
I think I remember where they store the  
case files...

CUT TO

INT. NYPD WAREHOUSE - DAY

Cavernous. Shelves of file boxes stacked three stories  
high. A forklift lowers a palette of boxes in front of  
Briscoe and Green --

BRISCOE  
Ah. Right where I left it.

Briscoe hefts the box off the palette. Nods his thanks to  
the forklift driver as he moves off with the box and Green.

GREEN  
McCoy's serious about this? Re-opening  
a case from seven years ago?

BRISCOE  
Not re-opening so much as finding  
insurance in case Lenhart gets a judge  
who'll listen to him.

They walk over to a table or stack of boxes or anything  
else they can rest the file box on. Briscoe removes the  
lid. They start removing items (files, etc.) under --

GREEN  
But you're sure the guy's guilty.

BRISCOE  
As sure as I was seven years ago.

Briscoe removes several objects sealed in plastic evidence  
bags: A rock, a brick, a thick branch, etc.

CONTINUED

GREEN

Did you bag and tag everything in  
Central Park?

BRISCOE

We canvassed for a week looking for the  
murder weapon.

Briscoe holds up a 12" long piece of 3/4" inch pipe,  
wrapped in an evidence bag --

BRISCOE (CONT'D)

But all we found was just about every  
other thing you'd imagine and some  
things you can't.

GREEN

And still no joy.

BRISCOE

No DNA from the vic, no matching prints  
from Lenhart.

Green removes a photograph of a thirteen year-old girl --

GREEN

Who's this?

BRISCOE

Lenhart's daughter.

Green reviews a file --

GREEN

Here's her Q & A.  
(reads a little)  
"Mom didn't love daddy. She said she  
couldn't trust him."

BRISCOE

Mrs. Lenhart had good instincts.

GREEN

A little light on specifics, though.

BRISCOE

Her father'd just crushed her mother's  
skull. She was kinda traumatized.

GREEN

So you didn't push her all that hard...

BRISCOE  
She was thirteen.

GREEN  
Not anymore.

CUT TO

INT. STUYVESANT COLLEGE, DORM ROOM - DAY

Briscoe and Green with Lenhart's daughter, DENISE, now twenty, but still a wounded soul.

DENISE  
I don't understand. Does this mean  
that my father's innocent?

GREEN  
You don't sound too sure he is.

DENISE  
I'm not sure of anything. Either my  
father murdered my mother or he's in  
prison for something he didn't do.

BRISCOE  
Not much of a choice.

Denise's stoicism starts to crack --

DENISE  
It tears you apart. It eats away at--  
(emotion rising)  
I'm his daughter. How can I believe--  
How can I even think he would do  
something like this? But if he did?  
If he --

She can't bring herself to verbalize it. Shakes her head -- \*

DENISE (CONT'D)  
I don't know. Maybe it doesn't matter.  
(beat)  
Either way, my mother is still dead.

Beat. Briscoe tries to delicately broach --

BRISCOE  
Denise, we've been asked to take  
another look at your father's case...

DENISE  
(pointed)  
Because you're executing him in a  
month?

BRISCOE  
We're sorry to have to ask, but is  
there anything you can remember, good  
or bad, maybe you think we should know?

DENISE  
You mean that I didn't tell you back  
then?

GREEN  
Maybe there were some things you didn't  
want to face back then. \*  
(off Denise) \*  
You told the police your mother didn't  
trust your dad...?

DENISE  
That was nothing...

BRISCOE  
The City pays us to decide that. \*

DENISE  
A couple of months before... it  
happened, my mother said something  
about my father making more money than  
he brought home.

GREEN  
You mean he was hiding money from her?

DENISE  
I don't know. They were having a  
fight. She was yelling at him, making  
accusations.

BRISCOE  
Like what?

DENISE  
She thought the company was doing  
better than he was telling her.

CUT TO

\*

INT. OFFICES OF APPLIED MICROSYSTEMS - DAY

\*

Briscoe and Green walk and talk with executive PRESTON, past a sign: "Applied Microsystems, Inc. - A Subsidiary of Sutter Networks"

PRESTON

Paul was always private. It was hard for people to get through his wall.

BRISCOE

They've still got four weeks to try.

Preston stops. Offended --

PRESTON

You're talking about a friend of mine, Detective.

BRISCOE

Yeah? How many times have you visited him in Dannemora?

\*

Stung, Preston has no comeback.

BRISCOE

That's what I thought.

A tense beat. Green steps in to break the tension --

GREEN

We're trying to confirm whether Lenhart was hiding assets from his wife.

\*

\*

PRESTON

Even if he was, why would I know?

\*

\*

BRISCOE

I thought he was "a friend of yours."

\*

\*

GREEN

His wife suspected the company was having a better run than he admitted.

\*

\*

\*

PRESTON

That's crazy. Until Sutter bought us out, we were taking on water.

\*

\*

\*

BRISCOE

You have any idea how Mrs. Lenhart got such a wrong impression?

\*

\*

CONTINUED

PRESTON

By getting a lawyer, probably. Those nutcrackers are determined to turn every divorce into a pay day.

Briscoe and Green exchange a look.

BRISCOE

If Lenhart's wife was divorcing him, I would've learned that seven years ago.

PRESTON

(a shrug)

I'm just telling you what Paul told me.

CUT TO

EXT. INDUSTRIAL PARK - DAY

Briscoe and Green emerge from Applied Microsystems.

BRISCOE

So Lenhart's pockets are empty, but Mrs. Lenhart's got a shyster looking to pick them anyway.

GREEN

But like you said, there'd've been some kind of evidence, court papers, whatever. How could this stay quiet?

BRISCOE

Good question. Let's find Sara's attorney and ask him.

GREEN

Sure, piece of cake. There's gotta be only, what, thousands of lawyers in the city?

BRISCOE

At least. But how many do you figure are swanky enough for the wife of a corporate exec?

\*

Off Green, "good idea" --

CUT TO

INT. LAW OFFICES OF SHELLY RAINEN - DAY

Double degrees from Harvard hang on the walls next to expensive art. Briscoe and Green interview family lawyer SHELLY RAINEN (40s, attractive, put together).

RAINEN  
I'm sorry, but I can't discuss privileged matters.

BRISCOE  
Yeah, that's what the first six lawyers we spoke to said.

GREEN  
But the seventh told us identity of clients isn't privileged, only whatever it is they tell you.

\*  
\*

Rainen considers that for a beat. Briscoe presses --

\*

BRISCOE  
We're not here to collect unpaid alimony. Sara Lenhart got her head caved in.

RAINEN  
(thinks; then)  
I only had one consultation with her. She thought her husband was hiding assets.

BRISCOE  
We heard. But there isn't any record of her filing for divorce.

RAINEN  
Because she didn't file.  
(off cops)  
I advised her that before commencing a divorce proceeding, it would be best to nail down her suspicions.

BRISCOE  
And you helped her swing the hammer.

RAINEN  
(shakes head)  
I recommended she hire a private investigator.

GREEN  
We're gonna need that name.

CONTINUED



RAINEN

She got her own referral.

(off Green)

But I might've put a note in the file.

Rainen moves to a file cabinet. Starts searching, under --

GREEN

So one of your clients gets murdered by her husband and you don't come forward?

RAINEN

Despite what you may have heard, there is such a thing as bad publicity. Plus the privilege issue. Anyway, you got the bastard, didn't you?

She removes a file and pulls a business card from it --

RAINEN

Here you go. John McCarthy,  
Investigative Services.

Off Green, taking the card --

CUT TO

INT. INVESTIGATIVE SERVICES - RECEPTION - DAY

High-end. The type of place a wealthy divorcée-to-be would feel comfortable. Briscoe and Green badge a RECEPTIONIST.

GREEN

We need to see John McCarthy.

RECEPTIONIST

(uneasy)

What is this regarding?

BRISCOE

My lack of patience.

RECEPTIONIST

I'm sorry, but he's... not available at the moment.

GREEN

We'll wait.

Uncomfortable, Receptionist stabs a button on the intercom--

CONTINUED

RECEPTIONIST

Mr. Bolland, there are two gentlemen  
from the police department here asking  
to speak to Mr. McCarthy.

\*  
\*

BOLLAND (ON SPEAKER)

Send them in.

As Receptionist stands to lead the way --

CUT TO

INT. INVESTIGATIVE SERVICES - BOLLAND'S OFFICE - DAY

Private investigator BOLLAND (wearing a suit and tie) leads  
Briscoe and Green into his corner office --

BOLLAND

Sorry about that. Joset's got standing  
instructions to refer any inquiries  
about John to me.

BRISCOE

Any reason for that?

BOLLAND

(delicate)

It's a public relations issue.

GREEN

Well this is a homicide issue, Mr.  
Bolland. One of your clients is dead.

BRISCOE

(off Bolland)

Sara Lenhart. Asset chase.

BOLLAND

I'll have to check our files. We've  
got a lot of clients.

BRISCOE

(getting impatient)

Or we could just chat with John.

BOLLAND

I'm afraid that won't be possible.

(beat)

John's dead. He died seven years ago.  
Murdered.

Briscoe and Green exchange a look.

CONTINUED

BRISCOE

When?

BOLLAND

July 26, 1999.

BRISCOE

(to Green)

A week before Sara Lenhart was killed.

\*

Off Briscoe and Green --

\*

FADE OUT

END ACT ONE

ACT TWO

FADE IN

INT. VAN BUREN'S OFFICE - DAY

Holding a case file, Van Buren leads Briscoe and Green in. \*

VAN BUREN

Sara Lenhart died one week after her private eye is murdered?

BRISCOE

The timing's a little coincidental.

VAN BUREN

Yet nobody made the connection.

BRISCOE

Kind of hard to do without knowing that Mrs. Lenhart hired a gumshoe in the first place.

GREEN

Except the detective who worked McCarthy's case had to know about Mrs. Lenhart's murder.

VAN BUREN

(agreeing)

There wasn't a shortage of newspaper coverage.

GREEN

("exactly")

He would've made the connection if there was one to make. \*

VAN BUREN

I wouldn't be too sure. \*

(off file) \*

The primary on the case was Ray Polasky.

BRISCOE

That explains it. \*

GREEN

Who's Ray Polasky? \*

CONTINUED

BRISCOE

A detective who couldn't connect a  
bullet to a gun even if you shot him  
with it.

\*  
\*  
\*

VAN BUREN

Talk to him. If we're lucky he'll have  
some "insights" to share on the case.

BRISCOE

Unless he grew a brain in the past  
seven years, I doubt we'll be that  
lucky.

Nevertheless, off Van Buren, "Go anyway" --

CUT TO

INT. DINER - DAY

Briscoe and Green are forced to witness to the eating  
habits of RAY POLASKY (60, overweight, slothlike in mind  
and manner), who eats and reviews the case file under --

POLASKY

When you gonna retire, Lennie?

BRISCOE

(deadpan)

I figure I've got another good twenty  
years in me.

POLASKY

Not me. Miami beckons.

BRISCOE

That'll be a blow to the force, Ray,  
the day you hang up your spurs.

Briscoe's subtle sarcasm flies straight over Polasky's  
head. Green points to the case file --

GREEN

If we could get back to McCarthy?

Polasky sets his burger down. Gives the file a few taps  
with his finger, staining it --

POLASKY

Stabbed with a steak knife. All the  
way up to the handle.

(MORE)

CONTINUED

POLASKY (CONT'D)

Left at the scene, but no usable prints. Vic was some P.I., I'm pretty sure.

\*  
\*

BRISCOE

We just found out he was doing some work for Sara Lenhart.

POLASKY

Why's that name ring a bell?

GREEN

Her husband murdered her. He's getting the needle in a few weeks.

BRISCOE

McCarthy got shanked one week before Mr. Lenhart's do-it-yourself divorce in Central Park.

POLASKY

(clueless)

You think there's a connection.

\*

Briscoe rolls his eyes while Green patiently probes --

GREEN

We're curious why you didn't make it seven years ago.

\*

POLASKY

How was I supposed to know Mrs. Lenhart was his client?

BRISCOE

By reviewing his files maybe?

POLASKY

Any reason I should've? His watch and wallet were missing. It was a mugging.

\*

Briscoe and Green exchange a disgusted look. Polasky finally clues in and tries to rehabilitate --

POLASKY

You want I should look those files over now? Anything you guys need...

BRISCOE

That's okay. We'll take care of it.

Briscoe and Green stand. Briscoe throws a twenty down to cover Polasky's tab. Polasky starts to protest, but --

BRISCOE  
It's on me, Ray. Save your cash for  
Miami.

Off Briscoe and Green, leaving --

CUT TO

INT. INVESTIGATIVE SERVICES - CONFERENCE ROOM - DAY

A lot of marble and glass. Briscoe and Green are pouring  
over McCarthy's files.

GREEN \*  
McCarthy's got everything here. Tax \*  
returns, credit cards, payroll records,  
bank records...

BRISCOE \*  
The perks of being unencumbered by the \*  
Fourth Amendment. \*

GREEN \*  
I'll have grandkids before we sort \*  
through all this. \*

BRISCOE \*  
Lucky for us, McCarthy took notes.

Hold up a financial statement with three handwritten  
notations: "Embezzlement? Lenhart? Sutter Networks?"

GREEN  
Embezzlement?

BRISCOE  
Explains a few things, doesn't it?  
Lenhart's wife is sure he's making more  
than he's telling her...

GREEN  
Even though his company is losing  
money.

BRISCOE  
(nodding)  
Because Lenhart is skimming some off  
the top for himself.

GREEN  
There's only one small problem with  
your theory.

(MORE)

CONTINUED

GREEN (CONT'D)

Sutter Networks wasn't Lenhart's company. Lenhart worked at Applied Microsystems.

BRISCOE

Not for long. Susan Heller said there was a secret deal in the works for Sutter to buy Applied out.

CUT TO

INT. SUTTER NETWORKS - OFFICE OF MICHAEL SUTTER - DAY

Briscoe and Green with Sutter Networks CEO, MICHAEL SUTTER (50s, captain of industry).

SUTTER

You think Paul Lenhart was stealing from my company?

GREEN

We're wondering if it's possible.

SUTTER

I don't see how it could be.

BRISCOE

Humor us, Mr. Sutter.

SUTTER

I don't know what to tell you. The merger didn't close until after Lenhart was convicted.

BRISCOE

But it was in the works before he was arrested, right?

SUTTER

Right. A merger between two publicly-traded companies can take months. \*

GREEN

And don't you guys kind of date for a while before taking the vows? \*

SUTTER

It's called "due diligence." We trade personnel, go through each other's financials, review assets, etcetera.

CONTINUED



GREEN

And was Lenhart one of the guys who had access to your books?

SUTTER

I see where you're going, but there's a world of difference between reading our books and being able to cook them.

(beat)

Besides, that's my name on the door. If anyone was stealing from my company, believe me, I'd know.

HARD CUT TO

INT. SQUADROOM - DAY

Briscoe and Green update Van Buren.

BRISCOE

Not necessarily. Lenhart could've covered his tracks pretty good.

GREEN

Good enough to fool Michael Sutter, but not John McCarthy?

BRISCOE

Sutter's a corporate suit. What does he know about embezzlement?

(to Van Buren)

Plus, Lenhart could make more stealing from Sutter's large company than from his teeny little one.

VAN BUREN

You sound pretty sure of all this.

BRISCOE

It fits: The wife thinks Lenhart's hiding assets, so she hires a private eye, who uncovers Lenhart's embezzlement. Lenhart finds out P.I.'s on to him, kills P.I. so he won't say anything to the missus, kills the missus in case he did.

\*  
\*  
\*  
\*  
\*

VAN BUREN

With long jumps like that, you should be in training for the Olympics.

CONTINUED

BRISCOE  
(shaking head)  
It'd take away from my golf game.

VAN BUREN  
Well, how about before jumping to any  
more conclusions, we have a  
professional take a look at McCarthy's  
file.

GREEN  
There's a forensic accountant McCoy  
likes to use.

Off Van Buren, "Have at it" --

CUT TO

INT. OFFICES OF TED VALVOULIS, CPA - DAY

Briscoe and Green talk to forensic accountant TED VALVOULIS  
(from "Tragedy On Rye") as he reviews McCarthy's file.

VALVOULIS  
Sure, it's possible to embezzle from  
someone else's business. All you  
really need is the smarts and access to  
their account numbers.

BRISCOE  
(for Green's benefit)  
Like, say, if you were conducting due  
diligence?

VALVOULIS  
Exactly.

Valvoulis stabs a button on his computer keyboard. The  
screen display shifts from a spreadsheet to a line graph --

VALVOULIS (CONT'D)  
This is the trendline for Sutter's  
accounts payable in the 74 months  
before McCarthy's untimely passing.

Green points to the spots where the graph spikes --

GREEN  
What are these?

\*  
\*  
\*

VALVOULIS

Your red flags. Statistically implausible spending bursts where Sutter was paying out a helluva a lot more than it should've been.

\*  
\*  
\*  
\*

BRISCOE

Did you figure out where the red flagged cash went?

\*  
\*  
\*

VALVOULIS

That's the clever part. Five dummy corporations, with names similar to companies Sutter does business with.

GREEN

So if someone spots them, they just look like typos.

\*  
\*

VALVOULIS

It's a real work of art, this. It'll almost be a shame when you catch him.

BRISCOE

We already did. He's on death row as we speak.

VALVOULIS

Man, they've really cracked down...

GREEN

Can you figure out who set up these dummy corporations?

VALVOULIS

Not without a subpoena. But the suspect transfers were all done via wire. They dead-end at Banco Lahara in the Cayman Islands.

(beat)

They've got a branch in lower Manhattan.

\*  
\*  
\*

CUT TO

INT. BANCO LAHARA - DAY

Fancy. Briscoe and Green are with a prim bank manager RIKLEEN [Rick-lean], who sits behind a mahogany desk.

CONTINUED

RIKLEEN

I wish I could grant your request, but I'm afraid account discretion is paramount in our company ethos.

BRISCOE

(to Green)

I think that's how they say "Get a warrant" in the Caymans.

RIKLEEN

Just so.

BRISCOE

Except I don't think twenty forensic accountants going through your records would thrill your "company ethos."

RIKLEEN

I assure you, we have attorneys on retainer who are paid handsomely to prevent that from happening.

Stymied, Green decides to take another tact --

GREEN

I'm sure there are some things even they can't help out with. Think of this as making a deposit in the favor bank.

\*  
\*  
\*

Green hands Rikleem a business card. Rikleem considers for a beat. Then pockets the card --

RIKLEEN

Do you have an account number?

GREEN

(handing it over)

Your Cayman Island branch.

RIKLEEN

One moment.

Rikleem turns to his computer. Types. Then --

RIKLEEN

The account holder's name is Michael Sutter.

GREEN

(to Briscoe)

Of Sutter Networks.

BRISCOE  
(to Rikleen)  
You're sure?

RIKLEEN  
He's been an account holder for nearly  
fifteen years.

BRISCOE  
What about a Paul Lenhart?

Rikleen hesitates. Briscoe reminds him sharply --

BRISCOE  
Favor bank.

Rikleen consults his computer again --

RIKLEEN  
I'm sorry. But we have no clients  
answering to that name.

Off Briscoe, concerned --

CUT TO

EXT. STREET - DAY

Green walks with a troubled Briscoe.

GREEN  
Lennie... If Sutter was the one doing  
the embezzling...

BRISCOE  
I know...

GREEN  
Sutter could've killed Sara Lenhart and  
McCarthy to keep his embezzlement  
scheme quiet.

Then Green gets a call on his cell --

GREEN  
Green.  
(listens)  
We'll be right there.  
(shuts phone)  
(MORE)

\*

\*

GREEN (CONT'D)

CSU. They've got a picture of the  
murder weapon.

HARD CUT TO \*

INT. CSU LAB - DAY \*

Briscoe (still dour) and Green meet with CSU tech LISA  
SANTOS (30s, attractive, Mensa intellect).

SANTOS \*

Not just a picture. A three-  
dimensional computer-aided  
retrospective extrapolation model. We  
compiled it off of autopsy photos and X-  
rays. \*

She walks them over to a computer workstation. On the  
screen, a three-dimensional computer model of Sara  
Lenhart's face. \*

GREEN

Mrs. Lenhart?

SANTOS

In the seventeen-hundred D.P.I. flesh. \*

Another button. The computerized face spins around as skin  
and hair fade away revealing Mrs. Lenhart's skull. Santos  
points to three crescent-shaped indentations --

SANTOS

This is the wound pattern. Three  
separate strikes.

BRISCOE

And she's out.

SANTOS

See these crescent-shaped indentations?  
Those would be left by a murder weapon  
that was tube-shaped, an eighth of an  
inch thick, approximately three-  
quarters of an inch wide.

Another button. The computer "draws" round "tubes"  
emerging from the three wounds.

GREEN

Holy...

SANTOS

You ain't seen nothing yet. We can triangulate length and position from the three wounds, combine the data and...

On the computer screen, the computer merges the three round "tubes" into a single image.

SANTOS (CONT'D)

Extrapolate a single object.

Briscoe and Green exchange a look. The object on the screen... looks exactly like the PIPE we saw in the evidence warehouse.

GREEN

(to Briscoe)

Where have I seen that before?

BRISCOE

(growing discomfort)

With the evidence we recovered off the park canvas.

GREEN

All that stuff got shipped to latents and printed...

BRISCOE

And it wasn't Lenhart's prints that were on it.

\*  
\*

Off Briscoe's growing concern --

\*

CUT TO

INT. BAR - NIGHT

Briscoe sits at the bar nursing a drink. A file folder is next to him. His mood is dark. McCoy sits down --

MC COY

Vodka tonic?

BRISCOE

I wish. Club soda.

(slides the file)

With a side order of crow.

McCoy reviews the file under --

MC COY

Lenhart?

BRISCOE

He's innocent, Jack.

McCoy takes this in. Then, off the file --

MC COY

A steel pipe? We ruled that out.  
There wasn't any of Mrs. Lenhart's DNA.

BRISCOE

Metal's nonporous. Blood can be wiped  
off.

(points to file)

Along with fingerprints. Only problem  
is, our doer was careless. He left a  
partial with seven identifiers.

MC COY

(off file)

Michael Sutter.

BRISCOE

His fingerprints aren't in the system.  
That's why they didn't hit seven years  
ago.

MC COY

So how do you know the prints on the  
pipe belong to Sutter?

BRISCOE

I took a set off his car's rear-view  
mirror.

MC COY

Without a warrant.

BRISCOE

I had to be sure.

Briscoe takes a beat. This is killing him...

BRISCOE

We put an innocent guy on death row.

This pains McCoy, too...

MC COY

We do the best we can. We work the  
facts we have when we have them.



BRISCOE

(wry)

That's what I keep telling myself.

(beat)

We've got to make this right, Jack.

MC COY

You're sure about this?

(Briscoe nods)

Then make it right.

Off Briscoe --

CUT TO

EXT. WALL STREET - DAY

Flanked by a couple of other corporate types, Michael Sutter emerges from an office building as Briscoe and Green's sedan pulls up --

GREEN

(emerging)

Michael Sutter, you're under arrest for the murder of Sara Lenhart.

Briscoe starts to cuff Sutter with gusto under --

SUTTER

What? What is this, some kind of joke?

BRISCOE

I've lost my sense of humor.

Off Briscoe, lowering Sutter into the sedan --

FADE OUT

END ACT TWO

ACT THREE

FADE IN

INT. BRANCH'S OFFICE - DAY

McCoy just finished apprising Branch and Southerlyn of the situation.

SOUTHERLYN

Will any judge overturn Lenhart's conviction after seven years?

MC COY

Not without irrefutable proof Michael Sutter was the one who killed Mrs. Lenhart.

BRANCH

And I wouldn't exactly characterize our proof as "irrefutable."

SOUTHERLYN

We have the murder weapon and Sutter's prints on it.

BRANCH

You've got some computer's say-so that it's the murder weapon and your fingerprint's a partial. \*

MC COY

(to Southerlyn) \*

Nowhere near what we'd need to convince a judge to release Lenhart. \*

BRANCH

I doubt anything short of Sutter's conviction'll do that.

MC COY

(thinks; then)

Or his confession.

CUT TO

INT. DA'S CONFERENCE ROOM - DAY

McCoy and Southerlyn are meeting with Sutter and his attorney, THAD STROBACH [Str-oh-bah-ck] (50s, ivory tower but formidable).

CONTINUED

STROBACH

In the interests of full disclosure,  
you should know my firm is drafting a  
civil complaint as we speak.

SOUTHERLYN

(incredulous)

For what?

STROBACH

Defamation, malicious prosecution and  
federal civil rights violations under  
U.S.C. Section Nineteen-Eighty-Three.

SOUTHERLYN

If anyone has those claims, it's Paul  
Lenhart.

McCoy turns to Sutter --

MC COY

And that, Mr. Sutter, is the only  
reason I'm willing to deal.

But Sutter doesn't respond. Not one word.

STROBACH

Your reputation precedes you, Mr.  
McCoy. I have no intention of letting  
my client confess to so much as  
jaywalking.

McCoy ignores this and lasers in on Sutter --

MC COY

Research my reputation further, Mr.  
Sutter, before rejecting a plea that  
would spare you the death penalty.

\*  
\*  
\*

SUTTER

What'd you have in mind?

\*  
\*

MC COY

I'm willing to let you walk on the  
embezzlement and I'll let you serve  
your sentences on the McCarthy and  
Lenhart murders concurrently if you  
allocute to killing Sara Lenhart.

\*

SOUTHERLYN

It's like getting three crimes for the  
price of one.

MC COY

And the offer's good for thirty seconds.

STROBACH

One is more than sufficient, thank you.

(stands)

You can't prove embezzlement. We'll offer legitimate explanations for every transaction on Sutter's books. Which means you have no proof of motive on McCarthy's murder and motive was the only thing you had going. As for Sara Lenhart's homicide...

Strobach opens up his briefcase and removes a blueback --

STROBACH (CONT'D)

A jury has already determined that Mr. Lenhart committed that crime.

(hands to McCoy)

Our motion to dismiss on the grounds of collateral estoppel.

Off McCoy, taking the blueback --

CUT TO

INT. JUDGE'S CHAMBERS - DAY

McCoy faces off against Strobach before JUDGE MACLIN (50s, an angry gym teacher in a prior life).

STROBACH

It's classic *res judicata*. Once a case has been decided by one jury, it can't be re-tried by another.

MC COY

It can when the defendants aren't the same in both trials.

(then)

*Missouri versus Couch, Barnett versus Kentucky*. The People can prosecute one man for a crime even though someone else has already been convicted for it.

\*

JUDGE MACLIN

How can that be?

CONTINUED

MC COY

A contrary rule would permit the real  
killer to confess once the wrong  
suspect had been convicted.

\*  
\*  
\*

STROBACH

Your Honor, the cases Mr. McCoy is  
citing were decided in other  
jurisdictions over forty years ago.

MC COY

This isn't an everyday occurrence. New  
York hasn't faced the issue until now.

\*

JUDGE MACLIN

Well, I always wanted to get my name in  
the law books...

STROBACH

Your Honor --

JUDGE MACLIN

Calm down, Mr. Strobach. I wouldn't  
dream of excluding evidence of the  
prior conviction at trial.

MC COY

That would be prejudicial --

JUDGE MACLIN

You want me to rule the other way, Mr.  
McCoy? I can do that. Just say the  
word.

(no response)

No? Good then. Trial date set for  
March 24.

CUT TO

INT. COURTROOM - DAY

Michael Sutter's trial. Paul Lenhart's daughter, Denise,  
watches from the gallery. McCoy latent prints expert FRANK  
HUANG (40s, knowledgeable, confident).

Wielding a telescoping pointer, Huang gestures to two blow-  
ups of fingerprints (one partial, the other complete)  
resting on easels --

HUANG

(points to print on  
the left)

(MORE)

CONTINUED

HUANG (CONT'D)

We lifted this print from the pipe NYPD recovered from the crime scene seven years ago.

McCoy holds up the metal pipe, tagged --

MC COY

People's One.

HUANG

(points to print on  
the right)

And this is the fingerprint the police took from the defendant.

MC COY

Did you make a comparison?

HUANG

(indicating)

Yes, and I found seven comparable identifiers. This whorl here... and this tented arch... were the closest.

MC COY

Leading you to conclude, what?

HUANG

That the fingerprint on the pipe came from the defendant.

McCoy starts the return trip to the People's table, still brandishing the pipe, as Strobach rises, he takes the pipe from McCoy's hand on the pass and remarks --

STROBACH

(examining the pipe)

Curious... You only found one fingerprint.

HUANG

The pipe had been wiped down after Mrs. Lenhart's murder.

STROBACH

Or the oils comprising the fingerprints evaporated over seven years.

HUANG

The prints were fumed to preserve them.

STROBACH

After the pipe was found. Six days  
after Mrs. Lenhart's passing.

HUANG

Prints wouldn't evaporate that fast. \*

STROBACH

Can you say that with absolute  
certainty? \*

HUANG

Of course, not but -- \*

STROBACH

(over) \*  
Thank you.  
(pointing to print  
on the left)  
This lone print, it looks fairly  
incomplete.

HUANG

We call it a "partial." But there was  
enough for a match.

STROBACH

As a rule, how much is "enough"?

HUANG

There is no rule. It's a determination  
left to the expert making the  
comparison.

Strobach holds up a file folder -- \*

STROBACH

So it wouldn't surprise you that  
another expert determined this partial  
print to be entirely useless. \*

HUANG

(dismissive) \*  
A professional expert on retainer -- \*

STROBACH

But an expert nonetheless. And you  
find no basis for discrediting his  
opinion, do you? \*

HUANG

(reluctant) \*  
No. I don't. \*

Off Huang, stymied --

TIME CUT TO

INT. COURTROOM - LATER

McCoy now has Briscoe on the stand.

BRISCOE

After consulting a forensic accountant,  
we determined that the money embezzled  
from Sutter Networks was being funneled  
to a bank account in the Cayman  
Islands.

\*

MC COY

Did you determine who the owner of this  
account was?

BRISCOE

The defendant. Michael Sutter.

MC COY

Leading you to conclude what,  
Detective?

BRISCOE

That the defendant had a motive to  
murder the victim, Sara Lenhart.

MC COY

But you didn't discover this motive  
seven years ago.

BRISCOE

Seven years ago, we didn't have the  
witness statements that led us to the  
embezzlement. And we didn't have the  
technology revealing the pipe was the  
murder weapon.

MC COY

So you arrested Paul Lenhart instead of  
the defendant.

Briscoe's eyes find Denise in the gallery and lock with  
hers under --

BRISCOE

And I regret that more than you could  
know. But I'm trying to make it right  
today.

\*

CONTINUED



McCoy nods, switches places with Strobach.

STROBACH

How long have you carried a gold shield, Detective?

BRISCOE

Fourteen years. \*

STROBACH

Investigated, what, over three hundred homicides?

BRISCOE

I don't keep count.

STROBACH

Well, I'm just trying to understand how an experienced detective such as yourself could possibly put an innocent man on death row.

BRISCOE

In a homicide investigation, you don't always have the evidence you'd like to have. \*

STROBACH

In other words, you arrest people based on incomplete evidence. \*

BRISCOE

I arrest people based on the evidence I have at the time --

STROBACH

And the evidence you had showed that Paul Lenhart, not Michael Sutter, was guilty.

Briscoe's had enough --

BRISCOE

See, this is the problem. This. Right here. Defense lawyers twisting everything we say and do, making it impossible to get at the truth.

STROBACH

I'm trying to get at the truth, Detective. But it's difficult when questioning someone who admittedly makes mistakes --

MC COY

Objection.

STROBACH

Who admittedly arrests innocent people--

MC COY

Your Honor --

STROBACH

Tell this jury, Detective, explain to them how you were wrong seven years ago, but they should take your word for it that you're right today.

MC COY

Defense counsel is badgering --

JUDGE MACLIN

There's been an objection, Mr. Strobach. And that objection is sustained.

STROBACH

Then that's all I have.

Strobach returns to his chair. Off Briscoe, seething --

TIME CUT TO

INT. COURTROOM - LATER

Michael Sutter is now on the stand, testifying in his own defense. Polished and charismatic.

SUTTER

Of course I didn't kill Sara Lenhart. Why would I? I never even met the woman.

STROBACH

Mr. McCoy is under the impression she learned you were embezzling from your company.

SUTTER

My company. It's ludicrous to think I'd actually take money out of my own pocket.

CONTINUED

STROBACH  
(devil's advocate)  
It's not like CEOs haven't been known  
to embezzle from their companies.

SUTTER  
I'm not them. After I was arrested,  
there was an independent audit. They  
didn't find a single unaccounted for  
penny.

Satisfied, Strobach nods and takes his seat. McCoy rises --

MC COY  
Who conducted this independent audit?

SUTTER  
An outside consulting firm.

MC COY  
Retained by whom?

SUTTER  
The board of directors.

MC COY  
Of your company.

Sutter looks away. Clearly, the answer is "yes."

MC COY (CONT'D)  
"Independent" indeed.

STROBACH  
Objection.

MC COY  
Withdrawn.  
(to Sutter)

Our forensic accountant determined you  
were embezzling money. Our fingerprint  
analyst determined you held the pipe  
that crushed Mrs. Lenhart's skull.

SUTTER  
That's not my fingerprint. I never  
touched that pipe and I certainly never  
killed Sara Lenhart.

MC COY  
What about John McCarthy?

SUTTER

Who's that?

MC COY

He's the private investigator who traced the embezzled money to your Cayman Islands account.

SUTTER

I have no idea what you're talking about.

MC COY

You don't know Mr. McCarthy was stabbed to death? One week before Mrs. Lenhart was murdered?

The jury reacts with surprise under --

STROBACH

Objection. The circumstances of Mr. McCarthy's death are completely irrelevant.

MC COY

(anticipating)

I can offer evidence of uncharged crimes to impeach credibility.

JUDGE MACLIN

Overruled. The witness will answer.

SUTTER

I don't know who John McCarthy is or why he was killed. Maybe Paul Lenhart stabbed him --

MC COY

Why would Paul Lenhart kill the man who discovered your embezzlement?

SUTTER

McCarthy was hired by Lenhart's wife, maybe --

Sutter stops himself. Realizes he's said too much. Beat.

MC COY

I thought you didn't know who John McCarthy was, Mr. Sutter.

Off Sutter, guilty --

\*

CUT TO

INT. RESTAURANT - NIGHT

McCoy and Southerlyn re-cap the trial over dinner.

SOUTHERLYN

I thought you were great.

MC COY

Seven years late and a dollar short.

SOUTHERLYN

Twelve people found Lenhart guilty beyond a reasonable doubt, Jack.

MC COY

Because that's what I told them to do.  
(off Southerlyn)

We don't blithely put facts into evidence, Serena. We're advocates. I told the jury Lenhart was guilty and they believed me.

\*

SOUTHERLYN

That's how the system's supposed to work.

MC COY

Which is all well and good when the system does work.

SOUTHERLYN

But occasionally it doesn't. It's a human invention, Jack. It's not perfect, but it's still the best system going.

MC COY

Cold comfort to Paul Lenhart.

CUT TO

INT. COURTROOM - DAY

The courtroom is rapt as the jury files in.

CONTINUED

JUDGE MACLIN

Mr. Foreman, I've been notified the jury has a verdict?

FOREMAN

(standing)

We do, Your Honor.

(reading)

In the matter of *People versus Michael Sutter*, on the count of Murder in the First Degree, we find the defendant... Guilty. On the count of Grand Larceny in the First Degree, we find the defendant... Guilty.

\*  
\*  
\*  
\*

Reactions. Denise Lenhart practically lets out a squeal of joy. McCoy doesn't waste a second before saying --

\*

MC COY

Your Honor, I'd like to be heard on *People versus Lenhart*.

Off Judge Maclin, motioning for McCoy to follow him --

CUT TO

INT. JUDGE'S CHAMBERS - MINUTES LATER

McCoy follows Judge Maclin into his chambers.

MC COY

I'm moving to stay Paul Lenhart's execution and set aside his conviction.

JUDGE MACLIN

That's ordinarily a defense motion, Mr. McCoy.

MC COY

C.P.L.R. Section Four-Forty gives the People standing to move to set aside a defendant's sentence.

JUDGE MACLIN

And as I recall, Four-Forty requires the motion to be made within one year of conviction. It's been over seven.

McCoy can't believe what Maclin is saying...

MC COY

You just heard a jury tell you Michael Sutter killed Sara Lenhart.

JUDGE MACLIN

And seven years ago, another jury concluded that Paul Lenhart did.

MC COY

So you're going to allow two men to go to prison for the same crime?

JUDGE MACLIN

You didn't seem to have much of a problem with that when opposing Sutter's estoppel motion.

MC COY

Because I expected Sutter's conviction to lead to Lenhart's exoneration.

JUDGE MACLIN

Proof of Sutter's guilt is not the same as proof of Lenhart's innocence.

MC COY

Paul Lenhart is scheduled to be executed in a week --

JUDGE MACLIN

Because that's what the law has determined.

MC COY

And no judge ever regretted blinding following the law.

\*  
\*

JUDGE MACLIN

Tread carefully, Mr. McCoy. You're coming dangerously close to being in contempt of this court.

MC COY

"Your Honor"... I'm already there.

Off McCoy, fit to be tied --

FADE OUT

END ACT THREE

ACT FOUR

FADE IN

INT. DA'S OFFICE - CORRIDOR - DAY

McCoy vents to Branch and Southerlyn as they walk.

MC COY

A petty bureaucrat who follows the rules instead of his own conscience.

\*

BRANCH

If that "petty bureaucrat" was following the rules, we'd be having this conversation in your cell at Riker's.

MC COY

I managed to toe the line. But it's hard to show respect for the robe when the man is more concerned with keeping it than preventing a travesty of justice.

\*  
\*  
\*

SOUTHERLYN

(to Branch)

He's got a point. What kind of judge can hear the evidence against Michael Sutter and still allow Paul Lenhart to be executed?

BRANCH

The best kind. One that follows the law.

MC COY

Even when the law is wrong.

BRANCH

It's not a judge's job to change the laws, just enforce them. And if you're worried about "travesties of justice," you don't want it any other way.

\*  
\*  
\*  
\*  
\*

As they make their way into --

INT. BRANCH'S OFFICE - CONTINUOUS

-- Southerlyn changes the topic...

CONTINUED



SOUTHERLYN

Why is Lenhart on death row in the first place? His wife wasn't a cop or a judge... This was Second Degree.

MC COY

During the ten minutes Lenhart waited before calling for an ambulance, Mrs. Lenhart bled into her brain. According to Rogers, it can be fairly agonizing.

BRANCH

(knowing)

In fact, a clever prosecutor might even characterize it as "torture."

SOUTHERLYN

(following)

Which bumps it to First Degree.

MC COY

(ironic)

Seven years ago, I was pretty impressed by my own ingenuity.

(beat)

Now it's going to get Lenhart killed.

SOUTHERLYN

What about the governor? He can issue a pardon.

McCoy turns to Branch, who reveals --

BRANCH

I already put a call in to Albany.

(off McCoy's surprise)

I'm not entirely heartless.

MC COY

I'm sure the governor's staff is falling all over themselves to keep this hot potato off his desk.

\*

BRANCH

Something like that.

SOUTHERLYN

So Lenhart's on his own.

Off McCoy, wheels turning --

CUT TO

INT. ATTICA, DEATH ROW - CONFERENCE ROOM - DAY

McCoy with Paul and Denise Lenhart.

MC COY

(to Denise)

I moved to set aside your father's sentence, but the judge won't waive the one-year time limit.

\*  
\*  
\*  
\*  
\*

DENISE

(disbelief; rage)

So my father is wrongfully imprisoned but a judge won't let him out because he's been wrongfully imprisoned for seven years? It's Kafkaesque...

\*

MC COY

This is why lawyers say interesting cases make bad law. But there are other options.

LENHART

I hope they don't require an attorney. I bankrupted myself to pay the one I had at my trial.

\*

MC COY

If you make a valid application for a writ of *habeas corpus*, a federal court will appoint you counsel.

DENISE

If we had a lawyer to write the application, we wouldn't need one appointed. It's just another damn Catch-22.

MC COY

You could file *pro se*. Without a lawyer.

Lenhart just stares back, trying to grasp McCoy's subtext as he opens his briefcase and produces a sheaf of papers --

MC COY

You might find these useful in preparing your *habeas*.

Off Lenhart, staring at the documents --

CUT TO

INT. DA'S OFFICE - CORRIDOR - NIGHT

McCoy heads out for the night as Branch steps up. They walk and talk their way down the corridor --

BRANCH

So Bobby Fischer, the chess champion, got so bored playing other people, he took to competing against himself, playing both sides of the board with equal vigor.

MC COY

Pick up that nugget at a bar association luncheon?

BRANCH

The Southern District just appointed an attorney to argue Lenhart's *habeas*.

MC COY

He's entitled to a few small victories.

He holds up a federal filing (not bluebacked) --

BRANCH

The funny thing is, I just finished reading Lenhart's "pro se" application.

(beat)

His writing has got your flair.

McCoy stares Branch down --

MC COY

What's on your mind, Arthur?

BRANCH

Are you pulling a Bobby Fischer?

MC COY

I'm trying to get justice for an innocent man.

As they arrive at the elevator --

BRANCH

But that's not your job. This is the District Attorney's Office. We can't play both sides of the board without damaging our credibility.

CONTINUED

MC COY

I promise you, I'll oppose Lenhart's *habeas* with all my "vigor."

BRANCH

I wouldn't dream of placing you in that kind of uncomfortable position, Jack.

The elevator doors open. Branch steps in.

BRANCH (CONT'D)

Serena's handling the argument.

As the doors close on Branch --

CUT TO

INT. FEDERAL COURT, SOUTHERN DISTRICT - DAY

Lenhart sits next to his court-appointed attorney, ERIKA JOBSON. Southerlyn for the People of New York. JUDGE TAURO presiding. McCoy watches from the gallery.

SOUTHERLYN

Under the Supreme Court's decision in *Herrera v. Collins*, a writ of *habeas corpus* cannot issue unless the defendant can prove "actual innocence."

JOBSON

Another man's just been convicted of the same crime. What better proof do you need?

SOUTHERLYN

(over)

And then he has to prove that one of his constitutional rights has been violated.

JOBSON

His right to liberty's been taken away with his right to life next to go.

SOUTHERLYN

But only after a constitutionally proper trial. And without a constitutional issue, *Herrera* says Mr. Lenhart stays in prison.

McCoy stands and enters the well --

MC COY  
Your Honor, I'd like to be heard.

Southerlyn reacts with surprise under --

MC COY (CONT'D)  
John McCoy. I prosecuted the relator  
[ree-lay-tor] in his original trial.

JUDGE TAURO  
I'll hear from you.

MC COY  
The Supreme Court has held that  
ineffective counsel poses a  
constitutional question. In this case,  
it's the prosecutor who was negligent.

Southerlyn remains true to her marching orders and argues  
against McCoy --

SOUTHERLYN  
By convicting the defendant?

MC COY  
By offering the testimony of Susan  
Heller, who has since recanted her  
claim that Mr. Lenhart confessed.

SOUTHERLYN  
Which makes Ms. Heller the wrongdoer,  
not any of the attorneys at trial.

MC COY  
She was my witness and I failed to  
detect her perjury. My negligence  
prevented Paul Lenhart from getting a  
fair trial.

JUDGE TAURO  
And your willingness to fall on your  
sword is as admirable as it is inventive.  
(beat)  
But Ms. Southerlyn's right. There's no  
constitutional question here. And  
without one, I can't order the  
defendant's release.

McCoy reels, grasping --

MC COY

Your Honor, the *Herrera* court noted a potential exception where evidence of the defendant's innocence is irrefutable.

JUDGE TAURO

I'm not sure that's what we're dealing with here, Mr. McCoy.

MC COY

Then why not let the Supreme Court decide?

Judge Tauro considers this for a beat. Then --

JUDGE TAURO

Relator's application for a writ of *habeas corpus* is denied.

(off McCoy)

However, I'm certifying this matter for immediate review by the Supreme Court.

Off the gavel swing, then McCoy, relieved and satisfied --

CUT TO

INT. BAR - NIGHT

McCoy and Southerlyn share a nightcap. The mood is somber.

SOUTHERLYN

Nicely done.

MC COY

You held your own.

SOUTHERLYN

Well, I'm glad we won't be having a rematch down in Washington.

(speaking of which)

Any word?

MC COY

Laura Adler, the Supreme Court's death clerk, signed for the papers. Justice Ginsberg's reviewing them as we speak.

SOUTHERLYN

And what are the chances she can convince her eight colleagues to hear Lenhart's appeal?

CONTINUED

MC COY \*  
Not good. It's been over ten years \*  
since *Herrera*, and the Supremes have \*  
never considered anything but \*  
constitutional issues. \*

SOUTHERLYN \*  
Everyone's so busy following the rules, \*  
they've forgotten who they're supposed \*  
to protect. \*

MC COY \*  
You were the one preaching faith in the \*  
system. We have to hope this plays out \*  
as it should. \*

SOUTHERLYN \*  
("except") \*  
From this point forward, everything's \*  
done on paper. No evidentiary hearing, \*  
no oral argument... \*

MC COY \*  
Not enough time. Lenhart's scheduled \*  
to be executed in a little over twenty- \*  
four hours. \*

SOUTHERLYN \*  
And I guess it's just too much to ask \*  
for the Court to hear from a flesh-and- \*  
blood human being. \*

Off McCoy, considering this --

CUT TO

INT. U.S. SUPREME COURT - DEATH CLERK'S OFFICE - DAY

The Supreme Court's death clerk, LAURA ADLER (40s, female, \*  
world-weary) leads McCoy into her office -- \*

MC COY \*  
Thank you for seeing me, Ms. Adler. \*

ADLER \*  
No problem, but I'm not sure what you \*  
think I can do for you. \*

MC COY \*  
I'm trying to put a face on the plight \*  
of an innocent man. \*

ADLER \*  
You're knocking on the wrong door. I \*  
just shepherd capital cases through the \*  
process, not get involved in them. \*

MC COY  
You have the ear of the justices.

ADLER \*  
And all nine of them already know the  
law, thank you very much.

MC COY  
I'm looking for someone to remind them  
that *Herrera* left a window open.

ADLER \*  
(dismissive)  
A loophole buried in dicta.

MC COY  
Paul Lenhart's scheduled to be executed  
at midnight. He'll take what he can  
get.

ADLER \*  
And I'm not unsympathetic, but the \*  
Supreme Court's sole job is to resolve \*  
constitutional questions. \*

MC COY \*  
Then here's one: What's the \*  
Constitution worth if the government \*  
can execute an innocent man? \*

Off McCoy -- \*

CUT TO

INT. MC COY'S OFFICE - NIGHT (9 PM)

McCoy sits alone. Possibly with a drink. Southerlyn enters.

SOUTHERLYN  
Dining on ashes?

MC COY  
Death watch. Lenhart's execution is  
three hours away.

SOUTHERLYN  
No word from the court?



MC COY

Not yet.

Southerlyn sits --

SOUTHERLYN

Whatever happens... it isn't your fault.

MC COY

"We all have our roles to play."

SOUTHERLYN

Exactly.

MC COY

And if I don't take a hard and honest look at the way I played mine... what kind of prosecutor would I be?

Southerlyn nods. A beat. Then, the PHONE RINGS, cutting the silence. McCoy lifts the receiver --

MC COY

McCoy.

(listens)

Alright. Thank you.

He sets the phone down. He doesn't look happy.

MC COY

The Supreme Court just granted *certiorari* [sir-she-oh-rare-eye]. They believe the actual innocence standard is worth review and is going to hear Lenhart's appeal.

Southerlyn is overjoyed --

SOUTHERLYN

That's great.

(realizes)

So why aren't you smiling?

MC COY

An appeal only needs the vote of four of the nine justices to be heard.

(beat)

But staying an execution requires five. Lenhart didn't get the fifth vote.

SOUTHERLYN  
(can't believe it)  
So Lenhart gets his appeal but won't be  
alive to make it?

MC COY  
It's the law.

SOUTHERLYN  
And we just ran out of courts.

That sparks something for McCoy --

MC COY  
There's still one we haven't appealed  
to.

CUT TO

EXT. COURTHOUSE STEPS - NIGHT (10 PM)

With Denise Lenhart at his side, McCoy holds a press  
conference, addressing a phalanx of reporters as flashbulbs  
pop like fireworks --

MC COY  
In some cases, capital punishment is  
the only route to justice. But if we  
knowingly execute an innocent person,  
we become no better than the monsters  
of society we seek to punish.

\*  
\*

(beat)  
Paul Lenhart stands poised to be  
executed for a crime another man was  
convicted of committing.

MATCH CUT TO

CLOSE ON A TV

broadcasting McCoy's press conference. An on-screen  
CAPTION indicates that this is a tape delay and that  
Lenhart's execution is 30 minutes off.

MC COY (ON TV)  
And if he dies tonight, it won't be  
capital punishment. It will be murder.

WIDEN TO REVEAL

INT. BAR - NIGHT (11:30 PM)

where the television set is playing over the bar. McCoy is watching it when Branch approaches --

MC COY

Here to chastise me, Arthur?

BRANCH

That can wait until tomorrow. I'm catching five kinds of hell for your little stunt, you know.

MC COY

My apologies.

BRANCH

And my congratulations.

(off McCoy)

I just got off the phone with Albany. Your little appeal to the court of public opinion worked. The governor granted Lenhart a full pardon.

McCoy reacts. Surprise. Elation. Relief. Branch takes the seat next to him --

BRANCH

Buy you a drink?

Off McCoy --

CUT TO

EXT. ATTICA - DAY

McCoy looks on as a newly-released Paul Lenhart emerges from the prison's huge gate and embraces his daughter.

LENHART

Mr. McCoy... I don't know how to thank you.

MC COY

Not necessary.

A long beat as the two men regard each other. So much history here. Then, Lenhart offers a hand. An olive branch.

MC COY

(shaking hand)

Be well, Mr. Lenhart.

CONTINUED

McCoy turns to leave Lenhart alone with his daughter. She stops him --

DENISE

We're going out to celebrate. Want to join us?

McCoy thinks on that for a beat. Then --

MC COY

Thank you, but I have to get back to the office. The penalty phase of Michael Sutter's trial starts tomorrow.

LENHART

Penalty phase?

MC COY

For your wife's murder. We're seeking the death penalty.

McCoy walks off. And the machinery of justice grinds on...

FADE OUT

THE END