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The Trials of Subu Vedam

Subramanyam Vedam, forty-year resident of the State Correctional Institution at Huntingdon, Pennsylvania, didn't cause my dreams, which have recurred in the same general pattern for longer than I have known him. I am either on my way in a silent car to be deposited at the jail, or I'm already in jumpsuit orange. The lights are fluorescent. The air is cold, the clothing thin. Everything is silent, as if it's very early in the morning or snow is falling. My right hand contains the plastic barcode that will beep me out to the visiting area if I'm seeing family or back into the deeper recesses, where the lights turn dark and the dreams turn dim.

I'm either pretrial or sentenced, either convicted of something serious or just serving a series of weekends. In some versions, I am factually guilty. My shame, bottomless, cannot be cast aside or washed away, even once the sentence is over. But the dreams where I'm innocent are orders more terrifying. A scream rises up from my throat—*I didn't do it, you have to believe me*—but no sound emerges, because I have no voice. In those moments that blend and stretch and feel as real as my fingers, I am not a lawyer, not a law professor, not a father or husband. I am Subu Vedam.

I awaken, relieved to be in my home once more. Subu, however, for forty years and counting, has yet to wake from the nightmare.

In 1983, Subramanyam Vedam was convicted for the murder of a young white man and small-time drug dealer and user named Tom Kinser. Kinser was shot in the head after disappearing on a wintry Sunday, December 14, 1980, near State College, Pennsylvania. The weapon and type of bullet that caused Kinser's fatal wound have never been precisely established, but beyond question is this: Kinser got a call from his friend Subu Vedam around ten that morning looking for a ride to nearby Lewistown to buy acid. Kinser obliged, and set off in his family's VW bus, borrowed from his father. Tom picked up Subu around noon in a neighborhood near Tussey Mountain, and they drove thirty-five minutes south to Lewistown. Subu said that Kinser had dropped him off back in downtown State College on the edge of campus afterwards. Kinser's friends and family in State College never saw him again. After a protracted search, the police, a year and a half later, named Vedam their single suspect.

Subu's case—and conviction for murder—was deceptive in its simplicity. Everyone agreed that Kinser got the call from Subu, also a small-time drug dealer. No one disputed that Tom agreed to give Subu a ride, as they were friends. No argument that the odyssey began at Tom's home in Lion's Gate apartments in State College, a sprawling, red-brick complex of threadbare carpet and paper doors that stands to this day as a den of graduate students and low-wage workers. No real dispute that Tom picked up Subu around noon at Harris Acres, a development in the shadow of the extended ridge of Tussey Mountain. No disagreement that they traversed the long, sloping Highway 322, which cut Lewistown neatly in two, or that Lewistown was an appropriate place to buy drugs, a town long past its zenith as a transportation and industrial hub that was now ground zero for all types of illicit activity. No dispute that they were both the children of Penn State faculty, though Tom was white and Subu Indian.

It's the way back to State College where the convergence between the Commonwealth and Subu Vedam abruptly ends. There was so little actual, corroborable information that no one could truly say what happened. The Commonwealth argued that Subu shot Kinser in the woods right at the base of Tussey Mountain. Subu denied it, but couldn't provide much in the way of details. He didn't know what Tom did or where he went after he dropped off Subu. But everyone agreed on one point: Subu was the last known person to see Tom Kinser alive.

Subu has always maintained his innocence. It didn't matter. He was convicted, and when that conviction was reversed, convicted again, in 1988.

I recall, during the eighties, family members of mine whispering about the Indian kid in Pennsylvania convicted of murder, the Indian community being small, and the Tamil Brahmin community, to which Subu and I both belong, even smaller. Subu was the kid who'd gone down the wrong path, mixing with the wrong crowd, making for the most powerful cautionary tale of them all. Subu's father was an academic, a physics professor and materials scientist at Penn State, who would have blended seamlessly with my parents' friends in North Carolina, who were all vegetarian and spoke Brahminical Tamil with its idiosyncratic conjugations and vocabulary. Mrs. Vedam, as she was known in the community, always wore a sari, a thick bindi, and a thali wrapped around her neck, just like my mother. Subu, just like me, was invested with the sacred thread. Their faded color photos from the seventies and eighties could have graced any number of our peeling albums. But it was also easy to set it aside—central Pennsylvania was a world away from North Carolina. And who wanted to believe that life in middle-class suburbs, as uneven as it sometimes was for educated immigrants, could be taken away so abruptly and so easily? We all knew it could. From the hard experience of life in India, my parents knew that pure chance often led to ruin. They passed that kernel, epigenetically, to me. No wonder my nightmares of being in jail, cause unknown, started in childhood.

In 2017, on the heels of Trump's surprise election win, I moved, with my own young Indian-American family, to the unlikeliest place I could have imagined for us—State College, Subu's home from all those years ago. My wife had been recruited to Penn State's History Department, and I'd been offered a position at the law school. State College was no longer just a name on a map, known by its irritating nom de plume Happy Valley, no longer just a hill town with vibrant, fall colors that turned dreamlike on crisp, clear autumn days.

On the eve of our move, my uncle, who had been an engineering professor at the University of Nebraska, reminded me, in his hoarse, ataxia-slurred voice, that State College was where the Vedams lived. There was a pause as I wondered where I had heard that name. "Their son was convicted of murder," my uncle continued, guessing my confusion. And something clicked into place, the memory from so long ago and so dreaded that my parents dared not speak about it—the Tamil Brahmin boy convicted of the most serious crime in the code.

There was a message for me somewhere, and I could hear it in my uncle's resigned voice, battered by disease and the tail end of his academic career, where politics shifted in his department and bequeathed to him a windowless office in his final years at Nebraska. Maybe you can do something about it, he seemed to say, more through the look in his eye and in his flat pronouncement that Dr. Vedam had been a professor at Penn State than in anything specifically articulated. He spoke as if he had met Dr. Vedam or known of him in professional contexts, but he shook his head when I asked him about it. They'd been in different fields, with different colleagues and different conferences. I gathered it was ultimately kinship; both Indian, Tamil, and Brahmin, working in those predominantly white, somewhat conservative universities during that time. My uncle, like my parents, worried about "corrupting influences" and knew how thin the line was between our world and the Vedams'.

I heeded my uncle's unspoken words. I searched for Subu's case online, and while I could not locate any published decision, I did come across a series of articles from the local paper by a columnist, Russell Frank. He described going to see Subu at Huntingdon state prison and encountering a scholarly-looking man in his fifties in wire-rimmed glasses, who read Thomas Piketty and discussed inequality. In two articles beginning in 2014, Frank probed the case and noted that many community members believed that Subu's conviction was based on "weakly circumstantial" evidence and motivated by racial animus. Ultimately, Frank maintained a formal agnosticism, never reaching an ultimate conclusion on Subu's innocence. He did, however, advocate for freedom: "I believe it ought to be possible to have a panel of experts review Subu's case," Frank wrote, to opine that Subu is "no longer a danger to society." And bracketed off in a new paragraph, the article ended with a fragmented dependent clause that said more than any string of sentences: "If indeed he ever was."

To be sure, I did not need Frank's articles to motivate me to get involved; what I needed was confidence. I was a trial attorney by training, and as a defense lawyer in Silver Spring, Maryland, and, before that, in New Bedford and Springfield, Massachusetts, I had handled murder cases and more. But I was a newcomer in Pennsylvania. I was not familiar with Pennsylvania law or the post-conviction process and knew no one who could guide me. And yet, I had been hired to run a post-conviction clinic at Penn State Law, entrusted with not only finding projects for my students but guiding them through the work they would do. I called a friend—another Tamil Brahmin—who headed the New England Innocence Project and was a trial attorney in the same Massachusetts public defender agency where I had worked.

She knew the case I was talking about. She would make the necessary introductions. I could be a foot soldier, a subaltern, a local contact. But could I add meaningful value with the experience they had and I didn't? "You may end up the one handling the case," she said. "Innocence Projects take only a few out of the many cases that need representation. It depends on how conservative they are. Resources are limited."

The legal director of the Pennsylvania Innocence Project, another Indian-American, was polite but formal and serious. She accepted my help—out of kindness more than anything else it seemed to me—cc'ing me on an email to a colleague that sounded like a disclaimer. "Gopal teaches at Penn State Law and runs a legal clinic. He wants to get his feet wet with the kind of work we do. Could you set him up?"

In the fall of 2020, I signed nondisclosure paperwork and received permission from Subu to be involved. Later that winter, I arranged to talk to Subu at the jail. The phone in the law school conference room didn't work, so my students and I huddled around my cell phone, which I put on speaker. There were the typical connections and abrupt diction of state prison personnel before Subu was on the line. "Hello?" he said, sounding like someone around my age. Even in those first two syllables, his accent was jarring: a Pennsyltucky drawl elongated his vowels, and I heard the valleys and ridges of central Pennsylvania. I wasn't mishearing. As we talked about quotidian topics and he shared what it was like being an old-timer, the accent remained. The obvious topic—his criminal case and conviction—was avoided. I got as close as possible by asking Subu about meditation, a practice that had changed my own life. He paused. "You know they asked me about this at trial?"

"I know."

"I'm Hindu," he said finally. "I believe in moksha. I get up early in the morning and do yoga every day and meditate through that. But I don't really do sitting meditation anymore." It was all he said. No kinship. No shared memory. No reminiscing over common experiences or acknowledgment that we were part

of the same tribe, the same community. A swing and a miss. I wondered if my students noticed.

Later the following summer, I went to see Subu for the first time in person. When I drove up to the state facility through winding country roads, I felt oddly nervous. I had been to many state prisons in my career, but the first visit to any new facility, with its idiosyncratic rules as changeable as the weather, never failed to make me uneasy. I worried about having the right permissions, the right paperwork. I wondered what active or indifferent hostility I would face from the corrections officers.

I wasn't disappointed. The turrets of SCI Huntingdon looked practically medieval, and its visiting process was, as expected, different from any I'd previously encountered. I waited outside a door that said Visitors until a corrections officer, or CO, told me that I needed to go next door to another area to get the proper documentation. I went next door, cleared the metal detector and the device that checked my hands for contraband, and the CO stopped me. "You can't bring that in," he said, pointing to my book. I always carried a book as well as pen and paper into prisons, because I never knew how long I'd have to wait.

"Nothing sharp in here," I told him, showing my book. "Just paper, like my pad."

"It's not allowed." There could be no argument, and he knew it. But he did give me a quarter so that I could retrieve my car key from the locker. I worried about running into count, the witching hour when all movement in a prison stops and visits have to be curtailed or abandoned. I hurried to my car, deposited the book, and then walked back to put my key into the locker, finally returning to the door that said Visitors.

The door buzzed open. I passed through another metal detector, checked my hand under a UV light to ensure that I had been tested for contraband, and walked through the ancient gates of the state prison. Another set of doors blared open, and after a short walk across a dreary concrete patio, I finally entered the visiting room. For all the quiet outside, it was full of activity, with tables populated by families and children who were waiting or already talking to their loved ones. In the back was an area for children, the concrete painted into the bright colors of giraffes and lions, while battered books lined a battered bookshelf in one corner. Books were okay, then, except when they weren't.

On the telephone, Subu had insisted that we meet in the open public visiting area and talk at one of the tables. "It's open," he'd said to me, "but it's more secure. There's always a CO just outside the attorney rooms and they leave the doors ajar, for 'security.' They can hear everything." So I sat down at a table away from the other families and inmates and waited.

It did not take long before I saw Subu approach, walking slowly, with his hair mostly white. He flashed a smile that seemed to carry over the crowd, and I stood up. It was startling to see him in person. He was in a jumpsuit, as clearly marked

as any other inmate, and when he opened his mouth, the drawl that I'd heard on the phone was, if anything, clearer. There was no shame or guilt in the way we interacted. But for the accent, the jumpsuit, the location, he could have been any number of elderly Indian uncles at a community gathering.

Later, I met his sister, Saras. After reading her polished emails and hearing her unaccented American English, I expected blue jeans and a shirt. But when I met her for the first time in person at the law school, she could have passed for one of my athais, or paternal aunts, with her heavy silk sari, thick Indian thali, and bright red bindi, larger than the dab that my mother wore. I thought of what Saras had written to me some time earlier, self-reflective in a way my parents and relatives would not have been. "Subu will turn sixty in August, which—as you know—is an important life event for us." The age was contrasted with the time he had been imprisoned. "Subu has been incarcerated for thirty-nine years this month."

The Vedams were academics who respected learning in a way so familiar to me. Frank reported that Mrs. Vedam believed her son would have been a physicist if he had not been incarcerated. Books were Subu's lifeline. Later, after a dozen or so trips down to Huntingdon, I visited Subu on a bright Sunday morning. I had just read The Sympathizer by Viet Thanh Nguyen, and it had reminded me of Subu's and my experiences of being immigrants in the United States. I raved about the book to Subu, and he leaned over more closely and quizzed me about it.

"The Great Asian-American novel," I said. "But you're a nonfiction guy," I continued, remembering the interviews he'd done with Frank.

"Not true," Subu said, smiling. "I read fiction, too."

A day or two later, Saras texted me and asked for the name of the novel, which I screenshot and sent to her. Subu wanted a copy.

The Innocence Project soon gave me access to all their files on Subu's case, collected in a loosely organized set of Box folders, which fully resided in the cloud and contained a mad man's cornucopia of paperwork. "Stage 2 review," the managing attorney of the Pennsylvania Innocence Project's Pittsburgh office said. "We get every bit of paperwork we can get our hands on." There were filings and transcripts. There were police reports and photographs. There were judicial opinions and correspondences. There were repetitions and repetitions. It was like a hoarder's attic, where anything that could be salvaged had been dumped into drawers and boxes.

The chronology was straightforward, even if the path to the Commonwealth's theory that Subu murdered Kinser was not. For months after December 1980 when Kinser and Subu drove to Lewistown to buy drugs, Tom's case hung in the air as a missing persons report. After some half-hearted investigating, the police closed the case in March 1981. The case turned in September 1981, nine months after Kinser's disappearance. Two high school–aged girls on a hiking trail a stone's throw from the ski slopes on Tussey Mountain saw a squirrel standing on a log

near a fishpond. Something in the quizzical, guilty way the animal looked at them piqued their interest. When they approached, they saw, down a sinkhole beneath a log, sneakers and, further up, a human skull.

From there, the rumbling machinery of the state got into gear. Officers descended on the sinkhole and, through dental records, identified the body as that of Tom Kinser. Foul play was almost immediately apparent—the skull contained a hole that could only have been made by a bullet of some kind.

CSI this was not. Without regard for scene integrity, the body was collected into separate plastic disaster bags and transported to the pathologist, who, in his own words, "arbitrarily" removed and organized the remains during the autopsy. This reordering had significance. Kinser's shirt lay in one of the bags, and in that bag the pathologist found what appeared to be a .25 caliber bullet. The police, meanwhile, kept searching in and around the sinkhole, finding numerous casings and bullets of various calibers, which was not at all surprising because the land all around was a hunting area. Finally, using a metal detector, the police recovered a .25 caliber casing underneath some debris halfway down.

Understandably, the police had an interest in Subu. But a case revolving around a person getting a ride from a deceased victim was no case at all. So they investigated intensely, interviewing Kinser's girlfriend and friends, Kinser's parents and mutual acquaintances. Police set up checkpoints near where Kinser's body had been found and questioned individuals from both the forestry and fish and game departments. The answers were all the same. No one had seen a VW bus driving into the fish and game property; no one saw it leave. No one heard a gunshot or saw Subu near the fishpond. No one saw the van being driven back and parked at Lion's Gate. No one mentioned that Subu or anyone else had confessed to the crime or even hinted at it. No one could think of a motive, though not for lack of trying. The Commonwealth engineered one involving a theft of a ruby, but that evidence had little teeth, and little to back it up. And despite sending scuba divers to the fishpond, the most important piece of evidence was never recovered or introduced: the murder weapon.

The difficulties multiplied because the drug scene in State College in the seventies and eighties, reminiscent of the movie *Dazed and Confused* (1993), caused potential witnesses to fade into the background. Eventually, however, the police caught a break. They found a man named Dan O'Connell, who first denied that he'd sold a gun to Subu, but later admitted to it after being given an ultimatum—tell us you sold Subu a .25 caliber gun or we charge you in another case, a burglary. O'Connell pinpointed the approximate date of the sale as the night of a party where he had stolen a young woman's purse. It didn't take a law degree or expertise in criminal law to see that O'Connell was not very believable. This required police to spend weeks corroborating his story.

They found the woman whose purse was stolen and established the date of the theft as well as the location of the alleged sale of the gun: in a wooded area

behind a Wendy's on North Atherton Street that stands to this day. O'Connell told police that he and Subu test-fired the .25 caliber gun in those woods, and that the casing and bullet should still be there. But when police went out to the area behind Wendy's, the ground was too frozen to see much of anything. Months later, in April, they found both a .25 caliber bullet and casing.

In an era when junk science reigned without dispute, the Wendy's "test-fire" .25 caliber cartridge and bullet were a boon. The government sent the bullets and casings to the FBI. Their expert, William Albrecht, compared the "test-fire" cartridge with the .25 caliber cartridge found at the sinkhole. Albrecht opined that the two cartridges were "both fired by the same gun." The power of Albrecht's opinion was self-evident, but he went further, claiming that he had not found "anything inconsistent" between the size of a .25 caliber bullet and the hole in Kinser's skull, despite having no background in pathology, anthropology, or materials science.

The FBI report, only a few pages long, sealed Subu's fate. He was charged with the murder of Tom Kinser on July 1, 1982. He had other, unrelated pending charges involving the sale of drugs and was served with the paperwork at the local jail. The police described him as expressionless upon receipt, and so they assumed his guilt. But he was twenty and in shock.

Maybe you can do something about it, my uncle had intimated but did not say. He knew nothing about the traps and barriers laid at all points by courts and statutes to prevent any further look at old cases. He knew nothing about the case itself. But he knew about how quickly the system could turn against people like us. *Never meet with a student, particularly a white female student, with your door closed*, he'd once said to me, in a way that said you can ignore everything else I tell you but don't ignore this, because he knew how easy it was to be put in a box. His elder son, my cousin who is now a gastroenterologist, snuck out of the house late one night in high school with friends all smoking marijuana, which he himself smoked regularly, and crashed the family car. No one spoke about it afterwards, either the crash or what precipitated it, but I can imagine what might have transpired when that late night call came through to my aunt and uncle. My mother, protective of her younger brother, would only say that my *Maama*, or maternal uncle, had gone through a lot.

I wasn't that far behind. In high school, my hair was long, my clothes ripped. I cut class and hid out in the ravine after lunch in the vicinity of Enloe High School with cigarettes shared among friends. I smoked marijuana as well, and on one frightening night in college dropped acid and drove around Raleigh while the road shook beneath me and split open to reveal burning lava fields beneath. To see Subu's high school photos, though he was fourteen years older than I, was to see myself—long black hair, bearded (I tried to grow one also though it got too scratchy), with glasses, looking both at ease and misfitted. There were vanishingly few places where an Indian kid could be accepted in the eighties in the US. The

profiles written about Subu in psychological files were easy in their conclusions. Of course he couldn't fit in in State College, he was Indian; of course he would never have a girlfriend, he was Indian.

So it was left for us to join other cast-outs, those with broken homes and latent addictions and antisocial tendencies, those who grew their hair long and went to alternative schools, cut class and got into trouble. We were just trying to fit in.

I was nineteen, twenty years old—the same age as Subu when he was charged with murder—during that acid-induced car ride around Raleigh, when I saw the leering edge of the abyss, as Marlow did in Heart of Darkness. Like Marlow, I managed to walk slowly away. My grades improved. I became responsible. I majored in chemistry and graduated Phi Beta Kappa. I grew up and survived that danger zone of the early twenties with my life and record intact.

My Marlow-walking-back-from-the-abyss experience, though, occurred in 1994, not 1980, and it was in North Carolina, in the Research Triangle Area, where we had a Hindu temple, a Sikh gurudwara, a mosque, multiple Indian restaurants, Indian grocery stores, Indian businessmen, Indian doctors and engineers, and Indian women in saris.

But I did know what it was like, didn't I? Before North Carolina, we'd lived for two years in Rochester, Minnesota, where, in elementary school, my sibling and I were the only people of color. Saras and Subu, four years apart, were often, likewise, the only nonwhite people in their respective schools. I remember the sucker punch to my lip while walking out of Elton Hills on a cold winter day in 1982, and being barely bloodied but sobbing all the way back to our house on 34th Street. I lied to my parents and said the cut was just chapped lips. And I never mentioned the older brother of a friend, a seventh grader, who hit me in the stomach when I was in first grade because he did not like that my friend's little sister seemed to be paying attention to me. I remember the split-level apartment where it all took place; I remember the feeling, almost like an ache or a tightening that never released when I was in school, because everything about me was different—my name, my religion, the food we ate, the festivals we celebrated. It seemed impossible that I would ever be one of them. So I dreamed of being adopted by a white family. And then we moved to North Carolina.

What if we had stayed in Minnesota? What if the fights and the bullying got more serious? What if that tension, that tightening, grew and grew and grew, metastasizing into every cell, every tissue, every muscle, its tides never fully placated? Would I have remained Marlow?

July to February is a blink of an eye in a homicide case, and yet that was the time between Subu's arraignment and trial on murder. I would have been consumed by anxiety if I had to handle even a run-of-the-mill homicide in that time frame. And this was no ordinary murder.

The media coverage was intense. The local paper, *The Centre Daily Times*,

turned psychoanalyst, characterizing Subu as "cold, extremely quiet, and withdrawn" and running stories that effectively othered him all through the lead-up to the trial. The assistant editor for the *CDT* defended this coverage because "a murder rarely occurs in this area." The *CDT*'s coverage was enough for Subu's lawyers to ask for a change in venue for the trial, which was denied. But when the first conviction was overturned on appeal, due to all the prejudicial evidence admitted, a second trial did contain an out-of-town jury. The interest in the case remained high, leading the presiding judge to remark to a reporter, "This is more entertaining than anything on television."

For the neutral spectators, I am not so sure of the entertainment value. Dramatic trial scenes are often portrayed with whodunit tension in movies and TV shows. In reality, trials can be long, complex, and boring, with overlaid pieces that do not rest easily upon each other. For those watching as spectators, it can be dull, as Sarah Koenig, a State College resident for many years, often observed when she listened to the recordings of Adnan Syed's trial for her podcast, *Serial*.

For me, however, trials are taut and thick with emotion, both from the witnesses and attorneys who, at their very best, are working at every moment to deliver their narrative, their truth. It's a battle between faith and skepticism, the most skilled lawyers acting as guides, as teachers, with the government hoping jurors will believe, while the defense hopes they will doubt. Even reading a transcript, in which I'm unable to assess facial expressions or demeanor, I feel the tension. But it is not entertainment for anyone with a stake in the outcome, even in the humblest of cases.

I knew enough of the case to know that the courtroom was full during those winter days in 1983 and again at the retrial in 1988; I knew enough of trials to almost feel the hush in the courtroom at critical stages, such as when Albrecht provided his "expert opinions." He weighed in on the supposed duration of the sinkhole bullet's stay in the body, based on oxidation; on the caliber of the degraded bullet; on the characteristics of a presumed gun that would have matched the sinkhole bullet.

"What about the bullet found behind the Wendy's?" asked the prosecutor, the unsmiling district attorney by the name of Ray Gricar.

Gricar would one day become much more famous than Subu, for all the wrong reasons. Eighteen years after Subu's trial, Gricar mysteriously disappeared on tax day in 2005. His body was never recovered, but his computer's hard drive was found at the bottom of the Susquehanna River near Lewisburg, the home of Bucknell University as well as a large federal prison. The subject of numerous conspiracy theories and podcasts, Gricar remains one of the highest profile disappearances in Pennsylvania and perhaps nationwide. His grim face, with a receding hairline and tortured eyes, remains on the CNN website with an article from 2015 titled, "What Happened to Ray Gricar?"

But in 1988, during the retrial, Gricar was the one asking questions, not the one

leaving them, and Albrecht had plenty of answers. The Wendy's .25 caliber bullet "well could have been fired from the same barrel" as the gun that killed Kinser.

"What about the casings?" Gricar asked. These were in a different category because there was no degradation in either the sinkhole cartridge or the one from behind Wendy's.

"Based on that microscopic examination, I could say that both of these cartridges were fired by the same gun," Albrecht said. "In my opinion there was no other firearm but one that fired these two cartridges."

It all seems too much to be a coincidence, the jury must have been thinking, perhaps glancing over at Gricar, who would have been watching them carefully and perhaps making a mental note to hit those same themes in his closing, which he did—"Is this just coincidence? Is that what defense counsel is suggesting?"

John Rogers Carroll, Subu's counsel for his second trial in 1988, was a well-known attorney from Philadelphia who once represented individuals accused of being Communists during the Red Scare in the fifties. Later, he was active in helping lawyers combat addiction and alcoholism. A recovered alcoholic himself, he represented Subu on his appeal from his '83 conviction. Carroll's experience was evident in his cross examination, where he raised all sorts of questions on the reliability of Albrecht's opinion on the cartridges at the sinkhole and test-fire site. "A .25 caliber gun is, in fact, very common, right?" Carroll asked. His questions pointed out that many guns make the same markings on bullets, that there are no standards that govern whether bullets match particular guns. "This is all your subjective conclusion, isn't it?"

Yes, Albrecht admitted, over and over.

Decades later, Carroll would be vindicated. The National Academy of the Sciences would excoriate opinions like Albrecht's, declaring that forensic examiners apply their disciplines with a great deal of subjectivity and irreproducibility while also overstating the reliability of their conclusions. Albrecht, however, did not allow Carroll's implications to rest easily. Albrecht confidently fired back, on cross and on redirect, that these acknowledged ambiguities never caused him to backtrack from his ultimate to-the-exclusion-of-all-other-guns opinion.

The jury was primed to believe it. Interracial murder, like interracial rape, cuts to core American beliefs. Courthouses, especially small-town ones, are receptacles of those deeply held beliefs. The portraits of the judges, looking regal, old-fashioned, and very white, provided one message. The legal community, with its insular set of connections, provided another. Indeed, Subu's lead counsel in the first trial and local counsel in the second, Amos Goodall, ran for DA against Gricar, with whom he was a family friend, in 1985, two years after Subu's first conviction. Goodall would later represent the Gricar family upon Ray Gricar's disappearance, helping to set up rewards, talking to the press, and later filing paperwork on Gricar's daughter's behalf when she sought to have Gricar declared legally dead in order to start the probate process. With all the bar association

dinners and formal politeness and everyone related in some way to everyone else, uncomfortable truths were almost required to be shunted aside.

In his essay on James Baldwin, "Black Body," Teju Cole writes, "American racism has many moving parts, and has had enough centuries in which to involve an impressive camouflage. It can hoard its malice in great stillness for a long time, all the while pretending to look the other way. Like misogyny, it is atmospheric. You don't see it at first. But understanding comes." Nowhere has American racism's "malice" been hoarded in greater proportions and with greater sophistication as to its aims than in the criminal justice system. Michelle Alexander, in *The New Jim Crow*, drew the line from slavery to Jim Crow to mass incarceration, showing that the criminal justice system, far from being an objective umpire imposing law and order on rule breakers, was simply an extension of how American society had long brutalized and disenfranchised Black people.

And policing itself has roots in slave patrols, at least in the South. We bear their ignoble inheritance to this day with phrases like *stake-out* and *beat* derived from those long-ago watchmen who roamed the southern countryside. The "malice" could be dressed up and yet open in its intentions, for instance, in the case of the Scottsboro boys. In Alabama in 1931, nine Black boys and teenagers were falsely accused of raping two white woman. Summarily, the young men and boys were charged with the crime, subjected to a lynch mob at the courthouse, and then, without a lawyer to represent them, indicted, put to trial, and all but one sentenced to death—over the span of just seven days.

I imagine more than one member of Subu's family and more than one member of the small Indian American community believed—hoped—that these aspects of American society didn't apply to us. They saw the newspaper coverage, but they weren't Black, after all. The racist eighties trope of welfare queens were all Black, and Jesse Helms's ads showed a Black hand, not an Asian one, taking the paycheck from a white one.

We were special, exempt, hadn't I felt it too? The valedictorians at my high school in North Carolina for years running were Indian, and the joke was that anyone announcing the dean's list better know how to pronounce Asian names. The State College Indian community of the seventies and eighties, drawn almost exclusively from the children of faculty, was not immune from this striving. The kids attended prestigious universities and embarked upon professional lives as doctors or lawyers or scientists, seemingly lending truth to the notion of the model minority. This included Saras, who went to Amherst as part of the first class of women ever admitted. She eventually became a renowned midwife, clinician, and researcher. There were moments when the "malice" peeked through, like when racist words were scrawled onto our Chevy Malibu one cold fall morning in the parking lot of our apartment in upstate New York in 1982 where we lived for a short period. The words said something about us being Indian and unwelcome,

but those words were washed away with the rain, the malice easily ignored.

The understanding Teju Cole wrote about in "Black Body" must have dawned all at once on the aunties and uncles of the Indian community at the end of Subu's second trial, when Subu took the stand to testify in his own defense. All the pent-up malice, revealed in drips and drabs, finally fully unmasked itself with the first words of Gricar's cross examination:

"Mr. Vedam, where were you born?"

"How frequently would you go back to India?"

"Were your parents attempting to bring you up in their own lifestyle, their own cultural background and social values?"

"During your teenage years, did you ever get into meditation?"

"And you would practice this in the morning, in the afternoon and in the evening?"

"Did you ever become proficient at this so you could make good use of your meditation?"

"How would you use it?"

"Did there ever come a time when you got so good at it, you could go months without sleeping?"

You could almost hear the snake charmer music in the margins. *They're different from us, you know?* He planned the perfect murder with the power of these strange practices and almost got away with it, Gricar would more or less argue in closing. It was the Temple of Doom and the 700 club, with Pat Robertson railing against Hindus and their worship of "demons" all over again.

My family visited India in 1984, 1991, 1996, during my childhood, adolescence, and young adulthood. I remember the traffic on Howrah bridge in 1984, with scooters, cars, buses, and people at a standstill, with the horns honking constantly, the crows circling and everyone inching along. The windows to the Ambassador taxi were open—no AC—as we remained stuck and sweaty. The mosquitoes buzzed and attacked. They bit and bit and bit until it became a game we played—who had more mosquito bites?

I remember monsoon rains flooding the Calcutta streets. There is a picture of my cousin standing in knee-high water as we all played while getting wet and chilled. I was sick, so sick, for so many of those months. I remember my sacred thread ceremony, with jasmine flowers around my neck on the roof of our family home in Calcutta's Lake Gardens neighborhood and a bucket of cold water doused over my dhoti and bare chest as family congratulated me all around. I remember reciting the Gayatri japam 1,008 times for Avani aatam. I remember a long train ride, the Coromandel Express, from Calcutta to Madras, a two-day journey on a second-class, non-AC sleeper coach. My parents, just five years past their emigration, needed to prove that neither they nor their children had forgotten their roots or gone soft in the fabled land of America. The grit from the open window, however, remained in my teeth, the blanket and sheets felt damp and dirty, and

the train inched from station to station. I was afraid of the bathrooms, always wet, releasing directly to the tracks, with just a squat toilet and water to clean. So I held my intestines as long as possible, too ashamed to tell my parents.

I remember Vishakapatnam looking bright as a coin with the sun rising over the Bay of Bengal. I remember standing on the open door to the train while catching the breeze, and I remember watching the scenery all around. When we finally pulled into the Madras train station, a full ten hours behind schedule, my father was frustrated. "This is why India never develops," he said. And then there was the whistle-stop journey through South India, with visits to cousins and relatives, to old temples and palaces, to gardens and waterfalls, a place so green, so luxurious, so full of peacocks spreading their feathers, that it took your breath away. India could do beauty, too.

Pictures record the smiles, memory smooths out the anger and forgets the sickness, because, truth be told, I often wanted to leave as soon as I arrived and was resentful, because India was India: claustrophobic, uncomfortable, polluted, and wanting in every way that an American kid would feel and an Indian kid would feel embarrassed about. And yet, I could not forget the first feeling when we touched down in Delhi, over a hundred degrees at midnight, with all the smells and sounds of India breaking over the jet bridge. I was anonymous, one of many, not marked out in any way for scorn or hostility. What relief.

That India was not far removed from the India that Subu visited and where, like me, he was born. His last visit to India occurred around the same time that my family emigrated—the late seventies. He'd traveled to the foothills of the Himalayas, eighteen and by himself on a bus to Shimla and Manali, places where I felt a deep pull in both 1991, when we visited Shimla, and 1996, when we went to Manali. There, the foothills leading to the mythical abode of Shiva fascinated and thrilled me. I thought of Babaji, the purported immortal saint who prayed for the welfare of the world, as recounted in Autobiography of a Yogi by Paramahansa Yogananda. What couldn't be done with meditation and understanding the true nature of the mind? Babaji's immortality and spiritual powers did not seem so far-fetched when staring up at the giant peaks. India attracted generations of truth-seekers for a reason.

Gricar weaponized all of those complex cultural affiliations to get his conviction. In the annals of criminal trials, he was hardly unique. Appellate opinions are replete with explicit calls to racist attitudes, like in the Supreme Court case of Foster v. Chatman, where the prosecutor argued that the death penalty needed to be imposed to deter "other people out in the projects." But there was a clear purpose to Gricar's inveigling; he needed the racist tricks of the trade because Dan O'Connell was an unreliable witness; because no one saw Subu enter or leave Tussey Mountain in the VW bus; because no one saw him dirtied and sweaty with blood on his hands; because no one could point to any real confrontation, motive, or animosity between the two; because no one recovered a murder weapon.

Even the place where the body was found, a stone's throw from the local ski slope, was an odd place to commit a murder, especially for a local who would know it was near a popular hiking trail. There were many more hidden places much deeper into the forest, the ridges and Bear Meadows, which townies such as Subu and Kinser would have known. And unlike Raskolnikov, who confessed in all caps at the end of Crime and Punishment, Subu always maintained his innocence and never admitted guilt, not to a friend, not to family, not to anyone at the jail.

The biggest hole in the Commonwealth's case was literally a hole. The pathologist measured the entry wound at the top of Kinser's skull to be 6 mm at its smallest dimension. The problem? A.25 caliber bullet measured 6.35 mm. In the retrial, John Rogers Carroll asked the medical examiner, "Would you say that one basic fact you could say is for sure, and that is, that the size of the bullet cannot be larger than the hole?"

The pathologist replied, "That's absolutely right, yes."

Carroll repeated this important fact in closing, "the hole cannot be smaller than the bullet." Yet Gricar was anything if not skillful and ambitious, tying all those disparate strands together, relying on Albrecht, and turning it all into a theory of prosecution, a theory of guilt.

I thought of the closing arguments—point and counterpoint—in chapters 22 and 23 of *The Brothers Karamazov*, with each link prettied up and put together by the prosecution, and each one interrogated and broken by the defense. Thus, there was no burglary, no robbery, nor even murder itself. The reader feels hope, certainty even, that Dmitri Karamazov will be acquitted, even as the appellate and post-conviction attorney knows how rarely such things occur. The case is finally given over to the jury in chapter 24. This chapter title is translated in my copy as "The Peasants Stand Firm," which tells you all you need to know about where their verdict is going. But the simple peasants' standing against the city lawyer and his machinations reveals a darker truth—they got it wrong. Dmitri is innocent.

The Northumberland County jurors in Subu's case stood firm as well, returning verdicts of guilty against Subu on all counts. For them, it came down to something simple, as the CDT later reported in an interview with one of the jurors. They followed Gricar's lead on Subu's otherness, racism's malice stirred and activated; they believed Dan O'Connell over Subramanyam Vedam.

When the machinery of the state concludes that someone is a convict, it is almost impossible to reverse. Time is counted not in years but in filings. Carroll argued on appeal that the evidence hadn't been enough to convict Subu and that Dan O'Connell had lied about his criminal record. The Commonwealth acknowledged that O'Connell had lied, but said they hadn't known he was lying. The appeal was denied anyway. Years later, bolstered with new evidence showing that the Commonwealth had known about O'Connell's perjury, Carroll asked for a new trial. His

request was dismissed by both the trial and appellate courts.

I imagine that for the first decade he was hopeful. Always well-respected and a model inmate, Subu worked in prison education and tutored inmates working towards their GEDs. Long before online courses, he got his associates and undergraduate degrees writing essays on a typewriter and mailing them to be graded, maintaining a 4.0, and, in a first for the State Correctional Institution at Huntingdon, he later got his MBA. But one decade turned into two, turned into three, turned into four. Subu's hair turned from black to salt-and-pepper to white. He missed his sister's wedding and the arrival of his four nieces, meeting them months later when they were finally approved to be added to his visitor list. Dr. Vedam was the first to pass away and then Mrs. Vedam. A whole generation of Indians grew up. Indians became CEOs, congresspeople, federal judges, and even a presidential candidate—Kamala Harris being half Tamil Brahmin herself. Subu's sister moved away, with his four nieces; the older generation passed on, while Subu's years lingered, circumscribed, the visits drawing down to just a trickle. COVID struck and, for a while, in his sixties, Subu turned thin and frail in a matter of months when the prison failed to provide vegetarian meals. The vaccination rate is higher for the inmates than the guards, Subu once told me.

The memories in towns like State College, however, are long and cumulative. Many still remember Mrs. Vedam for her cooking and cooking classes; those in the community who knew her well describe meals prepared during difficult times and a generation of aspiring Indian cooks trained under her watchful eye. The older generation—Indians and non-Indians alike—speak about her with deep reverence that says much more than the substance—"She was too regal to be known as anything other than Mrs. Vedam," Frank wrote in one of his columns, a description that so troubled Mrs. Vedam that Frank was later forced to backtrack. "There is nothing regal about me," Mrs. Vedam later said. But the substance of her life was remarkable—Mrs. Vedam hiking up the difficult terrain of Rothrock in a sari and boots as a member of a local hiking club; Mrs. Vedam remaining bright and hopeful despite all the odds, driving weekly to Huntingdon to visit Subu and providing him with home-cooked food when that was allowed. After Dr. Vedam's death, she refused to move from State College so that she could stay close to Subu.

I often wonder what Mrs. Vedam must have thought while hiking those rocky trails and steep inclines that had left me huffing and puffing, perhaps just a mile or so away from where the body of Tom Kinser was found. I wonder what Dr. Vedam must have thought, his mind precise from years of scientific training, seeing all the gaps in the prosecution's case and perhaps assuming that a wrongful conviction with so many holes could be overturned the way a paper could be retracted or theories could be reassessed with more evidence.

To this day, Subu maintains his innocence, but would there be vindication of the kind Dmitri Karamazov ultimately enjoyed, with his love for Grushenka reciprocated and plans made for his escape? At this juncture, it is an unanswerable

question, though the law and facts are on our side. In early January 2024, hundreds of pages of exculpatory FBI reports, documenting that the hole in Kinser's skull was even smaller than what the pathologist measured, was finally turned over. Subu's trial lawyers had not seen this report in the 1980s trials—the government hid it—though it's clear what experienced attorneys like Amos Goodall and John Rogers Carroll could have done with it.

"Understanding" has come. During a court appearance in March, and later in July 2024, where our legal team argued to reopen the case, the old aunties and uncles from the community packed the courtroom, the same one where Subu was tried and convicted. There were tears and anger and the type of latent trauma that comes with the understanding that one can never return to innocent times. I saw it in Saras's pained face, despite her four successful daughters, and in the faces of all those who cried with Saras.

For the State College Indian community, especially those having spent a long time in central Pennsylvania, the equation has always been simple: Subu was charged and convicted because he was Indian. They intuited what my uncle had told me with such seriousness about the closing of office doors during meetings. When you are in that box and it's your word against someone else's, all the syllables in your name, all the melanin in your skin, all American racism's malice becomes activated. You will not be believed, and your protests will be ignored. You can be plucked off the street by men who look like the UPS delivery driver.

But many things can be true at the same time. Russell Frank notes that even if racism played a significant role in Subu's trial, he could still be guilty. Other things can be true as well: racism played a significant role, they had reasons to be interested in Subu, but he is innocent, which means he has been living through a nightmare for forty years. Perhaps that's why I get asked this question so often—Do you think Subu did it? Do you really think he's innocent?—as if the prospect of his having been wrongfully locked away and forgotten was too terrifying to even consider here in Centre County.

In the black box of that trip to Lewistown and back over forty years ago, innocence simply cannot be established in the way a DNA test might exonerate a suspect. Subu's case is not clean in that regard. I can provide my own answer—No, I don't believe he did it, and, Yes, I do believe he is innocent. I can say with no doubt that Gricar's cross examination was deeply improper and should have necessitated reversal. I can say with absolute certainty that if I were on that Northumberland County jury in 1988, I would not have voted to convict. In a criminal trial, a person is innocent until proven guilty. Those two inquiries—reasonable doubt and innocence—are often viewed as two separate concepts. And they are. I have often argued to juries in closing argument that our rules do not require a criminal defendant to prove they are innocent. I make that argument in a formal legal setting because I know there is this view. But, to my mind at least, if there is reasonable doubt, then by definition the person is not simply "not

guilty" but innocent, because questions about the person's guilt remain and they are presumed innocent. But I am Subu's lawyer, not the jury, and the questions preoccupying me are the legal ones that ask whether Subu received a fair trial.

There were big questions in the eighties, bigger questions now, and the trial was hardly fair. By any of these measures, Subu is innocent and should be free, but that's not how the system works or is designed to. I wish I could say Subu's case is unique in its injustice, but it isn't. There are individuals in America who have been executed for crimes they didn't commit or who died in prison, wrongfully convicted but never exonerated. There is misconduct so egregious, with no accountability, that never gets written about or reported. Long after Subu's case is resolved one way or the other, I suspect my dreams will continue. ■