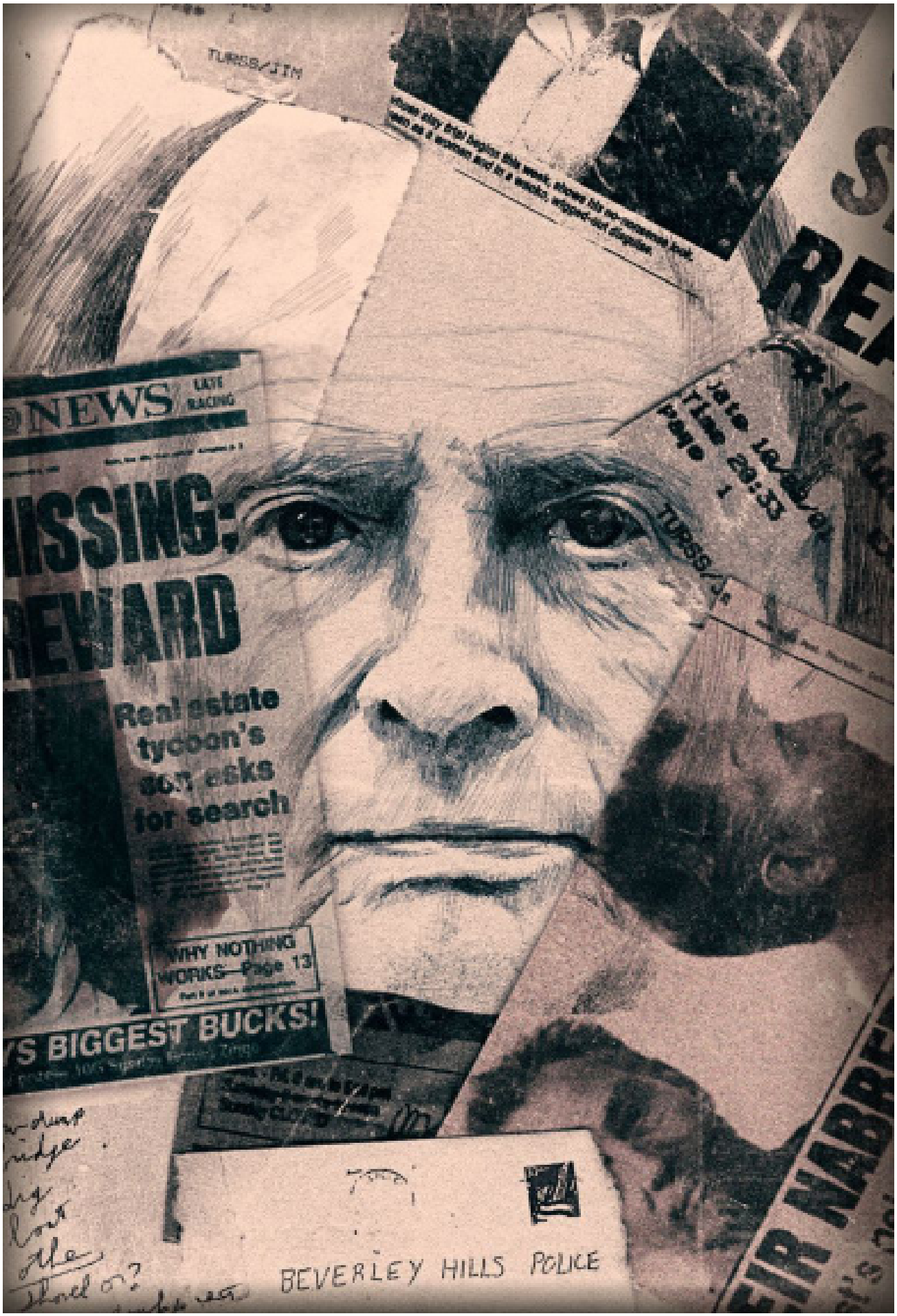
NEWS
LATE RACING
REWARD
Real estate tycoon's son asks for search
WHY NOTHING WORKS—Page 13
BIGGEST BUCKS!
BEVERLEY HILLS POLICE

Daniel Sacco

Capturing Robert Durst: Fact, Fiction, and Format

Serialized examinations of true-crime murder cases have recently become a popular trend in podcasting and subscription television, as evident in the critical and commercial success of the podcast Serial (2014) and the Netflix series *Making a Murderer* (2015). If conventional feature-length crime documentaries, by allowing for the inclusion of a wider range of relevant material, provide an antidote to the television tabloid strategy of streamlining complex cases down to their most sensational elements, these long-form series go further by allotting hours on end for the presentation of vast amounts of evidence with nuanced attention to detail. In an age when "binge-watching" consumption habits increasingly drive television production, these programs encourage viewers to become part of the investigation by absorbing a significant amount of evidence, testimony, and subjective reflection in multiple one-hour installments. This strategy is perhaps best exemplified by HBO's mini-series *The Jinx: The Life and Deaths of Robert Durst* (2015). This roughly five-hour, six-part documentary is director Andrew Jarecki's second attempt to tell the story of the wealthy real estate heir and multiple-murder suspect Robert Durst, following a narrative feature entitled *All Good Things* (2009). *The Jinx*'s massive viewership and generous critical acclaim stand in contrast to *All Good Things*' lukewarm reception, highlighting the divergent success of their equally opposing goals. As a fiction feature "based on a true story," *All Good Things* is narratively structured to humanize and even exculpate its Durst-inspired protagonist. By contrast, *The Jinx* presents an overwhelming case for Durst's calculating and cold-blooded nature, climaxing with Jarecki's coercion of an apparently spontaneous and inadvertent confession of guilt. An analysis of *All Good Things* and *The Jinx* reveals not only the tension inherent in the process of transmuting true life accounts for fictionalized representation onscreen, but also the inevitable failure of documentary storytelling (regardless of length or format) to present evidence in any way worth calling 'complete.' This tension and failure are clearest in the ways in which Jarecki's adaptation of his dramatic treatment of Durst's story to long-form documentary fundamentally shifts the dramatic structure of this story in ways expressly facilitated by their respective formats.

The inter-textual connections between *All Good Things* and *The Jinx* are somewhat atypical of the discourses surrounding film adaptation. In his discussion of filmic adaptations of literary source material, André Bazin notes that the practice tends to be viewed as part of the processes by which modern technology "more and more offers up an extended culture reduced to the lowest common denominator of the masses" (22). Because Jarecki is the author of both texts, there is less immediate cause to consider *All Good Things* in terms of its "untouchability" as a source text, a notion that features prominently in adaptation scholarship. Moreover, the transmutation of Durst's story from narrative feature to serialized documentary runs counter to the phenomenon Bazin notes with reference to Georges Lampin's filmic adaptation *The Idiot* (1946), in which he states that "many potential readers of Dostoyevsky have found in the film's oversimplified psychology and action a kind of preliminary trimming that has given them easier access to an otherwise difficult novel." (22). It can be argued that, in accordance with HBO's tendency

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to ascribe greater patience and attentiveness to its audience than does Hollywood, *The Jinx* in fact reverses this trajectory by offering access to Durst's story with greater psychological and informational complexity than the more narratively conventional and succinct *All Good Things*. Nevertheless, the comparison inevitably raises what Suzanne Diamond considers among the most "provocative and generative" questions that one might pose regarding adaptation: "whether a differently told story is, in fact, the "same" story" (97). In this case, it demonstrably is not.

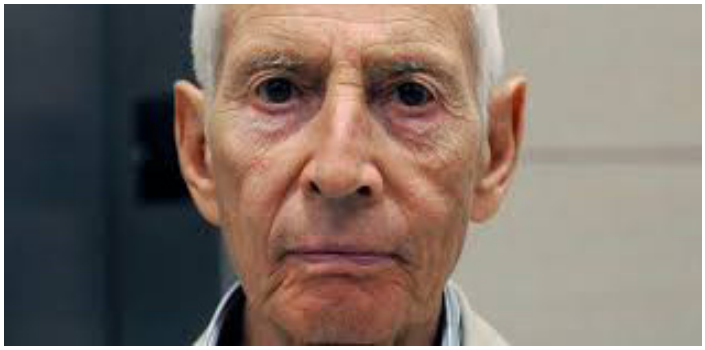
Throughout all of Jarecki's work, as with most filmmakers known mainly for tackling non-fiction subject matter, the relationship between reality and storytelling is complex and requires serious and scrupulous critical attention. Upon the release of his much-celebrated first documentary feature, *Capturing the Friedmans* (2003), Jarecki routinely faced criticism (from reviewers, researchers, and participants alike) for having 'left out' certain parts of the story (Binder 2012). Naturally, the time restraints demanded by feature narrative films make this an unavoidable outcome, but the question ultimately becomes not 'what was left out?' but 'why'? Was material excluded out of necessity to accommodate accepted feature film runtimes? Alternatively, to supply a narrative geared primarily toward entertaining the film's audience? (Or both?) Jarecki was also accused of presenting himself as entirely persuaded by the innocence of his subjects, a father and son accused of pedophilia, during production (thereby securing their full participation), only to then center the entire marketing of the film around the ambiguity of their guilt (Nathan 2003). *Capturing the Friedmans* did, nonetheless, renew interest in the appeal case of the apparently 'less guilty' Jesse Friedman. This intervention secured the place of the film in the coveted category of documentaries with demonstrable real world impacts — alongside Errol Morris' *The Thin Blue Line* (1988) and HBO's *Paradise Lost: The Child Murders at Robin Hood Hills* (1996). However, Jarecki's fluctuating positioning of presumed guilt or innocence toward his subjects is particularly significant in the context of accusations that these shifts are tied foremost to entertainment value.

Capturing the Friedmans can also be placed in the category of documentaries like *The Imposter* (2012) and *Dear Zachary* (2008), critically celebrated less for their scrupulous adherence to fact than for their emotionally engaging story arcs and plentiful plot twists (Horeck 152). These films increase the emotional impact of key narrative revelations by strategically postponing them until audience investment in the memorable players and high-stakes scenarios has been thoroughly established. For the spectator, in other words, these documentaries have a narrative impact comparable to that of fiction films. Occasionally this approach involves incorporating conventional dramatic tropes and archetypical roles, further solidifying a clearly recognizable dramatic structure. For example, it has been argued that *Capturing the Friedmans* emotionally engages the viewer by invoking a familiar scapegoat narrative in which the divided Friedman family must "sacrifice" the guilty Arnold Friedman to save his falsely accused son Jesse (Manzella 1228). Much of the material Jarecki is accused of omitting, however, pertains to the case made against Jesse's innocence (some of which can be viewed as DVD bonus features for particularly invested viewers). Whether or not the suggestion that Jarecki intentionally excludes material that fails to support a pre-concocted narrative is valid, the conventional runtime of the documentary feature provides him with convenient grounds to counter: relevancy is relative and something will always be left out.

If, however, Jarecki does approach his representation of real events primarily with an eye towards compelling storytelling, as opposed to factual accuracy, it seems natural that he would embrace the opportunity to tackle his next true-crime subject, Durst, via a dramatic feature film. *All Good Things* changes all the names of its true-life subjects and, with one significant exception, restricts its speculation surrounding mysterious gaps in the legal record. The format of a fiction

film "inspired by true events" is naturally more forgiving of artistic liberties than conventional documentary, a fact of which Jarecki is no doubt well aware. Yet, as a dramatic feature, *All Good Things* fails to resonate for some reasons. First, it spends an inordinate amount of its runtime on the early "happy" stages of "Marks'" (Durst's) relationship with his wife "Katie," played by Kirsten Dunst. This section of the film conveys a strategy often employed in serial killer films such as *Henry: Portrait of Serial Killer* (1986), wherein the normalcy of the murderous protagonist's day-to-day life is played up to contrast the outlandishness of his or her crimes (Newitz 46). In this case, the protracted treatment of the banality of Marks' and Katie's marriage is too jarring a contrast to the bizarre real-life details that eventually follow (e.g. the fugitive Durst passing for months in Galveston Texas as a mute woman). Secondly, the talented – but too conventionally attractive – Ryan Gosling as Marks fails to capture the icy quality and awkward eccentricity of the real Robert Durst, which is on full display in *The Jinx* (one instance in which truth is undeniably stranger than fiction). Most significantly, though, *All Good Things* emphasizes Marks' victimization at the hands of his domineering father Sanford, played by Frank Langella. When, early in the film, Marks and Katie settle down to an idyllic life in Vermont, owning and operating a health food store, it is Sanford who arrives and shatters the fantasy, forcing Marks to return to a life he hates within the family business.

All Good Things seems geared precisely towards an attempt to understand how the young Robert Durst became who he was later in life, but the bullying father Sanford is too facile an explanation for bizarre quality of charges routinely leveled at Durst. Jarecki's failure to effectively generate sympathy for the Durst character in *All Good Things* is, from an audience standpoint, the major failure of the film itself. Conventions of the narrative film suggest that audiences need not love a story's protagonist, or approve of his or her actions, yet they must still somehow be engaged with his or her plight. It may, however, be erroneous to link Jarecki's intentions with *All Good Things* solely to satisfying the cultural appetites of the general public. When promoting the film, quotes from Jarecki frequently read, "I wanted to make a film that the real Robert Durst could watch and have an emotional reaction to" (Jarecki 2010). In this respect, the film was an inarguable success. Jarecki later confirmed that Durst was not only moved to tears by the film, but compelled to get in touch with its makers and offer himself as a subject for further interviews (Jarecki 2010). While the more emotionally manipulative strategies of *All Good Things* failed to move critics and viewers, they did have the desired effect on the film's true target audience. It would seem Durst wholly bought into the narrative of his victimization, even to the point of eagerly participating in *The Jinx* against the vehement insistence of his lawyers (Jarecki 2010).



Robert Durst, star and subject of HBO's *The Jinx*

With respect to dramatic storytelling, *The Jinx* is far more compelling than *All Good Things,* due partly to its innovative incorporation of a number of techniques drawn from televised drama. The series utilizes tropes popularized by dramatic series such as 'teaser' episode openers and a stylish title sequence, which features fragments of stylized reenactment footage accompanied by sinister-sounding rock music, recalling the title sequences of *The Wire* and other popular HBO dramas (Bednarek 134). *The Jinx* also borrows its episodic structure from the conventions of the televised drama. Each chapter, though carefully arranged in relation to the overall mini-series arc, contains a dramatic structure complete with twists, cliffhangers, and comic relief. Though mainly comprised of talking heads, reenactments, and archival footage, *The Jinx*'s inventive presentation of these documentary staples has clearly influenced the conception of recent nonfiction series like *Making a Murderer* and *O.J.: Made in America* (2016). The series is comprised of six hour-long "chapters" which examine different aspects of Durst's life in non-chronological fashion. Chapters one, two and three investigate the deaths (or disappearances) of Morris Black, Kathleen Durst, and Susan Berman respectively. The fourth chapter focuses on the failed prosecution of Durst for the death

of Morris Black. The fifth explores Durst's relationship to the Durst Organization, echoing most closely the themes considered in *All Good Things.* The final and most compelling episode relates the filmmakers' discovery of a damning piece of evidence in the case of Susan Berman's murder. This episode employs a candidly reflexive style popularized in part by *Catfish* (2010), on which Jarecki served as producer, in which the filmmakers constantly intrude on the documentary reality, placing themselves as unassuming observers at the center of the unfolding drama. Jarecki and his crew ultimately become the protagonists of *The Jinx*, deciding how best to confront Durst with this latest revelation. Accordingly, the image of a sympathetic Durst from *All Good Things* dissolves alongside Jarecki's ambivalence about his subject's potential guilt.

The divergent critical responses to Jarecki's two attempts to render Durst's story highlight their contrasting dramatic impact. *The Jinx* has been praised as groundbreaking television and currently holds a score of 94% on RottenTomatoes.com, a stark difference from *All Goods Things*' score of 33%. The fact that the two works fared so differently with critics despite sharing the same storyteller and subject suggests that Jarecki is simply more adept at documentary filmmaking and/or that Durst's story was too complicated or bizarre to be made palatable in a dramatic feature easily. Indeed, the attempt in *All Good Things* to "understand" Durst consists mainly of dramatic clichés that inadvertently banalize its genuinely peculiar subject matter. Unlike this precedent, *The Jinx* plays out with chilling immediacy due to its meticulous exploration of detail and the awkward candidness of its unscripted moments. However, one notable discrepancy between the two narratives once again raises the question of Jarecki's credibility and speaks to obstacles and demands inherent in these formats themselves. In *All Good Things,* "Malvern Bump" (Morris Black) is seen murdering "Deborah Lehrman" (Susan Berman), presumably at the unseen request of Marks (Durst). If this was based on any theory put forward by the prosecution against Durst, it is notably absent from *The Jinx*. The cynical reasoning for this omission is glaring: Jarecki introduced this explanation when it served a purpose of making his semi-fictional protagonist more sympathetic, but not when it undermined *The Jinx*'s dramatic hook of the real Durst's ultimately undeniable guilt.

One could be forgiven for wondering if Jarecki is manipulating both the onscreen presentation of his subjects and the off-screen subjects themselves.

Robert Durst's gaze has become known for its cold emptiness.

The Jinx made international headlines when, following the airing of its sixth and final episode, the FBI immediately apprehended Durst. Unaware that the filmmakers were recording him, Durst appears in the show's final moments to cryptically confess to the murder of his wife, Kathleen Durst, his neighbor, Morris Black, and his closest friend, Susan Berman. The suspicious timing of his apprehension invites questioning of whether Andrew Jarecki had maintained an ethically appropriate distance from the ongoing investigation of Durst by law enforcement. Perhaps more troubling, though, is the repeated suggestion that Durst's experience of *All Good Things* as a spectator prompted his participation as an interview subject in The Jinx. As previously mentioned, discussions of ethical representation surrounding *Capturing the Friedmans* tend to center on Jarecki's misleading of subjects by an alleged feigning of naïveté. This theme was later echoed in reactions to *Catfish,* in which the filmmaker-protagonists pursue an unseen Facebook "friend" who turns out, much to their masterfully performed surprise, to be an eccentric older woman. In both cases, a particular brand of ambiguous credulity resulted in startling access to remarkably compelling but equally elusive or media-wary subjects. One could be forgiven for wondering if Jarecki is manipulating both the onscreen presentation of his subjects and the off-screen subjects themselves. His gradual intrusion on the documentary "reality" of *The Jinx* is arguably part of a larger extra-textual project in which he continually plays the role of an unassuming observer finding himself in the right place at the right time. In this sense, *All Good Things* can be even read as an elaborate

performance of Jarecki's objectivity: a coded signaling of his open-mindedness about the Durst case that, however dubious, succeeded in securing *The Jinx* rare and damning access to the most fascinating and unlikely of documentary participants.

The unusual circumstances that led to *The Jinx* afforded Jarecki a created opportunity to respond to his critics. Regarding transparency, *All Good Things* had made his non-committal position towards Durst's guilt a matter of public record. HBO's willingness to experiment with the documentary format would mean far less pressure to excise relevant material for the sake of runtime. Thus, particular ethical dilemmas surrounding the production and release of Capturing the Friedmans could be alleviated. With Durst currently in custody awaiting trial for the murder of Susan Berman, Jarecki can boast of the series' beneficial real-world impact: the potential correction of a long-standing miscarriage of justice. Especially when considered in relation to the critical and commercial failure of All Good Things, the success of The Jinx suggests a particular evolution in audience sensibilities. It seems fictional narrative conventions were unnecessary to, and in some cases even hindered, audience interest in these complex real-life crime events. By adapting his interpretation of Durst's story to a more suitable media format, Jarecki finally succeeds in coaxing audiences to share in his obsession with Robert Durst. Despite *The Jinx*'s innovativeness, both it and *All Good Things* are ultimately subsumed by the tropes of their respective formats, and the crucial variable of Morris Black's possible involvement in Susan Berman's murder remains a problematic discrepancy between the works. Its inclusion in *All Good Things* seeks to bring audience land subject closer together, while its omission from The Jinx delivers precisely the sensational access to a cold-blooded subject that true-crime audiences crave. While superficially attributable to real-life evidence emerging in the interim between projects, this discrepancy is more likely subordinate to narrative conventions inherent in their respective formats. Jarecki's true intentions in this regard will likely remain a mystery. As Durst himself memorably remarks in *The Jinx*, "No one tells the whole truth…"

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Leading image from *The New Yorker,* March, 2015.