

THE LAST ALIBI

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G. P. PUTNAM'S SONS

New York

The Trial, Day 1

(Monday, December 9)

Jason

Judge Judith Bialek, from her bench overlooking the court, peers down over her glasses at the defense and prosecution. Until now she has been businesslike, efficient, carefully instructing the twelve jurors and three alternates as to their duties in this case. But this particular case gives her pause, as she is familiar with the parties and tries to emit some kind of acknowledgment of this fact: a grim smile, lips tucked in, a brief nod in the direction of the defense table.

“Please remember, above all,” she says, “that the defendant has pleaded not guilty, and he is presumed not guilty unless proven otherwise beyond a reasonable doubt.”

Everybody knows that, of course. You’ve only made it as far as Judge Bialek’s courtroom if you’ve uttered those two words: *not guilty*. Not guilty by reason of insanity. Self-defense, maybe. But always *not guilty*!

How many times I’ve stood in a courtroom like this one, the grand, ornate walnut molding and finishes, the overdone lighting, the walls practically bleeding with the fears and horrors they’ve absorbed during the seven decades that this building has stood. *Not guilty* are the only words the exhausted and terrified defendant utters prior to trial, but so many more lie just beneath the surface, at the backs of their throats, yearning to gush forth: *I didn’t do it. I was set up. This is all a misunderstanding. It’s not like it seems. I’m not a criminal. Please, please, before this goes any further, just please hear me out!*

I’ve lost count of the number of times I’ve stood here. Over three hundred cases, if you count everything from third-chairing a trial to being the top dog, while I was prosecuting. Nearly fifty cases, surely, as a defense lawyer, standing next to a weak-kneed defendant watching the machinations of the criminal justice system begin to churn against him, the enormity of what is happening crashing down

upon him—the judge in a black robe, the steely prosecutor, the sheriff’s deputy waiting to handcuff him, the United States flag hailing over a courtroom of the public, spectators watching him stand accused by the government, peering at him with a combination of morbid curiosity and vicarious thrill.

“We will now hear opening statements from the prosecution. Mr. Ogren.”

“Thank you, Your Honor.” Roger Ogren is a lifer at the office, probably close to twenty-five years in by now. I knew him when I was there. I was surprised, in fact, to learn that he was handling this case. And I was unhappy, too. This is a man who has seen everything, who is surprised by nothing.

He is slim, unusually so to anyone who knows him, after a long illness that many thought would end his career. No longer fitting into his old suits, Roger is wearing new stuff, fashionable threads his wife must have picked out.

As Roger Ogren approaches the podium to address the jury, Shauna Tasker very subtly places her hand over mine. I turn and offer a grim smile. Shauna is my law partner. She is my best friend.

And for this trial, she is my lawyer.

“Ladies and gentlemen,” says Ogren, “we are here today for one reason and one reason only. This is a murder trial, and the defendant is Jason Kolarich.”

Ogren turns and points his finger at me. I always advise my clients to be ready for that, to have earnest, nonthreatening looks on their faces, and to return the stare. I now understand just how difficult it is.

And again I hear the cries of the thousands who have sat in this chair, their silent, desperate wailings: *It wasn't me. They have the wrong guy. You don't understand what happened, just let me explain, please don't do this to me!*

But I say none of those things. I just look at the jurors with my *I didn't kill anybody* face—yes, I practiced before a mirror—searching their eyes, wondering what it is they are seeing in me.

I will probably testify. When I do, I’m not sure it will be convincing enough to establish reasonable doubt. I’m not sure it will do more good than harm.

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I'm only sure, in fact, of one thing: When I testify, I will not tell the truth.

Six Months Before Trial

(June)

Jason

Tuesday, June 4

I push away the papers on my desk, transcripts from an ATF overhear on a weapons case the feds brought against my client. It can be painful reading, all the starts and stops, the *umms* and *ahhhs*, one talker interrupting the other, and sorting through the nicknames—Combo and Greasy and No-Dope. And best of all, the code words for the product being sold, the automatic weapons. Nobody ever says *gun* or *rifle* or *ammo* over the phone. They think if they code up the whole thing, the ATF agents—and a federal jury—will believe that these gangsters were really talking on their cell phones about the number of tickets they were planning to purchase for the movies that night.

I light the match and hold it upright, the dancing flames inching down the stem to the point where they meet my thumb and ring finger. The fire reaches my fingertips before I can finish the words:

I've got tar on my feet and I can't see.

All the birds look down and laugh at me.

I blow out the flame and toss it into a Styrofoam cup of water, whispers of fleeting smoke curling upward. The flame singed the skin on the tip of my ring finger and turned the corner of the nail black. It hurts more, for some reason, when your eyes are open, when you're watching it happen.

My intercom buzzes. Marie's voice comes over the speaker when I tap it.

"Your three o'clock," she says.

I didn't know I had an appointment at three o'clock. I didn't know it was three o'clock, either. It's three o'clock?

"I reminded you this morning?" she says in a hushed voice.

Whatever. She probably did. "Okay."

I fish through my emails and find the calendar reminder for today at three P.M. James Drinker is his name. Okay. Hooray for James Drinker.

He comes in and reaches to shake my hand. I stand cautiously and reach over the desk. The nausea asserts itself, sending a warning message up my throat to the back of my mouth, but it's always a false alarm. Sometimes retching, but never vomiting. It doesn't attack me so much as it stalks me, letting me know it's lurking out there, but never moving in for the kill.

It's not the big pains, my mother said to me about a week before she died. They've got the medicine for that. It's the knowing, boy. Knowing that it's coming and you can't stop it.

James Drinker is one of the oddest-looking people I've ever seen, a walking contradiction: big but awkward, a kid's head on a grown-up's developed body. His hair hangs around the sides of his face in tangles, a reddish mop that looks like it doesn't belong, with matching bushy red eyebrows; he is otherwise clean-cut and wears a quizzical expression on his face. He wears thick black eyeglasses. His shoulders, chest, and arms suggest he's a workout fiend, but a rounded midsection says he favors Big Macs and chili fries.

The eyes are usually the tell, but they're hard for me to inspect through the thick spectacles. If I were still a prosecutor and he were a suspect in an interview room, I'd make him take them off. My best guess: James Drinker has done some bad things.

"I haven't done anything wrong," says he.

My mistake. That's a first for me, a client denying his guilt. A first this afternoon, I mean.

"But I'm afraid I'm going to be accused of doing something wrong," he says.

"What are you going to be accused of doing wrong?"

He pauses. "This is all confidential, right?"

"Anything you tell me about what happened in the past is confidential," I say. "The only thing I can't keep confidential is if you tell me you're going to commit a crime in the future."

“I’m not going to commit a crime in the future,” he says.

That’s always nice to hear. I wave a hand.

“Okay. So James, what crime do you expect to be accused of committing?”

“Murder,” he says, without hesitation.

I sit higher in my chair. Homicides don’t walk through the door every day. And here I thought this meeting was going to be boring.

“Two women were killed,” he says. “I didn’t kill them.” Drinker crosses a leg. His sport coat opens as he leans back. Quite the fleshy midsection, this one. Pumps iron and then hits Taco Bell. I raise a fist to my mouth and fight another wave of nausea.

He takes a deep breath. “I knew each of them,” he says. “One was a friend of mine. The other one I dated. Two women I knew, two women murdered.”

He’s right to be worried. That isn’t what the police would call a fanciful coincidence.

“Do the murders appear to be related?” I ask.

He nods, but doesn’t answer at first. His eyes are combing my walls, not that there’s much to see—some diplomas and certificates, a couple of photographs. It’s part of his overall appraisal, checking the schools I attended, equating my stature with the quality of my office.

I pick up a nearby Bic pen, the cap chewed mercilessly, and chew it some more. I hate these cheap pens. I have a fancy Visconti fountain pen my brother, Pete, gave me last Christmas, but it uses replaceable ink cartridges, and I don’t want to waste good ink on this guy. The cheap Bic it is.

“Both women were followed home from where they work,” he says. “And they were both stabbed multiple times.”

The cool deliberation with which he describes the murders sends an icy wave across my back. You can defend all sorts of criminals, but some things you hear, you never get used to. On the bright side, I’m waking up.

“Alicia Corey and Lauren Gibbs,” says Drinker. “Alicia, I dated a couple of times. Nothing serious.

Just a couple of dinners.”

I write down those names with my shitty pen. I hate this pen. I should light the *pen* on fire.

“Is there proof of these dinners?” I ask.

“I . . . I paid for the dinners in cash,” he says.

Interesting. Unusual. Doesn’t make him a killer, but most people pay with credit these days. I draw a couple of dollar signs on the pad. Then a smiley face. Then a knife. My mother always said, *You have a flare for art, boy*, but she was talking to my brother, Pete.

“I have a lot of cash,” Drinker explains. “I’m a mechanic at Higgins Auto Body—over on Delaney?—and sometimes our boss pays us overtime off the books—y’know, in cash.”

Fair enough. A decent explanation to a jury, but not one his employer would want made public—in fact, one he’d probably deny if he thought Uncle Sam might get wind.

“The dinners were on May twelfth and May nineteenth,” he goes on. “She was murdered the following week. May twenty-second, I think. A Wednesday.”

“You said she was leaving work?”

“She was an exotic dancer,” he says. “A stripper. Place called Knockers?”

This guy was dating a stripper? There’s no accounting for taste, and this guy seems pretty well-built, but the goofy red hair down near his shoulders? The fast-food gut? The face made for radio?

“You’re surprised,” he says. “You don’t think a stripper would date me.”

“I don’t think that.”

“Yes, you do.”

“Tell you what, James.” I lean forward. Again, the vertigo, the feeling I’m tipping to one side. “I’ll make you a deal. Don’t tell me what *I* think, and I won’t tell you what *you* think. Deal?”

“Deal.” He nods. “So she left the club at two in the morning and she was murdered at her house when she got home. She was stabbed six or seven times.”

That’s a lot of detail for someone who hasn’t talked to the police, I think to myself. And for

someone who didn't kill her.

“Go on,” I say. “Tell me about the second woman.”

Jason

Tuesday, June 4

“The second woman was Lauren, Lauren Gibbs,” James Drinker says. “She worked at a bank and was trying to build a website design business. Nice woman. Nice woman.” His eyes move away from mine and over to the walls of my office again. “She was killed two days later, May twenty-fourth, I think. A Friday.”

“And when did you last speak with her?”

He heaves his shoulders. “Couple of weeks ago?”

“There would be phone records, emails, things like that, connecting you to her?”

“Yeah. Phone. Not email. Not Facebook. But phone, yeah. I mean, our friendship wasn’t a secret.”

I shift in my chair, but I can’t get comfortable. My hand itches, but it’s one of those inside itches that my scratching fingernails can’t find. I chew the cap on the Bic pen until it’s at its breaking point.

“Something wrong?” he asks me.

I take a breath.

“I need a minute,” I say.

I head to the bathroom and splash some cold water on my face. I see dark bags under my eyes. Sleep has been a problem for me. I reach into my pocket, remove my small tin of Altoids, and pop a mint into my mouth. I chew it up and cup some water from the sink.

When I leave the bathroom, Shauna is standing outside Bradley’s office and turns to look at me. She reads something in my expression and says, “What?”

“Nothing,” I answer.

Not interested in prolonging that conversation, I make it back into my office, where James Drinker is standing over by the wall of diplomas and photographs.

“You played football at State, didn’t you?” he asks, wagging a finger at a photograph of me catching a football my freshman year.

I ease back into my chair, making noises like an old man getting out of bed. “Once upon a time,” I say. “Let’s get back to this.”

Drinker resumes his spot in the chair across from me. “Okay.”

“Do you have alibis, James? For these murders?”

“I was like Macaulay Culkin,” he says.

I stare at him. He stares at me. I’m supposed to understand.

“Home alone,” he says. “I was home alone. I don’t get out too much.”

Now *that* I could believe. “Any evidence of your being home alone those nights? Did you make phone calls from a landline? Did you send emails or go online or order in Chinese food or order a pay-per-view movie? Anything like that?”

His face goes blank. “I’m not sure. I don’t go online a lot, but maybe. I didn’t order food or anything. I might have ordered a movie on pay-per-view or something.”

I reach for my pen but can’t find it. Must have knocked it off my desk. I bend over to search the carpet, and when I come back up, my body makes me pay: a lightning strike between the ears and a swimming pain in my stomach. I hold my breath and wait it out. Fuck the pen. I’ll just memorize the information.

“Good, okay,” I say. “Think that stuff over. Now, if the police contact—”

“I’m being set up, Mr. Kolarich.”

“It may be premature to jump to that—”

“How would you do that?” he asks. “If it was you? How would you set somebody up for murder?”

I sigh, loudly enough for him to get the picture that I’m not very interested in this conversation.

“Please,” he insists. “I think that’s what’s happening. How would you frame somebody?”

“How would I . . .” I drum my fingers on the desk. “Well, okay. The police will usually look for motive, means, and opportunity.”

Drinker scratches at his face, his mouth open in a small *o*. “Motive? Why would I wanna kill them?”

From the cops’ view, that would be the easiest part of the equation. Boy meets girl. Romance, unrequited love, maybe a little jealousy and obsession sprinkled in. If I put this homely guy next to a hot-body stripper who later wound up with a knife in her chest, first thing I’d think was, *She rebuffed him, he didn’t take it so well*. A second girl, same story, or some variation of that story. There can be plenty of variations, but the basic tale is the same—matters of the heart—and the cops see it every day.

“Opportunity,” Drinker says to himself.

“Sounds like you don’t have much of an alibi. If someone were framing you, they’d pick a time they knew you had none. Meaning, a time when you’re alone. No one to vouch for you.”

Drinker takes a deep breath. That box has been checked, in his case. He was like Macaulay Culkin.

“And *means*?” he says. “What is that?”

“He’d choose a weapon that you, yourself, had available, too.”

“Like a knife.”

“Sure, like a knife.”

He looks at me with a blank face. “Well, I have a *knife*,” he says. “Everybody’s got a knife.” He scratches his face again. “Go on. What else?”

“I don’t know what else there is,” I say. “But if someone wanted to frame you, he might want to help the cops out a little. Leave some clues.”

He shrugs his shoulders. “I don’t know if he did that or not. You mean, like, drop my driver’s license there?”

“That, or even more subtle, I suppose. Maybe scrape some grease off the floor of your auto shop

and smear it at the scene. Or if he has access to your house, he could take something from your house—a fiber of carpet, some hair from your comb, something like that—and leave it at the crime scene.”

“Damn.” Drinker looks like he’s lost a little color. “Go on. What else?”

I look up at the ceiling. It’s been a while since I framed somebody for murder, so I’m a little rusty.

“For that matter,” I say, “if he had access to your house, he could plant all sorts of things there. The murder weapon. Something from the crime scene. A drop of the victim’s blood, even.”

Drinker lets out a shiver. “I don’t think anybody can get into my apartment.”

“You should make sure of that, James. Do you have an alarm system?”

He shakes his head no.

“Get one,” I say. “It’s not that expensive. I have one. But however expensive it may be, it’s worth it. If you’re serious in thinking that somebody is setting you up, you don’t want that person getting into your apartment.”

But he can’t be serious about that, can he? He thinks someone’s killing women and trying to put him in the soup?

Silence. He studies me. His mind is wandering, and he’s not thrilled with where it’s going. I can’t tell if this guy is for real. Anything’s possible, I guess.

“Guess I got some work to do,” he says.

“I charge three hundred an hour, James. Not counting today. So I’m not cheap.”

He looks up at me, not terribly surprised to hear that number. “I think I can afford that,” he says. “I’ve been saving up.”

I don’t comment on the significance of that statement, but he—the innocent man who didn’t kill anybody—catches it himself.

“I mean, saving up for a rainy day of some kind,” he clarifies.

Fair enough. I don’t know if he’s innocent or not, but I do know that if I limited myself to innocent clients, the phone wouldn’t ring very often.

“Well, it sounds like it may be raining soon,” I say.

Jason

Wednesday, June 5

“Nobody,” James Drinker says when he returns to see me the next day. “I can’t think of anybody who would have a grudge against me. I don’t know why someone would do this to me.”

He’s wearing a sport coat again today, over a plaid button-down tucked into blue jeans, highlighting his paunch. Still the disheveled mop of red hair, but he’s a bit less apprehensive, less guarded, today.

“Okay, listen, James,” I say. “We both know that this looks potentially bad for you. The police are going to link these two murders. It shouldn’t be hard for them to learn that you dated Alicia Corey or that you were friends with Lauren Gibbs, and even if they only figure out *one* of those two facts, they’re going to cross-reference all known acquaintances between the two victims. Frankly, I’m surprised they haven’t knocked on your door yet. You with me so far?”

He’s listening intently, but doesn’t seem particularly worried. Surely he’s already figured this out independently, but usually when clients hear their lawyer say it looks bad, they start to lose composure. We’re the people who are supposed to say, *Don’t worry, it’s under control, I’m going to make it all better*. When we say *It doesn’t look so good*, they usually freak.

“I understand,” he says.

“Okay. Now. If you’re really innocent of these crimes and you think you’ve been set up, then I can get to work on this for you. You’ll have to give me a retainer, and I can start spending it down and

billing you by the hour, chasing after the person who is setting you up. I have a great private investigator, and I can do some things from here as well. But if I'm wasting my time, James, if I'm looking for someone who doesn't exist, then I'm wasting your money. Money that you might need for me to defend you in court. If you run out of money—well, I don't work for free. So what I'm saying is, we have to spend your financial resources in a smart way. I'll take your case either way. But don't send me on a wild goose chase.”

I sit back in my chair.

“So is this a good use of my time?” I ask. “Or would we be better—”

“I didn't kill those women,” he says. “I didn't. I really liked Alicia, and Lauren was a friend of mine. I didn't kill them. I don't have a criminal record. I'm—I mean, I'm basically a good person. I'm—I mean . . .” He looks away. Some color reaches his goofy face. He's almost like a cartoon character. “I know I'm . . . I'm unusual, I guess. Some people think I'm weird. I'm this big goofy guy. I mean, I'm a loner, pretty much.” His eyes return to mine. “I don't matter to people, Mr. Kolarich. I'm nobody to them.”

A little heavy on the dramatic self-pity for my taste. A lot heavy. “James, I don't care about any of that,” I say. “I'll defend you whether you're big or small. Whether you're odd or normal.” Cue the music to “The Star-Spangled Banner.” Jason Kolarich: Give me your tired, your weak, your big and goofy.

I smack my lips. Dry mouth again, the bile in the back of my throat, the slam-dancing going on in my stomach. I pull the Altoids tin out of my pocket and pop one in my mouth. I don't know what the hell to make of this guy.

“Maybe the cops won't even come talk to me,” Drinker speculates, a lilt of unwarranted hope in his voice. “Maybe they have other suspects.”

“They'll talk to you,” I say. “And when they do, you tell them you want to talk to your lawyer before you answer a single question. You understand that?”

“Yeah, I got that. But maybe they won't even talk to me. Seriously, that's possible, isn't it?”

I let out a sigh. “Sure, James. It’s possible.”

“Let’s do this, Mr. Kolarich. Jason. Let’s do this: Let’s hold tight. Let’s see what happens.”

Under the circumstances, that’s actually not a terrible idea. If there’s a guy in Drinker’s past, he’ll still be there when Drinker gets pinched.

But.

“James,” I say, “if this is really happening like we think, then this guy might not stop. He’s killing women and he might kill again. Someone else close to you. Or whomever. We should think about going to the police.”

He’s nodding along, but then he points at me. I don’t really like people pointing at me. “But isn’t that exactly what he wants me to do?”

This is all so odd. But he’s not wrong, I have to concede. What he’s saying is possible.

“Maybe do it anonymously,” I suggest. “An anonymous call to the tip line. There must be a tip line.”

“And say what?” Drinker shrugs.

I see his point. *People close to James Drinker are dying—but it wasn’t James Drinker who killed them, I swear. And this isn’t James Drinker calling, either.*

“I didn’t kill anybody, and I’m not going to jail because somebody’s trying to frame me,” he says. “There has to be another way.”

I pinch the bridge of my nose. I’m out of answers.

“Let’s hope he’s done,” Drinker says. “He might be done.”

“Okay. Okay, James.” There’s nothing else I can say. I can’t make him go to the police. And I’d be breaking my oath as an attorney if I called them myself. “Keep your eyes and ears open, James. And keep my business card with you at all times, just in case.”

He promises to do so. He approaches me and reaches over the table. I shake his hand. It is warm and moist.

He leans into me. “I hope I’m not nobody to *you*, Jason,” he says.

He gleefully bounds out the door, not waiting for an answer.

Jason

Saturday, June 8

At a quarter to three in the morning, still staring up at the ceiling in my town house, I finally surrender and pull my laptop over and open it. It's always on. I'm supposed to properly turn it off to allow for upgrades or updates or up-somethings, but I never do.

I check out a couple of fitness sites, a marathoner's site being my favorite, even though it will be a long time before I run another marathon. Still, I have to acknowledge, even with the occasional flare-up, my knee is getting better.

This is the worst time, the still of night, shadows jumping across the window, the gentle creaks and groans of the town house's foundation. I'm not so good when I'm left to my own thoughts. A night like this, normally, I'd lace it up and go for a run, no matter the time. I like the city best when I'm alone inside it, when I don't have to share it, when the streets are naked and peaceful.

There is something wrong with me, but that something is nothing. There is nothing inside me. I watch one foot move in front of the other every day. I hear my voice arguing to a judge or jurors or reassuring a client. But it's all nothing, isn't it? The clients will go to prison, and even if I walk them, even if I find some way to win, they'll be back, and sooner or later they'll find a prison cell like metal drawn to a magnet. Everyone's chasing after something, everyone wants something from somebody else, but not me.

There is a tiny earthquake in my stomach. My lips, my mouth, my throat, are dried up, sticky and itchy. I drink from a bottle of water but it doesn't help. I pop an Altoid and chew it up, then slug some more water. Then I jump to the site for our online newspaper, the *Herald*, to hear about the latest stupid thing that Mayor Champion has done, when I'm greeted with this breaking-news headline:

Breaking: Third woman stabbed on north side

I pop up in bed and click the link. The stabbing just happened. They don't know the victim or too many details. Police responded to a call in the 4200 block of North Riverwood Avenue, a woman bleeding out from a stab wound.

I don't have James Drinker's contact information with me at home, on a Friday night that is technically Saturday morning. I may have brought home my notes from our two meetings. I don't remember. These days I—Well, I don't remember, anyway.

Twenty minutes later, I'm drifting again, the slow downhill nod toward sleep. *Tomorrow*, I think, *tomorrow I'll call James*, a warmth spreading over me, while James Drinker sticks a knife into a woman, pulls it out, and winks at me.