

The Wrong Man

By David Ellis

Prologue

(January, 2010)

i

Something bad is going to happen to Kathy Rubinkowski tonight.

But at the moment she is preoccupied with the tight parallel-park job, navigating the tiny space available just a block from her apartment. She has no business fitting her Accord in the minute gap between the SUVs, but finding a spot within two blocks of her condo is as rare as a sighting of Halley's Comet, so the effort—and the inevitable dings from the neighboring vehicles—are worth it.

She looks about her before she kills the engine. Gehringer Street, this far north, is populated by gated walk-up condo buildings and the occasional single-family dwelling, usually awaiting a remake from the next yuppie couple that moves in. At a few minutes before 11:00 pm, the street is empty and sleepy. The lighting is decent. A light fog clings to the streets, courtesy of the rising temperatures today. It is January in the Midwest, but this afternoon it peaked at forty-two degrees.

She exhales and stretches her limbs. She is bone tired. Eight hours of reviewing bills of lading and shipping invoices, followed by four hours of inorganic chemistry, listening to Professor Dylan drone on in that monotone about molecular orbital theory, has left Kathy a tired girl.

She grabs her backpack from the passenger seat and eases out of the car. She closes the door and beeps it locked. The temperatures have fallen over the last hour, like the city suddenly remembered that it was Winter. Kathy does another quick scan of her surroundings. Everything seems fine. She goes around to the trunk and pops it open. She reaches in and grabs her gym

bag. She'd given thought to working out in the school gym tonight but she couldn't muster the energy. Maybe she'll do twenty on her treadmill tonight, though she doubts it.

She doubts it because she has something else to do. Not a work assignment. Not a school assignment. Not an assignment at all. Something nagging at her. Something that may be nothing, but the more she thinks about it—

She closes the trunk. A soft, quick gasp escapes her and she stumbles backward against the grill of the SUV behind her. A moment ago there hadn't been anyone on the street. Now there is. She takes a breath.

“Sorry,” she says, aware of her frazzled reaction. “You startled me.”

In less than five seconds, a bullet enters her skull between her eyes. The bullet is a straight front-to-back, shattering the sphenoid and ethmoid bones and the orbital plates and lodging in her brain stem. It creates a shock wave that propagates through her brain, causing instantaneous loss of consciousness. Only a moment before she lacks any capacity to do so, Kathy remembers that tomorrow is her twenty-fourth birthday.

She collapses to the street in a dead fall. Blood pours from her nose and mouth, fueled by a heart that does not yet realize it should stop pumping. Her blackening eyes do not see the man's hands maneuvering her purse off her arm, removing the cell phone from her waist holder, yanking the necklace off her neck.

She does not hear the echo of the man's shoes on the pavement, scurrying away from her lifeless body.

ii

Detective Frank Danilo watched through the one-way mirror. The offender was talking to himself, his lips in constant motion, his hands curled up but his fingers wiggling.

The prints taken at the booking had come back to a Thomas David Stoller. Age 27. Discharged from the Army twenty-three months ago. Domiciled officially on Van Hart Way but from the looks of it, Stoller called Franzen Park his home.

“He hasn’t stopped talking.” Detective Mona Gregus sipped her coffee. “Couldn’t make out a frickin’ word if my life depended on it.”

“Because he’s mumbling or because he’s incoherent?”

Gregus shook her head. “Maybe both.”

“Is he for real?” Danilo asked. “Because you see where this is gonna go.”

“Yeah, I do, Francis, but it’s not our problem. Let’s get a statement and let the ACA take care of it.”

Danilo nodded. He tapped her arm with the back of his hand. He picked up the evidence box and they entered the interview room.

The smell hit them first, powerful body odor. Tom Stoller had matted dark hair that went in every direction. A heavy beard that had collected assorted debris. He was wearing two layers of clothes on top, a ratty undershirt and a stained, ripped, long-sleeved shirt with lettering so faded it was indecipherable. He’d been found in these clothes. That was odd only because he lived and slept outside, and this amount of clothing was no match for the freezing temperatures.

Stoller had bags under his dark, unfocused eyes. His cheeks bore scars and an uneven complexion. He was unnaturally thin. Stoller's shoulders curled in upon the detectives' entry to the interview room, but otherwise he showed no signs of recognition.

Detective Danilo was in role now, but he couldn't help but pause a moment. An Iraqi war vet, now homeless. He wasn't officially the victim here, but that didn't mean he didn't have his own share of tragedy. That was always the worst part of the job for Danilo, when you felt just as bad for the offender as you did the vic.

Danilo flicked on the video camera and looked through the lens to make doubly sure it covered the chairs at the table. Of course it did, but still—there'd been that incident eighteen months ago in Area Two when the camera somehow got moved, and the detective hadn't checked. Judge Mulrone had been amused at seeing a camera filming a blank wall and hearing audio only; he kicked a perfectly good confession on a double homicide.

The detectives took their seat at the table across from the offender. "This is Detective Francis Danilo. With me is Detective Ramona Gregus. The interviewee is Thomas David Stoller." Danilo ran through Stoller's social security number and last known address as well as the date, time, and location of this interview.

"Mr. Stoller, I'm Detective Frank Danilo. This is Detective Mona Gregus. Can I call you Tom?"

Stoller kept up with the mumbling, but now he had tucked his chin and lowered his voice. Gibberish. Incoherent babble.

"Tom, can you look at me?"

The offender peeked up at him, then straightened his posture.

“Tom, you have the right to remain silent. Anything you say can and will be used against you in court. You have the right to an attorney. If you can’t afford an attorney, one will be appointed to represent you. Do you understand these rights, Tom?”

The offender looked back and forth between the detectives. His head nodded all the while. The video camera would capture the nods. The Supreme Court never said the consent had to be verbal.

“Tom—”

“You got ... water?” Stoller asked, his voice rough with phlegm. First contact.

“You want some water, Tom? We can get that for you.”

Detective Gregus left the room. Danilo waited. Technically, he could continue, but a defense attorney could play with any statement made while Stoller waited for his water. No court would find coercion, but the right jury, with the right lawyer, might buy that Stoller thought he wouldn’t receive basic sustenance unless he gave the coppers what they wanted.

A moment later, Gregus put two large Styrofoam cups of water in front of Stoller. He drank them each down in single gulps, water escaping the sides and dripping from his dirty beard. He smacked his lips and nodded.

“I’m hot,” he said.

“Okay,” said Danilo. “We can get you a blank—you’re *hot*?”

“I’m hot.”

Must be nerves, Danilo figured. Internal thermometer rising due to anxiety. It happened sometimes. It was hard to imagine this guy wouldn’t have a permanent chill with his lack of clothing and the outside temp in the twenties, but he’d been inside for several hours now.

“Tom, do you know why you’re here?”

Stoller didn't answer. He'd stopped his mumbling and seemed to be listening.

Danilo opened the evidence box and lifted the bag holding the murder weapon, the Glock 23 semi-automatic pistol.

"That's my gun," Stoller said, as Danilo dangled it before him.

Danilo snuck a peek at Gregus. Jesus. That was easy.

"This is your gun, Tom?"

Stoller reached for it. Danilo pulled it back.

"That's my gun," Stoller insisted, as if wronged.

"We need to hold onto it, Tom. Okay? Keep your butt in that chair."

"It's mine." Stoller stared down at the table. "It's mine."

"Where did you get this gun, Tom?"

Stoller didn't answer. Like maybe he didn't hear it. Danilo repeated the question and still got no response.

"Where do you live, Tom?" he asked.

The suspect's eyes danced, a crooked smile appearing briefly. "Where do I ... live?"

"Okay, sleep," said Danilo. "Where do you sleep?"

"Park." Stoller chuckled.

"Franzen Park?" The answer seemed obvious enough. Franzen Park was the name of the surrounding neighborhood, a yup-and-comer, where some high-end townhouses were sprouting up amidst apartment buildings where students like Kathy Rubinkowski lived. But Stoller clearly spent his nights in the park itself.

Stoller shook his head, but he didn't seem to be responding.

“West side of the park, Tom.” Danilo tried to sound casual. “A street called Gehringer. You know that street, Tom?”

No answer. A slow build-up didn't seem to be getting Danilo very far. The detective drummed his fingers and thought a moment.

“Why'd you run from the cops, Tom?”

The police had found Stoller in Franzen Park, behind the park district's main building, huddled between two dumpsters, inventorying a purse later identified as belonging to Kathy Rubinkowski. He threw a two-by-four at one of the cops, knocking away his flashlight, and ran for a good three blocks before the uniforms, with the help of an additional patrol car, cut him off.

Stoller stopped his fidgeting. His eyes darted about. Fresh heat, fresh odor came off him. His forehead had broken out in sweat. His hands came off the table, poised in mid-air. He seemed to be lost in some world other than this one.

Detective Danilo waited him out. But Stoller didn't seem ready to spill. So Danilo repeated his question about running from the police tonight. He tried some others, too. *What did you do last night, Tom? Where'd you get this purse, Tom?*

“Tom.” Danilo slammed his hand down on the table.

Stoller winced at the sound but didn't turn to Danilo. Like he heard a sound but couldn't place it. His lips moved quickly but damned if Danilo could make out a single word.

“Tom!” he repeated, slamming his hand down again.

Detective Gregus retrieved a file folder from the evidence box. Crime scene photos. She pushed them over to Danilo and nodded.

Right. Probably the right time for this.

Danilo slid a photo across the table. Kathy Rubinkowski, lying dead on the street by her car, amidst a pool of blood.

The suspect glanced at the photo and looked away, whipping his head around, his eyes squeezed shut.

“You did this, Tom, didn’t you? You killed this woman.”

The table rocked on its legs as Stoller pushed himself away, jumping from the chair.

“Tom, did you shoot this woman?”

Standing away from his chair now, Stoller shook his head violently and tugged at his hair with both hands.

“Tom, if you don’t explain this to me, you’re going to be charged with first-degree murder.”

“No.” He shook his head so hard, so uncontrolled, Danilo thought, he must be hurting himself.

“Tell me how it went down, Tom, or you’ll spend the rest of your life—”

“Put it down!” Stoller barked in a low, controlled baritone. “Drop it! I said *put it down!*”

The detectives looked at each other. Neither of them was holding anything they could put down. What was he—

“Put it down!”

Danilo steeled himself. Security was one concern. But there were no loaded weapons in this room and they could hit the emergency button under the table, alerting the stationhouse of the need for emergency assistance, if things got out of control.

The camera was another concern, but the suspect would still be within the camera’s sight line, and the volume of his voice was more than sufficient.

Stoller braced himself, feet spread, and continued to shout his command: “Drop the weapon! Drop the weapon right now! Put down your weapon!”

His eyes were closed the whole time. He was essentially shouting at the wall.

Tense silence followed, a few seconds. In a careful voice, Danilo asked, “Did she pull a weapon on you, Tom? Is that how it happened?”

“I told you to put it down!” Stoller’s posture eased. His voice lowered from a stiff command to a plaintive plea. “I told you ... I told you to put it down. Why didn’t you”

Stoller collapsed to the floor. He let out a wretched wail, somewhere between an anguished, girlish squeal and a guttural animal cry.

“Wake up!” he whined. “Please don’t ... don’t die ... please God don’t die”

Stoller burst into uncontrolled sobs.

Detective Danilo pinched the bridge of his nose and let out a long sigh. Sometimes he hated this job.

Book I

(October-November, 2010)

1

Deidre Maley held her breath until she left Courtroom 1741. A proud woman who took care to contain her emotions, she waited until she had a small portion of the corridor to herself before she burst into tears.

She'd felt so helpless. So angry and confused and helpless. Watching her nephew Tommy in that prison jumpsuit, those vacant eyes staring at the floor as the judge matter-of-factly issued rulings that she couldn't completely comprehend, and that Tommy surely couldn't follow in his current condition. Their lawyer, a public defender, was a nice man who seemed to care about what he was doing, but he always had so many cases going, he was always so hurried, always promising that there was plenty of time to prepare for the trial, even though it was less than *two months away*.

After a while, Deidre collected herself. Crying about it was never going to solve anything, her mother always said. Her nephew Thomas didn't have a mother, not anymore. She was all he had now.

She saw a couple of men who looked like reporters—if carrying notepads and handheld tape recorders were any indication—rush into the neighboring courtroom, 1743. Not being in a particular hurry to return to work, she followed them inside.

A trial was obviously in progress, the antiseptic silence and formality coupled with tension. Dread filled her chest. In just a few short weeks, her Tommy would be on trial just the same.

Deidre took her seat and watched. In the center of the room, a lawyer in a grey suit stood with a pointer in his hand, next to a blow-up photograph that rested on a tripod and was turned toward the jury. From what she could see, it was a photograph of a gas station and a street.

“Now, Ms. Engles,” the lawyer boomed, “are you confident that you had a clear and unobstructed view of the shooting?”

“Yeah.” In the witness stand sat a young, pretty African-American woman, mid-twenties at best.

“This truck.” Turning to the blow-up photograph, the lawyer aimed his pointer at a truck parked at the gas station, parallel to the street and perpendicular to cars that would be pumping gas, except that there were no cars in the photograph. “This truck did not obstruct your view?”

“No. We were on the far end. You could see the street around the truck.”

“For the record, the far west end?” The lawyer used that pointer again. “The furthest west end of the gas station?”

“Right.”

“The furthest west row of gas pumps?”

“Yeah.”

“And you were on the west side of that last row of gas pumps?”

“Yeah.”

“And showing you People’s 24, previously introduced.” The lawyer moved to a second photo, a second tripod. “Does this photograph accurately depict your point of view, sitting in the driver’s seat of your automobile, while your car was parked on the west side of the farthest west row of gas pumps on the night of the shooting?”

“Yeah, that’s how I saw it.”

“And you can easily see straight ahead to the street, which would be south, without obstruction from that gas truck?”

“Yeah, real easy.”

“And you are certain, Ms. Engles, that the person you saw fire a weapon and kill Malik Everson is sitting in the courtroom today?”

“Yeah, it was Rondo.”

“By ‘Rondo’ you mean Ronaldo Dayton.”

At the defense table, the lawyer nudged an African-American man sitting next to him. That man stood up.

“That’s Rondo right there,” said the witness.

“The record will please reflect that the witness identified the defendant, Ronaldo Dayton.” The prosecutor nodded with satisfaction. “Nothing further,” he said.

Deidre sighed. The prosecution had so many resources. An army of police officers and lab specialists and doctors, fancy blow-ups and diagrams, everything that defendants like her Tommy lacked. It was such an unbelievably lopsided fight. Unless you had money.

Or you got really lucky with a good defense attorney.

“Afternoon, Ms. Engles.” The defense lawyer strode into the center of the courtroom. Her first full look at him, he wasn’t what she’d expect in a lawyer. He looked more like a football player. Tall with broad shoulders. A formidable person. Judging from the expression of the witness, she held the same opinion as Deidre.

“My name’s Jason Kolarich. Can I call you Veronica?”

“Ronnie,” she said. “Can I call you Jason?”

She giggled a bit. So did a couple of jurors.

“Sure, why not?” he said. The lawyer didn’t have any notes with him. He stood just a few feet away from the witness, angled toward the jury. “Ronnie, you have a relationship with a guy named Bobby Skinner, don’t you?”

“Yeah.”

“Bobby is the father of your daughter.”

“Yeah.”

“And Bobby, he’s a member of a street gang, right? The African Warlords?”

“Not no more.”

“Well, we might disagree on that, but—we *can* agree, at least, that Bobby used to be a Warlord.”

“Yeah, used to be.”

“And he still has friends there. He still hangs with them, doesn’t he?”

“He’s got some friends, yeah.”

“And my client, Ronaldo Dayton, he runs with the Black Posse. Isn’t that your understanding?”

“Yeah, Rondo’s with the Posse.”

“And the Posse and Warlords, as far as you understand it, they don’t get along so well, do they?”

“No, they don’t get along.”

“It would be just fine with the Warlords if a member of the Posse went down for this shooting, wouldn’t it?”

“Objection,” said the prosecutor.

“Sustained,” said the judge, an attractive woman with long gray hair.

“Your boyfriend Bobby told you to make this story up, didn’t he?”

“Objection.”

“The witness can answer.”

“Bobby didn’t tell me that,” the witness protested.

This lawyer, Jason Kolarich, seemed to have already moved on, expecting the denial. He nodded and shifted a step to his right. The jury seemed to be paying close attention to him. He had a commanding presence in the courtroom, a quiet confidence that seemed to draw everyone in.

“You testified that you bought gas at the Mobil station at about a quarter to two in the morning.”

“Yeah. Yeah, see, ’cause I left my friends and I’s low on gas and I didn’t wanna get gas the next morning before work ’cause I wouldn’ta had time.”

Kolarich nodded. “The attendant at the gas station—he didn’t see who shot Malik Everson, did he?”

“Don’t know about that.”

“You’re the only eyewitness.”

“Don’t know about *that*, neither.”

Kolarich smiled amiably enough. “That’s fair. Now, when you first told the police that you witnessed the shooting, you weren’t real clear on where your car was positioned—which row of gas pumps you were using. Correct?”

“I—I don’t think we talked about it?”

“Okay, but you didn’t say, ‘I was on the furthest west row of gas pumps.’ Nothing like that.”

“Not right away but they didn’t ask, y’know.”

“Right. I know.” Kolarich looked over at the prosecution. “It was only *after* you were shown the photograph of that gas truck blocking virtually the entire view of the street that you and the cops came up with a story that your car was on the far west row of gas pumps.”

“Objection.”

“Sustained,” said the judge. “That question is stricken. Mr. Kolarich, we’ve discussed this.”

“We have, your Honor. But Ronnie, I have the chronology right, don’t I? It was only after you saw that photograph of that huge gas truck blocking the street view that you told the police your car was parked at the *only* gas pump from which you could’ve had a view of the street.”

The witness shrugged. “I’m not sure. I think maybe that’s right.”

Kolarich went to the table and lifted a document. “I can have you review the police report chronology if you like.”

“No, I’ll take your word for it,” the witness said.

“Good enough.” Kolarich paused, looked at the ceiling, stuffed his hands in his pockets. “And—you said you were driving a 2006 Pontiac Grand Prix. That was the car you filled up at the gas station.”

“Yeah. I got the receipt from the credit card.”

“You have a receipt that someone using this card bought gas. That’s all it says. True?”

“I don’t ... I don’t get you.”

“The receipt doesn’t say what car received the gas, or what person pumped it.”

The witness still seemed perplexed.

“Isn’t it true, Ronnie, that your Grand Prix was parked *outside your house* at the time of the shooting?”

This time, the witness didn’t answer so quickly. “My car—”

“If I told you that your neighbors will testify that your Grand Prix was parked outside your house at the time of the shooting—”

“Objection, Judge! Objection.”

The judge raised a hand. “The objection is sustained. Mr. Kolarich, you know better. Ladies and gentlemen of the jury, please disregard Mr. Kolarich’s last question. He just stated ‘facts’ to you that haven’t been established as facts.”

“Not yet,” said Kolarich.

The judge turned on Kolarich. “Counsel, you will not interrupt this court and you are not doing yourself any favors here. This is not the first time I’ve given you this warning. But it will be the last. Are we clear?”

“Yes, Judge.”

“Ladies and gentleman, you are not to believe so-called ‘facts’ just because a lawyer says he has these facts. You will only consider the evidence presented. Now, Mr. Kolarich, see if you can behave yourself.”

“I was driving Bobby’s car,” the witness blurted out.

Kolarich turned to her. “I’m sorry?”

“I just forgot which car, is all. I was driving Bobby’s car. Bobby’s got him a Mercedes he bought. A used one. He’s real proud of it.”

Kolarich paused for a long moment. He raised a hand, as if it trying to work it all out. “You drove Bobby’s car.”

“Right. It’s also kinda small like the Grand Prix. I just got mixed up on the car. But it don’t change what I saw.”

“I see. I think I have that record somewhere.” Kolarich trudged back to his table and opened a folder. On the other side, the prosecutors were flipping through some papers themselves. “Okay, here it is. Bobby Skinner drives a 2006 Mercedes C280 4-matic. License plate KL-543-301. Does that all sound right?”

“Yeah, I think so. That’s the license plate and it’s a Mercedes. He parks it in the garage so that’s why the neighbors wouldn’t a known if it was parked there or not.”

The witness sat back in her seat and seemed pleased with herself, as if she were winning a debate. It sure seemed like she was from Deidre’s viewpoint.

Kolarich threw the slip of paper on his table, looking exasperated and disappointed, and turned around to face the witness. “But you’re *sure* you were in the driver’s seat, having just pumped gas, when the shooting occurred. Isn’t it possible you remember that wrong?”

“No, I’m sure about it,” said the witness with renewed animation.

“And you were staring straight forward, looking south at the street where the shooting occurred. You’re sure you weren’t facing north?”

“I’m sure, Jason,” she said, smiling. She really was a cute young lady.

“And you’re still *sure* you were positioned at the farthest west end of the gas station, the last row of gas pumps, and on the west side of that last row?”

“Yeah.” She was feeling better now, having recovered nicely from a brief slip-up.

“So from your position in the driver’s seat of the car, if you looked to your left, there was the gas pump you were using. Forward was the street where the shooting occurred. And to the right were no gas pumps, just open space and the restaurant next door?”

“Yeah, that’s right. See, I never thought about it from, like, which car ’cause I drove away as soon as I seen the shooting and that part about which car, it didn’t matter. Grand Prix or Mercedes, I wasn’t thinking, y’know.”

“Well, I guess that makes sense,” said Kolarich. “Because the shooting would have stuck out in your mind more than the car you were driving.”

“Yeah, right.”

“Mercedes, Grand Prix, they’re roughly the same size—you just slipped up in your memory.”

“Right, yeah.”

“Okay.” The lawyer sighed. “But just for the record, you’re *sure* now that it was your boyfriend’s car, the 2006 Mercedes C280 4-matic, that you were driving. Not the Pontiac Grand Prix.”

“Yeah, I mean, now that you say it and all. Yeah, I’m sure.”

The lawyer let out an audible sigh and shook his head, seemingly defeated. Maybe beneath the impressive surface, Deidre thought to herself, he wasn’t that great a lawyer, after all.

The judge said, “Anything further, Mr. Kolarich?”

“Oh, just one more thing, Judge,” he said. “Ronnie, how did you pump the gas?”

“How did I—what?”

“How did you pump the gas?”

“I—same way you always do, I guess...?”

The lawyer moved away from the table, back toward the witness. “No,” he said. “What I mean is, if you pulled the driver’s side of the car up to the gas pump, as you’ve repeatedly

testified, how did you fill the tank? When the gas tank for a 2006 Mercedes C280 is on the *passenger* side?”

The witness froze.

Jason Kolarich smiled.

And so did Deidre Maley.

2

My client, Ronaldo Dayton, looked better than I'd ever seen him as the sheriff's deputy escorted him from the defense table to the county lock-up. I promised him I'd stop by later to review the case before tomorrow, but I already knew that I wasn't going to put on a defense. We would rest and closing arguments would follow. I didn't want to give the prosecution any time to try to rehabilitate their star witness, who hadn't turned out to be such a star, after all.

"Mister ... Kolarich?"

I turned around and saw a woman standing with her hands clasped together, as if in prayer. She was on the high side of middle-aged, gray and weathered, wearing a troubled expression. That wasn't exactly surprising. There weren't a lot of happy faces in the criminal courts building.

"My name is Deidre Maley," she said.

"Pleasure to meet you," I said. My mother raised a polite boy. His name is Pete, my brother. But I have my moments, too.

"That was ... impressive," she said. "Do you mind if I ask? How did you know she wasn't driving the Pontiac?"

The courtroom had filtered out. The jury was long gone and the prosecutors had left, too.

"I didn't," I said. "I just knew she was lying."

She considered me. She probably couldn't decide if she was impressed or disgusted.

"My nephew needs your help," she said.

Okay, put her down for impressed.

“He’s been charged with ... felony murder, they call it. He has a public defender for a lawyer but I’d like someone else.”

I asked, “Who’s the P.D.?”

“Bryan Childress.”

“Sure. He’s good.” I knew Chilly back from law school. He’d been with the P.D.’s office since graduation. But he was about to leave. I wondered if she knew that.

“He’s good, but he’s about to leave,” she said.

Check.

“And I think ... I’d like you to represent him, Mr. Kolarich.”

The P.D.’s office gets a bad rap. Most of them are actually quite good. But they’re overworked, so sometimes clients feel like they’re not getting special treatment.

“I don’t have very much money,” she said. “But if you could be patient—I promise I’d find a way to pay you.”

She was probably in her sixties, so her earning potential wasn’t exactly at its peak.

“Tom is a sweet boy. He’s sick. He came back from Iraq a different person. I tried to keep an eye on him but I just couldn’t. My husband, you see, suffers from multiple sclerosis, and I couldn’t take care of Tom like I should have. I can’t help but feel like this is all my fault.”

And I couldn’t help but feel like I was being played. Aunt Deidre was laying it on pretty thick. I was waiting for her to collapse so I could catch her in my arms.

“His parents are deceased,” she added. “I’m all he has for family.”

Did he rescue drowning orphans, too? But lucky for her, she caught me in a good mood.

“I’ll meet him,” I said. “After that, no promises.”

3

Don't ask me why I do the things I do.

But I was bored. And this one sounded interesting.

The Madelyn R. Boyd Center was two blocks south of the criminal courts building. I finished a preliminary hearing I had before Judge Basham on a B-and-E and met Bryan Childress in front of Boyd at eleven sharp. We were both surprised that I was on time.

Childress wore a gray suit and black tie. Cheap stuff. Chilly never cared much for clothes. Back in law school, he never cared much for anything at all except for which bar we'd hit that night.

"So, Ronaldo Dayton," he said to me. "Well done. I heard the jury came back in four hours?"

Three, actually. Rondo was probably still celebrating as we spoke.

Chilly whistled. The state had really wanted that one. It wasn't that they cared so much about one gang-banger killing another, but Ronaldo Dayton was a chief with the Black Posse, and they wanted him bad.

We went through the doors up to the front desk. "Hey, Chilly," said one of the guards, a younger guy, meaning my age. Looked familiar.

"Jimmy, you remember Jason Kolarich? From the gym."

He nodded at me. "Sure. I caught one or two of his elbows."

Right. Now I placed him. We played hoops together a couple weeks back. "I was trying to teach you the three-second rule," I said.

He seemed to like that. "You guys going up to the penthouse?"

Childress nodded. I showed my bar card. Jimmy the guard took down my information and handed me a piece of paper with instructions. I knew the drill. I'd been here a couple times when I was a prosecutor and was trying to flip a gang-banger.

Jimmy followed us into the elevator and slipped a key card into a slot, the only way you could punch a button for the penthouse. Nobody was supposed to go up there by accident.

I looked over the instructions on the sheet of paper.

DO NOT:

- **Touch the glass partition**
- **Pass the inmate anything that has not been placed in the visitor's container at the guard station**
- **Accept anything the inmate tries to pass to you**
- **Pass anything through the speaking holes**
- **Turn off any lights**

THE TRANSFER OF CONTRABAND TO AN INMATE IS A VIOLATION OF SECTION 2-16 OF THE CODE OF CORRECTIONS AND IS PUNISHABLE BY UP TO 6 YEARS IN PRISON.

When I looked up from the piece of paper, Chilly was smirking at me. He was almost my height, with reddish-blond hair and a spray of freckles across his rosy cheeks. He looked like a leprechaun on human growth hormone.

“So you met Aunt Deidre,” he said. “She’s a persistent one.”

I folded the instructions and put them in my jacket pocket. The door opened on six. The guards, a man and woman, sat behind a desk. Above them, in a thick, boxy font, were the words:

Department of Corrections

Pre-Trial Detention Services

Segregation Unit

The walls were painted a dull orange, with a large clock and a photo of our governor, Edgar Trotter, smiling broadly. Three windows allowed mid-morning sunlight that angled across the tile floor. It had the sedate, antiseptic feel of a medical facility.

Bryan, who was counsel of record, filled out the paperwork. Case name, docket number, relationship to inmate, that kind of thing.

“We had you down for an interview room,” the female guard said to Chilly. “If he’s not counsel of record, it’s no-contact.”

“Right. That’s fine.”

They made me sign a form indicating I understood the visitation etiquette and a waiver absolving the state of any liability for any damages resulting from this visit. We emptied all of our pockets and gave up our cell phones and wrist watches.

“Anything you want to transfer to him?” the guard asked.

Chilly looked over at me. “You want to give him your business card?”

I slipped one out of my pocket and into the round plastic container. The guard made sure that was all we wanted and then closed it up.

The male guard stood up. “You gentlemen have any questions?”

We didn’t. The guard handed us visitor badges and walked us down a hall. We passed through a metal detector and another guard picked us up.

“Our guy was an Army ranger in Iraq,” said Bryan. “First lieutenant. An honorable discharge, nothing indicating any problems, nothing but good stuff on his record. When he gets home, he has a break with reality, as they say. He drops out of college, can’t hold down a job, and finally goes to ground. He’s arrested a couple of times on vagrancy and shoplifting, nothing

that really sticks. But as far as anyone can tell, he's been living on the street for over a year when the murder happens."

"Combat fucked him up," I said.

"It would fuck *me* up."

Me, too. "So he shoots a woman getting out of her car in Franzen Park," I said, recalling Bryan's summary yesterday. "On Gehringer near Mulligan, by that shoe store. And your guy says this was post-traumatic stress? A flashback? He thought the woman was some soldier in Iraq and he opened fire?"

"Basically."

"And our client told the cops that the victim pulled a gun on him?"

"In the interrogation, he committed to it. He said he told her to put the gun down. He said it over and over again to the detectives. 'Put it down. Drop the weapon. Put it down.'"

"But you don't buy it?"

Chilly let out a low moan. "The victim didn't own a gun, and there's no evidence she had one. No GSR on the victim, no embedded bullets found at the scene, other than the one in the vic's skull. Point being, if she had a gun, there's no trace of it."

"But if he was flashing back, it was just him hallucinating, anyway. So who cares if he was accurately perceiving events?"

"That's the argument, Counselor. It just would have been nice if she actually had a gun. It would make the whole thing feel more real to the jury." Chilly hit my arm. "Oh, and I haven't told you the best part: Our guy told the cops he apologized to the victim. 'Please don't die,' 'I'm so sorry,' that kind of thing."

It was my turn to moan. Seek forgiveness and you might spend your afterlife in Heaven. But you'll spend your mortal life in a state penitentiary. Our state followed the modified ALI on insanity. The defendant had to show that he suffered a mental defect that prevented him from appreciating the criminality of his conduct. Basically, that means he has to prove he didn't know what he was doing was against the law.

It's a bit difficult to claim you didn't know you'd done something wrong when you immediately apologized to the victim after you shot her.

We reached the room. The guard unlocked the door and reminded us that we'd be monitored at all times with video, but not audio.

The room was partitioned with a thick glass. On our side, besides a dingy floor and peeling paint, there were two chairs and a shelf that ran along the partition. The smell of bleach hung in the air.

We sat in the chairs and waited for the arrival of Bryan's client.

"There's a wrinkle," he said, his voice lowered.

I looked at him. "What's the wrinkle?"

And then the door on the other side opened, and in walked Thomas Stoller.

4

Tom Stoller was led in by an unarmed guard. He moved awkwardly, as if the guard were helping him put one foot in front of the other.

“Hey, Tom,” said Bryan.

Stoller was wearing a gray pullover, blue jeans, and slippers on his feet. He had hair to his shoulders, an unshaven and scarred face. His eyes were unfocused and his expression was, well, void of expression.

“How’s it going, Tom?”

Stoller rolled his head back and forth. He licked his lips incessantly, his tongue playing peek-a-boo.

“They had eggs this morning,” he said.

“Yeah? That’s good. You look like you could use a good meal.”

He nodded at Bryan’s comment and looked off in the distance.

“Tom, this is Jason Kolarich. Remember we talked about this lawyer I wanted you to meet?”

Stoller was on the young side, probably not even thirty, and the bright redness of his lips from his persistent licking made him look even younger. He was gaunt, but he had wide shoulders and looked like it wasn’t so long ago that he was in pretty good fighting shape. If he was an Army Ranger, he must have been.

“Tom, you remember I told you that I was leaving the public defender’s office? That I’d need someone to take the lead on your trial?”

Stoller's eyes dropped for a moment, like he was concentrating. After a time, he said, "You told me you weren't gonna be my lawyer anymore."

"That's right. But I wouldn't turn over the case unless I found a really good replace—"

"You were ... wearing that tie with stripes. Red."

Bryan paused a moment. He seemed to be accustomed to disorganized conversations with his client.

"Was I? I don't—"

"'Cause I said I liked it. And you said your mom bought it for you." Stoller scratched his jaw.

Chilly sighed and put his hands on the table. "Okay, Tom—"

"You think it's okay if I wear a tie at my trial?"

"Yes, Tom, but listen to me, okay? Can we talk about the case for a minute?"

The client's eyes wandered again. He didn't answer.

"I wanted you to meet Jason. He's a lawyer like me."

Stoller was in full motion now, licking his lips and rubbing his hands together. This guy was suffering from more than post-traumatic stress disorder.

"It's hot in here," he said. "I take off my clothes at night to sleep but they don't like it when I do that. I'm hot all the time."

"Lieutenant Stoller," I said with some force. I can make my voice count when necessary.

His eyes popped up to meet mine. He stopped fidgeting.

"I'll be your lawyer if you want. Is that okay with you? It's your choice, Lieutenant."

He broke eye contact after a moment; it was too much for him. He went back to his habitual comforts, his tongue stabbing out and his hands in constant motion. "I just want this to be over," he said. "Can you make it colder in here?"

I looked over at Bryan, who nodded toward the door.

"Think about it, Lieutenant," I said. "You don't have to decide now."

"I'll come back soon, Tom," said Chilly. He stood and motioned to the video camera in the corner of the room. A moment later the same guard came through a door to retrieve Stoller.

"I don't care who my lawyer is," he said, as the guard touched his arm. "I just want this over."

We watched him walk out through his door. Then we left through ours.

"A *wrinkle*," I said to Chilly out in the hallway. "What's the diagnosis?"

"Schizophrenia. Disorganized schizophrenia. They think it was triggered by the PTSD."

"Disorganized is right."

"Aunt Deidre didn't mention any of this?"

"No," I said. "She said he was sick. She wanted me to see for myself, I think."

Chilly put his hand on my shoulder. "You surprised me in there, Counsel. I thought this was just a feel-out session. I didn't expect you to offer your services."

So Tom Stoller suffered from post-traumatic stress disorder and disorganized schizophrenia. He admitted to apologizing to the victim after he shot her, so an insanity defense was an uphill climb. Self-defense was a sure loser; it would be hard to believe that a young woman would appear to be a threat to a homeless man.

This case was a d-o-g.

"He said he's hot in his room," I told the guard at the front desk.

“This ain’t the Four Seasons,” the male guard said, reading some document.

I stared at the guard, but he wasn’t looking at me. Staring at someone doesn’t impress your point if they don’t know you’re staring at them. I wanted him to know. So I slapped my hand down on the table in front of him. Now he knew. He looked up at me, momentarily startled and then offended. He was the guy with the gun, after all.

I said, “This isn’t one of your behavioral cases. This is a guy who’s mentally ill. This is a guy who served two tours in Iraq and came back broken. He put his ass on the line for his country and paid a pretty steep price. Now whaddaya say we check on that temperature?”

“We’ll check on it,” said the woman. “Dial it down a notch or we’ll put you in cuffs.”

We got into the elevator.

“So?” Chilly asked me as we rode down. “Why’d you take the case?”

I shrugged. “Aunt Deidre got to me.”

“Yeah, but you wanted this case, didn’t you?” He wagged a finger at me. “And I’ll bet everything you learned up there made you want it even more. I mean, it looks like a dog, no?”

I shrugged. “You said yourself. With you leaving, there’s nobody available on your staff who could do it without wanting another continuance. And I’m not that busy.”

We reached the ground floor and the doors parted. “Okay, well, this is great, Jason. Thanks. Tom’s a good guy and he deserves the best.”

He’d have to settle for me. I had fifty days to be all that I could be for First Lieutenant Thomas David Stoller.

5

Judge Bertrand Nash is one of these larger-than-life legal figures in this city who seemed like he'd been on the bench since the dawn of mankind. Word is that he once served as the County Attorney—the top local prosecutor—but I'm not sure anybody is alive today to actually attest to that fact. If you looked up the definition of “judge” in the dictionary, you'd expect to see his picture: the broad, weathered face; the thick mane of silver hair; he even has a baritone voice belying his age.

He is imperialistic and stubborn and gregarious. He spares absolutely no one his wrath, which may come in the form of a stinging rebuke or withering sarcasm, always to the acclaim of the spectators in the courtroom, most of them lawyers well-trained in the art of laughing uproariously at every tidbit of humor offered by the man in the robe.

He treats his courtroom like a treasured jewel. He tolerates no informality, no breach of etiquette circa 1890 or whenever he cut his teeth as a practitioner in the courts. You don't approach the witness without permission. You don't dare utter a sound after an objection is made until he's addressed it. You don't address the court unless you're on your feet, and only then if he invites you. You don't ask for an extension of time on a response to a motion unless your reason for doing so involves death or serious bodily harm. And you are never, ever late to court.

Cancer took a bite out of him two years back, but he's slowly rebounding, growing that wide face back into the loose-fitting skin around his eyes and jowls. The guy is probably going to live to a hundred, if he isn't already there.

This morning, Judge Nash looked over his glasses down at me. “You’re a bit late to the game, Mr. Kolarich,” he said.

“Yes, your Honor. As Mr. Childress indicated—”

“I can read, Mr. Kolarich. Mr. Childress is moving on to greener pastures, I see?”

“I’ll be joining Gerry Salters’s firm, yes, Judge,” said Bryan, standing next to me.

“Mr. Salters is a fine attorney. A lousy golfer, but a fine attorney.”

Like a laugh track in an old sitcom, the courtroom burst out in amusement.

Judge Nash looked over at the prosecution team, led by a woman named Wendy Kotowski. “Do the People have any objection?” he asked.

I moved to the side so that Wendy could address the microphone. Judge Nash handled his courtroom more like the federal courts, where the lawyers spoke from a lectern into a microphone.

Wendy said, “We would only object to a continuance at this stage, Your Honor.”

The judge looked alternately at me and Childress, then back to Wendy.

“I didn’t ask you if you objected to a continuance, Ms. Kotowski. I asked you if you objected to substitution of counsel.”

Wendy should have known better. This wasn’t her first time in front of this guy.

“We do not object, provided that it will not delay this proceeding,” she clarified.

“What about that, Mr. Kolarich? Will you be seeking to move this trial date?”

“Your Honor—”

“It’s a one-word answer, Mr. Kolarich. Do you want to move this trial date? We’re scheduled for trial six weeks from now.”

“Judge, my answer depends—”

“That’s more than one word, Counsel. I said one word. And I gave you your choice of yes or no. These are basic words of the English language.”

The judge looked over our heads at the gallery. We were first up, which you never wanted to be in front of Judge Nash. He was playing to the crowd.

“Maybe,” I answered.

“*Maybe?*” The judge rotated his head. The courtroom went silent, waiting for the volcano to erupt.

“Maybe,” I said.

The judge’s eyes narrowed. “Well, how about this, Counsel: This case has received several continuances and I don’t want another. Mr. Childress has undoubtedly prepared this case for trial and the parties are prepared to try this matter on the scheduled date. If your entry into this matter requires a continuance, keeping in mind that Mr. Childress is perfectly capable of staying on as lead counsel, I will have to think very hard about your motion. Now,” he said, leaning forward, “does that change your answer?”

“No,” I said.

The judge blinked. He didn’t like my response. A defendant’s right to counsel of his choice is sacred in the law. It transcends virtually all other rights. It is not without limits but a judge runs very close to that word he dreads the most—*reversal*, an appeals court overturning his ruling—when he tells a criminal defendant he can’t have his chosen lawyer.

The judge had been trying to box me in, and I’d called his bluff.

After a moment, a twinkle appeared in his eye and one side of his mouth moved. Judge Nash loved the artistry of the courtroom. He respected someone who was willing to play the chess game.

“I’d like to hear from the defendant,” said the judge.

Tom Stoller was seated in the holding pen to our right, staring at the corner of the courtroom, seemingly oblivious to all of us. A guard had to walk over and get him to stand up. He was wearing a canary-yellow jumpsuit befitting an inmate in solitary lockup pending trial.

“Mr. Stoller, do you understand that the purpose of the proceeding today is that Mr. Kolarich is seeking to become your lawyer instead of Mr. Childress?”

Tom wouldn’t look at the judge and kept up with the same tics, the tongue popping in and out of his mouth and the wiggly fingers, even though his hands were cuffed in front of him. “Okay,” he said.

“You understand that, sir?” The judge’s tone had softened. He liked beating up on us lawyers but an individual defendant got kinder, gentler treatment. Plus the courts of appeal in this state were big fans of the Sixth Amendment, and no judge wanted to be viewed as denying someone the counsel of their choice.

“Yeah.”

“And this is something you agree with, Mr. Stoller? You want Mr. Kolarich to be your lawyer?”

Tom’s eyes bored into the floor. “Okay.”

“Well, I want it to be more than ‘okay,’ Mr. Stoller. This isn’t my request. This is *your* request. You want to change lawyers? Because Mr. Childress here is a fine, experienced attorney who has handled your case for some time. And the law firm that’s going to hire him can wait for him, if you’d prefer to keep him.”

“Okay,” Tom said.

The judge sat back in his chair, exasperated. “Mr. Kolarich also is an excellent attorney. He’s appeared before me many times and I have no qualms about his abilities. But he’s coming into this trial very late. I’m not sure your case is that complicated, but he’s still late. And I want you to understand, I am going to be very reluctant to move your trial date. So before you choose, you need to understand that. Now,” he said, “do you understand what I’m saying?”

“Yeah.”

I was pretty sure Tom was having a different conversation inside his head right now.

“Who do you want as your lawyer, Mr. Stoller?”

Tom looked at both of us. Then he pointed at me. “Him,” he said.

“You are indicating Mr. Kolarich?”

“Okay.”

The judge took a deep breath. “Even though he’s only going to have five-plus weeks to get ready for this trial? I am very unlikely to move this trial date.”

“I don’t wanna,” Tom mumbled.

“Say that again, Mr. Stoller?”

“I don’t wanna move it. I want this over.”

The judge studied Tom a moment, concern arching his eyebrows.

“May I be heard, Judge?” I asked.

“You may.”

“My client doesn’t want a continuance, Judge. But I very well may. My client is mentally ill and I think he should take my advice. So far, he hasn’t. I’m not prepared to move for a continuance at this time, but I may do so.”

“You’ll carry a heavy burden,” Judge Nash warned me. He granted the motion allowing me in as lead counsel and called the next case.

I looked back at Deidre Maley—Aunt Deidre—who was watching her nephew walk out of the courtroom, tears brimming in her eyes. When he was gone, she turned her eyes to me.

Thank you, she mouthed to me, showing a bit more hope in that expression than I’d previously seen.

I sincerely hoped that it was warranted.

6

Don't ask me why I do the things I do.

The part about being at Vic's until closing—that part's easy. The vodka helps me sleep. And I don't like drinking alone, even if I don't know anyone else in the bar.

The part about the girl, though. That's the don't-ask-me-why part.

I watched her for three hours at the end of the bar. Came in alone about ten, maybe ten-thirty. Thin and dirty-blond and pretty. But not like a Barbie doll. Petite face, slightly crooked nose, but a look about her more than anything. Like she's seen a lot.

Character, they call it. That's what I like, a face with character. I don't trust Barbie dolls. I prefer women who don't realize how attractive they are.

Ten-thirty, we'll call it, she came in. Kept to herself. Looked my way once or twice, but that was due more to the fact that we were opposite bookends of the wraparound bar, so I was directly in her line of sight.

She wasn't the problem. The yuppies and middle-aged burnouts in their work costumes, talking big and making their moves, they weren't the problem, either.

The two guys in the corner booth, they were the problem. Swarthy Italians with thick manes of hair and even thicker necks.

They sent over the first drink to the lady about midnight, when the population had dwindled from thirty to single digits. A glass of Pinot. She turned and smiled and looked away before she could see the two men in the corner, raising their glasses of Scotch to her in response.

The second drink came half past midnight, when there was a finger's worth remaining in her glass. She said something to the bartender that I couldn't make out. Maybe that's because I was on my fourth vodka, but the volume of her voice seemed to match her petite build.

The bartender personally delivered the next round of Scotch to the goons in the corner, and his voice was a little stronger than the lady's.

"She said thanks, guys, but she's not in the mood for company tonight. She said no offense."

"Ho!" cried one of the Italians, wounded.

The peppy adult contemporary music had changed to soft, boozy jazz. Cologne still lingered in the bar. I was getting tired and figured I could sleep well now, but something told me to stick around.

Besides, I could use the exercise. In the week-plus since I'd entered Tom Stoller's case, I'd gone through all the evidence the prosecution had turned over and everything that Bryan Childress and the public defender had gathered on Tom's behalf. I'd spoken again, with little success, to Tom himself. I didn't get much out of him besides the meal plan for that day and the temperature of his room. I hadn't gone for a run for nine days running, and our recent mid-October ice storm hadn't helped matters any. Either way, the lack of exercise had left my muscles itchy.

The woman fiddled with her smart phone a moment. She didn't seem like the smart phone type. Not the aggressive, corporate sort, this one, not if I was reading her correctly. But what did I know? All I could really figure was that she was nursing some sort of wound, and she could hold her liquor. Counting how she started plus the ones courtesy of the Sicilians, that made six wines, which would tip me more than four Stolis.

The seventh came courtesy of the goombahs again. I don't know why the bartender didn't run interference for the lady, but he served her up. That was it for the lady. She pushed it away and pushed herself off the bar stool.

She didn't even acknowledge the corner boys, which might have been a smart move. Save them some face. Italians are like that. Lost every war they ever started but still think they're the toughest guys going.

"Ho!" one of them called out.

I settled up and threw on my coat.

Both men stood up. They weren't tall but they were wide. Weightlifters, the muscular shapes of their shoulders and arms notable even through their winter coats.

"That's no kinda polite," thug number one said. "All those drinks and not even a 'hello'?"

The woman, who had thrown on her long white coat and gathered her purse, turned to the man. "Hello," she said. "And goodbye."

"No, no, no." They picked up their pace as she left the bar.

So did I. When I pushed through the door, the three of them were standing outside. One of them, the beefier one, was holding the lady's arm by the bicep as she tried to yank it away.

"—your name," he said. "Least you can do is tell me your name. I bought you all those drinks?"

"I didn't *tell* you to buy me any drinks," she protested. Her voice wasn't so weak, after all. She seemed like someone who could take care of herself under normal circumstances.

"Just let her go," said the second goombah.

"I'll let her go when she tells me her name and thanks me for the drinks."

All at once, everyone seemed to notice me. Maybe that's because I cleared my throat really loudly. The woman caught my eyes. Both goons turned and looked at me. Our breath lingered in the frozen air. This is where the protocol called for me to de-escalate the situation.

"I'm the one who should be upset," I said. "I sat there the whole night and you didn't buy me a single cocktail."

"This don't concern you," said the one holding the woman's arm.

"A wine spritzer, something," I said. "Throw me a bone."

Goon number two squared off on me now. "How 'bout I throw you my fist?"

"Clever. Good comeback. Listen, fellas," I said.

Don't ask me why I do the things I do. As awkward as it was, my presence was eventually going to be enough to make them release this woman. And a smooth diplomat like me could have gotten these men on their way without fisticuffs. A lot of braggadocio and threats—face-saving—but not fisticuffs. The guy was too close for me to throw a punch, anyway.

So I threw him an elbow. I'm right-handed but for some reason I can throw a stronger left elbow. Go figure. Like my brother's a righty but swings a golf club lefty.

The elbow caught him in the soft part of the skull at the temple. I can't take total credit for knocking him over, as there was a decent patch of ice on the sidewalk. Anyway, he lost his feet and fell hard on his left shoulder and his head collided with the ice.

Maybe it's unresolved aggression. Re-living my childhood or something. My mother always told me I couldn't solve problems with my fists.

But like I said, it was an elbow.

“That had to hurt,” I said to the other goon. “I’m Jason, by the way. What’s your name?”

“Now what’d you do *that* for?” said he. Sounded like a rhetorical question. He was playing it tough but from my take, the wariness in his eyes, he didn’t want to escalate the situation. More bark than bite. Once again, protocol dictated I give him an out to save face.

“You still haven’t told me your name,” I answered. “I’ll get you started. It ends in a vowel.”

The other guy got to his knees. His shoulder was bothering him. He probably had a headache, too. This ice is a bitch.

“Not the last time we’ll be seeing each other. Understand?” This from the first one, who released the woman and went over to his help his buddy.

“I’m here most nights,” I said.

It took them some time to leave. Number two got to his feet, cussed a few times and mumbled some aggressive thoughts. But they were leaving. The threat was over.

The woman could have been on the next block by now if she’d wanted. But she stuck around. Watched them leave, waited until they were well out of sight.

Then she turned on me. “I can fight my own battles, thank you.”

“You had that situation under control, did you?”

“Dealing with jerks has become my specialty.”

Present company excluded, I’m sure. She smoothed her hands over her white coat. Frozen breath trailed out of her mouth. Her heels looked vulnerable on the ice.

“Safe travels,” I said.

She walked away without another word.