

PERFECT ALIBI

a Mike Daley Mystery by

SHELDON SIEGEL

1/ YOU AREN'T A CIVIL LAWYER

Friday, June 17, 2:34 p.m.

The Honorable T.J. Putnam Chandler exhales with melodramatic disdain. The Presiding Judge of the San Francisco Superior Court–Civil Division can feign exasperation as convincingly as any jurist in Northern California. “Mr. Daley,” he bellows, “why are you wasting this court’s time on a beautiful Friday afternoon?”

As if I had anything to do with the scheduling of this hearing. I summon an appropriately deferential tone. “Your Honor,” I say, “we are here to contest the defendant’s motion for summary judgment.”

The three-hundred pound Brahman responds with another pronounced sigh. The fifth-generation San Franciscan firmly believes his appointment to the bench was an entitlement bestowed upon him by birthright. To those of us who have the privilege of appearing before him, it’s common knowledge that Putty Chandler is well into the back nine of a thoroughly undistinguished judicial career. The dour bureaucrat has to go through the motions for six more months before he can start collecting his pension and retreat to a cushy corner office in a private mediation firm where he can work a couple of days a week for triple his current salary—as if he really needs the money. His more immediate concern is that he may be late for his regular three-thirty tee time at the Lake Course at the Olympic Club.

Judge Chandler leans forward in the custom leather chair he had to buy on his own dime. The state budget covered the construction costs of the workman-like civil courthouse across McAllister Street from City Hall, but there wasn't much left over for furniture. His bushy right eyebrow shoots up toward his mane of uncombed gray hair. The Einstein look is better suited to physicists. His voice fills with its customary scorn. "You're a *criminal* lawyer, aren't you, Mr. Daley?"

"Yes, Your Honor." I prefer the term defense attorney.

"That means you spend your time representing *criminals*, doesn't it?"

It will serve no useful purpose to remind him that everybody who watches *Law and Order* knows we're supposed to pay lip service to the concept that you're innocent until proven guilty. The Putty Chandlers of the world draw no substantial distinction between people who are accused of crimes and those who are actually convicted—or, for that matter, the attorneys who represent them. "We take on *pro bono* civil matters from time to time," I tell him. "This case was referred to us by the Haight-Ashbury Legal Aid Clinic."

He's unimpressed. "As I recall, the last time you were in my courtroom, you were trying to make the world safe for panhandlers."

"Something like that, Your Honor." A couple of years ago, I filed a civil suit for false arrest on behalf of a homeless man on the theory that the cops had violated his constitutional right of free speech. It wasn't precisely what the Founding Fathers had in mind when they drafted the Bill of Rights, but it seemed like a good idea at the time. Not surprisingly, Judge Chandler ruled against me. That case is still working its way up the appellate ladder.

He points his gavel in my direction. "Mr. Daley," he says, "I trust you understand we try to conduct ourselves with greater professional decorum over here in the civil courts?"

"Absolutely, Your Honor." I don't care how many of your inbred ancestors are living off their trust funds in Pacific Heights—you're still

a pompous jackass.

I shoot a glance at my law partner and ex-wife, Rosita Fernandez, who is providing moral support from the front row of the otherwise empty gallery. I met Rosie at the Public Defender's Office two decades ago. I was fresh out of Boalt Law School after a brief and unsuccessful attempt at being a priest. She was fresh off an acquittal in a capital murder case after a brief and unsuccessful attempt at being married. After a string of victories, the *State Bar Journal* boldly proclaimed we were the best PDs in Northern California. Then we made the tactical error of trying to transform a successful working relationship into a more intimate one. We quickly discovered we were more adept at trying cases. The wheels fell off our marriage two years after it started. After a five-year cooling-off period, we formed the tenuous law partnership we've operated slightly north of the subsistence level for the past decade.

"Mr. Daley," the judge says, "I understand the plaintiff is claiming she was injured by a product manufactured by the defendant."

"That's correct, Your Honor." That's why it's called a product liability case.

I steal a look at the plaintiff's table, where my client is staring intently at her jet-black fingernails. Andrea Zeller is a sullen young woman whose closely cropped pink hair, twin nose rings, and gothic tattoos project an acceptable professional image for her day job as a sales clerk at Amoeba Music, a cavernous store in a converted bowling alley in the Haight. When she isn't peddling CDs, she plays bass guitar for a heavy metal band known as Death March. She prefers to be called by her stage name, Requiem. I've tried, without success, to explain to her on several occasions that patrician judges like Putty Chandler tend to have little empathy for people who exercise their right of free expression through body piercings and tattoos.

"Your Honor," I continue, "we have fulfilled our obligation to provide *prima facie* evidence that Ms. Zeller's injuries were caused by a

defective product. The defendant's motion for summary judgment therefore should be denied."

This gets the attention of my worthy opponent. The aptly named Gary Winer is a cloying, owl-eyed man with large, horn-rimmed glasses, a horrific comb-over, and a grating nasal voice. He's spent the past thirty years trying to make the world safer for insurance companies. He has also perfected a legal strategy that may be summarized in three words: delay, delay, delay. He nods reassuringly to his client, a greasy, middle-aged man whose ill-fitting black suit matches the bad toupee that he probably bought on eBay.

Winer stands and addresses Judge Chandler. "Your Honor, the plaintiff wouldn't have been injured if she had followed the easy-to-understand instructions included with my client's product."

"She did," I say. Well, more or less. "The on-off switch didn't work properly."

"Your Honor," Winer drones on, "my client has rigorous quality control standards. Nobody has ever complained about the switch."

"There's always a first time," I say.

Winer won't let it go. "This is what happens when criminal lawyers bring civil cases. They don't understand our procedures."

Now *that's* a cheap shot. "Your Honor," I say, "the Civil Code isn't *that* much more complicated than the Penal Code."

"Nevertheless," Winer continues, "if Mr. Daley insists on proceeding with these unsubstantiated charges, we will need additional time to conduct a full structural analysis of this product."

He's stalling. "Your Honor," I say, "we don't need to take up this court's valuable time with expensive experts to prove Ms. Zeller was injured when the defendant's product malfunctioned. We've submitted an affidavit from a reputable engineer attesting to the design flaws in the switch. We've provided a sworn statement from her doctor and copies of her medical bills. Unless Mr. Winer's client is prepared to reimburse

Ms. Zeller for her medical bills and lost wages, this case should move forward to trial.” So there.

Putty Chandler’s chin is resting in his right palm. “Mr. Daley,” he says, “what can you tell me about the product in question?”

“It might be more appropriate to have that discussion in chambers.”

“Denied.”

Have it your way. “If I might ask the bailiff to bring it over to you.”

Judge Chandler’s bailiff is a world-weary African-American woman with the unenviable job of trying to keep her boss from making an ass of himself—no small assignment. “Your Honor,” she says, “counsel’s point might be well taken.”

He doesn’t take the hint. “Is it offensive?” he asks.

“Not really.”

“Pornographic?”

“Not exactly.”

“Then please deliver it to the bench.”

Her eyes dart toward the ceiling, then she dutifully hands him a shoebox marked with an evidence tag. The judge removes a device that’s the size of a screwdriver. He takes off his glasses and examines it. “Mr. Daley,” he says, “is this some sort of power tool?”

You might say that. “It’s a marital aid,” I tell him.

“What does it do?”

The same thing as Viagra. “It stimulates erotic feelings.”

He quickly sets it down on the bench. “How was your client injured?”

How do I say this? “The on-off switch jammed as Ms. Zeller was, uh, gratifying herself. She sustained bruises in certain sensitive areas.”

“I see.”

He’s getting the idea. Thankfully, he doesn’t ask for additional details. A reasonable argument could be made that Requiem didn’t use the product in precisely the manner contemplated by the easy-to-

understand instructions.

“Your Honor,” Winer says, “Mr. Daley has not provided any evidence our product is defective.”

“I’d be happy to show you,” I say.

“Your Honor—” Winer implores.

The judge stops him with an upraised hand. “Approach the bench, gentlemen.”

We do as we’re told.

The judge puts a huge paw over his microphone. “We’re off the record,” he whispers. “It seems to me the most expedient way to decide this matter is to have a demonstration of the allegedly defective equipment.”

“Fine with me,” I say.

“That would be highly irregular,” Winer says.

“I *want* a demonstration, Mr. Winer,” the judge says.

It’s my cue. “It works just like a flashlight,” I explain. I slide the switch to the “On” position and it springs to life.

Judge Chandler’s interest is piqued. “How do you turn it off?” he asks.

“That’s the problem.” I keep my tone clinical. “It’s supposed to shut down when you slide the button back to the ‘Off’ position. Unfortunately, it doesn’t.”

“Your Honor—” Winer says.

I cut him off. “I don’t expect you to take *my* word for it, Mr. Winer.” I hand him the pulsating equipment. “Move the button to the ‘Off’ position.”

Gary Winer has many talents, but manual dexterity isn’t one of them. He corrals the bucking bronco and holds on for dear life. He makes a heroic, but ultimately futile, attempt to manipulate the switch. “I can’t get it to stop,” he says.

“Neither could Ms. Zeller,” I reply.

Winer loses the handle and inadvertently flips the merchandise in my direction. I snag it just before it hits the floor.

The judge can't contain a smile. "Nice catch, Mr. Daley," he deadpans.

"Thank you, Your Honor." I make a big display of pretending to jimmy the switch. "I think we're going to have to remove the batteries."

"You've made your point, Mr. Daley." Putty Chandler turns to his favorite page in the judicial playbook: trying to broker a quick settlement. "Did Ms. Zeller sustain any permanent injuries?"

I answer him honestly. "No, Your Honor."

"How much were her medical bills?"

"About ten thousand dollars. Her lost wages were another five grand. I've told her she's unlikely to collect punitive damages."

"So you're willing to dispose of this case for fifteen thousand dollars?"

"Yes, Your Honor."

"Are you prepared to keep the settlement terms confidential?"

"Absolutely." Requiem isn't interested in making a statement—she just wants the cash.

Judge Chandler's pleased expression suggests he may make it to the Olympic Club after all. He turns his attention back to Winer. "You can make this go away for fifteen grand," he says.

"If we admit liability, we will be inundated with frivolous lawsuits."

"Mr. Daley has already agreed to keep the terms confidential."

"But Your Honor—"

"Let me put it this way, Mr. Winer. If you don't settle this matter in the next ten seconds, I'm going to rule there is sufficient evidence to move forward *and* that Ms. Zeller may assert claims for punitive damages. A full-blown trial will run your client at least six figures in legal fees—not to mention the possibility a jury may come back with a verdict for a lot more than fifteen grand. You know how unpredictable

juries can be, don't you, Mr. Winer?"

"Yes, Your Honor."

"You're going to make this go away, aren't you, Mr. Winer?"

"Yes, Your Honor."

I'm not inclined to quibble about whether Judge Chandler is trying to serve the interests of justice or the interests of getting in eighteen holes before the sun goes down. Either way, Requiem comes out ahead.

"Step back, gentlemen," the judge says to us. He turns to his court reporter. "I have good news. Mr. Winer and Mr. Daley have agreed to a confidential settlement of this case. Have a nice weekend, everybody."

###

"Nice work," Rosie says to me.

"Requiem was very appreciative," I reply.

"I'll bet." Rosie's cobalt eyes twinkle as we're standing in Judge Chandler's empty courtroom. "You just made the world a safer place for consumers of sex toys."

"It will be my lasting legacy to the justice system—and mankind."

Her right eyebrow shoots up in a manner I still find irresistible. "Did you tinker with the switch to make sure it wouldn't turn off?"

"That would have been dishonest."

"I'll take your word for it. I trust you appreciate the irony of an ex-priest representing a client named Requiem in a case involving a sex toy?"

"I wasn't planning to tell the Archbishop." Enough gloating. "Is Grace going out with Bobby again tonight?"

"Yes."

Our sixteen-year-old daughter was one of the few positives to emerge from our marriage. "They've been spending a lot of time together," I observe.

“Yes, they have.”

Bobby Fairchild isn't Grace's first boyfriend. He is, however, her most serious. They met at a high school science fair last October. As far as we can tell, their relationship has been reasonably tame. He's the sort of kid that I'd like Grace to marry—in another twenty years. He graduated last week from the prestigious and very private University High School in Pacific Heights. He's on his way to Columbia in the fall. His father is a Superior Court judge who is on the fast track to the federal bench. His mother is a neurosurgeon at UCSF.

“You need to start dealing with it like an adult,” Rosie says.

“I'm trying. Is your mother staying with Tommy tonight?”

“Yes.”

Our energetic four-year-old son was an unplanned surprise long after Rosie and I split up. Around the same time, we decided to move forward as a permanent—albeit unmarried—couple. Life is full of compromises.

“Does that mean we have time for an early dinner to celebrate my great victory?” I ask.

“Absolutely.”

The door swings open and San Francisco's newly elected Public Defender strides forcefully down the center aisle. After three decades of toiling in the trenches, Robert Kidd finally got his chance to fill the top spot of the office he's served capably for so long.

“What brings you to the civil courthouse?” I ask him.

“Slumming.”

“Us, too.”

In a modest accommodation to the realities of modern political campaigning, our former mentor has ditched his Men's Warehouse suits for a more polished Wilkes Bashford look. Nevertheless, the charismatic sixty-year-old still embodies the working-class values of his upbringing in the Mission District. His hair is thinner and his jowls are

larger, but his clear blue eyes still radiate the same intensity I first saw when he was promoted to the head of the felony division. At six-two and a lean two hundred pounds, he starts every morning with a six-mile run across town to the functional new building a half-block south of the Hall of Justice that houses the PD's Office.

"I just saw Putty Chandler heading to his car," he says.

"Did he have his golf clubs?" I ask.

"As a matter of fact, he did. He said you're developing a new specialty in the law of sex toys."

"It was a cameo appearance on a *pro bono* case. On Monday, we'll be back in the trenches fighting the good fight on behalf of drug dealers, pimps, and other small-time crooks."

"Glad to hear it."

My ever-practical ex-wife interjects. "You didn't come looking for us on a Friday afternoon just to give us a hard time for taking a civil case," Rosie says.

"I wanted to see if you've had a chance to consider my very attractive offer."

He'd asked us to take over his old job as head of the felony division at the PD's Office.

"We're still thinking about it," I say. "We've been busy."

"Working on *civil* cases." It's the ultimate put-down to a defense lawyer.

"We take a few *pro bono* referrals from the Bar Association. Ninety-nine percent of our work is criminal."

"*One hundred* percent of our work is criminal. You aren't a civil lawyer."

"I'm a very civil lawyer. We just don't handle many civil cases."

"We don't handle any."

"We like to pick our clients," Rosie says.

"Most of whom are flaky or deadbeats—or both," he says. "Not to mention the long hours, the little thanks, and the lousy pay."

“That’s no different from the PD’s Office,” Rosie says.

“True enough, except you’d be working for me—that should count for something.” He turns serious. “I’m trying to upgrade the quality and reputation of our office. I need competent people like you to train the next generation.”

“We’re flattered,” I say, “but we’re trial lawyers. We don’t want to spend the next ten years shuffling paper.”

“I’ll get you help with the admin stuff. I’ll let you pick some cases to try. We have decent health benefits and a good retirement plan. You aren’t going to get rich, but you won’t starve. It’s a pretty good deal when you have one kid heading to college soon and another who’s starting grammar school. I might even be able to offer you some flexibility in your hours.” He flashes the recently developed politician’s smile that’s still a work in progress. “What’s it going to take to get your answer today?”

“You sound like a used car salesman, Robert.”

“Cars. Lawyers. It’s all the same.”

“We understand the urgency. We’ll get back to you as soon as we can.”

The Public Defender of the City and County of San Francisco nods and heads toward the door.

“What do you think?” Rosie asks me as soon as he’s out of earshot.

“It may be a chance to work on some interesting cases for a good guy. We’d get to train some talented young lawyers. It would be a regular paycheck and decent benefits. He’s even willing to let us work part-time.”

“But?”

“I’m not sure I’m ready to cash in our chips to go back to a job that we left fifteen years ago. It’s a step backward.”

Rosie gives me a thoughtful look. “Maybe it’s a step forward,” she says.

#

I'm lying in bed, thinking about Robert Kidd's offer, when my phone rings. I can tell immediately from the tone of Rosie's voice that something is terribly wrong. "I need you to come over right away," she says.

"Are Tommy and Grace okay?"

"They're fine."

"What about your mother?"

"She's fine, too."

I flip on the lamp in the bedroom of the tiny fifties-era apartment where I've lived since Rosie and I split up. There's just enough room for a sagging double bed, a worn oak dresser, and a couple of mismatched nightstands. My eyes struggle to adjust to the light as I squint at the watch my grandfather acquired for a sack of potatoes in Galway City over a hundred years ago—or so our family legend goes. Gramps was also an accomplished pickpocket. Either way, I know for a fact my father wore the same watch as he walked the beat in San Francisco's toughest neighborhoods when I was born fifty-four years ago.

"It's two o'clock in the morning," I say to Rosie.

"If you wanted to work regular hours, you shouldn't have become a defense lawyer."

It would be a serious tactical error to elevate this discussion into a full-blown argument. "What is it?" I ask.

"Bobby called. It's his father."

"Is Judge Fairchild sick?"

"No," Rosie says. "He's dead."

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Saturday, June 18, 2:04 a.m.

“**D**id he have a heart attack?” I ask Rosie.
“No,” she whispers. “He was beaten to death. Bobby found the body when he got home. It may have been a botched robbery.”

Dear God. “What else did Bobby tell you?”

“I didn’t talk to him. He called Grace on her cell. I tried to call him back, but he didn’t answer.”

“Does this have anything to do with the Savage case?”

“I don’t know.”

Judge Fairchild recently presided over the highly charged racketeering trial of the owner of San Francisco’s most notorious towing company. George Savage is a warm and fuzzy guy who cut a sweetheart deal with the City to rid our overcrowded streets of illegally parked cars. In performing this valuable public service, his highly trained professionals developed a propensity for cruising upscale neighborhoods and towing vehicles seemingly at random, with a particular affinity for high-end sports cars. When Savage’s people took your car hostage, you had to find a cabbie who was willing to risk his life to drive you down to the massive impound lot in the most dangerous corner of the Bayview, where you had to pony up three big bills plus a highly recommended

gratuity in cold, hard cash to liberate your vehicle. If you were lucky, your car was missing only its side mirrors and hubcaps. If you were unlucky, it was stripped clean. If you were *really* unlucky, you never saw it again.

A zealous investigative reporter at the *Chronicle* (with the assistance of a couple of our City's erstwhile auditors) determined that Big George had also developed a proclivity for lining his pockets with millions of dollars that rightfully belonged to the hardworking taxpayers of the City and County of San Francisco. Our media-savvy DA filed charges and our well-trained prosecutors spent six months going toe-to-toe in a bloody war of attrition against Savage's well-paid army of defense lawyers. During the trial, Savage made no secret of his contempt for the prosecutors, the jury, and especially Judge Fairchild. Rumors of intimidation and jury tampering were rampant. After three long weeks of deliberations, the jury convicted Savage of a single count of failing to pay his local business taxes and levied a million dollar fine. Most people considered it a slap on the wrist. His well-oiled operation never missed a beat.

"Is Bobby still at his father's house?" I ask.

"As far as I know."

Bobby's mother and father separated acrimoniously about six months ago. Their respective barracudas have been trying to divvy up the spoils and work out support and custody arrangements ever since. At Bobby's graduation last week, his parents sat in separate corners and didn't say a word to each other. His mother, Julie, still lives in what used to be the family home in Cole Valley, a quiet neighborhood wedged between the UCSF Medical Center, Golden Gate Park, and the Haight. His father rented a remodeled Victorian a few blocks away. Bobby and his younger brother, Sean, have been shuttling between the two houses.

"Were you able to reach Julie?" I ask.

"Not yet. I paged her and left a message. The hospital said she was in surgery."

Damn it. "What about Sean?"

Bobby's brother just finished his freshman year at the exclusive Urban High School in the Haight. He's a shy, sensitive kid who has borne the brunt of his parents' separation.

"He didn't answer his cell," Rosie says. "Grace said he was spending the night at a friend's house. I would assume the cops—and Julie—are looking for him."

No doubt. "Where did Grace and Bobby go last night?"

"To dinner and a movie." She waits a beat before she adds, "In the City."

"I thought we agreed that they would stay closer to home."

"Yesterday was Bobby's eighteenth birthday. Grace politely asked for permission."

"Which you granted?"

"You don't get to second-guess my parental decisions if you aren't available for a consultation."

That's never stopped me. "What time did they get home?"

"One o'clock."

"That's way too late, Rosie. She's only sixteen."

"I'm well aware of that, Mike. I made my feelings known to them."

So will I. "The cops are going to want to talk to him," I say. "And to Grace."

"I know."

"Am I the only person who sees a potential problem here?"

Rosie invokes the sanctimonious tone I've always found infuriating. "Bobby graduated third in his class at University High. He was an all-conference baseball player and the editor of the school newspaper. He got early admission to Columbia."

"To the cops, he's also a person of interest."

"It doesn't make him a suspect."

"I didn't say he was. It's also no secret that he and his father weren't getting along."

“It isn’t uncommon for teenagers to have strained relationships with their parents—especially during a divorce.”

Tell me about it. “How strained was theirs?”

“Bobby wouldn’t hurt anyone, Mike. Besides, he has a perfect alibi.”

Our daughter.

###

“Come in, Michael,” my ex-mother-in-law whispers.

Sylvia Fernandez is standing inside the front doorway to Rosie’s house. Except for her gray hair and crow’s feet, she could pass for Rosie’s older sister. She celebrated her seventy-ninth birthday last month by having her left hip replaced so she could keep up with Grace and Tommy. At times, I think she can outrun them. She recently instructed her doctors to accelerate her rehabilitation program. If they’re smart, they’ll do exactly as she says.

“Is Tommy asleep?” I ask.

She gives me the knowing smile of a grandmother. “Not anymore.”

I see my four-year-old son’s wide brown eyes peeking out from behind his grandmother. Tommy’s round, cherub-like face breaks into an enthusiastic smile. Sporting his trademark San Francisco Giants pajamas, he gives my right leg a tight bear hug. “Hi, Daddy,” he shrieks with glee.

It’s been a while since I got a similarly warm welcome from his sister. “Hi, Tom. What are you doing up so late?”

“I heard Mommy talking to Grace.”

He’s a happy kid, but he’s also a worrier—a trait he inherited from me. “It’s no big deal,” I say. “Everything is going to be fine.”

“No worries?” he asks. I’m not sure if he picked up the line from me or Barney the Dinosaur.

“No worries,” I reply.

I take off my jacket and look around at the cluttered space serving as Rosie's living room, home office, and playroom. Rosie, Grace, and Tommy live in a post-earthquake era cottage in Larkspur, a quiet burg about ten miles north of the Golden Gate Bridge where the neighborhood is safe and the schools are good. Their house is three blocks from my apartment behind the fire station. From time to time, we talk about trying to cohabitate under one roof. Invariably, we find the buffer zone allows us to diffuse our occasional differences of opinion. It also means Rosie takes the brunt of living with a teenage daughter. When Grace directs her angst my way, I try to remind myself she's an honor student and the starting shortstop on the Redwood High School varsity softball team. She's also a mercurial soul who inherited my propensity for stubbornness and Rosie's independent streak—traits that are not always becoming in a teenager.

"Why are you here so late?" Tommy asks.

"Lawyer stuff," I say. It's my standard answer. Tommy has no real comprehension of what Rosie and I do. He understands our work frequently requires us to go downtown in the middle of the night to help people who get into trouble.

"Do you have to go to work?" he asks.

"Maybe for a while. We'll be home soon."

"Can we go to the park tomorrow?"

"You bet."

This elicits a smile. If it were only so easy with Grace. "Is Grandma going to stay with me?" he asks.

"Of course." I take his small hand and squeeze it. "You go back to bed, Tommy. I'll come in and say goodbye before we leave."

"Okay, Daddy." He squeezes my leg again before he sprints down the narrow hallway toward his bedroom. Four-year-olds move at only one speed—fast.

I turn to Sylvia. "Where's Rosie?"

“Talking to your daughter.”

Translation: they’re arguing. I can hear the muffled sounds of a heated debate through the thin walls. I’ll get a blow-by-blow from Rosie later. “What are they fighting about?” I ask.

“Whether Grace is going to go with you to see Bobby.”

“Is there any doubt?”

“No. *Your* daughter is as stubborn as *my* daughter.”

###

“Talk to us, Grace,” I say.

No answer.

Rosie is behind the wheel of her Toyota Prius—a recent upgrade over her ancient Honda Civic. We’re barreling down the 101 Freeway toward the Golden Gate Bridge. I’m riding shotgun. Grace is in the back seat. Her lips form a pronounced scowl as she stares out the window.

“Grace?” I say.

“What, Dad?”

Until last year, I was still Daddy. When Bobby arrived on the scene, I became Dad. “What did Bobby tell you?” I ask.

“This isn’t a cross-exam.”

Every question is a personal affront. “We’re just trying to help, honey.”

“You’re going about it the wrong way.”

Nowadays, we go about *everything* the wrong way. “What did Bobby tell you?”

“That his father’s dead.”

“Was he able to reach his mother?”

“I don’t know.”

“What about Sean?”

“I don’t know that, either.”

“Did Bobby call the police?”

“Of course. They were on their way to his house.”

They’re undoubtedly already there. “They’re going to want to know what he was doing tonight.”

“He was with me.”

“They’ll want details.” So do I.

“Can you stop talking like a lawyer?”

“I’m talking like a parent.”

Rosie cuts in using her best maternal tone—though she would readily admit it isn’t nearly as effective as it used to be. “Where did you and Bobby go last night?” she asks Grace.

“I already told you.”

“Tell me again. Please, Grace.”

Our daughter responds with a sigh that would make Putty Chandler proud. “We went out for dinner at Zazie.”

It’s a homey neighborhood bistro on Cole Street, around the corner from Judge Fairchild’s house. “Where did you park?” I ask.

“On Grattan Street next to Bobby’s father’s house.”

“Was the judge at home?”

“No.”

“Did you go inside?”

“No. There wasn’t enough time.”

“Where did you go after dinner?”

“To see *Waiting for Guffman* at the Red Vic.”

The Red Vic Movie House is San Francisco’s Anti-Multiplex. It was opened by a group of film buffs in 1980 in a funky red Victorian at the corner of Belvedere and Haight. A few years later, it moved down the street to its current location between Cole and Shrader. The new auditorium is larger and equipped with Dolby sound. It’s still furnished with comfy old couches. Instead of serving stale popcorn with fake butter, they offer organic treats.

“What time did the movie start?” Rosie asks.

“Nine o’clock. It ended at eleven. We went for a walk down Haight Street.”

The Haight has gentrified substantially since the days when my high school buddies and I used to go there to see real live hippies during the Summer of Love—much to the chagrin of my parents and my teachers at St. Ignatius. There are still a few head shops and incense stores interspersed among the upscale boutiques, but the neighborhood is largely unrecognizable from the flower-child days. The corner of Haight and Ashbury is now home to the Gap and a Ben & Jerry’s ice cream store. There is still a modest drug and counter-culture presence as well as a significant homeless population that spills over from nearby Golden Gate Park. It’s perfectly safe in the daylight, but things get dicier after dark. It isn’t a place where an eighteen-year-old boy should be hanging out with his sixteen-year-old girlfriend late at night—especially when she’s my daughter.

“Did you stop anywhere?” I ask.

“We looked at CDs at Amoeba Music.”

I’m tempted to ask her if she knows a clerk named Requiem who plays with a band called Death March, but I let it go. “Did you buy anything?”

“Nope.”

“What time did you go back and pick up the car?” Rosie asks.

“Around twelve-fifteen.”

“Was Judge Fairchild at home?”

“I don’t know.”

“Did you go inside the house?”

“No.”

Rosie pushes a little harder. “Not even for a minute?”

“No, Mother. Bobby and his father weren’t getting along. Things get tense when people are getting divorced.”

Grace's pronounced sigh indicates that this discussion is coming to an end. At the moment, Rosie and I are more interested in our daughter's welfare than in recriminations. After things calm down, I will have a fatherly chat with Grace and Bobby about the advisability of hanging out in the Haight after the sun goes down.

###

The fresh-faced young cop looks like he's fourteen years old. "I'm sorry, sir," he says to me. "You'll have to remain outside the restricted area."

"We're friends of the Fairchild family," I tell him.

"This is a crime scene, sir."

No kidding. "I'm aware of that, Officer."

Police lights flash off the trees in front of Judge Fairchild's remodeled blue Victorian on the southwest corner of Belvedere and Grattan. It's three a.m. The neighbors are huddled in small groups outside the yellow tape. Despite its proximity to the Haight, Cole Valley has a low-key character of its own. The closely knit community of refurbished houses and low-rise apartment buildings is bisected by the N-Judah street car line. The businesses along the three-block shopping district on Cole Street are of the mom-and-pop variety. The neighborhood's southern boundary is Tank Hill, named for a 500,000-gallon water tower that survived the 1906 earthquake. A ring of eucalyptus trees was planted around it after Pearl Harbor in an ill-conceived effort to camouflage it from enemy bombers. The tank was removed in the fifties, but the trees and the cement base remain. The rarely used public space has some of the best views in the City.

"Officer," I say, "Bobby Fairchild has asked to see us."

"I'm not authorized to let anybody in, sir. It isn't my decision."

"It is now." I pull out my trump card. "My name is Michael Daley. This is my law partner, Ms. Fernandez. We're Bobby Fairchild's attorneys."

"I'm afraid I can't help you, sir."

"I'm afraid you're going to have to. We need to see our client immediately."

"I'm not authorized."

"Then I need to talk to your sergeant."

"He can't help you, either. Mr. Fairchild isn't here."

"Where is he?"

"At the Hall of Justice."

What? "They didn't need to take him downtown to get his statement."

"They took him downtown because he's been arrested for murdering his father."

3/ THAT ISN'T WHAT HE TOLD ME

Saturday, June 18, 3:10 a.m.

“**W**hen did they leave?” I ask the cop.
“Ten minutes ago.”
A difficult situation has transformed into a full-blown disaster. Rosie struggles to keep Grace calm while I start pumping the cop for information. “Who made the arrest?” I ask.

“Roosevelt Johnson.”

The dean of San Francisco homicide inspectors has handled every high-profile murder investigation in the City for forty years. A half-century ago, he and my father formed the SFPD’s first integrated team. The good news is he’ll proceed with competence and professionalism. The bad news is he doesn’t arrest anybody unless he has the goods.

“Is Inspector Johnson still here?” I ask.

“No, sir. He accompanied Mr. Fairchild downtown.”

“Was he able to reach my client’s mother?”

“I don’t know, sir.”

Damn it.

Grace breaks free of Rosie’s grasp. “We have to do something, Dad!” she shouts.

“Stay calm,” I hiss, immediately regretting the harshness in my tone. Rosie and I quickly escort her out of the young cop’s earshot. “I

know this is hard,” I say to her, “but you have to keep your composure.”

Tears are welling up in her eyes. “I’m trying, Dad.”

“I’m sorry I snapped at you.” TV news vans are beginning to assemble down the street. I turn to Rosie. “We need to start damage control.”

She hands me her car keys. “Go down to the Hall of Justice and tell Bobby to keep his mouth shut. Grace and I will find his mother and his brother. We’ll meet you as soon as we can.”

“I want to come with you,” Grace says to me.

“They won’t let you inside,” I tell her.

“Then I’ll wait outside.”

“No, you won’t,” Rosie says. She invokes the unequivocal Don’t-Even-Think-About-Arguing-With-Me tone I’ve heard countless times in court, at the office, and in bed. “You’ll end up sitting by yourself in the corridor for hours. I need your help.”

In addition to Rosie’s independent streak, Grace is also imbued with her mother’s sense of cold, hard reality. She surrenders without another word.

#

“What do you need, Mick?” the raspy voice asks. My younger brother, Pete, became a cop to prove he was just as tough as our father. He spent ten years walking a beat out of Mission Station before he was forced to resign after he and his partner allegedly broke up a gang fight with a little too much enthusiasm. He’s still legitimately angry the City hung him out to dry when the so-called victims threatened litigation. Nowadays, he earns his keep by tailing unfaithful husbands.

Driving Rosie’s car down Oak Street through a heavy fog at three-thirty on Saturday morning, I wedge the cell phone between my right shoulder and ear. “Are you working?”

“Margaret has to eat.”

My five-year-old niece is a charmer. I’m convinced she and Tommy compare notes about new ways to drive their respective parents insane.

“Where are you?”

“St. Francis Wood.”

He’s working upscale tonight. “Cheating husband?”

“Cheating wife.”

“Can you break away for a few minutes?”

“Anything for my big brother. Does this have anything to do with Judge Fairchild?”

“How did you know?”

“I just heard it on the police band. What the hell happened?”

“That’s what I need you to find out.”

“Is Grace okay?”

“She’s fine. Her boyfriend isn’t.”

“Bobby’s a nice kid.”

“He’s been arrested for killing his father.”

“Jesus. Is Roosevelt handling the investigation?”

“Yes.”

His silence confirms what I already know—Bobby is in serious trouble.

“How soon can you get to Cole Valley to start asking questions?” I ask.

“Ten minutes.”

###

“I need to see my client,” I say.

Inspector Roosevelt Johnson eyes me through wire-rimmed, aviator-style bifocals. The former college tight end has dropped some weight since he underwent radiation treatments for throat cancer last

year. Nevertheless, the seventy-five-year-old legend still carries over two hundred pounds on his imposing six-foot-four-inch frame. The war-horse has fought the cancer to a standstill, but his lyrical baritone has developed a gravelly edge. He's tried to retire three times, but he keeps getting drawn back to work.

"Since when did you become Bobby Fairchild's lawyer?" he asks.

"Since now."

Four o'clock on Saturday morning is not the Hall of Justice's busy hour. We're standing in the new jail wing's high-tech intake center. Known to the cops as the "Glamour Slammer," the Plexiglas edifice was unceremoniously shoe-horned between the Stalinesque old Hall and the I-80 Freeway in a heavy-handed response to a court order to relieve overcrowding in the San Francisco jails. It isn't much to look at, but the utilitarian facility is cleaner and more user-friendly than the original Hall, a maze-like structure combining the architectural elements of a medieval dungeon with a third-world street bazaar.

"How's Rosie?" he asks.

He's genuinely interested in my law partner's well-being. He also never asks a question without a purpose. He wants to see if he can get me to let my guard down.

"She's fine," I say. "I need to talk to Bobby."

"He's still in processing. I'll bring him up as soon as he's done."

"You have a legal obligation to let me see my client."

"As soon as he's done," he repeats.

I up the ante. "If you try to introduce anything he's said to you, I'll get it excluded."

"Dial it down, Mike. For the record, I conducted all of my conversations with your client within the letter of the law."

It's undoubtedly true. He's also holding the face cards, so I soften my tone. "As a matter of professional courtesy, I would appreciate it if you would expedite booking."

“He’s been arrested for a serious crime. He’ll be processed like everybody else.”

Which means Bobby is being subjected to an unpleasant search, showered with cold disinfectant, given a perfunctory medical exam, and issued a freshly pressed orange jumpsuit.

I try again. “As a personal favor, I would be grateful if you would arrange for Bobby to be housed in his own cell until we can straighten out this misunderstanding.”

“There’s no misunderstanding. We take the killing of a judge very seriously.”

“Come on, Roosevelt. He just graduated with honors from University High.”

“He told me his father got precisely what he deserved.”

“Teenagers say a lot of things. That doesn’t mean he killed him.”

“We’ll have to agree to disagree on that point. The investigation is ongoing. I can’t talk about it, Mike.”

“You mean you *won’t* talk about it.” I lower my voice. “Please, Roosevelt. He’s Grace’s boyfriend.”

He looks around the cold intake area as he ponders how much he’s willing to tell me. “Judge Fairchild was bludgeoned to death in the laundry room adjacent to the garage of his house. Your client was holding a bloody hammer when the first officer arrived.”

“That proves he picked up a hammer,” I say. “It doesn’t mean he used it.”

“There was blood on his hands.”

“Obviously, he tried to help his father. Or the hammer was bloody when he picked it up.”

“He was angry. His behavior was erratic. He showed no signs of remorse.”

“He had just found his father’s body. He was in shock.”

“I guess we’ll have to agree to disagree on that point, too.”

“Did you consider the possibility this is related to the Savage case?”

“There’s no evidence.”

“Savage made no secret of his disdain for the judge.”

“I have no more love for Savage than you do. On the other hand, he’s smart enough not to pop a sitting judge.”

“Maybe he paid somebody to do it.”

“We will conduct a full investigation.”

“I understand the house was vandalized. It could have been a botched robbery.”

“A couple of pieces of furniture were knocked over. There were no signs of forced entry.”

“Maybe the killer had a key. Maybe somebody left a door open.”

“I don’t think so.”

“Are you suggesting Bobby trashed his father’s house to make it look like a break-in?”

“There were no signs of a struggle or defensive wounds. That suggests Judge Fairchild was killed by somebody he knew.”

“Maybe the killer sneaked up on him.”

“It’s a tight laundry room, Mike.”

“Maybe the killer hit the judge as he was coming in the door.”

“I’ll let you make that argument when the time comes.”

“Have you come up with a motive?”

“Too soon to tell. Maybe your client was angry about his parents’ divorce. Maybe they got into a fight because he came home so late. Maybe the judge wasn’t happy his son was going out with your daughter. Any way you cut it, Judge Fairchild is dead—and your client was holding the murder weapon when we arrived.”

“Alleged murder weapon,” I say.

“Have it your way.”

“Bobby called 911,” I say. “He would have tried to get away if he was guilty.”

“Not necessarily. He’s a smart kid. He knew it would have looked suspicious if he ran. It sounded more plausible to say he found the body.”

I probe for additional details, but he isn’t forthcoming. Finally, I look into the eyes of the man my father always described as the best cop he ever knew. “Did he mention he was with Grace last night?”

“Yes. That’s something else we need to discuss. I expect her full cooperation—immediately.”

“You’ll get it. They didn’t get back to Rosie’s house until one o’clock.”

“That’s consistent with his story. If I were in your shoes, I wouldn’t be thrilled my sixteen-year-old daughter was out so late.”

“I’m not. We’ve already talked to her about it. It also means Bobby didn’t get back to his father’s house until sometime after two.”

“That information will help me establish a timeline.”

“Bobby couldn’t have killed his father if the autopsy puts the time of death before two.”

His mouth turns down. He knows I’m trying to back him into a corner while eliminating any suspicion of Grace. “I am not in a position to rule out the possibility he killed his father sometime earlier in the evening.”

“That’s impossible,” I tell him. “Bobby wasn’t there earlier in the evening.”

“That isn’t what he told me.”