

# DEATH & ELIGIBLE

Judith  
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UNCORRECTED PAGE PROOFS

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*This book was written with my son Douglas S. Wall. The idea for the book came out of a research paper he wrote during his last year in law school documenting the great inequities in this country in determining death eligibility for the mentally deficient, for the insane, and for minors accused of a capital crime. The story developed during many hours of brainstorming as we created Danny Tarrington and his family.*

*Douglas and his brother, Richard, practice law in Norman, Oklahoma, and the issues raised in this book continue to perplex them both.*

*We are indebted to University of Oklahoma law professor Randall Coyne and his attorney wife, Lynn, for lending their expertise to this project and to Joan Atterbury of OU Public Affairs for her assistance.*

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## Prologue

Angie sat alone in the dark breakfast room, watching out the bay window as first light crept into the yard. The upper branches of the two stately magnolia trees glowed with the radiance of a Bierstadt painting, but the rose garden and the terrace were still submerged in shadow.

She took another soda cracker from the package on the table, hoping that some food in her stomach—along with three aspirin—would ease the ache in her head. She hadn't eaten since lunch yesterday—a carton of yogurt and an apple at her desk. Maura, the family housekeeper for as long as Angie could remember, had cooked a birthday dinner for her last night even though Angie asked her not to.

Danny was the reason they had continued to make a fuss over birthdays, with balloons and a candle for every year. This year, there were no balloons, and Danny hardly noticed the cake.

The police had come just as they were sitting down to dinner—to arrest him for murder. Hours later, Maura had cleared away the uneaten meal, stopping every few minutes to wipe her eyes with her apron.

Angie took a sip of water to help the cracker go down and took another from the package.

Had the rest of the household been able to sleep, she wondered, or had they like her, in spite of bourbon and sleeping pills, replayed the horrible scenario of

Danny's being arrested over and over? And the ten o'clock news. Danny being dragged into the city jail.

She could make out up some of the paler rose blossoms now—the Pascalis, Icebergs, and Mount Shastas. Yesterday, she had watched Manuel select the most spectacular blossoms for a birthday bouquet from the more than one hundred bushes, many of them hybridized by Manuel himself.

The roses were in full bloom, every bush laden with blossoms ranging from purest white to deepest maroon, from delicate yellow to vibrant orange, from palest pink to brilliant red. And coral. The corals were Angie's favorite. Tropicanas and Montezumas. When she was a little girl she'd told Manuel she wanted hundreds of coral roses at her wedding, and he'd promised that he would provide them. He'd planted some Vogues and Fashions to round out the range of corals so he'd be prepared when Miss Angie got married.

Manuel didn't mention her someday wedding anymore. She knew that in his Latin mind, a thirty-two-year-old woman was an old maid, destined to live always in the house of her parents.

Angie had been certain that she would marry her college sweetheart, but she gave him back his ring on graduation day rather than agree to a wedding date. She'd moved back home the week before her twenty-first birthday, thinking she would live here in the stately old house of her childhood only until she finished law school.

She'd been sitting here at this same table on the morning of her twenty-first birthday, when her parents asked if they could name her Danny's guardian in their wills—darling Danny, who was even then taller than Angie but would remain forever a child.

Angie was surprised that her parents felt the need to ask. She'd always assumed that eventually she would be the family member to assume responsibility for Danny. But assumptions weren't enough for her parents. They needed a formal commitment from her. They wanted her to look them in the eye and say yes, she would be Danny's guardian after they were gone.

Angie had come around the table to kneel between her parents, to put her arms around them and say, of course, she would look after Danny. Always.

She accepted responsibility for him even though being his guardian would limit her options and complicate her life. But she loved him too much not to. Her love for him was unconditional. Maternal even.

Angie pushed the package of crackers away and took another sip of water. All about her, the house was heavy with silence.

She'd told the arresting officers not to handcuff Danny. He couldn't stand to be restrained. And he was so strong. He used a shoulder to slam one officer against the wall and his head to knock the other one off his feet. One of them had actually reached for his handgun when her father's voice suddenly resounded through the entry hall. "Get out of here . . . both of you. I'll take my son to jail myself."

"I'm sorry, Judge Tarrington, but you know we can't do that," the older detective explained.

"The hell you can't," he said, pointing to the door. "I will call the mayor, the police commissioner, the governor, the president, and God himself if you don't take off those damned handcuffs and get out of here!"

But Danny would have to go through it all again Monday morning when they handcuffed him and dragged him into a courtroom, where he'd be asked how he pled—guilty or not guilty of killing Beth Williams.

Angie tried to think—did Danny even know what the word "guilty" meant?

"Oh, God," she said out loud.

At first, after he didn't die of the encephalitis that left him mentally impaired, he'd been a happy little soul, unless he thought someone was mad at him. Then he would cry. Even when he was a pest, they were seldom mean to him. Except Matt. Matt had little patience with his retarded twin.

But, after the kidnapping, Danny came home a changed boy. He screamed if startled. His feelings were easily hurt. He had nightmares. He got hysterical if re-

strained. A mama cat got upset with his handling of her babies and scratched his hand. Danny stomped on the cat and killed it. And he beat up Manuel's son, after he jumped out from a behind a bush and said "boo"—really beaten him, breaking his nose and collar bone.

Beth came to live in the room next to Danny's after the kidnapping—after it was decided to keep Danny at home, where he would be safe, where no strange woman would walk onto the school playground and take him away.

When Beth first came to them, she was twenty years old, a special-education major at University of Texas-Arlington. Frank had been eighteen, Angie fifteen, Julia twelve, Danny and Matt almost eight. Their parents had called everyone into the living room to meet her. Beth, wearing a crisp white blouse and a navy skirt, was standing in front of the high, arched window, her mass of hair a halo of golden red in the sunlight.

Beth had knelt in front of Danny, her smooth tan face very close to his. "I've always wanted a friend named Danny," she said. "It's the sweetest name in the world."

Danny reached out and touched her hair. "You're pretty," he said in awe.

"And you are handsome. All of you are so handsome," Beth said looking around the room at parents and children. "You are quite the most handsome family I've ever seen."

After Beth came, Danny did better, even started singing again. Beth taught Danny to count and write his name. She taught him to swim and when it was all right to laugh and sing and when he was supposed to be a very quiet boy. She encouraged him to run sprints, timing him, training him, teaching him technique. When he was the first runner across the finish line in the one-hundred-yard dash finals of the 1980 Special Olympics, the whole family cheered and wept with the joy of it. It was a miracle. And they had Beth to thank for it.

But Danny never completely lost the dark side that he brought home from the kidnapping. His nightmares became occasional, but when he had them, they were



terrible. And what had previously manifested itself as frustration when he couldn't work a puzzle or color inside the lines would sometimes cause him to dissolve into bouts of uncontrollable crying. The whole family learned to intercede when tears threatened, to redirect his attention to some other activity. It hurt too much to see Danny cry. Sometimes, all that was required was to hug him, even after he was no longer a little boy, even when physically he was the largest member of the family, larger even than his twin brother. Danny needed lots of hugs. Because of him, they were a family of huggers.

Looking back, Angie often wondered if the kidnapers hadn't meant to take Matt, the normal twin. Those outside the family always seemed to regard Danny as some sort of stepchild or charity case and not a true Tarrington.

But Danny made them special and defined them as a family. He taught them tolerance and patience. He shared his wonder of the world with them—and his innocence, even after he was grown, with whiskers on his chin and a disturbing fascination for anything female.

Beth didn't have a family. Angie couldn't imagine such a thing. With three brothers and a sister, she had always been surrounded by family. Her Tarrington grandparents lived behind them, just the other side of the back gate. And her family visited frequently with her mother's parents, who had retired in Austin.

Angie and her little sister, Julia, decided right away that Beth was to be part of the their family. Their big sister. And it did seem that way sometimes. But they were born Tarringtons, and Beth only worked for their family. She wanted it though—to be a Tarrington. None of them realized how much.



BOOK  
ONE



## Chapter One

Angie was seven when Matt and Daniel were born. The family had known twins were on the way for several weeks, and a pair of white wicker bassinets with starched lace skirts awaited the babies in the freshly painted nursery. Frank's former bedroom had been made ready for the practical nurse who would help take care of the new arrivals.

Ten-year-old Frank had been moved to the third floor, which in a previous era had been the domain of live-in servants. Norma Tarrington had two of the small bedrooms combined into one large corner room with four dormer windows that offered a view of the mirrored towers of downtown Dallas in the distance. She had a wall of shelves built along one wall for her son's books and collections—model airplanes, rocks, stamps, coins, insects.

Frank's bedroom was now bigger and nicer than her own, but Angie felt sorry for her brother being up there on the third floor all by himself. Maura, their longtime Irish housekeeper, insisted the third floor was haunted, that the ghost of a long-ago pregnant housemaid who hung herself in the third-floor hallway wandered around up there at night searching for her baby. Angie's parents said there was no such thing as ghosts, but even if there were, the thought of a dead girl looking for her baby didn't scare Angie so much as make her sad. And even though Frank was older than she was and claimed he didn't believe in anything supernatural,

Angie couldn't sleep at night for thinking about him up there all alone, listening to the old house creak.

When Norma discovered that Angie was sneaking upstairs to crawl into bed with Frank, she sent Manuel to the animal shelter to find a well-behaved adult dog in need of a boy. Manuel returned with a lanky yellow animal who appeared to be part Lab and part something else and who seemed to understand from the first that his duties included sleeping with his young master and following him everywhere. Frank named his dog Buddy. Norma claimed that Buddy was a gentleman and a saint. He was even allowed in the dining room at meal time as long as he didn't beg.

With Frank situated and the arrangements for the twins complete, Norma followed her doctor's orders and took to her bed to await the birth of her babies.

Whenever she could, Angie liked to eavesdrop on grown-ups, lurking in the shadows on the landing of the front staircase next to the grandfather clock, and on two occasions, she heard guests gossip about Norma's pregnancy, about how they hoped one of the babies was a boy, how Norma wanted a son that was hers *and* Perry's. If the twins were girls, they wondered, would Norma try again? The consensus seemed to be that, yes, she probably would. But so many children. No one had that many children nowadays, not even Catholic families.

Angie knew that Frank was their father's son by his first marriage to a woman named Lucy. Twice a year, Frank went to Lubbock to visit Lucy's mother, his grandmother Claire, who had given him a little white leather album filled with pictures of Lucy—Lucy as a baby, Lucy wearing a Girl Scout uniform, a high-school drill-team uniform, a cap and gown, a swim suit with a banner across it that said Maid of Cotton. Lucy had been beautiful. Really beautiful. With long white-blond hair, incredibly large eyes, a pouty mouth, a figure like Marilyn Monroe's.

Frank said that Grandma Claire had a stack of magazines with Lucy's picture on the cover. Angie kept asking if he would borrow them sometime so she could see them, but he never did. She loved to look at the white

album and speculate about the mysterious Lucy. Frank never looked at it. He said it made him sad. He said their father looked at it sometimes—in the night, when he thought Frank was asleep. He'd take the album out of Frank's desk drawer, carry it to the window, and stare at it in the moonlight. Angie wished that Frank had never told her that. She didn't want to think of their father looking at pictures of Lucy.

Angie couldn't decide if her mother was as beautiful as Lucy had been. Norma had dark hair and eyes and smooth skin the color of honey. People were always telling Angie that her mother was beautiful. But now that she was pregnant and tired all the time and her hair was dull and limp, she didn't look very beautiful.

Angie worried that her father still loved his first wife. Would he still be married to her if she hadn't died? If Lucy wasn't dead, Angie wondered who her mother would be? Would she even have been born? Maybe she should be glad that Lucy was dead.

Frank wouldn't talk about Lucy or what might have been. Angie suspected that he wished his own mother were still alive, even though he surely realized that Norma loved him very much. In fact, sometimes Angie was jealous of him when it seemed that Norma loved him more than she did her two daughters. But if Norma loved Frank so much, why was it so important that she have another son?

"Why do people want sons more than daughters?" Angie asked her mother. Norma was propped up in bed, listening to Angie read stories from her second-grade reader. Julia had already fallen asleep on the other side of the bed.

"People want both," Norma answered, smoothing Angie's hair from her forehead. "But for families like ours, where a son often follows in his father's footsteps, it's nice to have a boy."

"Frank says he doesn't want to be a lawyer," Angie mused. "He wants to be a minister when he grows up, like Father Lawrence. Sometimes he puts a white shirt on backwards and plays like he's preaching."

"Well, maybe one of these new babies will be a boy and let Frank off the hook."

Angie wasn't sure what "off the hook" meant. But obviously it was important to her mother that one of her twin babies be a boy.

When she put her hand against her mother's hard belly, she could feel them moving around inside. Big as her belly was, it was hard to believe there were two babies crunched inside.

"Will the babies have pretty hair?" Angie asked.

Norma laughed. "I hope so. Don't worry about my awful hair, sweetie. It will get back to normal eventually. And the rest of me, too. I won't be fat forever."

Angie looked over at her favorite photograph of her mother that hung among the display of three generations of family pictures covering one wall of her parents' bedroom. Norma's waist was tiny in a white and gold dress, her shoulders bare, her shining black hair swept up on top of her head. She looked like a princess. Lucy looked more like a movie star than a princess in her pictures.

"Is that your wedding picture?" Angie asked, pointing at the photograph.

"No, that was taken at a party your Grandpa Paul and Grandma Edna held to announce that your father and I were engaged to be married."

"Where is your and Daddy's wedding picture?" Angie asked.

"Your father and I had a very small wedding."

"Didn't anyone take pictures?"

"I don't remember." With her hands on her belly, Norma put her head back on the pillow and closed her eyes. "I'm very tired, dear. Go ask your father to carry Julia to her bed."

Aware that she had somehow displeased her mother, Angie crawled down from the high bed and went to fetch her daddy. She watched as he picked up her sleeping sister and carried her out of the room, then she tiptoed over to the bed and planted a kiss on her mother's cheek. Norma opened her eyes and



smiled. "You're my sweet big girl," she said. "I don't know what I'd do without you."

A few weeks later, early in the morning, an ambulance came to take Norma to the hospital. She was very pale. Even her lips. Her eyes were closed. "It's time for the babies to be born," she said without opening them. "Come kiss me good-bye, children."

Frank cried all day long. "What if she dies like my other mother?" he kept asking.

"Shhh. Julia will hear you," Angie admonished. The three of them watched television and played cards all day. The house was very quiet. Maura tiptoed around as if she was afraid of waking someone. Whenever the phone rang, she crossed herself before she answered it. Perry called at dinner time. It was going to be a while. He needed for Maura to sleep over. The practical nurse couldn't come until tomorrow.

Julia fell asleep on the sofa in the family room, and Maura carried her upstairs. Angie and Frank waited up until well past midnight, playing cards and watching a movie about a wagon train on its way to California. One of the women had a baby in the wagon while the Indians shot flaming arrows at it.

It was after midnight when their father finally came home to tell them they had a matching set of baby brothers. Identical twins, who were robust and healthy in spite of being born almost a month too soon. Their names were Matthew and Daniel.

Perry poured himself a glass of Scotch. "Five children," he said in awe. "Incredible." Then he sat on the sofa and held out his arms to Angie and Frank. He hugged them close for a long time, pressing his lips to first one forehead and then the other. "You're going to have to be patient with your mother and me. Two babies take a lot of time. But you must remember that even if we don't have as much time for you, we still love you just as much as before. Remember that, okay? And to help with Julia. She's going to need you two more than ever."

Angie and Frank nodded solemnly.

"But isn't it wonderful?" Perry said, tears in his