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Philip Friedman

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*REASONABLE
DOUBT.*

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For Jeanne.

No one could have been a better teacher
or a truer friend.

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A double-minded man is unstable in all his ways.

JAMES 1:8

INVESTIGATION

INVESTIGATION

1

HE MADE HIMSELF START WITH THE PICTURES.
Sooner or later you always had to look at the pictures.

Joe Estrada got no kick from photographs of murder scenes. He was not one of the assistant D.A.'s who passed them around for fun. After four years prosecuting homicides, death was still a problem for him. Bad enough when it was an anonymous male body askew on a grimy sidewalk, its life drained out through neat bullet holes. This time it was a woman—abused and cruelly slashed.

Experience had taught him to be wary of surprises. His first pass through the stack of photographs was no more than a rapid glance at each one, just enough to let him know what was in them.

Blood was everywhere. He had an impression, too, of thick, red-gold hair and long, pale legs. In one closeup he could not avoid the sparkle of a reflection in a blindly staring green eye.

He put the pictures down and walked the long corridor to the vending machines for a cup of bitter coffee, letting his first impressions sink in before he went back for more.

Mariah Dodge had been raped and murdered on an office couch high in a Manhattan skyscraper. Alive, she had been a woman of distracting beauty. The police photographs showed that beauty horribly violated, obscenely parodied. Her coppery hair was fanned out around her face, gleaming richly in the light of the photographer's flash. Her body was brutally displayed—skirt yanked up around her waist, underpants gone, blouse and bra slashed open, all of it haphazardly painted a grisly red.

Estrada absorbed all this gradually, going through the pictures over and over, more thoroughly each time, until finally he was numb enough to the human reality to see only the details of a crime, evidence to be used or protected against at trial.

* * *

After the pictures came the words. Five newly arrived file boxes crowded the back wall of his office—the official record of the investigation following Mariah Dodge's murder, and of the trial a year later. *People of the State of New York versus Roberto Morales*.

The jury had convicted Morales of first-degree manslaughter; they had acquitted him of intentionally murdering the woman who had been both his employee and his lover. Only weeks later a fresh team of defense lawyers had gotten him released on bail pending appeal. Now, more than three years after Mariah Dodge's life had been gruesomely torn from her, two years after the first verdict, there was going to be a new trial. And it was up to Joe Estrada to make sure Roberto Morales went back to jail and stayed there.

By the end of a day immersed in the appeal briefs Estrada was ready for some relief. He got his messages and returned as many calls as he could. He did not reach either of the defense lawyers on the two pending armed robbery prosecutions he wanted to plead out as soon as possible. There was a message with a lawyer's name he did not recognize and a reference to a defendant he did not recognize, either—not the first time the name of some mope he was supposed to put away had blended with the names of all the other mopes he was supposed to put away, or had already put away.

He stayed in the office trying to catch up on paperwork, but he could not keep his mind off his new assignment. Retrials ordinarily had all the appeal of bad movie sequels. *People v. Morales* was different. It more than made up for its lack of novelty in the passion of the people who cared about the outcome.

At the time Roberto Morales was charged with the rape and murder of Mariah Dodge, he had been a hero of sorts in the Hispanic community, a self-made millionaire with a plan to bring new economic vitality to the Brooklyn neighborhood where he had grown up. His flamboyant defense lawyer had worked hard to turn the first trial into a focus for the city's economic and racial hostility.

After the trial Morales's grand development scheme had fallen to ruin. Now, with his conviction thrown out because of the judge's errors favoring the prosecution, Morales was even more the martyr. Three years of well-publicized volunteer work in the community while the system ground out his trial and appeals had only

increased his following. His retrial would be a hot ticket, and not only among the pro-Morales faithful. The front office, having annointed Joe Estrada, would be monitoring his progress without mercy.

He checked the clock. Almost eight, seven in Texas. A good time to catch the victim's parents at home. It was not a call he was eager to make. At best, he could offer them a measure of revenge, a sense of order and closure—nothing like real solace, particularly for people who had seen an earlier guilty verdict evaporate.

He took a deep breath and reached for the phone. It rang long enough for him to think he had been spared this time.

"Hello."

"Mrs. Dodge?"

"Yes. Who's this, please?" A light, pleasant voice. Homey. Hospitable.

"Mrs. Dodge, this is Joseph Estrada, I'm with the Manhattan District Attorney's office and I'm going to be prosecuting Roberto Morales. I just wanted to let you know that I'm here and I'm happy to answer any questions you might have, now or in the future."

He stopped to give her time to respond. There was silence on the phone.

"Mrs. Dodge?"

After a moment, a new voice: "This is Samuel Dodge speaking. Dr. Samuel Dodge." A strong, hard voice. Not hospitable. "Is there something you want?"

"Hello, Dr. Dodge. I'm Joseph Estrada, I'm—"

"I know who you are. Is there something you want?"

"No, not really." Estrada hesitated. "I'm calling mostly as a courtesy. To let you know we're going forward and we hope to put Roberto Morales in prison for a very long time. We try to be in contact with the family of the victim and keep them involved if they want to be." He felt tongue-tied despite the rush of words, knew he was going about this wrong—too impersonal, too abstract—thrown off by Dodge's coldness.

"Mrs. Dodge and I have been through this before," Dodge said. "Involved, as you call it, the first time they brought the man to trial. I don't see where we'd want to endure that again."

"I can understand that." Understand it, maybe, but he could not imagine what it felt like: the pain and the frustration, the sense of futility. Crowds of people up in arms on behalf of the man who had brutally killed your daughter.

"They told us the lawyer they assigned then was the best they had."

"It's true. He's as good as they come."

"Not good enough to win for Mariah, though, was he?"

"It was a difficult case—"

Dodge cut him off. "Are you the best, too, Mr. Estrada?" Acid in his voice.

"Well, I don't know if I'd say that myself . . ."

"I don't suppose it matters. They're going to get another radical lawyer and stir up another racist fuss and make a worse fool out of you than they made out of that smart Jew."

"Look, Dr. Dodge, I didn't call to argue with you. I want to make myself available . . ."

"It's Estrada? Did I get that right?"

"Right. Joseph Estrada."

"Mexican?"

There was an official answer, a small gem of disingenuousness: The details of my heritage have nothing to do with the case. It would not do, now.

"If you must know, Dr. Dodge, it's a Spanish name. From Spain. My father's ancestors were dukes of Castile and Aragon." Or so Big Jim Estrada had claimed. "My mother's name was Smithfield. She's a Daughter of the American Revolution, since those things seem to matter to you. Oh, and my maternal grandmother was Jewish." An exaggeration for effect; she had been Unitarian, a quarter Jewish via her mother's mother.

"All right, son, no need to get testy. I said a smart Jew, I meant it to be a compliment."

There was an uncomfortable pause while Dodge waited for a response he was not going to get. He cleared his throat, a reaction to the silence, preparing to start again.

"Now, listen, young man, Mrs. Dodge and I want to see this . . . this . . . we want to see him squashed, the way he deserves. I don't speak his name, and I don't care to hear it spoken. I don't care to speak about what he did. Most of all, I don't see the point of putting Mrs. Dodge through the heartache of watching a trial every day and hearing all those stories, and then have that scum get off a second time without spending so much as a whole month in jail. Do I make myself clear?"

"Yes, sir, you do. I can only assure you I'm going to do my best to get the highest penalty there is."

"Still no death penalty in New York, is there?"

"No, there isn't."

"Pansies, every damn one of them."

Estrada did not ask who he meant. Legislators, maybe.

"Listen to me, young man. I don't want you calling here, disturbing Mrs. Dodge. I'll give you my office number and you can reach me there if you need anything. Understood?"

"Understood."

"Something else I can do for you?" A way for Dodge to get off the phone, as sincere as "y'all come back."

"You know, actually, there is. I'd appreciate having a recent photograph of your daughter."

"Why would you want that?"

It was a good question. The request had just popped out of his mouth.

"I'm going to be looking for new witnesses," he improvised. "People who might have seen them together, but who might not know her by name. I think there was a picture of her in the file, but it must have been returned."

"I don't know. We don't have many pictures of her. Pictures are all we have now."

"I could have it copied and send it back. Or if you have the negative I could have prints made."

No response.

"Or you could have prints made, and I'd reimburse you." He did not know why he was insisting. Maybe because he wanted an antidote to those crime-scene photos, a better image to have in mind when he thought about her.

After another pause, Dodge said, "I'll see. Is there anything else?"

"No, not right now. Thank you very much."

"Goodbye, Mr. Estrada. Remember, don't call at home."

Not much chance of my calling at all, he thought as he hung up. And yet, as unpleasant as the conversation had been, he knew there had to be real pain behind Samuel Dodge's behavior. And he came away feeling even more sympathy for Mariah Dodge. He knew all about stern, bigoted fathers: he'd had one himself.

He was still in the office almost two hours later, going through the file, beginning to worry about the holes in his case. When the words began to blur he decided he'd had enough.

As usual, even after ten, Broadway near his apartment was bustling with life and light. Another wave of late-night food stores had invaded in the last year, lining the sidewalks with displays of fresh fruits and vegetables, enticing shoppers inside to try over-

priced specialty foods of all nations. Estrada, far from immune, bought himself a melon and some grapes, fresh bread and a bottle of wine-dark wild blueberry juice from Sweden.

He had been living in the same apartment since law school, long enough so he did not see it accurately anymore. It felt comfortably spacious to him, though people told him he should get himself some furniture. His former roommate had all but denuded it moving out when he took a job with a Wall Street law firm. A couple of years later they had chipped in to buy the place for Estrada to live in; when he sold it they would share the profit. Choosing the D.A.'s office had not made him poor, but his starting salary had been less than half his former roommate's. That was not so bad: in the eight years since then the starting-salary ratio had become more like one to three.

Estrada did not intend to let the earnings gap last forever. He looked at it as the price he was paying for the courtroom experience that came with working in the D.A.'s office. No beginning associate in a big law firm could hope for a fraction of the courtroom time Estrada had put in by the end of his third year. And in the following five years, getting into major felonies and then homicides, Estrada had been multiplying his experience in both quantity and quality, waiting for the case that would really establish him.

He opened a beer, put his feet up on the leather couch and turned on the television. The screen warmed up on what looked like a cop show of some kind. Good for a laugh, if not much insight into law enforcement. The scene switched to the bad guys. They were arguing, apparently over what to do with a kidnap victim. One of them stalked off menacingly and slammed through a door into a room whose only furniture was a bed. Tied to it was a beautiful woman in as little clothing as the phantom censors of TV would allow. As he approached her the man took out a large knife.

Estrada changed the channel. Closeups of a sweating woman's body, working out: a commercial for spring water. Changed it again, caught a glimpse of long, swirling red hair and turned it off.

He thought about Mariah Dodge. Her red hair was not swirling any more. She would never work out again. No man would ever be tempted by her body, or prompted to destroy it in unreasoning anger and frustration that led him to violence like the kind he saw emulated everywhere, every day.

There was too much of it. It was too easy to get away with. He

felt like the Dutch boy trying to save his country from drowning. No leak was so small you could ignore it. Roberto Morales had to be put away for a long, long time.

The phone dragged him out of bed just after midnight. It was his girlfriend, calling from a printing-industry trade show in Chicago.

"Hi. What's new in the world of cops and robbers?" Michelle sounded wide awake and right in the room.

"I was saving it to tell you in person."

He heard her take a deep breath. "Joey . . . I'm not coming back right away. I'm going to L.A."

He did not ask for how long. More or less, he knew the answer: It all depends on if they offer me the L.A. job, if I'm coming back to New York to pack or to stay. He did not want to think about it.

"And here I am, too tired even to be sexy."

"You sure? I was just taking off my skirt."

He could hear the zipper, then the faint sibilance of silk sliding over pantyhose.

"Tomorrow," he said.

"I bet I could persuade you." Her voice was lower now, intimate.

"Any other night."

"Because of your news? Now you *have* to tell me."

"I had a personal audience with the Bishop the other day."

It took her a moment. "Your boss? The Big D.A.? He didn't fire you?"

"No."

"Then what. . . ? Wait, don't tell me, he's quitting to form a law firm. Bishop and Estrada."

"That's next year. First he's going to make me the most famous prosecutor in New York."

"What? How?" Excited.

"You remember the Mariah Dodge murder? Woman raped and killed in an office building? The Skyscraper Slasher."

"It was a black guy? Her boss? That one?"

"Hispanic. Name of Morales."

"He cut her up because she wouldn't go to bed with him?"

"That was the first theory. The way it turned out they were lovers and she was dumping him."

"I remember it was real gory."

"That it was."

"Didn't they put him away?"

"The conviction was thrown out on appeal."

“Why?”

“The judge let in some testimony about how the victim told a friend that Morales told her to meet him at the office that night. Hearsay twice removed. The prosecutor offered it as proof Morales intended to go there, and the appeals courts decided it was inadmissible.” That was the official reason.

“You’re telling me they’re going to let him out on a technicality? A guy who did that?”

“He’s already out. He’s been out almost the whole time. I’m supposed to put him back in.”

“Really? You’re prosecuting him?”

He was almost awake now, enjoying her reaction. Worry about the case nibbled at the edges of his pleasure; he made himself ignore it.

“I bet you’ll have great stories to tell.”

“Life of the party, as always.” For a while he’d been flattered that she liked his courtroom war stories and liked having him tell them to her friends—her customers, really. Recently he had begun to feel like the court jester.

“It’s going to look terrific on your résumé. And just in time.”

Just in time because she would be moving to L.A., he was sure she meant. For some reason, it killed his good mood. “So that’s my news. I spent most of my day studying the crime-scene pictures. Very detailed and very vivid, and they’re still right there in front of me.”

“Oh, Joey, how awful. You go back to sleep and try not to have nightmares, and next time we talk I’ll give you something else to think about.”

He had the feeling it was going to be harder than she thought to get his mind off this case. He did not say so.

2

IN THE MORNING HE DOVE INTO THE TRIAL TRANSCRIPT, starting with the opening and closing arguments to the jury. It was easy to get carried away by the rhetoric. Lawrence Kahn, who had prosecuted Morales the first time, was a master of argument even with a weak case.

Estrada was startled out of Kahn's closing argument by a sharp knock on his office door. Dan Mahoney poked his head in past the dirty blue partition wall.

"Hey, guy. Ready for lunch?"

Estrada was astonished to see him. "You can't be here. You're in the Caribbean."

"Yeah, well . . . Kath and I split up Monday night, so I figured, why take a chance on too much sun?"

"I don't believe it. You guys were forever."

Mahoney shrugged his heavy shoulders. "Every day is its own surprise. And speaking of surprises . . ." He handed Estrada a brown paper shopping bag.

The box in the bag said EXECUTIVE DART BOARD. "Just what I need."

"Open it." Basketball-tall and still muscular, Mahoney's imposing frame often seemed to camouflage a prankish twelve year old.

Estrada pulled out the dart board. It was metal and the darts had magnetic tips, nothing an outraged defense lawyer could use to take revenge. Pasted over the target's bull's-eye was a photograph: a prosperous-looking man in his forties, the kind of man an executive dart board was intended for. A man whose face Estrada was learning to recognize. He laughed. "News travels fast."

"Even on the tiny island of Vieques they know who's prose-