

Stay

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I can't get NPR on the radio, or any other station for that matter. I should be used to this, as many times as I've been here, out in the middle of nowhere. But this is probably my last trip, a bittersweet thought to be sure.

Fast approaching from the other direction is one of those damn eighteen-wheelers, way too big for this back country road and, as usual, going way too fast. It passes me and I brace myself for the tornado-like wind as it pummels my tiny rental car. I steer with one hand while the other holds a precious cup of caffeine and my wheels dig into the dirt of the non-existent shoulder. The palmetto brush is a green blur out of the corner of my eye.

"Son-of-a-bitch," I mutter to myself as the coffee splashes into my lap, staining my khakis. At least Tony will get a little kick out of my clumsiness. He's always telling me to drive carefully.

My cell phone rings. It's Andy, the attorney on the case, back at the office.

"We got a stay!" he says excitedly. "From the Florida Supreme Court. It's only for a couple days, but that's better than nothing."

"What should I do? I'm almost there," I say.

He tells me to go ahead and see if the warden will let me in. I remind Andy that Tony's family is making the short drive down from Jacksonville and tell him I'll see if the warden will let them in also.

A few minutes later I drive underneath the arched wrought iron sign that imparts the obvious: "FLORIDA STATE PRISON." Despite the bright afternoon sun, the place always feels dark to me. I drive through the roundabout, past some prisoners in blue jumpsuits picking up trash, past the concertina wire and the towers and the ubiquitous dull green cinderblock buildings. I hate this fucking place.

I park the battered rental and try to find the warden, not an easy task this late in the day. To my amazement, his secretary informs me he's still here. The warden, dressed in a plain, cheap suit, comes out of his office. He's towered over by his hulking P.R. hack, an angry man whose style in televised press conferences is to lie through his teeth, and then bully any journalists who push the issue. I figure they're both here gearing up for the festivities in the morning, which makes my conversation with them even more satisfying.

The warden walks up and shakes my hand.

"I'm the warden. What can I do for you?" he asks with a bureaucrat's smile.

I resist the temptation to tell him what he can really do.

"I'm Paul Mann. I'm an investigator with C.C.R.C.," I start. The warden is very familiar with Capital Collateral Regional Counsel, as it's the state agency that provides appellate representation to death row inmates. He's not a fan. "I'm Tony's investigator."

"Tony?" the warden inquires.

"Anthony Bryan," I explain. "Sorry."

"Oh," he says.

"I work with Andy Thomas, his attorney. I don't know if you've heard, but the Florida Supreme Court just issued Mr. Bryan a temporary stay. I came out here for his last visit, but I still need to go in and talk to him. Could you arrange that for me?"

Both the warden and his talking head frown. No execution tomorrow.

"Yeah, sure. I'll call up the tower," he says reluctantly.

"Tony's family is also coming by tonight. They've come quite a ways," I lie. "Can you let them in also?"

To my surprise, and, it seems, his hack's, he arranges it.

I thank him with all the false sincerity I can muster and walk across the street to the entrance of the prison. The guard in the tower buzzes me through two gates, and after more guards and more gates I'm in familiar surroundings—a long, rectangular, drab, olive-colored visiting room. I'm seated on the first of a long line of cold steel stools, in front of a glass partition with a phone on the wall.

A steel door on the other side of the partition opens and Tony comes in, hands shackled to his waist, leg irons around his ankles, escorted by two beefy guards who must have had to crib their way past the G.E.D. Tony is in his late thirties, like me. His short, black hair is slightly waxy from all too infrequent showers. His skin, once a healthy bronze from days spent on a shrimping trawler on the Gulf, now has a ghostly pallor, a consequence of spending twenty-three hours a day locked down in his cell.

When Tony sees me, he breaks into a great big smile. His reaction is almost inappropriate to the setting, like he thinks I've got a bottle of Kentucky bourbon and it's party time, when in reality, at this late date, he's going to die unless the lawyers or I can do something close to miraculous. It still amazes me how positive these guys can be when they're 12 hours away from dying. It can usually be attributed to one or both of two things—religious faith or mental illness.

After several minutes the guards figure out the locks and get Tony out of his chains, though he is still handcuffed when he sits down across from me on the other side of the partition. He looks at me with those aqua blue eyes framed by that cover model face, and it's difficult for me to reconcile that angelic countenance with the image of the bearded, scraggly haired drifter of his mug shots. He picks up the phone to talk to me. His excitement can't hide his nervousness.

"How you doing, Paul?" he asks. He's about to die, and he's more concerned about me.

"Forget about me. How you holding up?" I shoot back.

"Not bad, considering... I've been praying a lot with Reverend Glen." Reverend Glen is a Presbyterian minister from Gainesville and Tony's spiritual advisor. I know Glen because he pastored another client of mine who had been executed, Pedro Medina. Tony is serious about his religious rediscovery, more than most on the row, and he and Reverend Glen had really hit it off.

I inform Tony about the stay but tell him not to get too excited; it's only for forty-eight hours and is basically premised on a minor procedural issue. He relaxes a bit, the roller coaster coming off another loop, and we continue to talk.

"I spoke to the warden," I tell him. "He's gonna let your family in to visit tonight."

"My granddaughter, too?" he asks.

"Yup."

Tony beams in a proud, grandfatherly way.

While Tony shares some characteristics common to a lot of guys on death row—abusive childhood, family history of drug and alcohol abuse, neurological impairments, and other negative features—he also possesses some unique qualities. At nineteen years old he was the youngest fishing boat captain on the Gulf Coast in what is by all accounts a very rough and tumble trade. He worked long hours to provide for his family and never asked for a handout. Virtually all his problems began after he fell twenty feet from a mast and landed on the back of his head on the steel deck. In addition to the mental and physical trauma incurred as a result of this fall, the boat owner's insurance company refused to pay Tony's medical expenses claiming that beer in a cooler on board violated the policy. Everyone who knew him said he was never the same after this. His erratic behavior escalated, as did his drinking and drugging. No longer able to provide for his family, Tony seemingly gave up hope and went into an irreversible downward spiral which ultimately ended with his conviction for the kidnapping and killing of George Wilson, a worker at a seafood wholesaler in Pascagoula, Mississippi.

My work as an investigator for C.C.R.C. brought me to Tony's case. We litigate on his behalf for his post-conviction appeals, in both state and federal court. When I was assigned to his case, he had already been through countless attorneys and investigators. Despite Tony's hesitancy to trust, honed even further by years on the row, I was able to at least earn his respect by simply following through on promises. What really broke the ice between us was my involvement in helping him reach out to his family, especially his children. During my first visit with Tony, he expressed concern about his son and some trouble he had gotten into back in Jacksonville, and was frustrated by his inability to help or even find out what was happening. I promised Tony I would look into it, and I did. Since then there has been mutual respect and trust, not to mention a deep friendship, between us. In my capacity as an investigator *and* a friend, I have yet to be convinced of Tony's guilt.

After talking with Tony for about a half hour, I hear the thick steel door clang open. A guard walks in and tells me Tony's lawyers are here to talk to him. A moment later, two investigators, Terry and Rosa, and two lawyers, John and David, all from my office, burst into the visiting room.

"Did you hear? Did you hear about the stay?" Terry almost screams.

"Yeah, I told him, but don't get too excited. It's only for a couple days," I say calmly.

"No, no, no, you don't understand," John breaks in, barely able to contain himself. "The *Supreme Court* granted cert on our electric chair motion. His execution is stayed indefinitely!"

"The *U.S. Supreme Court*?" I ask, taken aback.

"Yes!" they shout in unison.

I'm shocked, confused, and overjoyed, all at once. I was not even considering the electric chair motion. We have been saying for years that the Florida electric chair violates the Eighth Amendment guarantee against cruel and unusual punishment, first after Jesse Tafero's head flared up like a Roman candle, and then several years later when my own client Pedro Medina's head burst into flames. The state's deliberate indifference toward the malfunctioning chair is a large part of the claim. This basically means the state knows the chair is capable of severely malfunctioning, thereby torturing a human being, yet it deliberately chooses to ignore the danger.

Pedro's immolation was especially painful for me, not only because he was a good friend, but because of the circumstances after his execution. Wanting to cover up the botched homicide, the state of Florida rushed Pedro's body down to Gainesville for a speedy autopsy and quick burial. Before the state could do this, our office sent two lawyers, Tim and Jennifer, and me down to Gainesville from the prison where the three of us, along with our boss Mike and Reverend Glen, had been Pedro's only visitors the night before.

We dropped Jennifer off at the coroner's office in order to inform him that we were obtaining a temporary injunction in federal court that would halt the autopsy. Seizing the opportunity to be a macabre prick, the coroner forced Jennifer to observe Pedro's battered and burned body, ostensibly to ensure he would not later be accused of altering it in any way. The smile on the coroner's face as he threw back the sheet indicated an ulterior motive of trying to intimidate and shock Jennifer, though she came through it like a professional.

Jennifer informed me that she wasn't going to give the coroner the satisfaction of seeing her upset. She was angry at the coroner, but more than anything she was angry at the state for what it had done.

"I could smell his burnt flesh, and his forehead skin had slipped down," she tearfully related to me. This latter oddity was due to steam from the wet sponge placed between Pedro's head and the metal dome (to better conduct electricity) that had breached the epidermis at points where the electrodes had seared through. "And his eyes were open. It was really strange how peaceful he looked, considering..."

It was a difficult time for all of us, especially Jennifer, but she knew it was important for any future claims to recall everything she could, no matter how emotionally painful it was. She later told us she was prepared to physically block the autopsy to preserve the evidence, had it come to that.

A number of lawsuits had been filed over the years regarding the electric chair, and each time this occurred the Department of Corrections would assure the courts they had fixed whatever problem had caused the smoke and flames.

Most often this had to do with the sponges that were applied to the condemned man's head. But before Tony's scheduled execution, the state of Florida botched one more, that of Allen "Tiny" Davis, though this one did not involve fire. To the horror of many of the assembled journalists and witnesses to the execution, shortly after the electrical current began to surge throughout Allen's body, beginning at his skull and exiting through an electrode attached to his lower leg, a crimson pool of blood the size of a nickel emerged on his white T-shirt in the center of his chest. The blood spread outward like a flower blooming in fast-motion until it was as large as a dinner plate.

The press had a field day, especially given the constant barrage from the governor's office about the reliability of "Ole Sparky," the morbid nickname given to Florida's ancient wooden electric chair.

Unable to ignore the botched executions, as well as a load of scientific data, the U.S. Supreme Court, a little more than twelve hours before Tony's scheduled execution, accepted cert on his petition, meaning Florida's method of killing people would come under the scrutiny of the nation's highest court. It was only the second time the Supreme Court had agreed to hear a claim on the constitutionality of the electric chair. The first time was in 1890.

We spend the next hour with Tony and briefly explain what has occurred with the courts. The rest of the time we spend in a mini-celebration, another bullet dodged, to use a clichéd yet morbidly apt metaphor.

We soon leave Tony so that his family can visit with him. I'm very depressed as I say goodbye to Tony because I know I may not see him again. I've taken a job in California and will be leaving in a couple of months.

"Thanks for everything, Paul," he says. "I really appreciate all you did. You're a good friend. God bless."

"Keep your chin up, brother," I say as we touch hands through the glass, and I struggle to keep my composure. "You're a good friend, too. Enjoy the visit with your family."

Behind the glass, I see Tony smile as we walk out the door. We run into his family in the parking lot and spend a few minutes sharing the good news with them.

"Hey, Paul, thanks for everything you done for Tony," his brother says to me in a thick southern drawl. "Next time I get over by Tallahassee I'm dropping you off a pound of shrimp."

I can't help but smile and laugh. Then I thank him and tell him to get inside and spend some time with his brother.

It's a couple of months later, and I'm in Sacramento where I still keep up with Tony's case. Shortly after my arrival, Governor Jeb Bush and the Florida Legislature passed legislation that eliminated the use of the electric chair in favor of lethal injection. This mooted the case before the Supreme Court. Though we expected this to occur, I'm still disappointed that we won't get the opportunity to expose the heinous nature of the electric chair on a national level.

I also feel the state cheated Tony out his day in court, so to speak. If you follow the logic of the state, which continues to insist that the electric chair is not cruel or unusual, then it should have been prepared to argue that point in court. The stakes, apparently, were too high for the state to take a chance with the court, which could really stick it to Florida and the other states that rely on the electric chair.

The morning of February 24th, 2000, Anthony Braden Bryan is killed by a lethal injection at Florida State Prison, just three months after my last visit with him. On Tony's death certificate, the coroner lists the cause of death as "homicide." Outside the prison walls, after Tony's execution, the politicians flash their cheap smiles, give the thumbs up, and promise we can all sleep a little better tonight because of this state-sanctioned homicide.

Two thousand miles away, I sit quietly in my new office in California. I still do death penalty work, but now all my cases are strictly in federal court. I should be happy with the job change, a new beginning of sorts, but any gratification is overwhelmed at this moment with an oppressive melancholy, not to mention strong feelings of guilt. I'm depressed and sad about Tony's death, and what it says about us in the larger perspective of things. The guilt comes from those nagging inner questions fueled by self-doubt and Monday morning quarterbacking. Did I do all I could do to prevent this? Did I miss anything?

I've lost clients before. The fact that I recognize that my reactions are not unusual in these circumstances does not ease my conscience. But to maintain my sanity, I must realize, as does anyone who takes on this tremendous responsibility, that sometimes, despite your best efforts, you lose. When that happens, your client dies. He or she gets a last meal, says a few words, prays—usually—and is put to death. Those, unfortunately, are the high stakes of what I do.

So I sit alone in my new office in California. My door closed, I'm lost in myriad thoughts. I isolate myself for a few minutes before I get up and open the door. I walk back to my desk and sit down, open a drawer, pull out a file, and get to work.