

*Author's Note: The writing of a book is a long process. It's a drive on a long road. Along the way you make many stops and occasional turns. When you get to the final destination, you look back and sometimes you see places you shouldn't have stopped and turns you shouldn't have made. That's when the editing comes in. Sometimes the cuts are easy and obvious, sometimes they involve very tough choices. The one thing I try to keep in mind at all times in this process is momentum. I want the book to keep its velocity and often the cuts I make are in deference to that goal. To always keep things moving.*

*If you read the Brass Verdict, you will note that when Mickey Haller inherits the caseload of his murdered colleague, Jerry Vincent, there is mention of a client who was arrested for indecent exposure. The case is described briefly and handled quickly by Mickey off the page. However, originally he handled it on the page. I wrote an entire chapter dedicated to the case, basing it on a real case described to me by a real criminal defense attorney.*

*But as much as I liked the anecdotal nature of the case and how it is handled by Mickey and the prosecutor, I came to realize that the chapter slowed the momentum of the entire book. The exposure case, as described in Chapter Twelve, has no bearing on the main story of the book. It's just a stop off and though I think it adds a brush stroke of character in regard to Mickey Haller, it is more about a prosecutor who never comes back again into the story. So in the end it was an easy cut to make. Read the following lost chapter and see what you think.*

*-- Michael Connelly*

## TWELVE

Brisket on toasted poppy seed bagels. This was what we always ate. Thinking that returning to the routine would be the best way to return to the professional friendship, I brought a bag with two brisket sandwiches and two cans of soda from Jerry's Deli to Dean Seiver's office in the district attorney's office in the Santa Monica Courthouse annex. Seiver was a lifer who had always called them like he saw them, regardless of the whims of politics and public morals. This explained why after 22 years in the D.A.'s office he was still filing misdemeanors off of cases spawned in the unincorporated areas in the west county.

This is also why we were friends. Dean Seiver still called them like he saw them.

His office had not changed a bit. He had so many cases and so many files stacked on and in front of his desk, that they created a solid wall from which he sat behind. I reached over and put the bag down on the small workspace he kept clear.

"The usual," I said.

He didn't touch the bag. He leaned back and looked at it as if it was a suspicious package.

"The usual?" he said. "That implies repetition. It implies routine. Haller, where've you been? I don't mean lately. I've been watching you this week on TV. But where were you for two years before that?"

I sat down on the chair on the other side of the wall of files.

"I got messed up and went on a hiatus."

A long silence went by while Seiver waited for further explanation. None was forthcoming.

"So that's it? No brisket for two years and you just say you were on hiatus? Haller, what the hell happened to you?"

The wall of files cut off his face. I could only see his eyes.

"I'll tell you someday when I know you better."

I tried a smile but I didn't think he could see it. But he nodded as if he accepted the proposition. He leaned forward and I heard him open the bag. Soon a wrapped sandwich was handed over the wall to me. Then a napkin. Then a can of Caffeine-Free Coke.

"Caffeine free?" he said. "That's not the usual, Haller."

"I know. But I can't have the stuff anymore. Keeps me up all night."

All I could see were his eyes but they were suspicious eyes. He wasn't buying what I was selling.

"When Lorna called she said you wanted to talk about a case. I pulled it out of the stack to take a look but it's not your case. It's Jerry Vincent's case,

except I read in the paper this morning that Jerry Vincent got popped in his office Monday night.”

“That’s right. And his cases went to me. I have the court order if you need to see it.”

Seiver’s head dropped down out of sight when he leaned into a bite of his sandwich.

“Not necessary,” he said after taking some time to chew and swallow. “So now the case is yours and you want to talk about a dispo before I even file it. Remember, Haller, I have sixty days to file and I haven’t used half of them. But I’m always open to a dispo.”

“Actually, no dispo. I want to talk about making the case go away. Completely. Before it’s filed.”

Seiver’s head came up sharply and he looked at me.

“This chick was caught completely naked on Broad Beach. She’s an exhibitionist, Haller. It’s a slam bang conviction. Why would I make it go away? Oh, wait, don’t tell me. I get it. The sandwich was really a bribe. You’re working with the FBI in the latest investigation into corruption of the justice system. I didn’t know it was called Operation Brisket.”

I smiled but also shook my head.

“Open your shirt,” Seiver said. “Let me see the wire.”

“Would you settle down, Seiver? I think you need to back off the caffeine a few notches yourself. Did you read the deputy’s arrest report and did you compare the information to the statute?”

His eyebrows came together in curiosity.

“I read the arrest report after Lorna called. The statute is up here.”

He tapped a finger on his temple.

“And so what about them?” he asked.

“Under the statute the deputy must visually observe the trespass of the law in order to make an arrest for indecent exposure.”

“I know that. He did. Says right in the report that she came out of the water completely naked. Completely, Mick. That means she didn’t have any clothes on. I think it’s safe to say that this academy-trained deputy had the skill to notice this distinction. And by the way, do you know how cold the Pacific is right now? Do you have any idea what that would do to a woman’s nipples?”

“Irrelevant, but I get the picture. But you miss the point. Read the report again. No, wait. I have it right here. I’ll read it to you.”

I pulled the file from my case and read the arrest summary, which I had highlighted when I reviewed the case file.

“Suspect Linda Sandoval, twenty-two years of age, was in the water when responding deputy responded to call. Multiple witnesses pointed her out. R/D told suspect to come out of the water and suspect refused several times. R/D finally enlisted help of lifeguards Kennedy and Valdez and suspect was physically removed from the ocean where she was confirmed as completely naked. Suspect willingly dressed at this time and was arrested and transported. Suspect was verbally abusive toward R/D at the time of her arrest and during transpo.”

That was all I had highlighted but it was enough.

“I’ve got the same thing right here, Haller. Looks like slam bang material to me. By the way, did you see that under occupation on the arrest sheet she put down ‘exotic dancer?’ She’s a stripper and she was out there getting rid of her tan lines and she broke the law.”

“Her occupation isn’t germane to the filing and you might want to look again at the report there, Einstein. The crime of indecent exposure was created by your own deputy sheriff.”

“What are you talking about?”

“It doesn’t matter if multiple witnesses pointed her out to him or that they saw her frolicking naked in the surf. Under the statute, the deputy can’t make the arrest based on witness testimony. The arresting officer must observe the actual infraction to make the arrest. Pull down the book and check it out.”

“I don’t need the book. The deputy clearly met the threshold.”

“Uh-uh. He clearly didn’t observe the infraction until he had those two brave lifeguards pull her out of the water. He clearly created the crime and then arrested her.”

“What are you talking about, an entrapment defense? Is this a joke?”

“It’s not entrapment but it’s not a valid arrest. The deputy created the crime and that makes it an illegal arrest. He also humiliated her by having her dragged out of the water and put on public display. I think she’s probably got a cause for civil action against the county.”

“Is that a negotiating ploy? This is ridic – ”

He stopped mid-sentence as he realized I was right about the deputy creating the trespass upon the law. His head dropped down out of sight but I don't think it was to take another bite of his sandwich. He was reading the arrest report for himself and seeing what I was explaining to him. I waited him out and finally he spoke.

"She's a stripper, what's she care? Maybe if you take the conviction and then ran an appeal on it you would get some media and it would be good for business. Court TV certainly loves your ass this week. Have her plead nolo pending the appeal and meantime I'll make sure she only gets a slap on the wrist. But no civil action. That's the deal."

I shook my head but he couldn't see it.

"Can't do it, Deano. She's a stripper but she's also first year law at USC. So she can't take the hit on her record and gamble on an appeal. In some states she'd never be allowed to take the bar or practice. In some states she'd even have to register as a sex offender because of this."

"Then what's she doing stripping? She should be clerking somewhere."

"USC's goddamn expensive and she's paying her own way. You'd have to see her to believe this but she makes about ten times more stripping than she does clerking."

"Then she's going to make more stripping than she will practicing law."

"You're stalling, Dean. What are you going to do?"

"You just want the whole thing to go away, huh?"

I nodded.

“It’s a bad arrest, man. You refuse to file it and everybody wins. My client’s record is clean and the integrity of the justice system is intact.”

“Don’t make me laugh. I could still go ahead with it and tie her up in appeals until she graduates.”

“But you’re a fair and decent guy and you know it’s a bad arrest. That’s why I came to you.”

“Where’s she work and what name does she dance under?”

“One of the Road Saints’ places up in the Valley. Her professional name is Harmony.”

“Of course it is. Look, Haller, things have changed since you went on so-called hiatus. I’m restricted in what I can do here.”

“Bullshit. You’re the supervisor. You can do what you want. You always have.”

“Actually, no. It’s all about the budget now. Under some formula some genius put together at county, our budget now rises and falls with the number of cases we prosecute. So that edict resulted in an internal edict from on high which takes away my discretion. I cannot kick a case without approval from downtown. Because a nol pros case doesn’t get counted in the budget.”

This sort of logic and practice did not surprise me, yet it surprised me to be confronted with it by Seiver. He had never been a company man.

“You’re saying you cannot drop this case without approval because it would cost your department money from the county.”

“Exactly.”

“And what that means is that the interest of justice takes a backseat to budgetary considerations. My client must be illegally charged first, in order to satisfy some bureaucrat in the budget office, before you are then allowed to step in and drop the charge. Meantime, she’s got an arrest on her record that may prevent or impede her eventual practice of law.”

“No, I didn’t say that.”

“I’m paraphrasing.”

“I still didn’t say that last part.

“Sounded like it to me.”

“No, I told you what the procedure is now. Technically, I don’t have pre-filing discretion in a case like this. Yes, I would have to file the case and then drop it. And, yes, we both know that the charge, no matter what the outcome of the case, will stay on her record forever.”

I realized he was trying to tell me something.

“But you have an alternate plan,” I prompted.

“Of course, I do, Haller.”

He stood up and moved what was left of his sandwich from the clear spot on his desk.

“Hold this, Haller.”

I stood up and he handed me a file with the name Linda Sandoval on the tab. He then stepped up onto his desk chair and used it as a ladder to then step up onto the clear spot of his desk.

“What are you doing, Seiver? Looking for a spot to tie the noose? That’s not an alternative.”

He laughed but didn’t answer. He reached up and used both hands to push one of the tiles in the drop ceiling up and over. He then reached a hand down to me and I gave him the file. He put it up into the space above the ceiling, and then pulled the lightweight tile back into place.

Seiver got down and slapped the dust off his hands.

“There,” he said.

“What did you just do?”

“The file is lost. The case won’t be filed. Time will run out and then it will be too late for it to be filed. You come back in after the sixty days are up and get the arrest expunged. Harmony’s record is clean. If something comes up or the deputy asks questions, I say I never saw the file. Lost in transit from Malibu.”

I nodded. It would work. The rules had changed but not Dean Seiver. I had to laugh.

“So that’s what passes for discretion now?”

“I call it Seiver’s pre-trial intervention.”

“How many files you have up there, man?”

“A lot. In fact, tell Harmony to put some clothes on, get down on her knees and pray to the stripper gods that the ceiling doesn’t fall before her sixty days are run. Cause when the sky falls in here then Chicken Little will have some ‘splaining to do. I’ll probably need a job when that happens.”

We both looked up at the ceiling with a sense of apprehension. I wondered how many files the ceiling could hold before Seiver's pre-trial intervention program came crashing down.

"Let's finish our sandwiches and not worry about it," Seiver finally said.

"Okay."

We resumed our positions on either side of the wall of files. We talked about Jerry Vincent first and then moved on to updates on family. I told him I had to file a motion on another case after we finished eating. And after a while I got around to telling him where I had been for two years. He revealed to me that his father had what he called a "painkiller problem" after knee replacement surgery. It was Seiver's way of telling me he sympathized with me rather than judged me.

When we were finished eating we put all the wrappers and cans back into the bag and I took it with me to toss into a public trashcan outside. It was part of the tradition that I did that. Nobody liked their office smelling like brisket.

"Thanks for putting Harmony into PTI," I said.

"No problem," he said. "I'll see you around. And I'm not talking about two years from now."

"It won't be."

When I got to the door I remembered something I wanted to ask and looked back at him behind his wall of files.

"Hey, that thing you said about the latest FBI investigation into corruption in the justice system, is that true or just a joke?"

“Who knows? I’ve heard rumors but I’ve probably heard rumors like that every year since I’ve been here. Why?”

“Just curious.”

“Better watch yourself, Haller. In case it’s true.”