

DEATH'S HALF ACRE

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(CHAPTER 4)

. . . I was
*born in that house in the hedge, the dogyard
outback, the mulestables, chickens running
free, the hogpen homey with grunts and
tail-twitches . . .*

— *Fiddledeedee*, by Shelby Stephenson

“Oyez, oyez, oyez!” intoned the bailiff in my courtroom next morning .
“This honorable court for the County of Colleton is now open and sitting for the
dispatch of its business. God save the state and this honorable court, the
Honorable Judge Deborah Knott pleasant and presiding. Be seated.”

He paused as if hearing his words on a playback track and looked up at
me sheepishly. “I mean, Judge Deborah Knott present and presiding.”

I laughed. “You saying I’m not pleasant, Mr. Overby?”

“Not me, ma’am.” He cast a significant eye to the side bench where three
attorneys waited for their cases to be called.

Two of them had broad grins. The third, the one who was audibly
snickering, was my own cousin, Reid Stephenson.

“A little decorum here, gentlemen,” I said with mock sternness.

Today’s calendar listed the usual DWIs, possession with intent to sell, the
bad checks, the drunk-and-disorderlies, the shoplifters, and the brawlers. Usual
to me, that is, and to the prosecutors and attorneys, and even to most of the
defendants. But there are always some for whom this is a first-time event.

About ninety minutes into our morning session, Kevin Foster pulled a
shuck and said, “State versus Dorothy Arnfeldt and Monica Udell. Assault and
battery.”

Both looked to be middle-class white women, mid-forties. Both were
charged with assault and battery, and even though both looked embarrassed to
be there, both had facial expressions that proclaimed the righteousness of
whatever actions had brought them to my courtroom.

Although they were neighbors, this was clearly not kiss-and-make-up time
for either of them. They sat at the defense table with their attorneys, George
Francisco and my cousin Reid, between them.

“How do you plead?” I asked.

“Not guilty!” they chorused.

The older attorney placed a calming hand on Mrs. Udell's arm and rose to address me. "Your Honor, my client pleads guilty, but with extenuating circumstances."

"Thank you, Mr. Francisco," I said and looked to the prosecution's table and ADA Kevin Foster. "Call your first witness, Mr. Foster."

A uniformed patrol officer took the stand and swore to tell the truth, the whole truth, and nothing but. Referring to his notes, Officer Maynes described how he had responded to a call about a domestic disturbance on the outskirts of Cotton Grove in February in the late afternoon. Stripped of the formal officialese, he had arrived to find these two women slugging it out in the backyard of the Udell domicile. A dead and mangled chicken was being worried by a dog owned by Mrs. Arnfeldt, whose backyard butted up against that of Mrs. Udell.

"As best I could make out, your Honor, Mrs. Udell keeps a few chickens in her backyard. Mrs. Arnfeldt said that one of them flew over the hedge that separates the two yards and her terrier got hold of it and killed it. Mrs. Arnfeldt says the dog was in his own yard and she's had trouble with Mrs. Udell's chickens scratching in her flower gardens. Mrs. Udell says the dog was not fenced and came into her yard and killed her chicken. She got the little .22 rifle she keeps to kill snakes and squirrels and was going to shoot the dog when Mrs. Arnfeldt jumped her."

"The dead chicken was in Mrs. Udell's yard?"

"Yessir."

"And the dog was in her yard, too?"

"Yessir."

"Were there any witnesses to the incident?"

"Not to my knowledge. The 911 call came from Mrs. Arnfeldt's house. I believe her daughter."

On the bench in the front row, a teenage girl in torn jeans and a long-sleeved orange top that showed off her navel ring gave an involuntary nod.

"According to her statement, she saw the altercation from the window of her room on the second floor after it was already in progress."

Again the girl nodded.

"When you arrived, what did you see?" Kevin asked.

"As I came around the corner of the house, I saw Mrs. Udell give Mrs. Arnfeldt a shove, and their language had a lot of profanity. Both had lacerations on their faces and their clothes had dirt and grass and chicken manure on them."

"Your witness," Kevin said to the nearer of the two attorneys.

Despite his soft voice and courteous manners, George Francisco has the tanned and athletic build of an outdoorsman. He doesn't like to argue criminal cases and I wasn't quite sure why he had agreed to represent Monica Udell.

"Tell me, Officer Maynes," he said. "Is it against the law to own chickens in this county?"

"No, sir. Not outside town limits. Some towns do have regulations, but—"

"Does the Udell residence lie within the limits of Cotton Grove?"

"No, sir. About a quarter-mile outside."

"And is there a leash law in the county?"

"Some of the towns have them, but not unincorporated areas."

"Was the dog on a leash when you arrived?"

"No, sir."

Francisco took an eight-by-ten photo from the folder before him and asked for permission to approach. I nodded.

He showed the picture to me, to Reid and Mrs. Arnfeldt, and to Kevin Foster before handing it to Maynes. "Is this a picture you took of the dead chicken?"

"Yessir. In fact, that's the toe of my shoe in the corner here."

"Your Honor, I would ask that this picture be submitted into evidence as Exhibit A."

"So ordered," I said.

After looking at the picture, I thought I knew where Francisco was going with this one and I was surprised that Reid hadn't caught it. But then Reid was town-raised and maybe a bit clueless about chickens.

"Thank you, officer. No further questions," he said.

"Mr. Stephenson?" I said with careful formality. Even though I have eleven older brothers, Reid is the closest I've ever come to having a younger one. When I first joined the law firm of Lee and Stephenson, his father, Brix Junior, was still practicing. As soon as Reid passed the bar exam, Brix Junior retired to Southern Pines where he could play golf every day if he wanted and left Reid to take his place. Reid's a bright and competent attorney, but he does have trouble keeping his pants zipped, which irritates the hell out of John Claude Lee, his senior partner.

As Dorothy Arnfeldt's attorney, Reid smiled pleasantly at the officer and said, "This is not the first time you've been called to my client's home, is it?"

"No, sir. She's filed complaints about the chickens . . . well, the first time it was about a rooster crowing early of a morning, and a week before this incident, she complained that the chickens were scratching up some flowers she'd just set out in her backyard."

"When you say 'backyard,' Deputy Maynes, exactly what do you mean?"

The officer was puzzled. "You want me to describe them?"

"Just the general size, please."

"Well, the Arnfeldt lot is like most of the new places they're building. Maybe a quarter to a third of an acre."

"It's part of Crescent Ridge subdivision?"

"Yes, sir."

"Where there's a homeowner's association?"

The officer shook his head. "I wouldn't know about that. Anyhow, Mrs. Udell's place isn't part of it. Crescent Ridge backs up on what's what left of the

old Crandall farm. I'd say it's about two-acres."

"And are Mrs. Udell's two-acres fenced in?"

"No, sir. Just her chicken yard," he said.

"How high is that fence?"

"About five feet."

"And the hedges that separate the properties?"

"Maybe four feet?"

"Could a chicken fly over them?"

"Objection," said George. "Calls for a personal opinion."

"Sustained," I said.

"Your folks keep chickens when you were a boy?" Reid asked.

"Yes, sir."

"Did you ever see one of your chickens fly over a five-foot fence?"

Maynes grinned. "Yessir!"

"And what about roosters?"

"Well, we kept one to service the hens and—"

"No, I'm referring to their crowing habits. When do they start crowing?"

"Soon as the sky lightens up of a morning."

"Are they loud?"

"I could sleep through it myself," said Maynes, who was clearly enjoying himself, "but it always woke my dad and he woke the rest of us."

"No further questions," Reid said and sat down.

"Redirect, your Honor," said George Francisco. "Officer Maynes, when you were in the Udell yard, did you see any roosters?"

"No, sir."

"Thank you," said Francisco, and he, too, sat down.

"Further witnesses?" I asked.

"No, ma'am. The prosecution rests."

I told Maynes that he could step down, then asked the defense table, "Who goes first?"

Reid's client rose and crossed to the witness stand. Dorothy Arnfeldt wore a tailored navy blue suit. The neckline of her white blouse had a narrow ruffle and showed a tiny bit of cleavage. Simple gold earrings and gold wedding band. She sat with her shoulders squared and her demeanor was respectful, but by no means intimidated. Although Arnfeldt was her married name, she appeared to be of Scandinavian descent herself: fair skin, thick silver-blond hair, strong nose and chin. Her accent was from "a little further up the road," as my mechanic refers to states north of us, and indeed, after giving her name and address and swearing to speak truthfully, she told of moving down from Detroit when her husband was transferred last fall.

She spoke of how pleasantly surprised they were to realize they could buy a new and bigger house with a bigger yard than they had been able to afford in Detroit. "Then I discovered that we were just a few feet away from a dirty

chicken house. And that the owner let them run wild through our yards, too. The lady next door warned me to watch where I put my feet when I walked back where the hedge is, but I stepped in a pile of chicken dirt and tracked it in on my new carpet before I realized, so I went over and very nicely asked her to keep her chickens in her own yard.”

“And what was her response?” Reid asked.

“She said she’d try, but that they were used to roaming around before any houses were built there.”

“Did she keep the chickens penned?”

“Not all the time. And once when she let them out, three flew straight over the hedge to where I’d had somebody dig a flower garden for me. That time, she said chickens were naturally drawn to freshly turned dirt and that her chickens were doing me a favor by eating all the cutworms in the soil. I told her I could do without the favor and that’s when I called to report it.”

“What about the rooster?”

“It didn’t crow only in the morning, it crowed all day long. And those hens! Every time they lay an egg, they tell the world about it. So, yes, I’ve complained about the noise.”

“What about your dog?”

“We have an invisible electric fence, so she stays in our own yard.”

On the day of the altercation, she said that she heard her dog barking and she looked out in time to see a chicken come flying over the hedge. The dog immediately pounced on it. “I rushed out to try to save it, but Pixie grabbed the chicken and squeezed through a gap in the hedge with it. When I got through, I saw Mrs. Udell come out of the house with a gun in her hands and she said a chicken-killing dog shouldn’t be allowed to live . . . well, that’s not precisely what she said, but I can’t repeat the kind of language she actually used. Anyhow—”

“Wait a minute, Mrs. Arnfeldt,” Reid said. “Was your invisible fence turned off?”

“It was on, but it’s not set very high. We don’t want to really hurt Pixie, just discourage her from straying. It’s strong enough that she never crosses it when she’s out there alone and unprovoked, but if something like a chicken flies into our yard and gets her all excited, then I guess she just charges right across it.”

“So what did you do next?”

“What I didn’t do is let her shoot Pixie. What sort of neighbor shoots another neighbor’s pedigreed dog over a dumb chicken? I offered to pay her for it, but she wouldn’t listen. Just kept yelling that she was going to kill ‘that damn dog.’ Her words, your Honor, not mine. When I tried to take the gun away from her, she hit me in the face and we got into it. But she threw the first punch. Not me.”

“Your witness, Mr. Foster,” Reid said.

“Just to be clear, Mrs. Arnfeldt,” said Kevin. “You claim that the chicken flew into your yard, your dog killed it and then ran off with it when you came out

so that you and your dog and the dead chicken were in the Udell yard when Mrs. Udell came out with the rifle?"

"Yes, sir."

"No further questions."

Francisco stood to cross-examine. "When you were buying your house, Mrs. Arnfeldt, did you look around out back?"

"You mean did I see the chickens? Not really. I thought that little building was a toolshed or something. It was almost dark and they must have already gone in for the night so that rooster could get a good rest before it started crowing."

"But you did drive past farms to get to Crescent Ridge and knew that there were farms around?"

"Yes, of course. That's why we bought out there. So that we could live in the country, but I didn't know that meant I was going to be living in someone's barnyard."

Francisco paused. "Six chickens constitute a barnyard to you?"

"Objection!" said Reid.

"Sustained."

"My apologies," Francisco told me. "Now on the evening in question, Mrs. Arnfeldt—"

"You mean that afternoon?" she asked. "It was still daylight."

My clerk looked up with a small roll of her eyes but the rest of us kept a neutral face. We all realized that it was an innocent question. For us, "afternoon" becomes "evening" around three-thirty or four o'clock, a nuance that takes newcomers a while to pick up on.

"I stand corrected," Francisco said politely without the least trace of sarcasm. "That afternoon. Are you quite certain that you saw that chicken fly over your hedge?"

"Absolutely. And then Pixie grabbed it and—"

"You do understand the penalties for perjury, do you not?"

"Objection!"

"Overruled," I said.

Dorothy Arnfeldt turned to me indignantly. "Is he calling me a liar?"

"I don't think so, ma'am. I think he's just warning you to be sure it's the truth you're speaking."

Reid's head came up sharply at that. He knows me well enough to read me and the very fact that I'd just overruled his reasonable objection put him on alert that his client might somehow be walking on shaky ground although he didn't know why.

"Please take another look at Exhibit A," Francisco said, handing her the picture after I'd nodded to show he could approach. "Is this the chicken that flew into your yard and that your dog killed?"

She gave the picture a disdainful glance. "I suppose so. All chickens look

alike, though, don't they?"

"Not to people who keep chickens, Mrs. Arnfeldt." His voice was scrupulously polite.

"Look, Your Honor," she said, twisting in her chair to face me directly. I think it was finally getting through to her that she wasn't in Kansas any more. "I really do regret this and if that chicken was her pet, then I guess I can't blame her for flying off the handle. I'm willing to pay a reasonable amount for what it was worth to her."

"We can discuss that later," I said. "You're not charged with contributing to the death of a chicken. You're charged with assault and battery."

"No further questions," said Francisco. "May I call my client to the stand?" Baffled, Mrs. Arnfeldt returned to the defense table and Mrs. Udell took her place.

After she was sworn in, Francisco asked her to tell her side of the story. Monica Udell's skin was the color of wild honey. Her stright brown hair was cut in a non-nonsense bob. She wore black slacks and a white shirt layered over a red-checked shirt. No jewelry except for a wedding band and a modest diamond on her left hand.

She described how her two acres were all that were left of her grandfather's farm. "You divide the land four or five times every generation and not much is left," she said. "One of my sisters still lives next door, but the others sold out to Crescent Ridge. I've tried to be a good neighbor to these new folks, but I like eggs that have some color to their yolks and aren't full of hormones and stuff and I don't plan to quit just because city's come to the country."

She admitted that her chickens had originally strayed over to the newcomers' yards, "but as soon as they asked me to keep them penned, I did. And when she put the law on me about my rooster, I made a big pot of pastry out of him rather than have hard feelings with her. Once in a while, one would fly over the fence in the morning and head straight for her yard. But her dog was over at my place more than my chickens were over there, worrying around the pen like he hadn't never seen a chicken before. When she complained to me the last time, I quit letting them out in the morning, just in the evening right before dark. They don't get far from their roost when night's coming on. And I clipped the left wing of all five of 'em as any fool can see if they look at that picture of poor Bella laying there dead. So if she says that chicken flew over her hedge, she's just pure out lying. There's never been a chicken hatched that can fly on just one set of wing feathers. Her dog came in my yard and killed my chicken right where it had every right to be, and yeah, I might've hit her first, but I do believe she was asking for it when she came over yelling and cussing me out because I was about to shoot me a chicken-killing dog."

Reid immediately asked to see the picture again and his client paled when she saw the closely clipped feathers on the dead chicken's left wing and comprehended the significance. She whispered something to him and he stood.

"Your Honor, about my client's testimony . . ."

"About her perjury, Mr. Stephenson?"

"My client would like to correct her earlier misstatement."

"I'm sure she would," I said crisply, "but I've let this drag on too long as it is. Perjury is a Class F felony, Mrs. Arnfeldt, and I could send you to jail for thirteen months. Or, I could cite you for contempt, which carries ten days in jail."

She gave an audible gasp and clutched Reid's arm.

"But I'm going to overlook it this time." Before she could quit looking worried, I continued, "On the other hand, because you did lie to this court, I'm going to accept that Mrs. Udell's is the truthful account and that your dog did go into her yard and kill her chicken. I'm ordering you to keep your dog on a leash when it's outside or else strengthen the charge on your invisible fence. If she had shot your dog, how much compensation would you have asked for?"

She balked at that. "My dog has papers."

"If you're going to live in the country," I said, "then you need to know that some chickens have pedigrees, too, and a lot of them are pets with personalities as individual as dogs or cats. I'm entering a judgment of three hundred dollars against you for the death of the chicken, payable to Mrs. Udell.

"As to the assault and battery, I find you each guilty as charged and sentence you to ten days in jail, suspended for one year, unsupervised probation, on condition that you each pay a hundred-dollar fine and court costs, and that you neither threaten nor assault each other during that year or you will go to jail."

It did not immediately register with either woman that Mrs. Arnfeldt was going to be out at least five hundred dollars while Mrs. Udell would break even, assuming her attorney didn't bill too many hours.

With an amused nod of his head, George Francisco said, "Thank you, your Honor."

He started to follow his client out but I motioned for him to come up to the bench. As Kevin Foster looked through his shucks before calling the next case. I leaned forward and said, "Did you have a pet chicken when you were a kid?"

He smiled. "A white silkie. Her name was Blossom. You?"

"A Rhode Island Red named Maisie Lou," I told him.



Hank Williams, a silkie owned and loved by Deb Adams (used with permission).