

This story is dedicated to Elvira Campos. She was shot and killed on May 18, 2013, as she sat watching television in the front room of her home. She was ten years old. No arrests have been made.

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Max Silver loved the little piece of ground he called his tomato patch. Situated in one corner of his backyard, it wasn't much more than eight feet wide by twelve feet long, but the production every year amazed him. Maybe it was the late morning and early afternoon sun, or the yards and yards of steer manure he worked into the soil every year. Whatever it was, from June through October the fruit just kept coming. He loved passing out lunch bags filled with ripe tomatoes to his neighbors and they seemed to enjoy them as much as he did. *Hey, Max*, they would say, *how are those tomatoes coming?* One neighbor, the house just across the street, would turn the ripe fruit into salsa and share several jars every season.

Today he was busy nipping and pruning and staking his thriving plants. It was late May and soon the blossoms would turn into small green globes, and if left unsupported, the weight would be too much for the vines to bear. The sun was nearly down on this warm May day, and he started to think about the cold beer waiting for him in the fridge. His daughter and granddaughter were at the movies; he glanced at his watch and realized they wouldn't be home until well after dark. He'd be on his own for dinner tonight.

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Max had lived in the little wood frame house for thirty years now. He and Stella poured lots of love and care into the place, even as the neighborhood began to decline. When Stella lost her battle with cancer eight years ago, he carried on, even though the house seemed empty without her. Then his daughter Marnie went through a divorce, and five years ago, Marnie and his granddaughter Jessica moved in to fill a part of the gaping hole in his life. Now all that love and care flowed in their direction as well.

He was gathering his tools when he heard two sharp cracks and the faint sound of glass breaking. Then two more cracks. It took him a moment to realize that what he was hearing was gunfire. He dropped his tools and went to the gate at the side of the house. There was a knothole in one of the boards and he took a quick look through it as he reached for the gate latch. What he saw caused him to freeze.

A young man wearing a hooded sweatshirt was crossing the street, heading toward a car parked at the curb, a gun in his right hand down at his side. Though the hood was pulled up over his head, Max could see his face clearly. He knew this boy: a neighborhood tough named Sonny. The young man climbed into the backseat on the passenger side of the car and the wheels screeched as it tore away from the curb.

Max left the gate closed and backtracked to his patio, entering the house through the sliding glass door. He kicked off his shoes as he entered and hurried to the front room. The drapes were open and through the large window he could see the house across the street. And now he could hear the screams and shouts emanating from the home, and he could see four round holes—the four shots he'd heard—in the living room window.

The screams and shouts continued and he could see his neighbors along the block begin to come out onto their porches, craning their necks to see what was going on. Before long, the sound of multiple sirens pierced the gathering dusk. Was it the police? An ambulance? Something terrible was unfolding and Max was an unintended witness.

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The neighborhood was swarming with law enforcement. At least a half-dozen patrol cars were out in the street, yellow crime scene tape stretched along the perimeter of the lot across the way, uniformed and plain-clothes officers moving about. Max sat in his La-Z-Boy recliner against the back wall of his living room. The house was dark and he was sure that no one looking in the window could see him sitting there.

Okay, now what? Should he simply walk out there and tell the cops what he had seen? And if he did, what then? He was sure his home and family would become the next targets. It would be like hanging a bulls-eye on his front room window: shoot here. His cell phone rang loudly, startling him so that he jumped in the chair. It was his daughter Marnie calling.

“Dad, what’s going on? We can’t get into the neighborhood. There’s a line of cars here on Maple Street and I see a police roadblock up ahead.”

“There was a shooting—”

“A what?”

“A shooting. Across the street at the Preston’s house.”

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“Oh my God! Was anyone hurt?”

“I don’t know yet. Look, don’t come home. Don’t even try to get in here. Take Jessica and go to Aunt Millie’s.”

“But we don’t have any clothes or—”

“It’s not safe here, Marnie.” He could not hide the fear in his voice. “Go to Millie’s. I’ll pack a bag and get some things to you tomorrow.”

“But, Dad—”

Max stifled her protests and ended the call. He watched the activity out on the street, wondering what had happened and why. The Prestons were good neighbors, never a problem. Their little girl, Ellie, was ten years old, the same age as his granddaughter. The two girls played together constantly, walked to school together, shared birthdays. Ellie was a sweet and friendly child, round-faced and chubby, always smiling. She’s the one who delivered the fresh salsa the Prestons made from his tomatoes, and she helped her mother bake cookies for them at holiday time. There was an older brother—Max couldn’t remember his name. Maybe he was the target. Gangs were a reality in the neighborhood, as were drugs. Maybe that was it: a turf battle over drugs. If it was just gangbangers shooting each other up, so be it. Let them thin out the herd. He wasn’t getting involved.

His sister Millie had been after him for years to sell the house and move to a better part of town, but he refused to do it. The house was paid for, free and clear, and

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besides there was his tomato patch. At the age of seventy-three, he had no intention of moving.

He played back the events from earlier in the evening, hearing the shots, going to the fence, peering through the knothole and seeing Sonny's face, the gun in his hand at his side. Years ago, he had helped coach a Little League team and he remembered Sonny. A nasty little shit, always a handful, impossible to coach. And now there he was, shooting holes in a neighbor's window. *That little bastard! He was always a troublemaker. These damn gangbangers don't care about anything. They'd kill you just for looking at them the wrong way. And they'd kill each other over their damn drug business. Millie was right: I should have bailed out of this neighborhood years ago.*

Max sat in his chair in the dark, his hands trembling. He realized that he was very tired.

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His cell phone jolted him awake. He looked at his watch but the room was pitch black and he couldn't read the dial. It was his sister Millie calling.

"Max, are you watching the news?"

"What? No, I was dozing... in the front room."

"There's a report about the shooting in your neighborhood. My God, Max, someone shot a little girl."

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He was staring out the window now at the beehive of activity across the way. The cops were keeping the area in front of the house clear, but he could see the TV trucks parked down the block and the reporters and camera crews set up out in the street.

“Millie, tell me what happened. I’ve been asleep—”

“A ten year old girl, Max. Someone shot her in the back of the head while she was sitting on the couch watching television. She’s dead.”

Millie continued, reciting the news verbatim. Max could hardly breathe. *Oh my God! Ellie? They shot Ellie! Oh God. The animals, the goddamn fucking animals. A little girl...a sweet innocent little girl...*

He ended the call with Millie after making her promise to keep Marnie and Jessica safe at her home across town. He would bring clothes and toothbrushes and whatever they needed tomorrow. As he put down the phone, he felt a sudden wave of nausea. He hurried to the bathroom to empty the contents of his stomach, though all he could produce was bitter bile. He rinsed his mouth and splashed water in his face. There was a time when people told him he looked like the actor Charles Bronson. When he looked in the mirror now all he saw was a frightened old man.

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Max parked next to the phone booth adjacent to the convenience store. He turned the business card over and over in his hand. The detective had handed it to him that morning at the close of the conversation at Max’s front door. No, he had seen nothing,

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heard nothing. He'd been in his garden out back. No, no one else was at home, his daughter and granddaughter had been away at a movie.

All the while, Max was scanning the street behind the officer. Who was watching them, taking note of what he said to the police, timing the length of the conversation? *Just give me your damn card and get off my porch!* That's what he wanted to say. And then the detective was gone, the door closed, with Max leaning hard against it, his heart racing.

Now here he was, ready to call from a payphone, certainly not from his cell that could be easily traced. He punched in the number and listened to it ring, again and again. Finally, an operator answered. He asked for Detective Roy Combs and she patched him through to his mobile number.

"Hello, this is Dectective Combs. Hello?"

Max held a folded handkerchief over the mouthpiece. "Yeah...I may have—" He stopped and started over. "I *have* information about the shooting on Chestnut Lane."

"Okay...let me get my notebook. Okay, sir, what is your name?"

"Before I say anything...I need to know...can you protect my family...my home? You've seen what these animals can do."

"Sir, I can't promise anything until you tell me what you know."

Max slammed the phone into its cradle, then picked it up and slammed it several more times. *Sonofabitch...sonofabitch! They can't protect you...they won't protect you.* He climbed back into his car and drove around aimlessly. He had no choice. He had to

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tell the police what he saw, who he saw, leaving the scene with a gun in his hand. He couldn't let Sonny get away with it. He saw a phone booth in the parking lot of a service station, pulled in and killed the engine. Again, the police operator patched him through.

“Detective Combs speaking. Who's calling, please?”

“Look...just tell me you'll *try* to protect my family...that's all I'm asking.”

“Okay, sir, this is Mr. Silver, right? Max Silver? You live across the street from the Prestons. I spoke to you this morning. I recognize your voice. Mr. Silver?”

Max was shocked, his heart pounding out of his chest again. He started to hang up, but what good would that do? “Is there somewhere we can meet? Not at my house...not in the neighborhood.”

They settled on a small café a few blocks away. Max hung up the phone and then used the handkerchief to wipe the sweat from his forehead. He would tell Combs what he knew, what he saw. But he would not testify in open court, if it came to that. No way in hell would he testify.

Sonny had been easy to find, along with the two bangers who'd been with him that night. The three of them were being held without bail pending trial. It turns out that Sonny had confessed, which was good news for Max. Roy Combs assured him he would not have to testify. They had the confession, they had the murder weapon, and the District Attorney was planning to seek the death penalty. Ellie was dead; no way to change that fact. Even though the death penalty was a joke, at least her killer and his

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pals would be going away for a long time. He hoped to see life return to normal on Chestnut Lane.

So why did Combs want to meet with him? Were there new developments in the case? Max walked into Gordy's Club, a working class bar not far from the corporation yard where he'd reported to work for nearly thirty years. He took a seat at the bar, ordered a beer, and waited for Combs to arrive. It was mid-afternoon and the place was nearly empty. He didn't expect to see anyone he knew, not until after quitting time.

Roy Combs walked in and stood near the door, waiting for his eyes to adjust to the dim light. He was about six feet tall with a solid build. He wore a rumpled pair of slacks and a short sleeved shirt that revealed powerful forearms. His tie was loosened and the shirt collar unbuttoned. His hair was cut high and tight, military style, and his expression was that of a pissed-off football coach. He saw Max and nodded toward a booth against the wall. The men shook hands and exchanged a minute or so of awkward small talk.

"So what's up, Roy?"

"Okay...here's the deal, Max. We are gonna need you to testify."

"What? You're shitting me. I told you I won't do that. You want me to get my family killed?"

"We don't have any choice. The judge threw out Sonny's confession."

"How the hell did that happen?"

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“Sonny’s got some young hot shot lawyer. They claimed the confession was coerced. The judge ruled in their favor. It’s out.”

“Wait a minute... you tape those things, don’t you? You have it all on tape.”

Combs looked away, agitated. “We don’t have a tape. The camera malfunctioned.”

“Malfunctioned? Malfunctioned my ass! What did you do, Roy? You didn’t tape it...you didn’t even try. You beat it out of him!”

Combs glared at him, furious now. “That little motherfucker spit in my face! Spit in my face and called me a faggot. You’re damn right I beat it out of him.”

“And this is what I fought for, in that rotten fucking Vietnam? Life, liberty, the Constitution, the American Way? So that you can beat confessions out of gangbangers?”

“Don’t throw the Constitution at me, old man. I served in Desert Storm. I put my life on the line against Saddam’s Elite Guard. Don’t play ‘holier than thou’ with me.”

The bartender called in their direction, telling them to keep it down or take it outside. They glared at each other now, both of them breathing hard from shouting, their fists clenched on the table. Combs broke the silence.

“Look, we’ve still got the gun. And we’ve got your testimony. The DA says he can get a conviction.” He paused for few seconds. “One more thing: with the confession thrown out, they set bail. Sonny is out on the street.”

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Max felt sick, as though he could vomit his beer right there on the table. He felt like breaking the longneck bottle over Combs's head. "And what if I won't testify?"

"Come on, Max. We have your statement. We can subpoena you, treat you as a hostile witness, force you to tell the truth...or go to jail for perjury."

Max had no way of knowing if this was true. He stared at Combs for a long time. "You knew this all along, didn't you? That you'd force me to testify. You lying bastard! And how long before Sonny finds out that I'm a witness?"

"I don't know. It's in the DA's hands. It's called discovery. They have to let the defense know all the evidence against him."

"And what will you do to protect me and my family?"

"We'll do what we can, increase patrols in your neighborhood—"

"Increase patrols? That's it? That's all you got?"

"Hey, it's all we can afford. Our budget is cut to the bone—"

Max couldn't take any more. He bolted out of the booth and headed for the door. He sat in his car for a long time, his head resting on the steering wheel, fighting for composure. He did not see Roy Combs leave the bar.

It was the same dream, over and over again, through all the years since Vietnam. He was standing on a muddy jungle road, watching the flamethrower reach out and ignite a hut, the flames leaping into the sky, black smoke billowing upward. One hut after the

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other. Women and children were streaming down the road, some trying to carry a few meager possessions, the children crying, the women wailing. No men. Where were the men? Were they all dead, fuel for the inferno? Or in the jungle, watching, waiting?

This is what it had come to in a place where you couldn't separate the friendlies from the hostiles, where the guy next to you died at the hands of a child with an AK-47, where all the natives had become, simply, gooks.

The same dream, over and over, until tonight. Tonight one of the children on the road turned to him, holding out a plate of cookies. It was Ellie.

Max usually jolted awake from this dream drenched in his own sweat, his breath coming in great gasps. But tonight was different. Tonight he could only lay there and cry. He was awake for a long time then, trying to push the images and the questions out of his mind. How was he any different from Sonny? Who was that brilliant general who said, "Unfortunately, we had to destroy the village in order to save it."? And how many villages had they *saved*? He refused to remember; he would not count them. And so the dream would come again and again.

The District Attorney's office called Max to let him know that the trial date had been set. Jury selection would begin in two weeks. They would meet with him beforehand to go over his testimony, and to prep him for a brutal cross examination. It had taken more than two years to reach this point, the wheels of justice grinding away, slow but relentless.

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Max was ready; at least as ready as he could be. His daughter and granddaughter were settled with family in Illinois, two thousand miles away. His house was nearly empty now, everything he owned donated or sold off on this thing his daughter showed him called Craig's List. There were a few pots, pans, and utensils in the kitchen, his meager wardrobe in the bedroom closet, and his recliner in the living room. His footsteps echoed as he walked through the house.

He filled his days with reading, going to lunch at favorite cafes, or stopping by Gordy's for a cold beer or two. And of course there was his beloved garden. This year's crop of tomatoes had been exceptional, even by Max's standards. He'd given away so many that he was sure the neighbors were sick of tomatoes. Some of the rest he'd turned into soup and filled his freezer with plastic containers of the red-orange liquid.

He had sold his bed, and so now he slept in the La-Z-Boy. Among the small stack of books next to his chair was Stella's dog-eared volume of *Tanakh – The Holy Scriptures*. In *Deuteronomy 25:19*, he had underlined these words: "...you shall blot out the memory of Amalek from under the heaven. Do not forget!" And in the Book of Samuel: "Now go and smite Amalek, and utterly destroy all that they have, and spare them not..." He knew these passages by heart: Amalek, who attacked from the rear, who plundered the sick and the weak, who murdered women and little children. He would not forget.

Propped against the wall, just behind the chair, was his Winchester 11-87. The 12-gauge shotgun was a relic of his days as an avid duck and pheasant hunter. Max had given up the sport when most of his hunting buddies either died or moved away.

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Now the well-maintained 11-87 stood loaded and ready—one shell in the chamber, four in the magazine. With the trial date set, he was sure they were coming for him.

The night they came, he was wide awake. He'd developed the habit of setting an alarm for a little after 2:00 AM when the bars closed, figuring they would get a load on before heading his way. He saw the old black Honda Civic with the faded paint job and the bright chrome wheels roll slowly past the house, then circle the block and roll by again. He heard car doors slam and that was his signal to turn the recliner sideways and position himself behind it, one knee on the floor, the shotgun resting on the arm of the chair.

Two figures walked across his front lawn, directly up to the low shrubs that grew between the lawn and the living room window. One of them was carrying a heavy tool with a long handle. They peered in through the window, and then, unable to see anything or anyone, they went to the front porch. A moment later came the sound of a sledgehammer blasting the wooden door frame to pieces. The door swung open and the two figures moved cautiously into the room.

“Oh, Maxie? Old ma-an? Where are you?” The man in the lead called out in a sing-song voice. The one behind him laughed softly.

It was then that Max squeezed the trigger. The first man flew back against the wall and crumpled to the floor. A new shell was in the chamber and he pulled the trigger again. As he did this, he saw a series of bright muzzle flashes and waited for the shock and burn of the bullets heading his way. The shock and burn never happened; the slugs slammed into the wall behind him. Both of the men were down on the floor, moving, but

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just barely. Max stood up and walked the few steps across the room. The second one through the door, the one who had returned fire, was Sonny— Amalek himself. He thought about firing one more shell into the chest of each man but could see that it was not necessary; they were no longer moving. He waited to see if someone from the Civic would come running to provide backup. Then he heard the sound of the engine racing as the car sped away from the curb.

Max placed the shotgun on the recliner and went through the kitchen and into the garage. He retrieved a five-gallon can and brought it into the house. Starting at the front door, he doused the two bodies and the walls with gasoline until the can was empty. Then he stood back, took one last look around, struck a match and tossed it into the room.

He went out through the sliding glass door and onto the patio. There he picked up his work gloves and started across the lawn to his tomato patch. A ninety-gallon trash can was waiting next to his garden plot. Slowly, deliberately, he began to tear out his tomato plants, first the wooden stakes and wire cages, and then the crisp green vines still loaded with fruit.

The flames were roaring through the house now, licking under the eaves, smoke beginning to billow into the night sky. The little wood frame house was saved.