

HEARTBEAT

By Joseph J Dehner

Alice fingered the rosary beads in her jeans pocket. She prayed for safety as she strolled alone down a dimly lit lane in the gentrifying neighborhood at downtown's edge. Festooned with orange cones and dumpsters, the nineteenth-century streetscape bore the promise of an urban makeover from decades of decay and abandonment. She'd left her best friend's engagement party at the craft brewery full of hope that she, too, would find a soul mate. She'd moved to the inner city for an uplift after graduating with honors from all-female Saint Mary's College and landing a marketing position at a national firm serving *Fortune 500* clients.

He struck from beyond her sight. His right hand smothered Alice's mouth as he gripped her waist with his left arm, lifted her like a mannequin, and kicked the door to the boarded-up, brick three-story with a red-lettered *SOLD* sign nailed to the entrance. She was blinded with a cloth tied tightly across her forehead. Her brain surrendered fight-or-flight and switched to freeze. She floated out of her body to separate from sensation. It lasted for seconds. It lasted forever. When he was done, a voice rasped, "One move and you're dead." And then he vanished into the maw of midnight.

Minutes later, Alice stumbled to the street heaving, shaking, in disabling shock as blood trickled. A patrol car eased to a stop along the narrow lane. Later, she would remember being unable to utter the word. It was not until the emergency room nurse asked what happened that Alice could say it—"Rape."

The trauma staff at Christ Hospital gowned, probed, and swabbed. A female detective and a comforting soul from Women Helping Women appeared at dawn and waited at her bedside for the sedative to dissipate. The policewoman sought details while driving Alice to her

apartment. All Alice recalled was the *SOLD* sign on the door.

“We’ll check it out. Get some rest, hon. I’ll be back this afternoon.”

Hours later, Alice endured gentle interrogation. “Help us get the bastard,” the detective coaxed.

The only additional evidence that surfaced was the final warning. “His face—I never saw it, him.” Her mind idled, spun, flickered from the thought that it could have been any man. She might never know who did this. He might try again.

Alice texted her employer that she would take a personal day on Monday. She remained in her apartment Sunday and Monday, not taking calls or checking texts, e-mail, or Facebook, sleeping little, eating nothing but some leftover salad, praying the nightmare would lift while fidgeting with her rosary beads, a gift from her father at First Communion, a year before he died of a coronary. On Tuesday morning, she showered and scrubbed until the hot water turned cool. Despite the early September heat wave, she dressed in dark slacks; a buttoned-up, blue blouse; and a sweater, and walked to the downtown office.

At lunch, a friend from work said, “You’re dressed like it’s freezing. It’s ninety degrees outside,” and asked if something was wrong. Alice confided, holding back tears, and said the police had no lead. Her coworker posted to a few Facebook friends who lived in the area, *Help find the rapist*. The message meant for a private few spread like a virus, and Alice became an exposed victim of social media that has no editor.

Leaving work early, Alice took the streetcar to the historic, white-steepled German Roman Catholic church near her apartment, rather than walking anywhere near the lane of the attack. Built by nineteenth-century immigrants fleeing European wars, St. Anne’s was recently

invigorated by young professionals seeking a continuing connection with their parochial school upbringing. It offered a spiritual oasis amidst a changing streetscape of cappuccino bars, fusion restaurants, and boarded-up storefronts for sale or rent. A dynamic, young priest drew a following at St. Anne's that included Alice, a devout regular at Sunday mass and the Thursday night Millennial Prayer Circle. Father Frank was in his thirties. He had an androgynous face and bore a countenance that fluctuated between a grin and devotion. His homilies spoke to her in her generation's language.

She would talk with him. He was in his office, adorned with books, crucifixes, and nine-by-twelve photos of Pope Francis, Archbishop Purcell, and faces from Africa and Latin America.

Alice began with her eyes on the desk. "You may have heard," she started, aware of the coworker's betrayal of her confidence that was spreading news. Father Frank listened patiently as she poured forth agony beyond words. *Why me? Where was God? Am I to blame? I feel dirty, abandoned. What did I do to deserve this?*

"You did nothing. Evil incarnate did this," Father Frank said. He reached for her hands to pray together, but she flinched, and he understood. "We pray for healing, for strength, for the tender love of Blessed Mother Mary and her mother, St. Anne," he soothed. "God is with you, as are we."

She surprised herself by being focused at work. Designing a layout for a client's social media campaign distracted from the pain that sporadically pierced the numbness. Strobe-like flashbacks recurred like a malfunctioning lightbulb, images of a ghostly attacker with no face, no race, no image she could summon.

Each day, she retreated to her apartment, double-locked and latched the door. She

rejected entreaties from friends to have dinner, to share a drink after work at the bars and eateries that lined Vine Street. An only child, she longed for her mother, who had succumbed to lung cancer a year ago. Alice was a recluse except for weekday work, Sunday mass, and the Thursday evening prayer group.

When her period did not come on schedule, she unboxed the home test she bought at the drugstore. She broke into tears when the device signaled “Pregnant.” *God, oh God, oh God, why me?*

Alice walked to Father Frank’s office. He was with the church secretary. Alice turned to leave, but he saw her through the glass and called out. The secretary withdrew. They sat for a full minute in silence, Alice head in hands, uncertain what to say but knowing why she had come.

“Father, I’m pregnant.”

She watched Father Frank scan the options of what he should say.

He said, “The father?”

She gasped. “It was that man, that stranger who attacked me.”

“God is with you on this journey,” he assured her.

“I can’t do it.”

“You are innocent. So is your child.” Father Frank continued, “St. Anne was the mother of Mary, who had Jesus, who was not born of Joseph.”

Alice stared. “This conception was from hell, not heaven.”

Father Frank blinked and tried another approach. “Evil must be resisted with good. You will bear your child with the love of God that sustains us. We will support you.”

Did God choose this for me? No loving God would do this. “There must be an exception

for what happened to me,” she said.

“Life is life,” he said. “Sin is sin.”

“But all sins can be forgiven,” she said.

He offered no instant rejoinder.

That Sunday, Alice sat in a pew farther back than usual. An occasional participant in the Thursday night prayer group entered along a side aisle, nodded to Alice, and sat behind her.

After mass, he approached. “I’m so sorry, Alice.” Disclosing he was an assistant county prosecutor in the criminal division, he said, “The DNA is out for a match. We’re on it.”

She nodded but expressed no faith the authorities would find the rapist and dreaded what lay ahead if they did. She could be on trial. Had she been drinking, the defense attorney would ask, or worse.

“If there’s anything you need, anything, call me.” He handed her a card with the gold-embossed crest of the Office of the County Prosecutor.

Days later, the assistant prosecutor called to report that the DNA had no match from the database. “Is there anything else you remember about the bastard? Anything?”

“Nothing. I never saw him,” she replied.

A month later, a friend took Alice to lunch at Café de Paris.

“Look, girl, consider your alternatives.” She handed Alice a card with Planned Parenthood’s address and the handwritten name and e-mail address of a counselor. “Talk with her. That can’t hurt.”

At the Thursday night Millennial Prayer Circle, within its formal bond of confidentiality, Alice asked for prayers. After the session, a female friend walked with her to the apartment and

said at the door, “You do what you need to do.”

After dodging two men shouting at her and hoisting signs of aborted fetuses and *Choose Life!* outside the iron-gated building, Alice met with the Planned Parenthood counselor. The sixty-something woman listened with a manner that channeled Alice’s late mother. After hearing everything Alice wished to share, the counselor leaned forward. “What happened to you shouldn’t have happened—not to you, not to anyone. But it did. Now you face choices. You have the right to terminate until the end of your first trimester under current law. Though you’ve probably heard, the governor signed the Heartbeat bill.”

“Does that make a difference?” Alice asked.

“If *Roe v. Wade* is overturned, it would. It would mean no abortion in this state if there’s a fetal heartbeat. That means a physician would first do a test to detect one—what the statute calls ‘a steady and repetitive rhythmic contraction of the fetal heart or any sign of cardiac activity.’”

“When does that happen?”

“Six and a half to seven weeks, experts say, but proponents of the statute say it could be earlier. And what ‘steady and repetitive’ means is open to interpretation.”

“It’s been five weeks now.” Alice clenched her hands.

“You should make a decision soon,” said the counselor. She gave Alice pamphlets about alternatives, the procedure, the risks. “We’re here to support you, whatever you decide.”

Alice slept fitfully. An image of a monster child with sharp, filed teeth was conjoined to a cooing cherub, each half-child her making. *Holy Mary, Mother of God, what do I do?*

The next morning, she was in the workplace kitchenette when a CNN stream blared, *Roe*

v. Wade overturned 5-4. She watched, transfixed, as the banner continued, *State laws control abortion now*. She took personal time for the rest of the day.

She called the assistant prosecutor and asked about the Heartbeat statute. He explained that the county prosecutor had helped write it. "It's now the law. He'll enforce it."

"I can't bear it," she said. "I just can't."

"You could put the child up for adoption."

She jabbed the red dot on her cell phone.

Alice called Planned Parenthood to schedule a Monday appointment.

That evening, the assistant prosecutor called to ask if her decision was final.

She said, "Yes."

He hesitated, then asked that she let him know at mass on Sunday if that changed.

Sunday morning, she awoke from a nightmare of the devil's genes growing within her. At mass, Father Frank gave thanks for the Supreme Court's decision. "God embraces life without exception." He announced plans to plant two hundred small, white crosses in the rectory's garden.

The assistant prosecutor was at the door as Alice left mass. "No," she said before he could ask.

"No change you mean? You're having an abortion?"

She nodded.

On Monday morning, as she prepared for the afternoon procedure, there was a sharp rap on the door. She was startled when a female sheriff's deputy in a brown uniform with a gold badge, gun holstered, handed her a paper. "Please come with me."

“What?” Alice said.

“This explains it,” the deputy said, pointing to the summons. “Pack a bag with enough for two overnights.”

Alice dashed flakes into the aquarium holding two angelfish and loaded a bag with clothes and essentials. She was escorted to the prosecutor’s courthouse office. A green file and papers sprawled across his enormous desk. He asked her to sit.

“I understand you plan to have an abortion,” he began.

“A termination,” she said.

“Will you proceed if there’s a heartbeat?” he asked.

She was silent.

“Will you?” he demanded.

She was silent.

“Then you give us no choice. We’ve arranged protective custody.”

“I don’t need your protection.”

“But your child does. That’s obvious. We’ll make it comfortable for you, temporary, until our physician does the test.”

“I can have my doctor do it,” she replied, astonished.

“Planned Parenthood.”

Alice nodded.

“I don’t see how. Planned Parenthood sued to have the Heartbeat law declared invalid, so its physicians are biased. This won’t take long. A day or two at most. If there’s anything you need from home, let my assistant know and he’ll get it for you. Pets?”

Alice was led to a room, newly painted light blue, with a bed, armchair, and reading lamp. “Here’s the food menu—just check what you want,” said the aide.

“I want my lawyer,” said Alice.

Her attorney arrived a half hour later. He was a friend from college who, a year ago, started a solo practice two blocks from the courthouse.

“This is outrageous,” he declared. “We’ll get you out in no time.” He left to prepare a filing.

She called Planned Parenthood on her cell phone to cancel her appointment just before the phone’s battery died.

At 3:00 p.m., a physician appeared, a thin, tall man with an enlarged Adam’s apple that slipped up and down over an orange-and-black bow tie. “I’m here to perform the test,” he said and explained it required a short trip to a clinic.

Alice refused.

Her attorney arrived at four forty-five. “I filed for a restraining order. The hearing’s tomorrow morning.” He left a cell phone charger.

Alice called her best friend and told her what was happening. With Alice’s permission, the friend agreed to contact the media.

It became overnight headlines. *Prosecutor holds raped woman to prevent abortion* ran the CNN banner. From her window the next morning, Alice saw TV vans snaked around the courthouse.

The bailiff rapped the gavel and announced the case. All stood as Presiding Judge Poast entered from his chamber door in a black robe and mounted three steps to preside in the ornate

courtroom, an enormous, bronze eagle glaring down from the wall. “Mr. Schmidt, it’s your motion.”

Alice’s attorney spoke from his notes and asked for her immediate release.

“Unprecedented.” No basis to hold her. An infringement of her rights as a woman.

The prosecutor himself responded. The new statute controlled. Heartbeat was now the law. A fair test is essential—no harm in that—and required before an abortion would be lawful.

But, attorney Schmidt argued briefly in reply, Planned Parenthood’s doctor can do the test, and the prosecutor is preventing that.

“I see no harm in finding the facts. Both physicians can examine. Motion denied in part. And let me ask you both—who represents the child?”

Neither attorney had an immediate answer. “I want to hear the child’s viewpoint,” said the judge. “You have two days to agree on someone, or I’ll appoint a guardian ad litem. We’ll resume on Wednesday—at eight-thirty?” The judge looked at the scheduler, who nodded. “Eight-thirty.” The judge rose. All stood.

Two days later, there was no agreement on appointing a guardian for the fetus, as Schmidt called it, for the child, as the prosecutor described him or her.

“I’ll appoint one myself,” said the annoyed judge. “We resume Monday morning at nine. Have the tests done by then.”

A Thursday order appointed Pierce O’Connell as guardian ad litem for the unborn. The media described him as a widely respected senior attorney, longtime volunteer for ProKids, and president of the local Knights of Columbus chapter.

Alice was astonished by the media attention that reached international dimensions.

Anderson Cooper was traveling to town for the hearing. Other media were sending lead reporters. The news was all about the law, women's rights, society's rights, the legislature's right to write the laws. But no one interviewed her. She was absent from the discussion except as an object of the news. She felt abandoned, disappearing.

Judge Poast took the bench and asked if the tests had been conducted.

The prosecutor stood. "The plaintiff refused to be tested."

Glaring at attorney Schmidt, Judge Poast asked, "Is it your position that she can proceed with an abortion without a test?"

"She has that right, certainly with no evidence of a steady and consistent heartbeat, and there's no evidence of any," replied Schmidt. "There's no basis for the state to hold her, as our brief details." He held aloft a ten-page memorandum.

"You didn't answer my question. Your complaint reads that your client intends to proceed with an abortion without first doing a test. And you're preventing evidence from being gathered by refusing. Your client is ordered to have a fetal heartbeat test conducted by the state's physician." The judge raised his gavel.

"But, Your Honor..." Alice's attorney began.

"Your physician can also test. The more information, the better. Report tomorrow at nine if there's any further trouble." Down came the gavel, twice.

Schmidt took an emergency appeal, which postponed the Tuesday report. The appeal was denied Wednesday afternoon in a two-one decision holding the matter not ripe for appellate review.

On Thursday, both attorneys reported that the test site had not been agreed upon, the

plaintiff insisting on the Planned Parenthood location and the state demanding Christ Hospital.

“Do separate tests where each physician is,” scowled the judge. “Return here Monday morning at nine to set a date for a hearing on the merits.”

Alice felt like a piece of property. The men argued without looking at her. She pictured the judge as an auctioneer at a slave market.

The prosecutor stood. “Your Honor, regardless of test results, we reserve the right to file a counterclaim. We’ll request suitable measures to prevent a killing.”

Attorney Schmidt rose, but before he could speak, Judge Poast waved him silent and said, “We don’t need this now. We’ll cross that bridge if the river rises. We’ll see you Monday.”

An attorney from the state’s largest firm, sitting next to Anderson Cooper, came forward and approached the rail around the elevated bench. “Your Honor, James Scowcroft, representing CNN. May we move to chambers?”

In the judge’s chambers beyond the public eye, Scowcroft handed the prosecutor and attorney Schmidt a motion seeking to intervene and requesting permission for the live broadcast of future proceedings.

“No objection,” said the prosecutor.

“I’m inclined to grant this, given the public interest,” said Judge Poast. “If there’s an objection, file briefs by two o’clock Friday.”

Alice was stunned to see how her case had become a media sensation, that she’d become a symbol of a fight she did not choose, centered not on her but instead on the clash between the state and personal liberty. She’d been reduced to a fictional character while men squabbled over what would be done with her body.

She decided to ask Schmidt to agree to CNN's request. An idea sprouted when she recoiled at food because of morning sickness. The thought hardened into stiff resistance. She had been branded as perpetrator rather than victim, her freewill hijacked by the authorities. The law had become a torture rack. She would pray. And then she would resist. She would stand for freedom. And the world would know.

On Monday, Judge Poast entered a packed courtroom as the bailiff called the matter. Media filled half the seats. Father Frank sat in the second row behind the prosecutor's table. Three of Alice's friends sat behind the rail on her side.

Judge Poast first heard from guardian O'Connell.

"Your Honor, I regret to report that the plaintiff has begun a hunger strike, depriving my ward, an unborn child, of essential nutrition. We request that you order feeding tubes to provide nutrition for the child and twenty-four seven surveillance."

"We join this request," said the grim-faced prosecutor.

"We oppose it," began attorney Schmidt.

"Are you taking the position that your client can starve the child to death?" asked Judge Poast, his bushy eyebrows raised, twitching. "Motion granted." He gavelled. "Now, I understand the tests were performed. Are we ready for a hearing? Have you exchanged documents? No? You're ordered to do so before you leave this room. Trial is set for 9:00 a.m. Wednesday. We'll hear from the plaintiff's physician first, then the state's. Anything else?"

Reporters fled the courtroom before Judge Poast rose from the bench, rushing to announce the breaking news of a trial that would make history.

Television cameras focused on the judge and the attorneys and failed to capture a wincing

Alice. She felt mild cramps. She was silent as the constable escorted her to her room now outfitted with security cameras, all sharp objects removed. She was ordered to lie down to have a nurse install a feeding tube. Another attack on her body, this time with a needle and drip lines, while men argued about her choice.

Father Frank entered. "Alice, what can I do for you?" he asked.

"Nothing, Father." She turned her head to the wall as the drip began.

"We pray God's will be done."

Alice turned to face him. "We'll know soon."

The cramping increased.

Alice's condition was confirmed to her on Tuesday by the Planned Parenthood physician. "Keep it between us," she whispered. The doctor nodded.

On Wednesday, the courthouse was surrounded by protesters hoisting battle signs of *Life* and *Choice*. Fox News interviewed the state's governor, there to pray in a crush of supporters—"For the child," he declared. MSNBC interviewed a rape victim who'd chosen termination and explained how this was a painful decision all women must be free to make for themselves.

Judge Poast ascended the bench at 9:00 a.m. on Wednesday. "Mr. Schmidt, call your witness."

The Planned Parenthood physician was sworn and qualified as an expert. Schmidt asked, "Doctor, did you examine the plaintiff yesterday?"

"Do you mean Saturday?" the judge intervened. "I thought the test was done then."

Schmidt said, "I mean yesterday, Your Honor."

The Planned Parenthood physician nodded as the judge waved his hand to proceed. "Yes,

yesterday afternoon I examined Alice.”

“And what did you determine?”

“I found that she experienced a miscarriage, a spontaneous termination.”

“Your Honor, in light of this, I move for immediate release of my client.”

The judge seemed to shrink within his robe, looking suddenly every year of his age, an old man.

The prosecutor rose. “May I examine?”

“Proceed,” the judge said.

“Doctor, you described the termination as spontaneous. Could the withholding of nutrition have caused the child’s death?”

“Highly improbable. Thirty percent of pregnant women experience spontaneous termination during the first trimester of pregnancy. I have no basis to think this was anything other than that.”

The prosecutor himself had written the thirty percent finding into the Heartbeat statute. He continued, “You’re aware, are you not, that the state’s appointed physician found cardiac activity when he performed a test on Saturday?”

“I have heard that. But as you know, the ultrasound I did Saturday showed no ‘steady and repetitive rhythmic contraction,’ the words of the statute.”

“Any other questions?” asked the judge, obviously anxious to end the matter.

“We reserve the right to take appropriate action if we find it warranted,” said the prosecutor, staring directly into the broadcast camera. “Life is sacred.”

The judge looked down and shuffled papers before him, then looked above the crowd to

the center of the back wall. “The plaintiff is released from detention. This case is dismissed as moot.”

Judge Poast began to rise but sat back into his chair. For the first time, he looked at Alice. She sat slumped, spent, hands folded over her lap, eyes down.

The judge quietly said, “Judges are here to apply the law, not to make it.” He seemed ready to say more, but he pursed his lips, rose, and held the rail firmly as he dismounted the steps, not wanting to stumble on camera.

In the hallway, reporters and cameras rushed Alice and her attorney as they left the courtroom, but Schmidt led her to a private witness room safe from their barrage.

Alice said, “Send me your bill. Thank you for all you did for me.”

“You owe me nothing,” he replied. “I’m sorry for what happened and was honored to be your counsel.”

That evening, as she rested in her apartment, confronted by pain and spotting, there was a knock on her door. It was Father Frank.

“Alice, I’ve been praying for you. Welcome home. Is there anything I can do?”

“Fortunately, we won’t have to tell anyone that the Holy Spirit fathered another child.”

Uninvited to sit, he said he would pray for her, and he withdrew.

Alice cleaned the kitchen, then dressed for sleep. She noticed the rosary beads her father gave her. They were brown, worn, used. She held them, but no prayer came to mind. She took a tissue and gently wrapped the beads before placing them where her mother kept her costume jewelry and her mother’s engagement ring rested, now a memory container. Alice clasped the lid and slid the box into the bottom dresser drawer.

THE END