

# A DREAM DEFERRED



MARJORIE FLORESTAL



## A DREAM DEFERRED



They were born exactly ten months apart and grew up in the house on Elm Street. Ana was the little sister, pretty, but with a hint of wildness few seemed to notice. Gloria, the big sister, was the kind of girl that people said “she should be a lawyer” when they meant to be nice, and “she’s got a mouth on her” when they were plain fed up. In middle school, Gloria’s mouth was a problem that got her sent to the principal’s office at least once a week. Principal Robles would call her mother, and Mama would shamle into the building, shoulders drooping, the smell of sweat and soil clinging to her. She always had the same refrain: “Why can’t you be like your little sister?”

By high school, Gloria still had not learned to tame her mouth, but she was a straight A student, captain of the debate team, organizer of Street Law classes and local protests. She packed her days so tight there was no room for fear. Pretty Ana discovered Central Valley boys, going from wild to *really* wild. It took Gloria’s nagging to get her back on track. They both knew, for all of Gloria’s intellectual gifts, Ana was the one with any real hope of success.

Gloria graduated top of her class, but it was Ana who got the large white envelope welcoming her to the University of California. Four

years later, when Ana was admitted to law school, Gloria was a shift manager at McDonald's earning \$11.94 an hour. She stared at the shiny white envelope that held all her forbidden dreams, and she smiled at Ana the way she smiled at her customers—all teeth and no heart.

By most measures, they were doing all right. Ana finished law school and passed the California bar on her second try. Mama cried when her youngest daughter, dressed in a pinstriped suit, was sworn in as an attorney and counselor at law. But when Mama lost her job, Ana's law practice was no help. She could barely make her \$900-a-month student loan payment.

Gloria took on extra shifts at McDonald's and started driving for Uber. She had just dropped off her last passenger when the worst possible thing happened.

DINNERTIME CAME and went at the house on Elm Street with no sign of Gloria. At first, Ana wasn't worried. She wrapped the homemade tortillas to keep them warm and turned the mole down to a low simmer.

By 9 p.m., she and Mama were casting nervous glances at the clock, each trying to hide it from the other. They had promised not to live in fear.

By 10 p.m., she had left three messages on Gloria's cell and called every number in her contacts.

By 11 p.m., she had canvassed the entire neighborhood.

At midnight, a knock came on their door.

Hector stood there, the boy who had loved her sister forever. His eyes held a suspicious sheen, and his chin wobbled. "They got her," he choked. "ICE."

There it was, Ana thought. The nightmare that had shadowed them for twenty-six years had finally barged into their home. How many candles had Mama burned trying to protect them from this moment?

Ana ran through the house gathering papers, but she took the time

to change into her pinstriped lawyer's suit. She needed to look the part. As she stared into the mirror, she saw her sister reflected back at her. Both were beautiful women with dark eyes and lustrous brown hair. Both were conceived in Mexico though only Ana had been born in California.

The 300-mile drive through the Central Valley was a desolate trek through a field of ghosts. Ana turned up the radio to drown out their voices. Highway 99 cut a long swath through the Valley floor, and from horizon line to horizon line, there was little but distant mountains and the even more distant memory of Steinbeck's dispossessed.

She arrived at the jailhouse and marched up to the first uniformed person she could find. He had his head down. A fluorescent bulb flickered and buzzed over him like an angry halo. What was she supposed to call him—guard? officer? She couldn't remember what they'd taught her in law school. She couldn't remember law school.

"Sir, I need to see my sister."

He didn't bother to look up. "Visiting hours are from 8 to 8. Call the main number for more information."

She had already made her first mistake. In this place, family ties were meaningless. "I'm her lawyer."

They took her to a room with a scarred wooden bench and white walls plastered in Do's and Don'ts. No firearms. No electronic devices. No skin-to-skin contact. Visitors were subject to a pat-down, an inspection of their belongings, and a metal scan.

Gloria arrived in a red jumpsuit that matched her red-rimmed eyes. They ignored the signs and gripped each other so tightly, not even a current of air could squeeze between them.

Ana guided her sister to the bench. It teeter-tottered under their weight like a seesaw. "What happened?"

"I was stopped at the light. They came outta nowhere and surrounded me with guns." Gloria spoke in the soft, husky whisper usually reserved for church.

Ana leaned in trying to make sense of it all. "Did you say anything to them?"

Gloria shook her head. "I was frozen." Even now, she moved as

though buried under water. “They can’t do this, can they? I have DACA.” She reached for Ana’s legal pad and began scribbling names, dates, places. “You have my papers?”

From her briefcase, Ana pulled her sister’s birth certificate, bank statements, form I-821D and I-765, and report cards from kindergarten to high school—all straight As and smiley faces. The artifacts of a life.

It took three weeks for the Department of Homeland Security to get back to them. Ana spent her waking hours at the law library. At night, she dreamed of blood and slaughter, screaming horses, and Cortés sinking his ships off the Veracruz coast to charge into battle. Fight or die. In between was the waiting and worrying.

DHS said Gloria Hernandez did not have Deferred Action for Childhood Arrivals. Her application had been rejected for failure to pay the \$465 fee. It took another three weeks of Ana faxing and mailing copies of credit card statements, a work permit, and social security card before DHS would admit Gloria was not *that* Gloria Hernandez.

The day came when she was to be released. The sky was a bright blue etched in wispy, smoke signal clouds. A gentle wind blew off the Sacramento and San Joaquin Rivers, and the unexpected grace of a Delta Breeze cooled the shade to a manageable 98. Ana arrived at the jail carrying a pint-size tomato plant growing out of a milk carton. It was a gift from Mama, a woman too practical for flowers, and too sentimental not to mark the time away from her eldest daughter.

Gloria came bounding out of a narrow hallway in jeans and a black T-shirt. A gate clang shut behind her. They hugged without restraint or rules.

“We did it,” Ana said, her tone more than a little surprised.

Gloria pumped her fist in the air. For a moment, she was a student again, raising her homemade sign and chanting, “No justice? No peace!”

They ran to the parking lot, laughing, like two kids let out of school with nothing but a long, hot summer before them. Ana stopped

when she heard her name called. She would always regret that. She should have kept running, grabbed her sister and raced through the parking lot, passed the white van, the Toyotas, and the pickup trucks, into a vast unknown.

Officer Angry Halo sprinted up to them. He was breathing hard—whether from exertion or excitement, it was impossible to tell. “They wantcha back in there.”

“My client’s been released.” Ana couldn’t pull out the papers to show him. One hand held the tomato plant, the other held tight to her sister. “You can check with your superiors.”

“You telling me my job?”

Back they went to the jailhouse. This time, they entered a room devoid of everything but a talking head on a video monitor. He said, “Gloria Hernandez, you are an alien present in the United States who has not been admitted or paroled. We are initiating removal proceedings against you, and you are hereby served with a Notice to Appear.”

“There must be some mistake,” Ana said. “She’s protected by DACA.”

“DACA is automatically terminated on the issuance of an NTA.”

“You can’t do that.”

“It is the policy of the US Citizenship and Immigration Service. I’m sorry.” He didn’t sound sorry. He sounded like the most advanced AI ever to come out of Silicon Valley.

“What’s my client being accused of?”

“Human trafficking.”

The tomato plant fell from Ana’s hand, and the rich, dark soil stained the floor. Gloria wailed, a piercing sound that shattered walls and echoed through every cell in the jailhouse.

THE FIRST TIME Gloria was attacked, she used her mouth as a shield. “I said to her, ‘We’re in this together. Unite, don’t fight.’” she told Ana, her laugh a low, bitter sound. “Can you believe it? Like I’m some cheerleader.” She was back in her red jumpsuit. A goose egg swelled

on her forehead with small lines that radiated out like fissures on a dry riverbed.

The second time Gloria was attacked, she used her mouth as a sword. “I took a chunk outta that bitch,” she told her sister with vicious delight. The guards threw Gloria in solitary. When she came out, she was 10 pounds lighter with the eyes of a hungry ghost.

The third time Gloria was attacked, she kept her mouth shut.

“Hold on, big sister. This will be over soon,” Ana lied.

“Which part?” Gloria asked.

Summer faded, and the air grew heavy with the scent of hay and rotting apples. Ana set up her law office at the kitchen table and worked by the light of a thousand candles.

“We take them to court?” Mama asked as she lit another candle for San Judas Tadeo, the patron saint of lost causes.

“The courts can’t help us,” Ana said. It was easier than explaining exhaustion of remedies, deference, and the world of administrative law to her mother.

On television, lawyers operated in wood paneled courtrooms with a blind Lady Justice presiding, but Ana had never argued a case. Her world was the world of grubby little government offices, cramped conference rooms, and good faith negotiations that always ended the same. Until the last.

The meeting took place in a government office, but this one was spacious enough to have a waiting room. Ana sat in a leather chair and stared at the glass-framed law degree that hung on the wall. It was from her alma mater. For a moment, she allowed herself to hope.

A door opened, and a woman poked her head out. “Ms. Hernandez?”

On trembling legs, Ana followed the woman into a sunny office and took a seat. This was the highest level meeting she’d ever had. Her stomach lurched as she rushed into speech, “My client has committed no crime, yet she’s in jail—”

“Administrative detention,” the woman corrected, her lips pursed like an old-fashioned schoolmarm.

“The only difference is that she wears a red jumpsuit, and the prisoners wear orange.”

The woman shrugged. “From what I understand, your sister hasn’t distinguished herself overmuch from the orange suits. How many fights has she had?”

“She was attacked,” Ana said.

“Not according to our records.” The woman dropped a heavy manila folder on the desk, but Ana ignored it. She already knew what she would find. After each attack, she had filed a complaint with prison authorities, and after each complaint, she’d received in the mail a crumpled white envelope. Inside was the same pre-printed form with the words “Official Investigation” up top and an “x” drawn on the line that read *unsubstantiated or unfounded*.

“I want my sister out of that jail.” Ana’s voice broke, but she managed to add, “I don’t know how much more she can take.” Really, she meant, *I don’t know how much more we can take*. Or maybe, *I don’t know how much more I can take*.

“The conditions are not ideal,” the woman admitted, “but human trafficking is a serious offense.”

“She hasn’t been charged with any crime. She had an undocumented passenger in her car, that’s all.”

The woman folded her arms across her chest. “As to that, we seem to have . . . lost the passenger. If your sister is willing to help us, she can put this unfortunate incident behind her. It’s a win-win proposition.”

Later, Ana tried to explain the *win-win* of it to her sister. “All you have to do is name the passenger, and you can come home.”

Gloria lay on a creaky bed in the tank—a cell built for four that housed eight. She lived in the dungeon, the old part of the jail, with its narrow halls and low ceilings. A faint beam of sunlight trickled down from the small window that hung, peekaboo style, high up on the wall.

“I wanna take them to court,” Gloria whispered. These days, she mostly whispered.

“We can’t.”

“Why not?”

Ana leaned against the prison bars. “Immigration law is mostly administrative. Even if we could take this to court, I’ve got four months of experience. Their lawyers are specialists. How do you think that’ll go?”

“I have faith in you, little sister.”

“I’m not like you, Gloria. You think I don’t know that? You think I don’t wake up everyday wishing I could switch—” She bit off her words. “This is the best deal we’re going to get.”

“We could—”

“We *can’t*,” Ana snapped.

The bed springs groaned as Gloria sat up. “What’ll happen to her?”

Ana swallowed hard. “We don’t know why they want her. What she did.”

“What did I do?”

“That’s different.”

Gloria only smiled. “It’s the same. We’re the same.”

Ana turned to grip the prison bars, steel digging into her flesh. “This is our best shot. If you won’t help me, I’ll find someone who will.”

She found him at the McDonald’s where Gloria had long since lost her job. She drove up to the drive-thru window. Hector leaned out and waited.

Ana said, “The girl in Gloria’s car, you know where I can find her?”

Something flickered in Hector’s eyes—a hint of longing doused in shame. “Yeah.”

He took her to their old high school, which, like all things past, felt at once familiar and alien. They stood by Ana’s car and watched an endless wave of students pour out of the building and onto the lawn, chanting.

“That one,” Hector said, pointing to a girl with dark eyes and lustrous brown hair. She waved a homemade sign and shouted, her voice rising above the din, “No justice? No peace!”

Ana slumped against the car.

“Now what?” Hector asked.

She stared at the girl for a long time. “We go to court,” she finally said.

THE NINTH CIRCUIT’S SAN FRANCISCO courtroom gleamed with wood paneled opulence. Marble walls, Doric columns, and a vaulted ceiling trimmed in gold all vied for attention among the stained-glass windows and dancing cupids. Ana watched a procession of judges take their seats—two women, one man, each cloaked in black.

The government’s lawyer launched himself at the podium. A stout older man with glasses and a snowy beard, he had the look of a scholarly Santa Claus. “My young colleague has brought this case in defense of her sister. Her efforts, while admirable, are without merit. Individual DACA decisions fall squarely within the Agency’s discretion. Indeed, deportation matters have a ‘zipper’ clause prohibiting judicial review absent an express statutory grant. There is no such grant here.

“This case illustrates the excellent work our agencies perform every day to remove public safety threats from our communities. We enforce the law with respect and integrity, and we must continue to do our work without the impermissible oversight of the courts.”

When it was her turn, Ana trudge to the podium as a kaleidoscope of butterflies took flight in her stomach. “May it please the court . . .” She paused to calm the tremble in her voice. “The Department of Homeland Security insists on terminating DACA upon the mere allegation a recipient has engaged in criminal activity. There is no advance notice, no opportunity to be heard, no chance to fight the action, and no chance to reinstate DACA when the individual is cleared of all allegations.

“In short, the government would strip legal protections from a group of people who are American in all but the circumstances of their birth. These are young people who’ve been vetted by countless agencies and are found to embody the values that make this country great—values like integrity, and respect for the law.

“As opposing counsel notes, I represent my sister in these proceed-

ings. But I also represent the sisters and brothers, sons and daughters of all Americans. We are one nation, and our respect for the law binds us as tightly as any familial ties. It is to the law that we owe our allegiance, and the government is not exempt from its boundaries. A demand for discretion to behave in ways contrary to the law is a demand for silence. A demand for zippers is a demand for silence. In the face of injustice, the court cannot be silent.”

On television, the end of a lawyer’s argument was often met with a swell of music. In the real world, it wasn’t music that greeted Ana but questions. Lots of questions. Is there a meaningful standard against which to judge the agency’s exercise of discretion? How should we interpret the statutory language that says “no court shall have jurisdiction to hear any cause or claim by or on behalf of any alien . . . ?” Some questions, she’d spent weeks preparing—others, she’d spent that time dreading. Some were easy, some impossible, some irrelevant, some offbeat. Every question had to be answered. It was the worst kind of Socratic hell.

Menaced by the sweeping hand of the clock, Ana sped through her answers, her tongue tripping and sometimes falling over her words. “Whoa, Counselor. Whoa. Whoa,” one of the judges urged over and over until Ana felt like a wild horse in need of gentling.

When it was done, she rushed to the bathroom and heaved into the toilet bowl, ushering the kaleidoscope of butterflies to their doom. But the courtroom experience was nothing compared to the sheer torture of watching the minutes, hours, days, crawl by without a judicial decision. There was now no difference between Ana’s waking and sleeping hours. It all dissolved in a pool of waiting and worrying that in this too, she had failed her sister.

THEY RAN FROM THE JAILHOUSE, Ana and Gloria, two sisters born exactly ten months apart. Ana did a little dance, and Gloria spread her arms wide, as though to embrace the sun. She was free.

“The decision to terminate Ms. Hernandez’s DACA was arbitrary

and capricious and contrary to law,” Gloria shouted, having committed the words to memory.

“Let’s go home,” Ana said, laughing.

They raced to the parking lot arm-in-arm, only to come up short at the sight of a white van. A guard held the van door open in a pretense of good manners, and a crowd of women tumbled out. Ana and Gloria stood silent as the women shuffled passed. Each had the same haunted dark eyes and lustrous brown hair. Each wore the same tomato red jumpsuits.

